

Key Regulatory Changes Affecting Small Businesses FY23

Empire State Development (ESD) is New York's chief economic development agency. The mission of ESD is to promote a vigorous and growing economy, encourage business investment and job creation, and support diverse, prosperous local economies across New York State through the use of loans, grants, tax credits, real estate development, marketing and other forms of assistance.

The New York State Economic Development Law requires ESD to prepare an annual summary for the small business community of the key regulatory changes impacting small businesses – deemed to be one which is a resident in New York State, independently owned and operated, not dominant in its field and employs 100 or less employees.

<u>Agency:</u>	Office of Alcoholism and Substance Abuse Services (OASAS)
<u>Title/Section(s):</u>	Residential Services - Amendment of Part 820 of Title 14 NYCRR.
<u>State Register I.D. No:</u>	ASA-11-22-00006
<u>Filing Date:</u>	March 16, 2022
<u>Effective Date:</u>	September 14, 2022
<u>Summary:</u>	This regulation establishes rules and expectations for providers of residential services. The legislature has authorized OASAS to establish standards and regulations governing the provision of addiction services, including the provision of medications for addiction treatment, as well as standards for providers seeking to offer such services.
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Agency: Office of Alcoholism and Substance Abuse Services

Title/Section(s): Inpatient Rehabilitation Services - Amendment of Part 818 of Title 14 NYCRR.

State Register I.D. No: ASA-11-22-00009

Filing Date: March 16, 2022

Effective Date: September 14, 2022

Summary: This regulation establishes rules and expectations for providers of inpatient rehabilitation services. The legislature has authorized OASAS to establish standards and regulations governing the provision of addiction services, including the provision of medications for addiction treatment, as well as standards for providers seeking to offer such services.

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Agency: Office of Cannabis Management

Title/Section(s): Cannabinoid Hemp - Amendment of Part 114 of Title 9 NYCRR.

State Register I.D. No: OCM-01-22-00026

Filing Date: September 9, 2022

Effective Date: October 5, 2022

Summary: Amendment of the regulation to include additional definitions, change certain requirements for applicants and add licensing and registration fee amounts, for cannabinoid hemp processors and cannabinoid hemp retailers.

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Agency: Office of Cannabis Management

Title/Section(s): Conditional Adult-Use Retail Dispensary- Addition of Part 116 to Title 9 NYCRR.

State Register I.D. No: OCM-13-22-00002

Filing Date: June 7, 2022

Effective Date: August 3, 2022

Summary: The rule establishes the framework for a subset of retail licenses for the adult-use cannabis program in New York. Requirements and Prohibitions for Conditional Adult-Use Retail Dispensary License. Lists requirements for conditional adult-use retail dispensary licensees, including ownership and control requirements, compliance with all terms and conditions of any agreements approved by the Cannabis Control Board, including any loan and lease agreements, and compliance with all local and state laws and regulations.

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Agency: Office of Children and Family Services

Title/Section(s): Expanded Eligibility for Child Care Assistance- Amendment of Part 415 of Title 18 NYCRR.

State Register I.D. No: CFS-18-22-00008-A

Filing Date: July 12, 2022

Effective Date: July 27, 2022

Summary: This regulation is to expand eligibility for childcare assistance in accordance with Social Services Laws. This rule implements statutory requirements pursuant to the New York State Fiscal Year 2023 Enacted Budget which expanded access to child care assistance for families with incomes up to 300% of the state income standard.

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Agency: Office of Children and Family Services

Title/Section(s): Direct Deposit for Child Care Providers Receiving Child Care Assistance - Amendment of Part 415 of Title 18 NYCRR.

State Register I.D. No: CFS-33-22-00010

Filing Date: August 17, 2022

Effective Date: November 30, 2022

Summary: This regulation is to implement requirements of Social Services Laws to require districts to offer a direct deposit option for providers receiving child care assistance. Implementing direct deposit will aid in preventing financial hardships that may arise due to the mishandling of paper checks as well as offer a more timely, reliable, and stable manner of payment for child care providers

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Agency: Office of Children and Family Services

Title/Section(s): Update Provisions to Reflect the Enacted Budget Regarding Child Care Assistance Rates and Work Requirements - Amendment of Part 415 of Title 18 NYCRR.

State Register I.D. No: CFS-37-22-00003

Filing Date: September 14, 2022

Effective Date: December 21, 2022

Summary: This regulation is to update provisions on childcare assistance rates and work requirements.

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Agency: Education Department

Title/Section(s): Continuing Education (CE) Requirements for Psychologists, Social Workers and Mental Health Practitioners - Amendment of sections 72.6, 74.10. 79-9.8, 79-10.8, 79- 11.8 and 79-12.8 of Title 8 NYCRR.

