

Emerging from COVID-19

Guidelines for Re-opening Your Practice

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Biography

Mark D. Ambrose, DNP, MBA, RN

Risk Management Consultant, MLMIC Insurance Company (mambrose@mlmic.com)

Mark Ambrose has been a Risk Management Consultant with MLMIC Insurance Company since 2014. He has had roles in academia, administration, and clinical practice for over 20 years. His clinical experiences include: Director of Nursing for a large Central New York health system, nurse manager in a number of clinical settings, including Urgent Care, Emergency Care and Diabetes services.



Mark is also an Adjunct Professor of Nursing at Keuka College in the Finger Lakes region. He has developed a strong background in Risk Management and Continuous Quality Improvement and serves as a consultative resource to more than 25 health care facilities, and hundreds of independent practitioners in the Central New York region.

He can offer expertise in a variety of areas including: clinical process, patient safety, regulatory standards and compliance, performance improvement, health information technology, and business process. Mark earned an Associate's in Applied Science in Nursing from Cayuga Community College, a Bachelor's in Science with a focus in nursing from Keuka College, a Master's in Business Administration from Columbia College, and a Doctorate in Nursing Practice from Old Dominion University.

Biography

Gordon Sanders, RN, BSN, CPHRM, FASHRM

Senior Patient Safety & Risk Consultant, MedPro Group (Gordon.Sanders@medpro.com)

Gordon has more than 35 years of experience working in clinical practice, hospital administration, risk management, and consulting. His extensive clinical leadership includes nursing supervision in both home care and acute care hospital facilities. In home care facilities, he led the development of fee-for-service programs. In acute care hospital facilities, he served as a lead developer, clinical coordinator, and instructor of the electronic medical records system. He also advanced to director of risk management in a multihospital integrated health system.



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Gordon received a bachelor of science degree in nursing from Youngstown State University. He is a registered nurse in the state of Ohio. He is a member of the American Society for Healthcare Risk Management, the Pennsylvania Association for Health Care Risk Management, and the West Virginia Society for Healthcare Risk Management. Gordon also has served in leadership roles in the Ohio Society for Healthcare Risk Management. Additionally, he is a certified professional in healthcare risk management, and he is a Fellow of the American Society for Healthcare Risk Management.

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Objectives

After listening to this program, viewers will be able to:

- Understand regulatory requirements associated with COVID-19
- Recognize resources necessary to reopen
- Develop infection control measures for protecting patients and staff
- Create new workflows and prioritize patient backlog
- Identify areas of need in anticipation for a future surge

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Introduction

As this wave of COVID-19 begins to recede, governmental officials will begin to decide whether to allow the reopening of medical practices, most likely by regions, that have met stringent regulatory requirements.

Healthcare leaders must now take the necessary time to establish appropriate measures in anticipation of safely reopening the medical practices.

Although this presentation is not all-inclusive, and offices/groups/surgical centers vary, the information in this provides a roadmap that you can use as you progress toward reopening and evaluating lessons learned as a result of the pandemic.

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Regulatory

Check regulatory agencies daily for updated recommendations:

- Centers for Disease Control and Prevention (CDC)
- Occupational Health and Safety Administration (OSHA):
 - Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 (COVID-19)
- Centers for Medicare & Medicaid Services (CMS)
- Your State Department of Health:
 - When and to what extent a practice can reopen will depend on local conditions

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Regulatory

Check specialty medical society resources

Contact your professional liability carrier to update them of any changes in your practice:

- Change from part-time to full-time
- Resume full scope of practice:
 - Addition of weekend and/or evening hours
 - Adding telehealth

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Resource Management

Inventory current medical supplies:

- Determine sufficient par levels
- Check medications and supplies for outdates

Confirm availability of future supplies:

- Track par levels

Test all patient care equipment to determine that it continues to function appropriately

Assess the availability of ambulance services and the accessibility of emergency services at local hospital(s)

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Resource Management

Determine availability of staff:

- Sufficient clinical and nonclinical employees to properly staff the office:
 - Confirm the readiness of their return to work
 - Families First Coronavirus Response Act
 - Expanded family and medical leave
 - Unable to work including telecommuting (illness, child care due to COVID-19)
 - Fear of contracting COVID-19 not covered
 - Return to work: fear may be a valid reason (ADA/OSHA)
 - Verify that they are in good health
 - Consider their childcare obligations, including the reopening of daycare centers and schools
 - Evaluate whether new hires are necessary

