

**STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS**

**ADMINISTRATIVE ORDER AND NOTICE OF RULE WAIVER PURSUANT TO
P.L. 2020, c. 18; N.J.S.A. 45:1-29**

COVID-19 STATE OF EMERGENCY

EMERGENCY GRADUATE LICENSURE PROGRAM

DCA Administrative Order No. 2020-05 and DCA Waiver No. W-2020-09

Administrative Order and Temporary Waiver adopted by Paul R. Rodríguez, Acting Director,
Division of Consumer Affairs

Date: May 5, 2020

Authority: P.L. 2020, c. 18; N.J.S.A. 45:1-29

Effective Date: May 5, 2020

Expiration Date: Concurrent with the end of the state of emergency or public health emergency declared in Executive Order No. 103, whichever is later, unless earlier terminated by the Director.

WHEREAS, on March 9, 2020, through Executive Order No. 103, the facts and circumstances of which are adopted by reference herein, the Governor declared both a Public Health Emergency and a State of Emergency throughout the State due to the public health hazard posed by Coronavirus disease 2019 (COVID-19); and

WHEREAS, on April 7, 2020, through Executive Order No. 119, the facts and circumstances of which are adopted by reference herein, the Governor declared that the Public Health Emergency declared in Executive Order No. 103 pursuant to the Emergency Health Powers Act continues to exist throughout the State of New Jersey; that all Executive Orders adopted in whole or in part based on the authority under the Emergency Health Powers Act to respond to the Public Health Emergency presented by the COVID-19 outbreak remain in full force and effect; and that all actions, including Administrative Orders, taken by an Executive Branch department or agency in whole or in part based on the authority under the Emergency Health Powers Act to respond to the Public Health Emergency presented by the COVID-19 outbreak, or in whole or in part based on authority delegated by any Executive Order adopted in whole or in part based on the authority under the Emergency Health Powers Act to respond to

the Public Health Emergency presented by the COVID-19 outbreak, remain in full force and effect; and

WHEREAS, to further protect the health, safety, and welfare of New Jersey residents by, among other things, reducing the rate of community spread of COVID-19, the Governor issued Executive Order No. 107 (2020) on March 21, 2020, the facts and circumstances of which are also adopted by reference herein; and

WHEREAS, to expand our health care system's capacity to treat patients for COVID-19 and provide other essential care, the Governor issued Executive Order No. 112 (2020) on April 1, 2020, the facts and circumstances of which are also adopted by reference herein; and

WHEREAS, through Executive Order No. 103, Governor Murphy authorized the executive head of any agency or instrumentality of the State government to waive, suspend, or modify any existing rule, where the enforcement of which would be detrimental to the public welfare during this emergency, subject to prior approval and in consultation with the State Director of Emergency Management and the Commissioner of DOH; and

WHEREAS, on April 14, 2020, Governor Murphy signed into law P.L. 2020, c. 18, which permits the Director to issue an administrative order to suspend temporarily any provision of Title 45 of the Revised Statutes or suspend or modify temporarily any rule adopted pursuant to such authority, upon concurrence by the Attorney General, after determining that such order is necessary to promote the public welfare and further such other purposes of the state of emergency or public health emergency declared in Executive Order No. 103; and

WHEREAS, the number of COVID-19 cases in New Jersey is anticipated to continue to increase for the immediate future, putting further strain on our healthcare system's capacity; and

WHEREAS, the number of COVID-19 cases in New Jersey will likely require the skills and time of more healthcare professionals across the State, including, but not limited to registered professional nurses, licensed practical nurses, physician assistants, respiratory care therapists, and pharmacists, meaning we must take all possible steps to expand our healthcare system's capacity to treat those who require emergency or intensive care, and to provide essential healthcare services, while still meeting the ongoing urgent medical needs of our residents; and

WHEREAS, the State's acute care hospitals in particular are in need of additional healthcare professionals and have established systems in place to train and integrate early-career professionals; and

WHEREAS, the State's Department of Health-licensed field hospitals are in particular need of additional respiratory care therapists; and

WHEREAS, due to the COVID-19 outbreak, licensing exams for healthcare professionals such as registered professional nurses, licensed practical nurses, physician assistants, respiratory care therapists, and pharmacists have been canceled or postponed, or are only being made available with less frequency and at fewer physical testing sites, and are unlikely to be rescheduled or otherwise made readily available for the immediate future; and

WHEREAS, aspiring registered professional nurses, licensed practical nurses, physician assistants, respiratory care therapists, and pharmacists have recently graduated from their professional education and training programs, and more are anticipated to graduate in the coming months, who will be unable to obtain licenses and support the State's COVID-19 response if they cannot take their licensing examinations; and

