



**NYS HEALTH CARE-RELATED STATUTES AND REGULATIONS WAIVED BY EXECUTIVE ORDER
IN RESPONSE TO THE COVID-19 OUTBREAK AS OF MARCH 30, 2020**

| Provision(s) Waived | Area of Regulation | Scope of Waiver |
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| EMERGENCY DECLARATION – EO 202 | | |
| PHL subdivision 6 of section 2510 and section 2511 (Reiterated in EO 202.1) | CHIP | To the extent necessary to waive or revise eligibility criteria, documentation requirements, or premium contributions; modify covered health care services or the scope and level of such services set forth in contracts; increase subsidy payments to approved organizations, including the maximum dollar amount set forth in contracts; or provide extensions for required reports due by approved organizations in accordance with contracts |
| PHL section 224-b and subdivision 4 of section 225 | Public Health and Health Planning Council | To the extent necessary to permit the Commissioner of Health to promulgate emergency regulations and to amend the State Sanitary Code |
| PHL subdivision 3 of section 273 | Prescription Drugs in the Clinical Drug Review Program; prior authorizations | To the extent necessary to allow patients to receive prescribed drugs, without delay |
| Social Services Law 364-j | Managed care | To the extent necessary to allow patients to receive prescribed drugs, without delay |
| Education Law sections 6521 and 6902 | Practice of medicine; practice of nursing | To the extent necessary to permit unlicensed individuals, upon completion of training deemed adequate by the Commissioner of Health, to collect throat or nasopharyngeal swab specimens from individuals suspected of being infected by COVID-19, for purposes of testing; and to the extent necessary to permit non-nursing staff, upon completion of training deemed adequate by the Commissioner of Health, to perform tasks, under the supervision of a nurse, otherwise limited to the scope of practice of a licensed or registered nurse |
| PHL subdivision 2 of section 2803 | Miscellaneous hospital requirements regulated by the Commissioner of Health | To the extent necessary to permit the Commissioner of Health to promulgate emergency regulations concerning the facilities licensed pursuant to Article 28 of the Public Health Law, including but not limited to the operation of general hospitals |
| 10 NYCRR Section 400.9, paragraph 7 of subdivision f of section | Transfer and affiliation agreements; admission/discharge | To the extent necessary to permit general hospitals and nursing homes licensed pursuant to Article 28 of the Public Health Law ("Article 28 facilities") that are treating patients during the disaster emergency to rapidly discharge, transfer, or receive such patients, as authorized |

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| 405.9 and paragraph 7 of subdivision h of section 405.9 (Reiterated in EO 202.1) | requirements | by the Commissioner of Health, provided such facilities take all reasonable measures to protect the health and safety of such patients and residents, including safe transfer and discharge practices, and to comply with the Emergency Medical Treatment and Active Labor Act (42 U.S.C. section 1395dd) and any associated regulations |
| 10 NYCRR section 400.11 | Assessment of long-term care patients | To the extent necessary to permit Article 28 facilities receiving patients as a result of the disaster emergency to complete patient review instruments as soon as practicable |
| 10 NYCRR section 405 | Hospital minimum standards | To the extent necessary to maintain the public health with respect to treatment or containment of individuals with or suspected to have COVID-19 |
| PHL subdivision 4 of section 6909 and Education Law section 6527 | Licensure; miscellaneous provisions regulating physician practice | To the extent necessary to permit physicians and certified nurse practitioners to issue a non-patient specific regimen to nurses or any such other persons authorized by law or by this executive order to collect throat or nasopharyngeal swab specimens from individuals suspected of suffering from a COVID-19 infection, for purposes of testing, or to perform such other tasks as may be necessary to provide care for individuals diagnosed or suspected of suffering from a COVID-19 infection |
| Education Law sections 8602 and 8603 10 NYCRR section 58-1.5 | Clinical Lab | To the extent necessary to permit individuals who meet the federal requirements for high complexity testing to perform testing for the detection of SARS-CoV-2 in specimens collected from individuals suspected of suffering from a COVID-19 infection |
| <u>14 NYCRR section 596</u> | <u>Telemental health services</u> | <u>To the extent necessary to allow for rapid approval of the use of telemental health services, including the requirements for in-person initial assessment prior to the delivery of telemental health services, limitations on who can deliver telemental health services, requirements for who must be present while telemental health services are delivered, and a recipient's right to refuse telemental health services</u> |
| 10 NYCRR subdivisions (a) and (e) of section 401.3 and section 710.1 | Changes to existing medical facilities in physical plant and bed capacity; construction of new facilities | To the extent necessary to allow hospitals to make temporary changes to physical plant, bed capacities, and services provided, upon approval of the Commissioner of Health, in response to a surge in patient census |
| 10 NYCRR Parts 709 and 710 | Medical facility construction | To the extent necessary to allow construction applications for temporary hospital locations and extensions to be approved by the Commissioner of Health without considering the |