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Resource Management

Provide for staff safety:

- Consider shifting duties of vulnerable staff to lessen their exposure:
 - Positions that can be performed remotely
 - High risk clinical staff to perform nonclinical duties
- Keep in mind the staffs' mental health condition (personal and professional):
 - Pay attention for signs of exhaustion, depression, stress and other indicators
- Keep staff updated on changes in policies and procedures

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Gradual Re-opening

Plan for a “soft opening” or gradual re-opening:

- Practices should consider staffing adjustments:
 - Bring staff and physicians back in different waves
- Personnel can be placed on rotating teams or via telecommuting for certain positions if possible
- Determine how best to handle uninsured/previously insured patients:
 - Consult legal counsel
- Identify those visits which can be performed via telehealth

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Gradual Re-opening

Begin with a modified schedule:

- Avoid high volume in-person visits:
 - Allow for appropriate cleaning time
 - Avoid back-ups
 - Allow for physical distancing
- Adjust hours to accommodate patient needs:
 - Weekend hours
 - Evening hours
 - Consider designating morning hours to high risk patients

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Infection Control

Every precaution should be taken to minimize the risk of infection, for both office staff and patients

Post signage in appropriate languages to instruct patients/visitors with respiratory symptoms and fever to immediately inform staff by telephone before entering

Place signage in plastic sleeves for proper cleaning

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Infection Control

Adopt comprehensive safety protocols for:

- Physical distancing:
 - Establish a policy for no group congregation
- Universal face covering
- Following CDC guidelines:
 - Cleaning and disinfecting of community facilities
 - Return-to-work guidelines
 - Establish a quarantine policy

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Infection Control

Use health grade approved disinfectant cleaners

Clean and disinfect all surface areas on a routine schedule:

- Employee workspaces
- Nursing stations
- Waiting rooms
- Examination rooms
- Equipment sterilization room
- Area to perform venipuncture
- Lavatories

Reevaluate medical waste management pick-up schedule

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Infection Control

Install engineering controls (plexiglass barriers) to reduce exposure:

- Registration areas
- Nursing stations

Obtain adequate supplies:

- PPE
- Masks
- Hand sanitizer
- Tissues, paper towels, and other paper products

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Infection Control

Prescreen patients for possible COVID-19:

- At the time of scheduling, ask if they are experiencing common COVID-19 symptoms:
 - Utilize pre-scripted template:
 - Respiratory symptoms
 - Fever
 - Recent travel
 - Known exposure
 - When warranted, direct patients for testing prior to appointment

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Infection Control

Establish a policy and procedure to screen employees, patients, and visitors:

- Take temperatures:
 - Use no touch thermometers
 - For employees, check temperatures:
 - Beginning of shift
 - End of shift

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Infection Control

Continue to use telehealth as appropriate

Re-educate staff on infection control protocols including:

- The use of PPE (e.g., donning and doffing techniques)
- Hand hygiene (e.g., washing and avoiding face touching) and respiratory hygiene
- CDC-approved protocols for collecting, handling, and testing clinical specimens
- Establish physical distancing parameters
- Quality control:
 - Ensure measures are being performed correctly

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Risk Management Recommendations

Considerations for physical distancing:

- Coordinate patient appointments to allow time for infection control measures
- Perform check-ins by phone or text message:
 - Patients should wait in car until exam rooms are available
- Waiting room seating should be a minimum of six feet apart

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Risk Management Recommendations

Considerations for physical distancing:

- Prohibit visitors except for:
 - Parent of children
 - Patients that require medical assistance
 - Translators
 - Healthcare proxies
- Consider patient flow:
 - One-way traffic patterns if possible

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Risk Management Recommendations

Resuming patient care:

- Inform patients about re-opening date via:
 - Portal
 - Website
 - Email
 - Other communication modes
- Follow up on laboratory/diagnostic studies and referrals/hospital discharge summaries:
 - Review pending studies for compliance:
 - Notify noncompliant patients of the need for follow-up

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Risk Management Recommendations

Resuming patient care:

- Prioritize patient backlog:
 - Based on the nature of their condition or need:
 - Past medical history of high-risk condition
 - Hospitalized during the time of the practice closure
 - Telehealth appointments during the closure which requires an in-person follow-up
 - Medical Necessary Time-Sensitive (MeNTS) Prioritization:
 - Develop an objective priority scoring system to prioritize procedures