State Register I.D. No: EDU-17-22-00005

Filing Date: April 27, 2022

Effective Date: October 19, 2022

Summary: This regulation is to require such professionals to complete three CE credits on issues related to maintaining appropriate professional boundaries.

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Agency: Education Department

Title/Section(s): Licensure Requirements for Professional Engineers - Repeal of section 68.1; addition of new section 68.1; amendment of section 68.3 of Title 8 NYCRR.

State Register I.D. No: EDU-17-22-00009

Filing Date: April 27, 2022

Effective Date: July 27, 2022

Summary: This regulation relates to licensure requirements for professional engineers and for persons seeking licensure as a professional engineer pursuant to the current 12-year experience pathway to submit a licensure application with the appropriate fee to the Department within two years of the effective date of the statute in order to preserve their potential ability to qualify for licensure based on such experience.

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Agency: Education Department

Title/Section(s): Unprofessional Conduct in the Practice of Veterinary Medicine-
Amendment of section 29.6 of Title 8 NYCRR.

State Register I.D. No: EDU-22-22-00007

Filing Date: June 1, 2022

Effective Date: September 28, 2022

Summary: This regulation is to establish unprofessional conduct for multi
veterinarian and solo veterinarian practices.

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Agency: Education Department

Title/Section(s): Continuing Education Requirements for Licensed Optometrists Certified to Prescribe and Use Therapeutic Pharmaceutical Agents- Repeal of section 66.6; and addition of new section 66.6 to Title 8 NYCRR.

State Register I.D. No: EDU-04-23-00004

Filing Date: January 25, 2023

Effective Date: May 31, 2023

Summary: This regulation is to implement the proposed amendment for continuing education requirements for licensed optometrists, including applicability of requirements, the number of continuing education hours required, proration, acceptable formal continuing education, types of learning activities, and prohibitions.

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Agency: Department of Financial Services

Title/Section(s): Registration of Pharmacy Benefit Managers (PBM)- Amendment of Part 451 (Regulation 221) of Title 11 NYCRR.

State Register I.D. No: DFS-03-23-00001

Filing Date: June 15, 2022

Effective Date: January 18, 2023

Summary: This regulation is to maintain status quo while the Department promulgates permanent regulations under Public Health Laws to require PBMs to disclose and report certain information to health plans related to the pharmacy benefit management services they provide to their health plans, and to provide an accounting of all funds received by the PBM for pharmacy benefit management services attributable to the health plan.

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Agency: Department of Financial Services

Title/Section(s): Charges for Professional Health Services - Amendment of Part 68 (Regulation 83) and Appendix 17–C of Title 11 NYCRR.

State Register I.D. No: DFS-41-22-00021

Filing Date: October 12, 2022

Effective Date: February 15, 2023

Summary: This regulation is to establish schedules of maximum permissible charges for professional health services payable as no-fault insurance benefits.

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Agency: Department of Financial Services

Title/Section(s): Original Issuance of License or Change of Control of a Licensee - Amendment of section 400.1(c)(8) of Title 3 NYCRR.

State Register I.D. No: DFS-08-23-00001

Filing Date: February 22, 2023

Effective Date: June 21, 2023

Summary: This regulation is to eliminate existing regulation that requires every licensed check cashing facility to have a minimum dimension.

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Agency: Department of Health

Title/Section(s): Updated Retention Standards for Adult Care Facilities -
Amendment of sections 487.4, 488.4 and 490.4 of Title 18 NYCRR.

State Register I.D. No: HLT-10-22-00009

Filing Date: March 9, 2022

Effective Date: February 22, 2023

Summary: This regulation is to ensure admission and retention standards for adult care facilities are consistent with the Americans with Disabilities Act.

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Agency: Department of Environmental Conservation

Title/Section(s): Medium- and Heavy-Duty (MHD) Zero Emission Truck Annual Sales Requirements and Large Entity Reporting - Addition of Part 218 to Title 6 NYCRR.

State Register I.D. No: ENV-36-21-00004

Filing Date: September 8, 2021

Effective Date: January 19, 2022

Summary: This regulation is to implement annual zero emission MHD truck sales requirements for model years 2025-2035; report MHD volumes, operations, and locations. The adopted amendments establish annual ZEV sales requirements in New York State for truck manufacturers. Manufacturers will be required to meet a certain sales percentage of ZEV trucks, which will vary among vehicle weight classes, beginning with model year (MY) 2025, and increasing annually through MY 2035.

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Agency: Department of Financial Services

Title/Section(s): Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure - Amendment of Part 52 (Regulation 62) of Title 11 NYCRR. To protect health insurance consumers from surprise medical bills.

