

NYS Laws Regarding Temporary Hospitals and Communicable Disease Facilities

1. Exceeding hospital capacity:

“The medical facility shall control admission and discharge of patients or residents to assure that occupancy shall not exceed the bed capacity specified in the operating certificate, except that a hospital may temporarily exceed such capacity in an emergency.” 10 NYCRR § 401.2(a)

Contact the New York State Department of Health Regional Office if exceeding hospital capacity becomes necessary.

2. Temporarily using unlicensed facilities or sites as hospitals.

If licensed facility is overwhelmed or in danger of being overwhelmed and diversion to another licensed facility is not advisable the State Commissioner of Health can order use of other facilities.

“Whenever the commissioner, after investigation, is of the opinion that any person is causing, engaging in or maintaining a condition or activity which in her opinion constitutes danger to the health of the people, and that it therefore appears to be prejudicial to the interests of the people to delay action for 15 days until an opportunity for a hearing can be provided in accordance with the provisions of [Public Health Law section 12-a], the commissioner shall order the person, including any State agency or political subdivision having jurisdiction, by written notice to discontinue such dangerous condition or activity or take certain action immediately or within a specified period of less than fifteen days. As promptly as possible thereafter, within not to exceed fifteen days, the commissioner shall provide the person an opportunity to be heard and to present any proof that such condition or activity does not constitute a danger to the health of the people.” PHL § 16.

PHL § 307(1) provides that in case of **great and imminent peril** to the public health of the city, it is the duty of the city health commissioner or health officer, with the approval of the local legislative authority, to take such measures and to do, order or cause to be done such acts for the preservation and protection of the public health of such city as he or she may deem necessary and proper.

In addition, Executive Law § 24(1) provides that following the proclamation of a local state of emergency, the chief executive may promulgate local emergency orders to protect life and property or to bring the emergency under control. These orders may provide for the establishment or designation of emergency medical shelters.

Contact the New York State Department of Health Regional Office if use of

unlicensed facilities or sites is being contemplated, as these statutory authorities may only be available during a declared emergency.

3. Permanent establishment of facilities for communicable disease.

“The commissioner shall from time to time submit to the authorities of the several municipalities or counties of the state such recommendations as he may consider necessary as to the establishment of hospitals for communicable diseases, indicating the disease for which in his judgment provision should be made and the extent of such provision.” PHL § 2109(1).