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| | | recommendation of the health systems agency or the Public Health and Health Planning Council, and to take such further measures as may be necessary to expedite departmental reviews for such approval |
| 10 NYCRR sections 34-2.6 and 58-1.7 | Clinical laboratory facilities | To the extent necessary to permit clinical laboratories to operate temporary collecting stations to collect specimen from individuals suspected of suffering from a COVID-19 infection |
| Mental Hygiene Law section 33.17 and associated regulations | Transportation of individuals with mental health conditions | To the extent necessary to permit providers to utilize staff members in the most effective means possible to transport individuals receiving services from the Office of Mental Health or a program or provider under the jurisdiction of the Office of Mental Health during the emergency, provided such facilities take all reasonable measures to protect the health and safety of such individuals |
| Mental Hygiene Law sections 29.11 and 29.15 and 14 NYCRR section 517 | Transfer/referral of patients to psychiatric hospitals and discharge of patients to community | To the extent necessary to permit mental health facilities licensed pursuant to Article 31 of the Mental Hygiene Law that are treating patients during the emergency to rapidly discharge, including conditionally discharge, transfer, or receive such patients, as authorized by the Commissioner of the Office of Mental Health, provided such facilities take all reasonable measures to protect the health and safety of such patients and residents, including safe transfer and discharge practices |
| Mental Hygiene Law section 29.13 and associated regulations | Treatment plans | To the extent individuals in areas affected by the emergency are temporarily receiving services from different providers, whose immediate priority is to stabilize the individual, address acute symptoms, and provide supports including medication and stress relief, such that it is impossible to comply with development, assessment, scope and frequency of, and documentation requirements for, treatment plans |
| Education Law subdivision 4 of section 6909 and subdivision 6 of section 6527 8 NYCRR section 64.7 | Licensure; miscellaneous provisions regulating physician practice | To the extent necessary to permit physicians and certified nurse practitioners to issue a non-patient specific regimen to nurses or any such other persons authorized by law or by this executive order to collect throat or nasopharyngeal swab specimens from individuals suspected of suffering from a COVID-19 infection, for purposes of testing, or to perform such other tasks as may be necessary to provide care for individuals diagnosed or suspected of suffering from a COVID-19 infection |
| PHL subdivision 3 of section 2801-a 10 NYCRR section 600.1 | Establishment of hospitals | To the extent necessary to permit the Commissioner of Health to approve the establishment of temporary hospital locations and extensions without following the standard approval processes and to take such further measures as may be necessary to expedite departmental reviews for such approval |