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Risk Management Recommendations

Documentation:

- Document all patient contacts during office closure:
 - Scan all notes into the medical records:
 - Document rationale for rescheduling of tests/procedures
 - Indications for telehealth
- Reorient staff to your practice's documentation policies and privacy/confidentiality protocols
- Create a temperature log for patient, visitor, and staff screening
- Resume your normal documentation practices:
 - Verify EHR security to minimize hacking

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Risk Management Recommendations

Cybersecurity:

- Be aware healthcare industry is now the major focus of cyber-attacks
- Hackers are trying to take advantage of this pandemic:
 - Be alert for phishing attempts
- Make sure that your Information Technology systems are intact:
 - Run a scan on all electronic systems to ensure no breaches have taken place during this crisis

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Risk Management Recommendations

Prepare for future surges:

- Review the practice's disaster/emergency plan to include pandemic responses and revise as needed:
 - Review how the practice handled the current pandemic:
 - Determine what went well and areas for improvement
 - Revise policies and procedures based on lessons learned:
 - Educate staff on all policies and procedures
 - Establish patient prioritization and communication plan in the event of reclosure

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Risk Management Recommendations

Prepare for future surges:

- Evaluate ability to handle a second wave of COVID-19 infections:
 - Be prepared for shortages and delays in supply deliveries
 - Verify that you have sufficient supplies and medications:
 - Ensure abundant supplies of:
 - Healthcare grade disinfectants
 - Alcohol-based hand sanitizer
 - PPE
- Be suspicious of any offers of PPE, testing, and medication discounts for bulk or group purchase due to fraudulent actors trying to take advantage of the crisis and its aftermath

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Legislative and Regulatory Measures for Consideration

During the COVID-19 emergency, temporary statutory and regulatory changes went into effect via executive orders, waivers, modifications, and declarations

Evolving situation – important to stay current of effective dates

The following will provide an overview and analysis of some changes that affect practitioners on a day-to-day basis

Consult with legal counsel regarding the status of any waivers or executive orders enacted during the pandemic, including-but not limited to- HIPAA and the STARK law

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Legislative and Regulatory Measures for Consideration

Immunity from Liability – NYS Emergency or Disaster Treatment Protection Act (EMDTA):

- Effective: March 7, 2020 – end of COVID-19 Emergency Declaration
- The Act provides immunity for civil or criminal liability for injury or death
- The Act applies to:
 - “Healthcare Facility” or “Healthcare Professionals” and “Volunteer Organizations”
 - Acts or omissions that occur in providing healthcare services and treatment to individuals in response to COVID-19 emergency
 - Activities in response to outbreak and in support of State directives

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Legislative and Regulatory Measures for Consideration

NYS EDPTA – Exceptions to Immunity:

- Willful or intentional criminal misconduct
- Gross negligence
- Reckless misconduct
- Intentional infliction of harm

Important: Resource or staff shortages shall not be considered an exception to immunity

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Legislative and Regulatory Measures for Consideration

Federal Immunity from Liability:

- Coronavirus Aid, Relief and Economic Securities (CARES) Act
- Public Readiness and Emergency Preparedness (PREP) Act

Warning: Immunity statutes and executive orders are not impenetrable.

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Legislative and Regulatory Measures for Consideration

CARES Act:

- Effective March 27, 2020
- Limited liability for “volunteer” health care providers from Federal or State law for harm caused by an act or omission in providing COVID-19 health care services
- “Harm” includes physical, nonphysical, economic and noneconomic losses
- “Health care services” within scope of volunteer’s license relating to:
 - Diagnosis, prevention or treatment of COVID-19; or
 - Assessment of patient for actual or suspected case of COVID-19

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Legislative and Regulatory Measures for Consideration

“Health care services” means any services provided by a health care professional, or by any individual working under the supervision of a health care professional that relate to:

- Diagnosis, prevention or treatment of COVID-19; or
- Assessment of patient for actual or suspected case of COVID-19

CARES Act does not apply if:

- “Harm” caused by an act or omission constituting willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer

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Legislative and Regulatory Measures for Consideration

Declaration of Secretary of Department of Health and Human Services:

- Under the PREP Act
- Effective February 4, 2020 until further notice from HHS
- Applies to Countermeasures against COVID-19
- “Covered person” is immune from suit and liability under federal and state law for all claims of loss stemming from the administration to or use by an individual of a covered countermeasure
- Authorized covered person to: prescribe, administer, deliver, distribute, or dispense covered countermeasures absent willful misconduct
- Applies to any antiviral or other drug, device or vaccine to treat, diagnose, cure, prevent, or mitigate COVID-19
- Under CARES Act, PREP Act’s protection is extended to entities and persons who manufacture, test, distribute, prescribe or administer “respiratory protective devices” during period of public health crisis

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Legislative and Regulatory Measures for Consideration

Relief of Medical Record-Keeping Requirements:

- CMS 42 CFR §482.24(a) through (c) related to hospital discharges
- New York Executive Order 202.10 (no longer valid)
 - Other states may have had similar orders
 - Applied to providers, hospitals, laboratories, and nursing facilities
 - To the extent necessary to perform tasks related to COVID-19 emergency
 - When acting in good faith a provider is immune from liability for failing to comply with recordkeeping requirements
 - Applied to accurate documentation of evaluation and treatment, diagnostic codes, and billing records

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Legislative and Regulatory Measures for Consideration

HIPAA – HHS Office of Civil Rights (OCR) February 2020 Bulletin:

- Covered entities may disclose protected health information (PHI):
 - Necessary to treat patient or different patient
 - To Public Health Authority (CDC, DOH)
 - To family members, relatives, friends or others involved in patient's care
 - Disaster relief organizations
- *But:* Verbal consent from patient should be obtained if possible

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Legislative and Regulatory Measures for Consideration

Enforcement Discretion with COVID-19 Community-Based Testing Sites (CBTS)

- HIPAA penalties not imposed against covered health care providers and their business associates in the operation of CBTS during public health emergency
- Includes all activities that support collection of specimens for COVID-19 testing

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Legislative and Regulatory Measures for Consideration

HIPAA – Office of Civil Rights Will Exercise Enforcement Discretion – effective until further notice from HHS:

- Privacy Rule Enforcement:
 - Use and disclosure by a business associate of protected health information for public health activities or oversight
- Telehealth:
 - Waiver of violations relative to good faith use of common non-public facing audio or video products – FaceTime, Zoom, Skype
 - Business Associate Agreement is not required

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Legislative and Regulatory Measures for Consideration

HIPAA:

- Notifying patients/employees of an exposure:
 - Tell patients or employees they have been exposed, but *do not* identify the person with COVID without their consent
 - Inform patients that if they are diagnosed, the County DOH will be notified for contact tracing and next steps

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Legislative and Regulatory Measures for Consideration

Telehealth Considerations:

- Expansion of telehealth services for behavioral health
- Patient consent to telehealth:
 - Consent verbal or written
 - Scope of telehealth services
 - Privacy and security
 - Location of patient/licensure and state reciprocity
 - Patient's understanding of obligations
- Medicare coverage and private insurance expansion:
 - Audio only for some evaluation and management services, and behavioral health counseling and educational services - <https://www.cms.gov/Medicare/MedicareGeneral-Information/Telehealth/Telehealth-Codes>
 - Telehealth to Skilled Nursing Facilities
 - Out of state licensure

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Legislative and Regulatory Measures for Consideration

Elective Surgical Procedures – these are state specific

Example NY Executive Order 202.25 (Other states may have had similar orders):

- Hospitals must report to DOH the number and type of surgeries being performed
- General hospitals not meeting the criteria may seek a waiver from the Department of Health (DOH) by submitting a plan
- Patients must test negative for COVID-19

Check your medical/surgical society for additional guidelines:

- ACOS, ASA, AORN, AHA joint statement – <https://www.asahq.org/about-asa/newsroom/news-releases/2020/04/joint-statement-on-elective-surgery-after-covid-19-pandemic>
- Northeast Region COVID-19 Coalition – <http://e.nesps.org/images/2020/16196/guidelines.pdf>

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Legislative and Regulatory Measures for Consideration

COVID-19 and Informed Consent:

- Distinction between a waiver (not enforceable) and informed consent
- Form is never a substitute for discussion
- What to include in a consent discussion, form or patient notification about COVID-19:
 - Tempered content – do not create a standard of care or a checklist for plaintiff's attorney
 - Risks and benefits of undergoing treatment/procedure during COVID-19 emergency
 - Precautions taken by facility/practice – despite efforts still a risk
 - No guarantees or assurances given
 - Patient understands risks/benefits and assumes the risks of undergoing an elective procedure during the COVID-19 emergency

