

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

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

**TEMPORARY CERTIFICATION OF
ALCOHOL AND DRUG COUNSELOR-INTERNS**

DCA Administrative Order No. 2020-13 and DCA Waiver No. W-2020-12

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

Date: July 15, 2020

Authority: P.L. 2020, c. 18

Effective Date: July 15, 2020

Expiration Date: Concurrent with the end of the state of emergency or the public health emergency declared pursuant to Executive Order No. 103 (EO 103), whichever is later.

* * *

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, the public health emergency declared in EO 103 has been extended, through Executive Order No. 119 (2020), signed on April 7, 2020; through Executive Order No. 138 (2020), signed on May 6, 2020; through Executive Order No. 151, signed on June 4, 2020; and through Executive Order No. 162, signed on July 2, 2020, and continues to exist today; and

WHEREAS, on March 19, 2020, Governor Murphy signed into law P.L. 2020, c. 3, which authorizes health care providers not licensed or certified pursuant to Title 45 of the Revised Statutes but validly licensed or certified and in good standing in another state to provide telemedicine or telehealth; and

WHEREAS, on March 21, 2020, through Executive Order No. 107 (EO 107), the facts and circumstances of which are adopted by reference herein, to further protect the health, safety and welfare of New Jersey residents, Governor Murphy ordered all New Jersey residents to remain home or at their place of residence, except in specifically enumerated, limited circumstances, and implemented social distancing requirements for individuals when in public; and

WHEREAS, the implementation of social distancing strategies in EO 107 was based upon the CDC's recommendation to engage in social distancing to limit community spread of the virus, as limiting unnecessary movement of individuals in and around communities as well as person-to-person interaction mitigates community spread of the virus, and the ongoing need to take all possible steps to preserve our health care system's capacity to treat those who require emergency or intensive care; and

WHEREAS, on March 23, 2020, pursuant to the authority granted to the Director of the Division of Consumer Affairs under P.L. 2020, c. 3, the Division waived certain telehealth and telemedicine requirements set forth at N.J.S.A. 45:1-61, et seq., to facilitate broader use of telemedicine among health care professionals during the state of emergency and the public health emergency (Waiver No. DCA-W-2020-6); and

WHEREAS, despite the expansion of telehealth and telemedicine during the public health emergency, alcohol and drug counselor-interns are limited to providing in-person counseling services as they do not fall within the ambit of the telehealth statute, N.J.S.A. 45:1-61 et seq., which permits only health care professionals acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes to provide telemedicine or telehealth, or P.L. 2020, c. 3, which additionally authorizes health care providers not licensed or certified pursuant to Title 45 but validly licensed or certified in another state to provide telemedicine or telehealth; and

WHEREAS, the United States Department of Health and Human Services, Substance Abuse and Mental Health Service Administration (SAMHSA), has determined that the services provided in substance use disorder treatment programs across the country are essential medical services (<https://www.samhsa.gov/sites/default/files/samhsa-ppe-letter-treatment-providers.pdf>); and

WHEREAS, SAMHSA strongly recommends the use of telehealth and/or telephonic services to provide evaluation and treatment of patients, and to implement individual or group therapies such as evidence-based interventions including cognitive behavioral therapy for mental and/or substance use disorders (<https://www.samhsa.gov/sites/default/files/considerations-care-treatment-mental-substance-use-disorders-covid19.pdf>); and

WHEREAS, due the public health emergency and the state of emergency, it is anticipated that there will be a steep rise in demand for mental health services including alcohol and drug counseling services; and

WHEREAS, the necessary social distancing restrictions implemented in EO 107 have caused an interruption in care for clients receiving counseling services from mental health professionals, including alcohol and drug counselor-interns, as well as a barrier to care for individuals who seek to engage counseling services at provider agencies licensed by DMHAS and in other approved settings, as clients are reluctant to appear for in-person sessions and alcohol and drug counselor-interns are prohibited from engaging in telehealth and telemedicine; and