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| <p>PHL section 2999-cc and associated regulations</p> | <p>Telehealth/telemedicine</p> | <p>To the extent necessary to allow additional telehealth provider categories and modalities, to permit other types of practitioners to deliver services within their scope of practice and to authorize the use of certain technologies for the delivery of health care services to established patients, pursuant to such limitations as the commissioners of such agencies may determine appropriate</p> |
| <p>EXECUTIVE ORDER 202.5</p> | | |
| <p>Education Law sections 6512-6516 and 6524 and 8 NYCRR Part 60</p> | <p>Licensure</p> | <p>To the extent necessary to allow physicians licensed and in current good standing in any state in the United States to practice medicine in New York State without civil or criminal penalty related to lack of licensure</p> |
| <p>Education Law section 6502 8 NYCRR Part 59.8</p> | <p>Licensure</p> | <p>To the extent necessary to allow physicians licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration</p> |
| <p>Education Law sections 6512-6516, 6905, 6909, 6910 8 NYCRR Part 64</p> | <p>Licensure</p> | <p>To the extent necessary to allow registered nurses, licensed practical nurses, and nurse practitioners licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure</p> |
| <p>Education Law sections 6512-6516 and 6541 8 NYCRR Part 60.8</p> | <p>Licensure</p> | <p>To the extent necessary to allow physician assistants licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure</p> |
| <p>10 NYCRR section 400.12</p> | <p>Level of care criteria</p> | <p>To the extent necessary to allow patients affected by the disaster emergency to be transferred to receiving Article 28 facilities as authorized by the Commissioner of Health</p> |
| <p><u>PHL section 2805-k</u> <u>10 NYCRR sections 405.4, 405.5, 405.9, 405.14, 405.19, and 405.22</u></p> | <p><u>Provider Credentialing</u></p> | <p><u>To the extent necessary to allow staff with the necessary professional competency and who are privileged and credentialed to work in a facility in compliance with such section of the Public Health Law and such sections of the NYCRR, or who are privileged and credentialed to work in a facility in another state in compliance with the applicable laws and regulations of that other state, to practice in a facility in New York State</u></p> |

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| <p>10 NYCRR Part 405</p> | <p>Facility regulations; policies and procedures</p> | <p>To the extent necessary to adopt existing policies and procedures in a general hospital at a new, temporary facility created for the purpose of treating patients during the COVID-19 outbreak</p> |
| <p>Specific Provisions Not Identified</p> | | <p>Any code related to construction, energy conservation, or other building code, and all state and local laws, ordinances, and regulations relating to administration and enforcement of the foregoing, to the extent necessary to allow, upon approval by the Commissioner of Health or the Commissioner of OPWDD, as applicable, the temporary changes to physical plant, bed capacities, and services provided; the construction of temporary hospital locations and extensions; the increase in and/or exceeding of certified capacity limits; and the establishment of temporary hospital locations and extensions</p> |
| <p>Mental Hygiene Law sections 33.02 and 33.05</p> <p>14 NYCRR sections 633.4, 636-1.4 and 633.16</p> | <p>Rights of individuals with mental health disabilities</p> | <p>To the extent necessary to restrict visitors to facilities certified pursuant to Article 16 of the Mental Hygiene law and to permit restrictions on community outings for residents of such facilities to reduce the spread of COVID-19</p> |
| <p>14 NYCRR section 633.17</p> | <p>Medication administration in OPWDD-certified facilities</p> | <p>To the extent necessary to permit abbreviated medication administration training of direct support professionals employed in programs or facilities certified pursuant to Article 16 of the Mental Hygiene Law</p> |
| <p>EXECUTIVE ORDER 202.10</p> | | |
| <p>PHL Section 2803</p> <p>10 NYCRR Parts 400, 401, 405, 409, 710, 711 and 712</p> <p>Note: There is no Part 409 in title 10. It is possible the Governor intended to waive Part 407: Primary Care Hospitals – Minimum</p> | <p>Miscellaneous hospital requirements regulated by the Commissioner of Health; Requirements for facility operating certificates; Facility regulations; policies and procedures; hospital construction</p> | <p>To the extent necessary to permit and require general hospitals to take all measures necessary to increase the number of beds available to patients, in accordance with the directives set forth in Executive Order 202.10, which direct the following:</p> <ul style="list-style-type: none"> - the Commissioner of DOH shall direct all general hospitals, ambulatory surgery centers, office-based surgery practices and diagnostic and treatment centers to increase the number of beds available to patients, including by canceling all elective surgeries and procedures, as the Commissioner of Health shall define; - General hospitals shall comply with such order by submitting COVID-19 Plans to DOH, on a schedule to be determined by DOH, to accomplish this purpose; and - The Commissioner of Health is authorized to suspend or revoke the operating certificate of any general hospital should they be unable to meet the requirements of the necessary capacity directives; and notwithstanding any law to the contrary the Commissioner may |

