

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

**ADMINISTRATIVE ORDER AND NOTICE OF RULE ADOPTION
PURSUANT TO P.L. 2020, c. 18**

**NALOXONE PRECRIBING BY HEALTH CARE PRACTITIONERS
DCA Administrative Order No. 2020-08**

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

Date: May 21, 2020

Authority: P.L. 2020, c. 18

Effective Date: May 21, 2020

Expiration Date: Concurrent with the end of the State of Emergency or the Public Health Emergency, whichever is later.

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WHEREAS, on March 9, 2020, through Executive Order No. 103 (EO 103), the facts and circumstances of which are adopted by reference herein, Governor Murphy 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 14, 2020, Governor Murphy signed into law P.L. 2020, c. 18, which permits the Director to issue administrative orders to adopt temporarily any rule relating to the practice of any profession licensed or certified by a board in the Division of Consumer Affairs (Division), 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 EO 103; and

WHEREAS, the COVID-19 pandemic presents unique challenges for people with substance use disorders and people in recovery, as do measures adopted to slow the spread of the disease; and

WHEREAS, individuals with compromised lung function due to COVID-19 may be at higher risk of opioid overdose, as chronic respiratory disease has been reported to increase risk for fatal overdose in those who use opioids therapeutically; and

WHEREAS, the COVID-19 pandemic has adversely affected individuals' ability to obtain treatment for many non-COVID-19 conditions, potentially including treatment for opioid use disorder; and

WHEREAS, social distancing measures adopted to slow the spread of COVID-19 may present unique difficulties for individuals with substance use disorder or in recovery because they reduce access to support networks; and

WHEREAS, feelings of isolation and stress related to the pandemic may increase the risk of substance abuse; and

WHEREAS, there were 3,021 suspected drug overdose deaths in New Jersey in 2019, a number that would be even higher without the availability of the overdose-reversal drug, naloxone; and

WHEREAS, there were 15,104 naloxone administrations in 2019 by New Jersey law enforcement and emergency medical services first responders, a number that does not include naloxone administrations by health care professionals or by the friends and family of overdose victims; and

WHEREAS, in New Jersey there were 253 suspected drug overdose deaths in March 2020, up from 215 in March 2019; and

WHEREAS, there were 241 suspected drug overdose deaths in April 2020, compared with 209 in April 2019; and

WHEREAS, there were 1,237 naloxone administrations in March 2020 by New Jersey law enforcement and emergency medical services first responders, up from 1,139 in March 2019; and

WHEREAS, there were 1,197 naloxone administrations by New Jersey law enforcement and emergency medical services first responders in April 2020, up from 1,054 in April 2019; and

WHEREAS, the percentage of subjects transported to the hospital following naloxone administration by emergency medical services decreased from 81% in February 2020 to 75% in March 2020, while the percentage of subjects who refused transport rose from 13% in February 2020 to 20% percent in March 2020, indicating hesitancy on the part of individuals with substance use disorder to be treated at a hospital during the COVID-19 pandemic; and

WHEREAS, co-prescribing of naloxone for higher-risk opioid patients is supported by national public health authorities, and a number of states have made co-prescribing mandatory in some circumstances to increase the availability of naloxone among members of the public and to reduce the risk that an overdose will be fatal; and

WHEREAS, on April 6, 2020, a rule proposal from the State Board of Medical Examiners was published at 52 N.J.R. 676(a), proposing, in part, an amendment to N.J.A.C.

13:35-7.6(f)(8), which would require practitioners continuously prescribing controlled dangerous substances for the management of chronic pain to co-prescribe an opioid antidote if a patient has one or more prescriptions totaling 90 MME or more per day, or is concurrently obtaining an opioid and a benzodiazepine, and document within the patient record the action taken; and

WHEREAS, the State Board of Dentistry, the State Board of Nursing, and the State Board of Optometrists each approved amendments to their prescribing regulations identical to the co-prescribing regulation proposed by the State Board of Medical Examiners at N.J.A.C. 13:35-7.6(f)(8), and rule proposals for those amendments are to be published in the New Jersey Register in the coming months; and

WHEREAS, the comment period for the State Board of Medical Examiners rule proposal is now open, and any adoption of the rule will await the close of the comment period and adoption by the board, and the rule proposals by the other boards have not yet been published; and

WHEREAS, the rationale for co-prescribing an opioid antidote under certain circumstances undergirding the proposed rule N.J.A.C. 13:35-7.6(f)(8) is to reduce the risk of overdose deaths and facilitate broader awareness and availability of naloxone; and

WHEREAS, these rule proposals requiring co-prescribing naloxone under certain circumstances are critical to reduce the increased risk of overdose death attendant to the combination of opioid use and COVID-19 for the duration of the State of Emergency and Public Health Emergency; and

WHEREAS, increased public access to naloxone during the COVID-19 pandemic may decrease the number of instances when law enforcement and emergency medical services first responders are called upon to administer naloxone, use personal protective equipment, and divert their attention from other matters; and

WHEREAS, opioid use and overdoses may increase as social distancing measures are relaxed and drugs become more readily available; and

WHEREAS, the notice-and-comment rulemaking process initiated by the Boards to mandate co-prescribing of naloxone in certain circumstances would unduly delay adoption of such a requirement, at a time when the Public Health Emergency and State of Emergency make its adoption urgent; and

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, and upon concurrence by the Attorney General, determine that this ORDER is necessary to promote the public welfare and further such other purposes for which the state of emergency and public health emergency was declared in EO 103, and hereby ORDER as follows:

When controlled dangerous substances are continuously prescribed for management of chronic pain, a practitioner of medicine, dentistry, optometry, or nursing (by an

Advanced Practice Nurse) shall provide a prescription for an opioid antidote if the patient has one or more prescriptions totaling 90 morphine milligram equivalents or more per day, or is concurrently obtaining an opioid and a benzodiazepine, and document within the patient record the action taken.

This ORDER shall take effect immediately and shall remain in effect until the end of the public health emergency and state of emergency declared in EO 103, whichever is later, unless expressly revoked or superseded by a subsequent Administrative Order issued by the Director of the Division of Consumer Affairs.

A handwritten signature in black ink that reads "Paul Rodríguez". The signature is written in a cursive style with a prominent initial "P" and a long, sweeping underline.

Date: May 21, 2020

Paul R. Rodríguez, Acting Director