WHEREAS, the Department of Human Services, Division of Mental Health and Addiction Services (“DMHAS”), licenses substance use disorder treatment facilities, both residential (N.J.A.C. 10:161A-1.1 et seq.) and outpatient (N.J.A.C. 10:161B-1.1 et seq.), that provide substance (alcohol and drug) use disorder treatment services using credentialed and non-credentialed counseling staff; and

WHEREAS, both residential and outpatient substance use disorder facilities licensed by DMHAS are required to ensure that the ratios of substance abuse counseling staff are maintained so that 50 percent of the staff are licensed clinical alcohol and drug counselors (“LCADCs”) and certified alcohol and drug counselors (“CADCs”), or other licensed clinical professionals doing work of an alcohol and drug counseling nature within their scope of practice, and the remaining 50 percent are alcohol and drug counselor-interns or credentialed interns actively working toward their LCADC or CADC status or another New Jersey clinical license that includes work of an alcohol and drug counseling nature within its scope of practice (N.J.A.C. 10:161A-1.9(a); N.J.A.C. 10:161B-1.9(a)); and

WHEREAS, the Department of Human Services authorized a survey of providers at its licensed facilities by the New Jersey Association of Mental Health and Addiction Agencies, and determined based upon a response from sixty one providers, fifty four of which employed a total of 254 counselor-interns, that 200 of the 254 total interns met the threshold minimum hours of core content education and supervised work experience set forth below as required for temporary certification; and

WHEREAS, alcohol and drug counselor-interns, who comprise a significant portion of the staff at licensed substance use disorder facilities, and at other approved settings, perform the same twelve core functions as certified alcohol and drug counselors, under the supervision of a qualified clinical supervisor and in accordance with a plan of supervision approved the Alcohol and Drug Counselor Committee of the New Jersey State Board of Marriage and Family Therapy (“Committee”) which approval is required prior to commencing the supervisory relationship; and

WHEREAS, alcohol and drug counselor-interns are evaluated by their qualified clinical supervisor at a minimum of twice yearly, and undergo at least 50 hours of face-to-face supervision per year, the same level of supervision required of certified alcohol and drug counselors; and

WHEREAS, alcohol and drug counselor-interns are limited in their ability to accumulate supervised work experience, a statutory and regulatory requirement for attaining certification, during the state of emergency and the public health emergency due to their inability to engage in telehealth and telemedicine under current law, thereby shrinking the pool of applicants qualified to attain their certification in the near future; and

WHEREAS, due to an inability of alcohol and drug counselor-interns to provide telehealth and telemedicine services during the state of emergency and the public health emergency, and an inability of alcohol and drug counselor-interns aspiring toward certification to fulfill the requisite supervised work requirements, DMHAS licensed provider agencies face both an intractable barrier to counselor-intern staff performing their counseling functions, and an imminent shortfall in certified staff; 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 suspend temporarily any provision of Title 45 of the Revised Statutes or suspend or modify temporarily any rule adopted pursuant to such authority or to adopt temporarily any rule relating to the practice of any profession licensed by a board in the 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 public health, safety and welfare will be promoted by taking action to grant temporary CADC certification of alcohol and drug counselor-interns, under standards established in this Administrative Order, so that holders of such temporary certifications may provide telehealth services pursuant to N.J.S.A. 45:1-61 et seq., in the continued effort to mitigate the spread of COVID-19 by minimizing person-to-person interaction, to limit unnecessary exposure to COVID-19 for alcohol and drug counselors, their supervisors, and clients, to provide clients ample access to alcohol and drug counseling services during the public health emergency, to facilitate licensed provider agencies in maintaining adequate and functioning staff to handle client caseloads, and to allow alcohol and drug counselor-interns to obtain supervised training and experience as they work toward achieving certification during the public health emergency;

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, 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 the public health emergency was declared in EO 103 and hereby ORDER as follows:

Qualifications for Temporary Certification for Alcohol and Drug Counselor. Notwithstanding any provision of N.J.S.A. 45:2D-5(a)(2), N.J.A.C. 13:34C-2.3(b)(3) (the requirement to complete 3000 hours of supervised work experience in alcohol and drug counseling); N.J.S.A. 45:2D-5(a)(3), N.J.A.C. 13:34C-2.3(b)(4) (the requirement to complete 270 hours of alcohol and drug education); N.J.S.A. 45:2D-5(a)(4), N.J.A.C. 13:34C-2.3(b)(5) (the requirement to attend alcohol and drug abuse self-help group meetings); N.J.S.A. 45:2D-5(a)(1), N.J.A.C. 13:34C-2.3(b)(2) (the requirement to complete 300 hours of supervised practical training); N.J.S.A. 45:2D-5(a)(5), N.J.A.C. 13:34C-23.(b)(7) (the requirement to successfully complete an oral examination); and, N.J.S.A. 45:2D-5(a)(6), N.J.A.C. 13:34C-2.3(b)(6) (the requirement to successfully complete a written examination), alcohol and drug counselor-interns, as defined in N.J.A.C. 13:34C-6.1, working in substance use disorder facilities licensed by the Department of Human Services, Division of Mental Health and Addiction Services, or other approved settings, may obtain a temporary certification as a CADC, upon fulfilling the following conditions:

1. The alcohol and drug counselor-intern has a plan of supervision approved by the Committee in accordance with N.J.A.C. 13:34C-6.2(l), in which the intern's qualified clinical supervisor has outlined planned hours of clinical supervision, types of clinical supervision, the nature of the intern's work assignments and other specifications that

- the qualified clinical supervisor deems appropriate to the alcohol and drug counselor-intern's level of training, and other requirements as set forth in N.J.A.C. 13:34C-6.2(b).
2. The alcohol and drug counselor-intern must practice under the supervision of his/her qualified clinical supervisor, in compliance with the plan of supervision approved by the Committee.
 3. The alcohol and drug counselor-intern's qualified clinical supervisor shall retain responsibility for the alcohol and drug counselor-intern in accordance with N.J.A.C. 13:34C-6.2(c)-(k).
 4. The alcohol and drug counselor-intern shall have completed a minimum of 150 of the 270 hours of approved core content education required of a CADC pursuant to N.J.A.C. 13:34C-2.3(b)(4).
 5. The alcohol and drug counselor-intern shall have completed a minimum of three hundred hours (of the three thousand) of supervised work experience in alcohol and drug counseling required of a CADC pursuant to N.J.A.C. 13:34C-2.3(b)(3).
 6. The alcohol and drug counselor-intern shall have attended fifteen (of the thirty) alcohol and drug abuse self-help group meetings required of a CADC pursuant to N.J.A.C. 13:34C-2.3(b)(5).
 7. Upon expiration of a temporary CADC certification granted pursuant to this Order, the alcohol and drug counselor-intern is required to fulfill all remaining statutory and regulatory requirements for certification, to include all of the requirements modified and waived in this Order, in order to continue to provide services via telehealth.
 8. Hours of supervised work experience completed by alcohol and drug counselor-interns while holding a temporary CADC certification shall count toward the requirement to complete two years of supervised work experience pursuant to N.J.S.A. 45:2D-5(a)(2), N.J.A.C. 13:34C-2.3(b)(3).
 9. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 45:2D-5(a)(2), N.J.A.C. 13:34C-2.3(b)(3), N.J.S.A. 45:2D-5(a)(3), N.J.A.C. 13:34C-2.3(b)(4), N.J.S.A. 45:2D-5(a)(4), N.J.A.C. 13:34C-2.3(b)(5), N.J.S.A. 45:2D-5(a)(1), N.J.A.C. 13:34C-2.3(b)(2), N.J.S.A. 45:2D-5(a)(5), N.J.A.C. 13:34C-23.(b)(7), and N.J.S.A. 45:2D-5(a)(6), N.J.A.C. 13:34C-2.3(b)(6) are waived and suspended. Any provisions of these statutes and rules that are not inconsistent with this Order remain in full force and effect.

This order shall take effect immediately and shall remain in effect for the duration of the public health emergency or the 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 large initial "P" and a distinct "R".

Date: July 15, 2020

Paul R. Rodríguez, Acting Director