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| Standards | | appoint a receiver to continue the operations on 24 hours' notice to the current operator, in order to preserve the life, health and safety of the people of the State of New York. |
| 10 NYCRR Sections 405.13 and 755.4 | Anesthesia services | To the extent necessary to permit an advanced practice registered nurse with a doctorate or master's degree specializing in the administration of anesthesia administering anesthesia in a general hospital or free-standing ambulatory surgery center without the supervision of a qualified physician in these health care settings |
| Education Law Section 6542 Paragraph 1 10 NYCRR Section 94.2 (a) and (b) | Physician Assistant Performance of Medical Services; Supervision and Scope of Duties | To the extent necessary to permit a physician's assistant to provide medical services appropriate to their education, training and experience without oversight from a supervising physician without civil or criminal penalty related to a lack of oversight by a supervising physician |
| Education Law Section 6549 Paragraph 1 10 NYCRR Section 94.2 (a) and (b) | Specialist Assistant Performance of Medical Services; Supervision and Scope of Duties | To the extent necessary to permit a specialist assistant to provide medical services appropriate to their education, training and experience without oversight from a supervising physician without civil or criminal penalty related to a lack of oversight by a supervising physician |
| Education Law Section 6902, Subdivision 2 and any associated regulations, including, but not limited to, 10 NYCRR Section 64.5 Note: 10 NYCRR 64.5 does not exist. It is possible the Governor intended to waive § NYCRR 64.5: Nurse practitioner practice | Definition of Practice of Nursing | To the extent necessary to permit a nurse practitioner to provide medical services appropriate to their education, training and experience, without a written practice agreement, or collaborative relationship with a physician, without civil or criminal penalty related to a lack of written practice agreement, or collaborative relationship, with a physician |
| Education Law Sections 6527(2), 6545, and 6909(1) | Special Provisions for practice of medicine, nursing and emergency services rendered by | To the extent necessary to provide that all physicians, physician's assistants, specialist assistants, nurse practitioners, licensed registered professional nurses and licensed practical nurses shall be immune from civil liability for any injury or death alleged to have been sustained directly as a result of an act or omission by such medical professional in the |

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| | physician assistants (“Good Samaritan” laws) | course of providing medical services in support of the State’s response to the COVID-19 outbreak, unless it is established that such injury or death was caused by the gross negligence of such medical professional |
| Specific Provisions Not Identified | | Any healthcare facility is authorized to allow students, in programs to become licensed in New York State to practice as a healthcare professional, to volunteer at the healthcare facility for educational credit as if the student had secured a placement under a clinical affiliation agreement, without entering into any such clinical affiliation agreement |
| <p><u>Education Law Section 6530 (32)</u></p> <p><u>8 NYCRR Section 29.2 (a)(3)</u></p> <p><u>10 NYCRR Sections 58-1.11, 405.10, and 415.22</u></p> <p><u>Or any other such laws or regulations are suspended or modified to the extent necessary for health care providers to perform tasks as may be necessary to respond to the COVID-19 outbreak</u></p> | <p><u>Unprofessional conduct for health professions;</u></p> <p>hospital, laboratory and nursing facility recordkeeping</p> | Notwithstanding any law or regulation to the contrary, health care providers are relieved of recordkeeping requirements to the extent necessary for health care providers to perform tasks as may be necessary to respond to the COVID-19 outbreak, including, but not limited to, requirements to maintain medical records that accurately reflect the evaluation and treatment of patients, or requirements to assign diagnostic codes or to create or maintain other records for billing purposes. Any person acting reasonably and in good faith under this provision shall be afforded absolute immunity from liability for any failure to comply with any recordkeeping requirement. In order to protect from liability any person acting reasonably and in good faith under this provision, requirements to maintain medical records. |
| 10 NYCRR Section 405.45 | Trauma Centers | To the extent necessary to permit the Commissioner of Health to designate a health care facility as a trauma center, or extend or modify the period for which a health care facility may be designated as a trauma center, or modify the review team for assessment of trauma center |
| 10 NYCRR Section 405.4(b)(6) | Limitations on Working Hours for | To the extent necessary to remove limits on working hours for physicians and postgraduate trainees |

