

**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**

**ON-SITE SUPERVISION FOR AUDIOLOGISTS AND SPEECH-LANGUAGE
PATHOLOGISTS, OCCUPATIONAL THERAPISTS, AND PHYSICAL THERAPISTS**

DCA Administrative Order No. 2020-14 and Waiver No. DCA-W-2020-13

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

Date: July 29, 2020

Authority: P.L. 2020, c. 18

Effective Date: July 29, 2020

Expiration Date: Concurrent with the end of the state of emergency or the public health emergency declared pursuant to Executive Order No. 103 (2020) (EO 103), whichever is later.

* * *

WHEREAS, on March 9, 2020, through 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 Nos. 119 (2020), 138 (2020), 151 (2020), and 162 (2020) issued on April 7, May 6, June 4, and July 2, 2020, respectively, and continues to exist today; and

WHEREAS, on March 21, 2020, through Executive Order No. 107 (2020) (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 to limit unnecessary movement of individuals in and around communities and person-to-person interaction, to mitigate community spread of the virus; 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 to 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, 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, despite the decrease in the rate of community spread of COVID-19 and lifting of the stay at home order pursuant to Executive Order No. 152 (2020) (EO 152), issued on June 9, 2020, the facts and circumstances of which are adopted by reference herein, the continued effort to mitigate the spread of COVID-19 will be furthered by minimizing person-to-person interaction and limiting unnecessary exposure to COVID-19 for practitioners and patients; and

WHEREAS, the Audiology and Speech-Language Pathology Advisory Committee (Advisory Committee) issues temporary licenses that permit individuals to complete clinical internships under the supervision of New Jersey licensed audiologists and speech-language pathologists; and

WHEREAS, the Advisory Committee has determined that on-site direct supervision of audiologists and speech language pathologists as required by N.J.A.C. 13:44C-3.5(f) would present greater risks of COVID-19 exposure for practitioners and patients than any benefits derived from requiring on-site direct supervision; and

WHEREAS, the Occupational Therapy Advisory Council (Council) issues occupational therapy assistant licenses which permit individuals to provide occupational therapy services under the supervision of a New Jersey licensed occupational therapist; and

WHEREAS, the Council has determined that face-to-face and on-location supervision as required by N.J.A.C. 13:44K-6.3(a) and defined by N.J.A.C. 13:44K-1.2 for those occupational therapy assistants who have practiced for more than one year on a full-time basis, would present greater risk of COVID-19 exposure for practitioners and patients than any benefits derived from requiring face-to-face or on-site supervision; and

WHEREAS, the State Board of Physical Therapy Examiners (Board) issues physical therapy assistant licenses which permit individuals to provide physical therapy services under the supervision of a New Jersey licensed physical therapists; and

WHEREAS, the Board has determined that direct, on-site supervision of physical therapy assistants in certain circumstances, as required by N.J.A.C. 13:39A-7.1(g), which is defined by N.J.S.A. 45:9-37.13 and N.J.A.C. 13:39A-2.1, would present a greater risk of COVID-19 exposure for practitioners and patients than any benefits derived from requiring direct, on-site supervision; and

WHEREAS, the Advisory Committee, Council, and Board have determined that on-site direct supervision of temporarily licensed audiologists and speech-language pathologists, as required by N.J.A.C. 13:44C-3.5(f); close, routine and general supervision, as required by N.J.A.C. 13:44K-6.3(a) and defined by N.J.A.C. 13:44K-1.2, of occupational therapy assistants who have practiced for more than one year on a full-time basis; and on-site supervision of physical therapy assistants as required by N.J.A.C. 13:39A-7.1(g), which is defined by N.J.S.A. 45:9-37.13 and

N.J.A.C. 13:39A-2.1, would be inconsistent with mitigation strategies limiting person-to-person contact, and supervision may be carried out effectively and safely through the use of telephonic or other electronic communication 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, 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 the public health emergency was declared in EO 103 and hereby ORDER:

1. **Audiology/Speech Language Pathology:** N.J.A.C. 13:44C-3.5(f) is waived to the extent that it requires that direct, face-to-face evaluation of therapeutic services by temporary licensees of the Audiology and Speech Language Pathology Advisory Committee be provided on-site. Temporary licensees may instead be supervised via electronic means with a video component.
2. **Occupational Therapy:** N.J.A.C. 13:44K-6.3(a) is waived to the extent that “close, routine, or general” supervision as defined by N.J.A.C. 13:44K-1.2 requires face-to-face contact with and observation of the occupational therapy assistant on location. Such supervision may instead be provided via telephonic or other two-way, real-time communication methods with a voice component. This waiver applies only to those occupational therapy assistants who have practiced as occupational therapy assistants full-time for more than one year.
3. **Physical Therapy:** N.J.A.C. 13:39A-7.1(g) is waived to the extent that “direct supervision,” as defined by N.J.S.A. 45:9-37.13 and N.J.A.C. 13:39A-2.1, requires a supervising physical therapist to be on site when a physical therapy assistant who has practiced for less than one year is rendering care. Supervision of such physical therapy assistants may instead be provided via telephonic or other two-way, real-time communication methods with a voice component.

This Order shall take effect immediately and shall remain in effect until the end of the state of emergency or public health emergency declared by the Governor 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.



Date: July 29, 2020

Paul R. Rodríguez, Acting Director