

**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; EXECUTIVE ORDER NO. 155 (MURPHY)(JUNE 17,
2020)**

**HEALTH AND SAFETY STANDARDS FOR NURSING AND COSMETOLOGY
SCHOOLS**

DCA Administrative Order No. 2020-17

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

Date: September 1, 2020

Authority: P.L. 2020, c. 18; Executive Order No. 155 (Murphy) (EO 155)

Effective Date: September 1, 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 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, 138, 151, 162, and 171 (2020), issued on April 7, May 6, June 4, July
2, and August 1, 2020, respectively, and continues to exist today; and

WHEREAS, on March 16, 2020, through Executive Order No. 104 (EO 104), the facts and
circumstances of which are adopted by reference herein, Governor Murphy ordered the cessation
of in-person instruction at all institutions of higher education beginning on March 18, 2020, and
authorized the Secretary of the Office of Higher Education (OSHE) to grant waivers to allow in-
person instruction to students on a case-by-case basis where a compelling rationale to allow such
access exists; and

WHEREAS, through Executive Order No. 107 (EO 107), issued on March 21, 2020, and
Executive Order No. 109 (EO 109), issued on March 23, 2020, the facts and circumstances of
which are adopted by reference herein, Governor Murphy implemented strategies to preserve our
health care system's capacity to treat those who require emergency or intensive care and to mitigate

community spread, including the continued cessation of in-person instruction at all institutions of higher education, absent a waiver granted on a case-by-case basis based on a compelling rationale, the closure of certain facilities offering personal care services, a prohibition on gatherings, and the cancellation of elective surgeries and invasive procedures for adults; and

WHEREAS, through various Executive Orders including Executive Order No. 122 (2020), issued on April 8, 2020; EO No. 125 (2020), issued on April 11, 2020; Executive Order No. 142 (2020), issued on May 13, 2020; Executive Order No. 146 (2020), issued on May 16, 2020; Executive Order No. 147 (2020), issued on May 18, 2020; Executive Order No. 150 (2020), issued on June 3, 2020; and Executive Order No. 157 (2020), issued on June 26, 2020, the facts and circumstances of which are adopted by reference herein, Governor Murphy required various businesses that are authorized to be open to the public to adopt certain policies to mitigate the spread of the virus; and

WHEREAS, on May 15, 2020, through Executive Order No. 145 (EO 145), the facts and circumstances of which are adopted by reference herein, the Governor, rescinded the suspension of elective surgeries and invasive procedures imposed by EO 109 and determined that such procedures could be reasonably resumed subject to limitations and precautions to be issued by the New Jersey Department of Health for licensed health care facilities, and the Division of Consumer Affairs for office settings; and

WHEREAS, on May 18, 2020, the Division of Consumer Affairs issued Administrative Order No. 2020-07 (DCA AO 2020-07), which established standards for the safe provision of in-person, office-based health care services, including but not limited to elective surgery and invasive procedures, in order to mitigate the spread of COVID-19; and

WHEREAS, through a series of Executive Orders Governor Murphy has placed limitations on indoor gatherings, informed by the then current risks of transmission of the virus; and

WHEREAS, on June 13, 2020, and on June 26, 2020, through Executive Order No. 154 and Executive Order 157, the facts and circumstances of which are adopted by reference herein, Governor Murphy permitted facilities that provide cosmetology services to reopen to the public on Monday, June 22, 2020, provided that the facility complies with health and safety standards issued by the Director of the Division of Consumer Affairs, which were issued on June 13, 2020, in Administrative Order 2020-09, and revised on July 1, 2020, in Administrative Order 2020-11 (DCA AO 2020-11); and

WHEREAS, on June 18, 2020, through Executive Order No. 155 (EO 155), the facts and circumstances of which are adopted by reference herein, Governor Murphy authorized institutions of higher education (IHEs) and training schools to resume in-person instruction, subject to certain health and safety standards and the preparation of restart plans; and

WHEREAS, pursuant to EO 155, approximately 80 Registered Nursing (RN) and Licensed Practical Nursing (LPN) programs accredited and approved by the New Jersey Board of Nursing in the Division of Consumer Affairs (Board of Nursing), 200 Certified Homemaker-Home Health Aid (CHHA) training programs approved by the Board of Nursing, and 34 cosmetology schools licensed to operate by the New Jersey State Board of Cosmetology and Hairstyling in the Division

of Consumer Affairs (Board of Cosmetology), must submit their restart plans to the applicable board prior to the resumption of in-person education and comply with all applicable rules or standards promulgated by the board or the Director of the Division of Consumer Affairs; and

WHEREAS, on August 13, 2020, through Executive Order No. 175 (EO 175), the facts and circumstances of which are adopted by reference herein, Governor Murphy authorized degree granting institutions to immediately resume in-person instruction that was not previously permitted by EO 155, subject to a requirement that those institutions provide students with the option of participation via remote learning to the extent practicable, and with express recognition that those institutions could instead continue to provide instruction in a form other than in-person instruction; and