WHEREAS, it is in the public interest to expeditiously expand the supply of available and qualified healthcare professionals permitted to treat New Jersey patients and provide healthcare services, by temporarily authorizing graduates of nursing programs, physician assistant training programs, respiratory care therapist training programs, and pharmacist training programs who have not yet taken and passed their licensing examinations to presently practice their professions in New Jersey; and

WHEREAS, there are presently statutory provisions designed to safeguard the health and safety of the public, including by ensuring that healthcare professionals meet the highest standards before entering their fields, and these provisions can, in a time of crisis such as this, thwart or delay our efforts to respond rapidly to emerging needs by establishing conditions and barriers that deprive the healthcare system of the agility to best utilize available resources in an effort to stem the spread of COVID-19, and avoid overwhelming the capacity of the system; and

WHEREAS, the Commissioner of Health and Attorney General have determined that the State needs the help of additional qualified health professionals to supplement our healthcare system's capacity on a temporary basis; and

WHEREAS, healthcare professionals seeking a temporary emergency license to supplement the State's COVID-19 response should not be charged an application fee in addition to the application fee that they are paying to secure a standard license; and

WHEREAS, delays in the processing of criminal history background checks during the COVID-19 epidemic could unduly delay the issuance of temporary emergency licenses; and

WHEREAS, the strict enforcement of certain statutory provisions that delay the State's efforts to rapidly respond to the spread of COVID-19 is detrimental to the public welfare;

NOW, THEREFORE, I, Paul R. Rodríguez, Acting Director of the Division of Consumer Affairs, by virtue of the authority vested in me by the statutes of this State, with the approval of the Governor, in consultation with the Commissioner of the Department of Health, and upon concurrence by the Attorney General, hereby **ORDER** as follows:

1. The Division may issue an emergency graduate license to an individual who has graduated within 6 months preceding the date of application from an accredited professional nursing, practical nursing, physician assistant or pharmacy education training program located in New Jersey, or a respiratory care therapy training program that is accredited and located in any state, and who has initiated an application for a standard license, including but not limited to payment of the application fee for a standard license and submission of such information as the Division may require.

2. Emergency graduate licenses shall be available to applicants who have not yet taken the applicable examination, and to applicants who have taken and passed the applicable examination but who have not yet satisfied other requirements for licensure.

3. Emergency graduate licenses shall not be granted to applicants who have, since graduating from a program described in paragraph 1 of this Order, taken and failed to pass the applicable licensing examination.

4. Emergency graduate licenses will expire automatically upon any of the following events, whichever occurs first:

- a. At the end of both the state of emergency and public health emergency declared in Executive Order No. 103;
- b. When terminated by the Director; or
- c. For individual holders of emergency graduate licenses, upon their failure of the applicable licensing examination.

If the Director intends to terminate one or more types of emergency graduate licenses pursuant to paragraph 4.b of this Order, the Director will notify emergency graduate licensees that they must pass the applicable examination within 90 days, and must obtain their standard license within 120 days, in order to avoid a gap in licensure.

5. Holders of nurse, physician assistant, and pharmacist emergency graduate licenses shall be eligible to work only under supervision in an acute care facility licensed by the New Jersey Department of Health. Such supervision may be in the form of a preceptor relationship.

6. Holders of respiratory care therapist emergency graduate licenses shall be eligible to work only under supervision in an acute care facility or field hospital licensed by the New Jersey Department of Health. Such supervision may be in the form of a preceptor relationship.

7. The Division may stop accepting applications for one or more types of emergency graduate licenses at any time.

8. Emergency graduate licenses shall confer only a temporary authorization to practice, are not plenary, and do not represent a vested or implied right to be further licensed.

9. The provisions of paragraph 4 of EO 112 and DCA Administrative Order 2020-02, which suspended and waived certain requirements limiting the scope of practice of physician assistants, and paragraph 5 of EO 112, which waived Controlled Dangerous Substance registration requirements in order to register for the New Jersey Prescription Monitoring Program, shall not apply to physician assistant emergency graduate licenses. Emergency graduate licensees practicing as physician assistants shall be subject to the statutes and rules that have been suspended and waived for standard licensees.

10. Nothing in this Order shall preclude applicants for and holders of emergency graduate licenses from pursuing full licensure via standard license-application processes.

11. Applicants for an emergency graduate license shall not be required to pay a fee (other than the fee for a standard license) or complete a criminal history background check in order to obtain an emergency graduate license, but shall be required to submit such information and documents as the Division may require and to certify that their submissions are true and accurate.