State Register I.D. No: DFS-47-21-00006

Filing Date: November 24, 2021

Effective Date: December 7, 2022

Summary: This regulation is to apply disclosure requirements to dental and vision and hold issuers responsible for inaccurate network status information.

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Agency: Department of Health

Title/Section(s): Clinical Laboratories and Blood Banks - Amendment of Subpart 58-1 of Title 10 NYCRR.

State Register I.D. No: HLT-12-22-00001

Filing Date: March 23, 2022

Effective Date: May 24, 2023

Summary: This regulation is to allow for remote supervision and updates and to provide concordance with NYS law for qualifications of technical personnel.

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Agency: Department of Health

Title/Section(s): Private Duty Nursing (PDN) Services to Medically Fragile Adults - Amendment of section 505.8 of Title 18 NYCRR.

State Register I.D. No: HLT-39-22-00019

Filing Date: September 28, 2022

Effective Date: January 4, 2023

Summary: This regulation is to increase PDN fee-for-service reimbursement for nursing services provided to medically fragile adults.

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Agency: Department of Labor

Title/Section(s): Minimum Wage Increases - Amendment of Part 190 of Title 12 NYCRR.

State Register I.D. No: LAB-41-22-00022

Filing Date: October 12, 2022

Effective Date: December 28, 2022

Summary: This regulation is to comply with the Labor Laws to adopt minimum wage increases for farmworkers.

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Agency: Department of Financial Services

Title/Section(s): Minimum Wage Increases - Amendment of Part 190 of Title 12 NYCRR.

State Register I.D. No: DFS-21-22-00002

Filing Date: May 25, 2022

Effective Date: August 24, 2022

Summary: This regulation is to increase the maximum training allowance to reflect inflation.

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Agency: New York State Gaming Commission

Title/Section(s): Regulation of Charitable Gaming Internet Raffles - Amendment of sections 4620.22 and 5402.1 of Title 9 NYCRR.

State Register I.D. No: SGC-02-22-00003

Filing Date: January 12, 2022

Effective Date: April 13, 2022

Summary: This regulation is to implement internet raffles regulation as directed by statute. No entity, other than an authorized organization to which the commission has issued a games of chance identification number and a raffle license, if applicable pursuant to General Municipal Laws, is permitted to sell raffle tickets through the internet or a mobile device.

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Agency: Department of Health

Title/Section(s): Minimum Staffing Requirements for Nursing Homes - Amendment of sections 415.2 and 415.13 of Title 10 NYCRR.

State Register I.D. No: HLT-46-21-00007

Filing Date: January 17, 2022

Effective Date: December 7, 2022

Summary: This regulation is to implement minimum staffing levels for nursing homes.

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Agency: Department of Health

Title/Section(s): Prescription Refills - Amendment of section 505.3(d)(2) of Title 18 NYCRR.

State Register I.D. No: HLT-01-22-00004

Filing Date: January 5, 2022

Effective Date: June 8, 2022

Summary: This regulation is to limits Medicaid Fee For Services prescriptions to a maximum of 12 fills within one year from the date the prescriber initiates a prescription.

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Agency: Department of Labor

Title/Section(s): Minimum Wage Increases - Amendment of Parts 141, 142, 143 and 146 of Title 12 NYCRR.

State Register I.D. No: LAB-41-22-00023

Filing Date: October 12, 2022

Effective Date: December 28, 2022

Summary: This regulation is to implement minimum wage increases pursuant to Labor Laws. The regulations will benefit employers and employees by specifying the exact dollar amounts that result from those statutory formulas to facilitate compliance with statutory increases. Employees will benefit from increases in those rates that specify additional pay required under certain circumstances, while employers will benefit from increases in those rates that specify allowances that employers can use as credits towards partial satisfaction of the minimum wage

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Agency: Department of Labor

Title/Section(s): Overtime Thresholds for Farm Laborers - Addition of section 190-2.4 to Title 12 NYCRR.

State Register I.D. No: LAB-41-22-00024

Filing Date: October 12, 2022

Effective Date: February 22, 2023

Summary: This regulation is to implement incremental reductions in overtime pay thresholds for farm laborers.

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Agency: Office for People with Developmental Disabilities

Title/Section(s): Family Care Homes for People with Developmental Disabilities - Amendment of Part 687 of Title 14 NYCRR.

State Register I.D. No: PDD-46-22-00002

Filing Date: November 16, 2022

Effective Date: February 5, 2023

Summary: This regulation is to clarify terminology and limit the number of individuals residing in family care homes.

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Agency: State Liquor Authority

Title/Section(s): Ensuring Smaller Retailers Are Not Unlawfully Discriminated Against Through the Charging of Exorbitant Split Case Fees - Amendment of section 65.4(d) and (e) of Title 9 NYCRR.