WHEREAS, on April 14, 2020, Governor Murphy signed into law P.L. 2020, c. 18, which permits the Director of the Division of Consumer Affairs 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 of Consumer Affairs, 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, it is in the public interest that in-person educational and training programs authorized to operate by boards within the Division of Consumer Affairs, which are resuming instruction pursuant to EO 155, follow certain requirements in order to mitigate the spread of COVID-19 for the protection of the faculty, staff, students, and members of the public;

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 EO 155, 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 were declared in EO 103, and hereby ORDER as follows:

RN, LPN and CHHA Programs

1. As described in EO 155, restart plans for degree-granting RN programs, and non-degree granting RN programs subject to oversight by another state agency including the Department of Labor and Workforce Development, accredited by the Board of Nursing (collectively, RN Programs); and for LPN Nursing and CHHA training programs approved by the Board of Nursing (LPN Nursing and CHHA Programs), must be submitted to the Board of Nursing prior to the resumption of in-person education. Programs shall assess the need for modifications periodically and promptly notify the Board by email of any changes made to their restart plans.
2. Degree-granting RN programs may resume in-person instruction pursuant to EO 175 in accordance with OSHE standards. Non degree-granting RN programs and LPN Nursing and CHHA Programs may resume in-person instruction, and are encouraged to be guided by the OSHE standards.

3. RN Programs and LPN Nursing and CHHA Programs shall:

a. Prepare for the Reopening of School Premises

- i. Provide a copy of the restart plan to all students, teachers and staff and post a copy of the restart plan on the school's website.
- ii. Post signs within the school advising of the signs and symptoms of COVID-19, the requirements for social distancing, the use of face coverings, hand-washing for at least 20 seconds, use of hand sanitizer of at least 60% alcohol content, and respiratory etiquette in coughing or sneezing into the elbow or a tissue, and identifying a designated contact person within the school to whom concerns or questions can be addressed.
- iii. Adhere to any health and safety standards issued by any other state agency that has oversight over RN programs or LPN Nursing or CHHA Programs.
- iv. Ensure proper ventilation in all indoor spaces and have malfunctioning or non-functioning heating, ventilation and air conditioning (HVAC) systems serviced prior to use of any indoor space.

b. Facilitate Social Distancing

- i. Limit the number of persons present in any classroom or clinical laboratory in a licensed school at which in-person instruction is being provided or competency examinations are being administered to students consistent with any Executive Order imposing limits on indoor gatherings in schools, adjusting the student to faculty ratio to meet this requirement if necessary, notwithstanding provisions of N.J.A.C. 13:37-1.10(b)(6), N.J.A.C. 13:37-14.4(d) and N.J.A.C. 13:37-14.4(j).
- ii. Close any student break rooms or common areas where students may congregate if social distancing and frequent sanitization cannot be or are not being maintained, and deny entry by the members of the public into any such spaces.

c. Control Access to the School

- i. Limit access to school grounds to those authorized to be present.
- ii. Require all members of the public other than students, teachers, and staff to register, and provide contact information, and to sign in and sign out.
- iii. Record student attendance, and keep logs of teacher and staff schedules.

d. Designate an Employee to Stay Informed About Developments and Obligations

- i. Conduct periodic meetings between the Program Administrator of a RN program or LPN program, or the Program Coordinator of a CHHA program, and other teachers to discuss issues that arise during re-opening.
 - ii. Ensure compliance with updated health and safety standards issued by any other state agency that has oversight over RN, LPN, and CHHA Programs.
 - iii. Monitor any amendments to orders, guidelines, standards and directives issued by the Governor, the New Jersey Department of Health, the Division of Consumer Affairs, OSHE, the Board of Nursing, Department of Labor and Workforce Development, Department of Education or the Centers for Disease Control and Prevention (CDC).
4. To the extent that the clinical instruction in any program described in Paragraph 1 involves the provision of services to patients, the school shall ensure that students comply with all of the health and safety standards applicable to licensees practicing at the relevant location.
5. Each RN, LPN, and CHHA Program shall provide a certification to the Board of Nursing, within 30 days of the resumption of in-person instruction, from the Program Administrator of a RN program or LPN program, or the Program Coordinator of a CHHA program, that in-person instruction at the school or any other location is being conducted in compliance with EO 155, EO 175 for degree-granting RN programs, the applicable Executive Directives of the Commissioner of the New Jersey Department of Health, DCA AO 2020-07, and this Order.

Cosmetology Programs

6. As described in EO 155, restart plans for schools licensed by the Board of Cosmetology (Cosmetology Programs) must be submitted to the Board of Cosmetology prior to the resumption of in-person education.
7. To the extent that the clinical instruction in any Cosmetology program involves the provision of services to other students, staff, or members of the public in a space within the licensed school, the school shall comply with standards for supervision of students as set forth in this Order and the health and safety standards applicable to the provision of services in a licensed shop, including as set forth in DCA AO 2020-11 or any superseding order.
8. Cosmetology Programs additionally shall:
 - a. Prepare for the Reopening of School Premises
 - i. Develop a restart plan through a collaboration between the school owner and supervising teacher, assess the need for modifications periodically and promptly notify the Board by email of any changes made to the restart plan.