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| | medical staff and trainees | |
| 10 NYCRR Section 405.4(g)(2)(ii) | Physician Licensure | To the extent necessary to allow graduates of foreign medical schools having at least one year of graduate medical education to provide patient care in hospitals, is modified so as to allow such graduates without licenses to provide patient care in hospitals if they have completed at least one year of graduate medical education |
| 10 NYCRR 405.2(e) | Medical staffing; staff appointments | To the extent necessary to permit general hospitals affected by the disaster emergency to maintain adequate staffing |
| 10 NYCRR 405.3(b) | Hospital Personnel | To the extent necessary to allow general hospitals to use qualified volunteers or personnel affiliated with different general hospitals, subject to the terms and conditions established by the Commissioner of Health |
| PHL Section 3502, 3505, 3507 10 NYCRR Part 89 | Radiologic Technologist Licensure | To the extent necessary to permit radiologic technologists licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration and to the extent necessary to permit radiologic technologists licensed and in current good standing in any state in the United State to practice in New York State without civil or criminal penalty related to lack of licensure |
| Education Law Sections 8502, 8504, 8504-a, 8505, and 8507 8 NYCRR Subpart 79-4 | Respiratory therapist Licensure | To the extent necessary to allow respiratory therapists licensed and in current good standing in any state in the United States to practice in New York State without civil or criminal penalty related to lack of licensure |
| Education Law Section 6502 8 NYCRR 59.8 | PA Licensure | To the extent necessary to allow any physician’s assistant licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration |
| Education Law Section 6502 8 NYCRR 59.8 | Licensure | To the extent necessary to allow registered professional nurses, licensed practical nurses and nurse practitioners licensed and in current good standing in New York State but not registered in New York State to practice in New York State without civil or criminal penalty related to lack of registration |
| PHL Article V, Title V | Laboratory | To the extent necessary to allow laboratories holding a Clinical Laboratory Improvement |

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| <p>10 NYCRR Subparts 19 and 58</p> | | <p>Amendments (CLIA) certificate and meeting the CLIA quality standards described in 42 CFR Subparts H, J, K and M, to perform testing for the detection of SARS-CoV-2 in specimens collected from individuals suspected of suffering from a COVID-19 infection</p> |
| <p>Education Law Article 139 PHL Section 576-b 10 NYCRR Section 58-1.7</p> | <p>Nursing; Scope of Practice</p> | <p>To the extent necessary to permit registered nurses to order the collection of throat or nasopharyngeal swab specimens from individuals suspected of being infected by COVID-19, for purposes of testing</p> |
| <p>Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law)</p> | | <p>No pharmacist shall dispense hydroxychloroquine or chloroquine except when written as prescribed for an FDA-approved indication; or as part of a state approved clinical trial related to COVID-19 for a patient who has tested positive for COVID-19, with such test result documented as part of the prescription. No other experimental or prophylactic use shall be permitted, and any permitted prescription is limited to one fourteen day prescription with no refills.</p> |
| <p>Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law)</p> | | <p>Any licensed health insurance company shall deliver to the Superintendent, no later than March 24, 2020 a list of all persons who have a professional licensure or degree, whether physician’s assistant, medical doctor, licensed registered nurse, licensed nurse practitioner or licensed practical nurse, and whether or not the person has a currently valid, or recently (within past five years) expired license in the state of New York. The Department of Financial Services shall poll such individuals to determine whether or not such professionals would serve in the COVID-19 response effort.</p> |
| <p>EXECUTIVE ORDER 202.11</p> | | |
| <p><u>Mental Hygiene Law Sections 16.03 and 16.05</u> <u>14 NYCRR Part 619</u></p> | <p><u>Operating certificate requirements to serve individuals with developmental disabilities</u></p> | <p><u>To the extent that they limit the provision of certain services to [sic] certified settings provided, however, that use of such settings shall require the approval of the commissioner of OPWDD</u></p> |
| <p>Education Law Sections 6802, 6808, and 6841</p> | <p>Pharmacy; registered pharmacy technicians; pharmacist professional</p> | <p>To the extent necessary to permit pharmacy technicians and pharmacists to practice at an alternative location, including their home, as long as there is adequate security to prevent any Personal Health Information from being compromised</p> |