12. The following statutory and regulatory provisions are waived with regard to graduates of Board of Nursing-accredited professional nursing and licensed practical nursing programs that are located in New Jersey, for purposes of obtaining an emergency graduate license pursuant to this Order:

- a. N.J.S.A. 45:1-29, which requires an applicant to submit to a criminal history background check as a condition of licensure;
- b. N.J.S.A. 45:11-26 and 27, which require an applicant for licensure to pass a written examination prior to obtaining licensure;
- c. N.J.A.C. 13:37-2.1, which requires an applicant for licensure to pass either the National Council Licensure Examination for Registered Nurses (NCLEX-RN) or the National Council Licensure Examination for Practical Nurses (NCLEX-PN); and
- d. N.J.A.C. 13:37-2.2(a)2 and 5.5, which require payment of an application fee.

13. The following statutory and regulatory provisions are waived with regard to graduates of physician assistant education programs that are located in New Jersey and accredited by the Accreditation Review Commission on Education for the Physician Assistant, Inc. (ARC-PA), or its predecessor or successor, for purposes of obtaining an emergency graduate license pursuant to this Order:

- a. N.J.S.A. 45:1-29, which requires an applicant to submit to a criminal history background check as a condition of licensure;
- b. N.J.S.A. 45:9-27.13, which requires applicants to pass a licensing examination prior to obtaining licensure;
- c. N.J.A.C. 13:35-2B.5(a)4, which requires an applicant for licensure to pass an examination administered by the National Commission on Certification of Physician Assistants (NCCPA);
- d. N.J.A.C. 13:35-2B.19(b)3, which requires an applicant for licensure who completed training, education, and experience while serving in the Armed Forces of the United States to pass an examination administered by the National Commission on Certification of Physician Assistants (NCCPA);
- e. N.J.A.C. 13:35-2B.5(a), which requires payment of an application fee and submission of an authorization form for a criminal history background check; and
- f. N.J.A.C. 13:35-6.13, which requires payment of an application fee.

14. The following statutory and regulatory provisions are waived with regard to graduates of training and education programs for respiratory care practitioners that are located in the United States and are accredited by the Committee on Accreditation for Respiratory Care (CoARC) or its predecessor or successor, for purposes of obtaining an emergency graduate license pursuant to this Order:

- a. N.J.S.A. 45:1-29, which requires an applicant to submit to a criminal history background check as a condition of licensure;
- b. N.J.S.A. 45:14E-10 and -15, which require applicants to pass a licensing examination prior to obtaining licensure;
- c. N.J.A.C. 13:44F-4.1, which requires an applicant for licensure to pass an examination specified in N.J.A.C. 13:44F-4.2 within the five years preceding the date of application for licensure;
- d. N.J.A.C. 13:44F-4.1(c), which requires payment of an application fee and submission of an authorization form for a criminal history background check;
- e. N.J.A.C. 13:44F-4.4(b)3, which requires an applicant for licensure who completed training, education, and experience while serving in the Armed Forces of the United States to pass the National Board for Respiratory Care Entry Level Examination; and
- f. N.J.A.C. 13:44F-8.1, which requires payment of fees.

15. The following statutory and regulatory provisions are waived with regard to graduates of training and education programs for pharmacists that are located in New Jersey and are accredited by a national certifying body, for purposes of obtaining an emergency graduate license pursuant to this Order:

- a. N.J.S.A. 45:1-29, which requires an applicant to submit to a criminal history background check as a condition of licensure;
- b. N.J.S.A. 45:14-50 and N.J.S.A. 45:14-51, which require applicants to pass a licensing examination prior to obtaining licensure;
- c. N.J.A.C. 13:39-1.3(a), which requires payment of an application fee;
- d. N.J.A.C. 13:39-2.1(a)1, which requires payment of an application fee;
- e. N.J.A.C. 13:39-2.1(a)3, which requires an applicant for licensure to pass the North American Pharmacist Licensure Examination (NAPLEX) and the Multistate Pharmacy Jurisprudence Examination (MPJE);
- f. N.J.A.C. 13:39-2.1(a)5, which requires applicants to satisfy criminal history background check requirements; and
- g. N.J.A.C. 13:39-2.4, which requires an applicant to submit information for a criminal history background check.

I find that waiver of the statutes and rules above is necessary because enforcement of these existing requirements would be detrimental to the public welfare during this emergency.

Date: May 5, 2020



Paul R Rodríguez, Acting Director