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Additional Resources

At no additional cost, MLMIC policyholders can access 24/7 legal services from the law firm of Fager Amsler Keller & Schoppmann, LLP by calling (855) FAKS-LAW or emailing hotline@FAKSLAW.com

Fager Amsler Keller & Schoppman, LLP: [COVID-19 Legislative Dashboard:](https://www.mlmic.com/wp-content/uploads/2020/06/COVID-19-Legislative-Dashboard-Updated-June192020.pdf)

<https://www.mlmic.com/wp-content/uploads/2020/06/COVID-19-Legislative-Dashboard-Updated-June192020.pdf>

MLMIC's Post-COVID-19 Operations: [Healthcare Practices Checklist:](https://www.mlmic.com/wp-content/uploads/2020/04/Checklist_Preparing-for-Post-COVID-19-Operations_Healthcare-Practices_042220.pdf)

https://www.mlmic.com/wp-content/uploads/2020/04/Checklist_Preparing-for-Post-COVID-19-Operations_Healthcare-Practices_042220.pdf

MLMIC's Post-COVID-19 Operations: [Ambulatory Surgical Center Checklist:](https://www.mlmic.com/wp-content/uploads/2020/05/checklist-preparing-for-post-covid-19-operations-ambulatory-surgery-centers.pdf)

<https://www.mlmic.com/wp-content/uploads/2020/05/checklist-preparing-for-post-covid-19-operations-ambulatory-surgery-centers.pdf>

MLMIC's Post-COVID-19 Operations: [Facility Checklist:](https://www.mlmic.com/wp-content/uploads/2020/05/checklist-preparing-for-post-covid-19-operations-hospitals.pdf)

<https://www.mlmic.com/wp-content/uploads/2020/05/checklist-preparing-for-post-covid-19-operations-hospitals.pdf>

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Additional Resources

MedPro COVID-19 Resource Center:

<https://www.medprocovid-19.com/covid-19-resources>

MedPro Documentation Guidance, Patient Advisory and Acknowledgment Forms, and Post-COVID-19 Operations Checklists:

<https://www.medprocovid-19.com/medpro-tools>

MedPro COVID-19 Risk Resources:

<https://www.medprocovid-19.com/risk-resources>

MedPro Healthcare Provider Wellness Resources:

<https://www.medprocovid-19.com/wellness>

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References

American Medical Association (AMA) – A Physician’s Guide to COVID-19 – <https://www.ama-assn.org/delivering-care/public-health/physicians-guide-covid-19>

Centers for Disease Control and Prevention (CDC) – <https://www.cdc.gov/coronavirus/2019-nCoV/hcp/index.html>

Centers for Medicare & Medicaid Services (CMS) – Recommendations: Re-opening Facilities to Provide Non-emergent Non-COVID-19 Healthcare: Phase I – <https://www.cms.gov/files/document/covid-flexibility-reopen-essential-non-covid-services.pdf>

Centers for Medicare and Medicaid Services (CMS) – from Keyes Life Safety Compliance – https://www.keyeslifesafety.com/cms-issues-emergency-declaration-blanket-waivers-for-health-care-providers/?mc_cid=0edd467631&mc_eid=bbbf7ef852

CMS Waivers – <https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf>

Department of Labor: FMLA – <https://www.dol.gov/agencies/whd/fmla/pandemic>
<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

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References

Joint Commission – <https://www.jointcommission.org/covid-19>

Medical Society of the State of New York (MSSNY) – Interim Guidance for Reopening the Health Care System & Best Practices for Reopening From COVID-19 <http://www.mssnyenews.org/covid-19/guidelines-and-recommendations-for-reopening-the-health-care-system-best-practices-for-reopening-from-covid-19/>

New York State Department of Health (NYSDOH) <https://coronavirus.health.ny.gov/information-healthcare-providers>

Telemedicine Provider Fact Sheet – <https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>

Occupational Health and Safety Administration (OSHA) – Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 (COVID-19) <https://www.osha.gov/memos/2020-04-10/enforcement-guidance-recording-cases-coronavirus-disease-2019-covid-19>

For additional resources, please see MLMIC's and Medpro's COVID-19 Risk Resources Webpages

Questions & Answers

Please submit questions in the Q&A Section

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