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| 8 NYCRR Sections 29.7 (10) and 63.6 | misconduct | |
| Public Officers Law Section 17(1) | Defense and Indemnification of State Employees | <p>To the extent necessary to ensure that physicians assisting in the State’s response to COVID-19 in a facility owned or leased by SUNY and operated by SUNY are not excluded from the provisions of section 17 of the Public Officers Law for the medical services provided as part of the State’s response to COVID-19</p> <p>To the extent that SUNY has designated a state volunteer program under this paragraph for SUNY Upstate Hospital, SUNY Stony Brook University Hospital, and University Hospital SUNY Downstate, that is comprised of both compensated and uncompensated volunteers</p> |
| Education Law Sections 6951, 6952, 6953 and 6955 | Midwife Licensure | To the extent necessary to allow midwives licensed and in current good standing in any state in the United States, or in any province or territory of Canada, to practice in New York State without civil or criminal penalty related to lack of licensure |
| 14 NYCRR Section 633.16 | Support Staff for OPWDD-certified Programs | To the extent necessary to permit abbreviated training and/or extension of recertification deadlines for direct support professionals employed in programs and facilities certified pursuant to Article 16 of the Mental Hygiene Law that are experiencing staff shortages |
| Education Law Section 6808(1) and any associated regulations | Registered pharmacies | To the extent necessary to temporarily permit registered resident pharmacies and registered resident outsourcing facilities to compound certain alcohol-based hand sanitizer products, consistent with the Food and Drug Administration’s Policy for Temporary Compounding of Certain Alcohol-Based Hand Sanitizer Products During the Public Health Emergency (March 2020) |
| Education Law 6907(5) and associated regulations | Permits to practice as a registered nurse | To the extent necessary to permit graduates of registered professional nurse and licensed practical nurse licensure qualifying education programs registered by the State Education Department to be employed to practice nursing under the supervision of a registered professional nurse and with the endorsement of the employing hospital or nursing home for 180 days immediately following graduation |
| Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law), amending the Directive | Dispensing hydroxychloroquine or chloroquine | No pharmacist shall dispense hydroxychloroquine or chloroquine except when written: as prescribed for an FDA-approved indication; for an indication supported by one or more citations included or approved for inclusion in the compendia specified in 42 U.S.C. 1396r-8(g)(1)(B)(i); for patients in inpatient settings and acute settings; for residents in a subacute part of a skilled nursing facility; or as part of an study approved by an Institutional Review Board. Any person authorized to prescribe such medications shall denote on the |

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| <p>set forth in Executive Order 202.10</p> | | <p>prescription the condition for which the prescription has been issued</p> |
| <p><u>Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law)</u></p> | <p><u>Preemption of State guidance over prior State guidance and local guidance</u></p> | <p><u>Any guidance issued by the New York State Department of Health related to prevention and infection control of COVID-19 shall be effective immediately and shall supersede any prior conflicting guidance issued by the New York State Department of Health and any guidance issued by any local board of health, any local department of health, or any other political subdivision of the State related to the same subject</u></p> |
| <p>Directive (not a waiver of statute or regulation, but authorized under Section 29-A of the Executive Law)</p> | <p>Labor/delivery – support person</p> | <p>Any article twenty-eight facility licensed by the state, shall, as a condition of licensure permit the attendance of one support person who does not have a fever at the time of labor/delivery to be present as a support person for a patient who is giving birth</p> |