State Register I.D. No: LQR-26-22-00001

Filing Date: June 29, 2022

Effective Date: November 30, 2023

Summary: This regulation is to ensure smaller retailers are not unlawfully discriminated against through the charging of exorbitant split case fees. These proposed regulations modernize existing regulations relating to the anti-discrimination provisions in the Alcoholic Beverage Control Law (“ABCL”) which prevent licensed wholesalers from giving preferential treatment to certain licensed retailers through price discrimination. Specifically, these regulations concern the maximum “split case fee” wholesalers can charge to retailers who order liquor or wine by the bottle, instead of by the case, a regulatory measure that has been in place since 1969, but has not been amended to account for inflation since 1980.

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Agency: Office of Mental Health

Title/Section(s): Relating to the Certification, Operation and Reimbursement of Clinic Treatment Programs Serving Adults and Children - Amendment of Part 599 of Title 14 NYCRR.

State Register I.D. No: OMH-23-22-00021

Filing Date: June 8, 2022

Effective Date: November 23, 2022

Summary: This regulation is to align certification, operation and reimbursement of clinic treatment programs serving adults and children with the State Plan.

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Agency: Department of State

Title/Section(s): Ventilation Requirements - Amendment of section 160.16 of Title 19 NYCRR.

State Register I.D. No: DOS-16-22-00001

Filing Date: April 20, 2022

Effective Date: June 29, 2022

Summary: This regulation is to provide an additional six months for appearance enhancement businesses to comply with existing ventilation standards.

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Agency: Office for People with Developmental Disabilities

Title/Section(s): Certified Residential Opportunities - Addition of Subpart 636-3 to Title 14 NYCRR.

State Register I.D. No: PDD-37-21-00001

Filing Date: September 15, 2021

Effective Date: September 14, 2022

Summary: This regulation is to provide equity in opportunities for certified residential housing.

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Agency: Department of State

Title/Section(s): Eligible Professions for the Purchase, Sale and Delivery of Body Armor - Addition of Part 905 to Title 19 NYCRR.

State Register I.D. No: DOS-30-22-00002

Filing Date: July 27, 2022

Effective Date: November 30, 2022

Summary: This regulation is to establish criteria for professions requiring the use of body armor and processes for body armor purchase, sale or delivery.

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Agency: Department of State

Title/Section(s): Notaries Public - Amendment of Part 182 of Title 19 NYCRR.

State Register I.D. No: DOS-30-22-00007

Filing Date: July 27, 2022

Effective Date: January 25,2023

Summary: This regulation is to set standards relating to the performance of notarial acts, including electronic notarial acts.

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Agency: Workers' Compensation Board

Title/Section(s): Medical Treatment Guidelines - Amendment of section 324.2 of Title 12 NYCRR.

State Register I.D. No: WCB-41-21-00012

Filing Date: October 13, 2021

Effective Date: March 2, 2022

Summary: This regulation is to add Eye Disorders, Traumatic Brain Injury, and Complex Regional Pain Syndrome to medical treatment guidelines.

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Agency: Workers' Compensation Board

Title/Section(s): Pharmacy Networks - Amendment of section 440.8 of Title 12 NYCRR.

State Register I.D. No: WCB-26-22-00002

Filing Date: June 29, 2022

Effective Date: November 23, 2022

Summary: This regulation is to require carriers to notify pharmacies when there is a network.

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Agency: Workers' Compensation Board

Title/Section(s): Disability Benefits - Amendment of sections 355.4, 363.1, 363.11, 363.13; addition of sections 363.15 and 363.16 to Title 12 NYCRR.

State Register I.D. No: WCB-41-22-00002

Filing Date: October 12, 2022

Effective Date: May 10, 2023

Summary: This regulation is to update and clarify disability benefits claims process and conform to statute.

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Agency: Division of Human Rights

Title/Section(s): Notice of Tenants' Rights to Reasonable Modifications and Accommodations for Persons with Disabilities - Addition of section 466.15 to Title 9 NYCRR.

State Register I.D. No: HRT-15-21-00005

Filing Date: April 14, 2021

Effective Date: May 18, 2022

Summary: This regulation is to comply with the requirements for every housing provider to provide notice to all tenants and prospective tenants of their rights to request reasonable modifications and accommodations as such rights are provided for in Human Rights Laws.

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Agency: Department of State

Title/Section(s): Advertising Licensed Activity of Installing, Servicing, or Maintaining Security or Fire Alarm Systems - This is a consensus rulemaking to repeal section 195.16; and add new section 195.16 to Title 19 NYCRR

State Register I.D. No: DOS-42-22-00003

Filing Date: October 19, 2022

Effective Date: January 25, 2023

Summary: This regulation is to provide multi-state security or fire alarm system license holders flexibility to making certain disclosures.

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