- ii. Provide a copy of the restart plan to all students, teachers and staff and post a copy of the restart plan on the school's website.
- iii. Post signs within the school advising of the signs and symptoms of COVID-19, the requirements for social distancing, the use of face coverings, hand-washing for at least 20 seconds, use of hand sanitizer of at least 60% alcohol content, and respiratory etiquette in coughing or sneezing into the elbow or a tissue, and identifying a designated contact person within the school to whom concerns or questions can be addressed.
- iv. Adhere to any health and safety standards issued by any other state agency that has oversight over Cosmetology Programs.
- v. Ensure proper ventilation in all indoor spaces and have malfunctioning or non-functioning heating, ventilation and air conditioning (HVAC) systems serviced prior to use of any indoor space.

b. Facilitate Social Distancing

- i. Schedule all classes for junior students and classes that do not require practical instruction for senior students, as specified in N.J.A.C. 13:28, et seq., via distance learning to the extent possible, in a manner consistent with National Accrediting Commission of Career Arts and Sciences (NACCAS)-approved Hybrid Flexibility standards.
- ii. Limit the number of persons present in any classroom or clinical space in a licensed school at which in-person instruction is being provided or competency examinations are being administered to students consistent with any Executive Order imposing limits on indoor gatherings in schools, adjusting the student to faculty ratio to meet this requirement if necessary, notwithstanding provisions of N.J.A.C. 13:28-6.7(a) that might otherwise allow for a greater number of individuals to be on the premises.
- iii. Close any student break rooms or common areas where students may congregate if social distancing and frequent sanitization cannot be or are not being maintained, and deny entry by the members of the public into any such spaces.

c. Control Access to the School

- i. Limit access to school grounds to those authorized to be present. Require all members of the public to register, and provide contact information, and to sign in and sign out.
- ii. Record student attendance, and keep logs of teacher and staff schedules.

d. Adopt Policies for the Safe Operation and Supervision of Clinical Services

- i. Schedule training for all teachers and students, to occur immediately prior to resumption of in-person instruction, concerning:
 1. Sanitization and social distancing protocols recommended or required by Executive Orders, Board statutes and regulations, Division of Consumer Affairs Administrative Orders, Department of Health, Department of Labor and Workforce Development and applicable guidelines issued by the CDC; and
 2. Screening and self-monitoring for symptoms of COVID-19.
- ii. Screen all students, teachers, staff, and members of the public pursuant to the procedures established in DCA AO 2020-11 or any superseding order.
- iii. Maintain records with a schedule of every individual assigned to be or actually present in a clinic at any time, and include contact information for all such individuals.
- iv. Instruct all staff, teachers, and students to wash their hands immediately upon entering the school and then frequently (at least every hour) while at the school on days when they are providing or supervising clinical services.
- v. Provide face coverings or additional required PPE to students, staff, teachers, and any other individuals for use in connection with the provision of clinical services.
- vi. Assign each student a work area in the clinic that shall not be used by another student during the class or other clinical instruction period, and which shall be disinfected after each individual receiving services leaves.
- vii. Prohibit the sharing of tools or equipment without thorough disinfection procedures between use, in compliance with DCA AO 2020-11 or any superseding order.
- viii. Ensure that teachers providing “direct supervision” as required by N.J.A.C. 13:28-6.24, are physically present in the room and immediately available to provide assistance, while maintaining a distance of six feet from all students and persons receiving services, unless there is a need to be closer and, if so, ensure that the failure to maintain distance of six feet shall last for no longer than is necessary.
- ix. Include within required tools for students, as set forth in N.J.A.C. 13:28-6.20, face coverings, face shields, protective eyewear, and gloves for any student undertaking a curriculum including manicuring, unless table shields are supplied at all manicuring tables; and sufficient capes and jackets so that

they can be disinfected or laundered after use in accordance with DCA AO 2020-11 or any superseding order.

- x. Arrange to launder linens, including robes; towels; drapes; capes; student clinical uniforms; and all other garments used in the provision of services for clinical service patrons, to the extent provided by the school, in soapy water, and to dry them completely at the warmest temperature allowed until they are hot to the touch prior to reuse, as required by DCA AO 2020-11 or any superseding order.
 - xi. Limit entry to stock rooms, or other areas where products for distribution to students are stored, to teachers only.
- e. Designate a Supervising Teacher to Stay Informed About Developments and Obligations
- i. Conduct periodic meetings between supervising teachers and other teachers to discuss any issues that may develop during re-opening.
 - ii. Ensure compliance with updated health and safety standards issued by any other state agency that has oversight over Cosmetology Programs.
 - iii. Monitor any amendments to orders, guidelines, standards and directives issued by the Governor, the New Jersey Department of Health, the Division of Consumer Affairs, OSHE, the Cosmetology Board, the Department of Labor and Workforce Development, the Department of Education or the CDC.
9. Each Cosmetology Program shall provide a certification to the Board of Cosmetology, within 30 days of the resumption of in-person instruction, that in-person instruction at the school is being conducted in compliance with EO 155, DCA AO 2020-11 or any superseding order, and this Order.

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: September 1, 2020



Paul R. Rodríguez, Acting Director