

**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**

**LICENSURE OF TEMPORARY PERMIT HOLDERS AND  
VOCATIONAL-TECHNICAL SCHOOL GRADUATES**

**BOARD OF COSMETOLOGY AND HAIRSTYLING**

**DCA Administrative Order No. 2021-05 and DCA Waiver No. W-2021-01**

Administrative Order and Temporary Rule Adoption and Waiver by Kaitlin A. Caruso, Acting Director, Division of Consumer Affairs

Date: February 5, 2021

Authority: P.L. 2020, c. 18

Effective Date: February 5, 2021

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.

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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 most recently by Executive Order No. 215 (2021), issued on January 19, 2021, and continues to exist today; 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, pursuant to N.J.S.A. 45:5B-6(b) and -27, and N.J.A.C. 13:28-1.2, applicants for licensure by the Board of Cosmetology and Hairstyling are subject to examination corresponding to the license sought, consisting of written and practical portions; and

WHEREAS, pursuant to N.J.S.A. 45:5B-26, the Board of Cosmetology and Hairstyling is authorized to issue temporary permits, which are valid for up to 120 days, to graduates of cosmetology programs that have passed the written portion of the examination for licensure, to allow such permit holders to engage in the practice of cosmetology pending the applicant's passage of a practical examination and receipt of a license to practice; and

WHEREAS, pursuant to N.J.S.A. 45:5B-26, only one temporary permit shall be issued to an applicant; and

WHEREAS, upon the expiration of the temporary permit, an applicant would remain eligible to sit for a practical examination, but could not continue to practice under the temporary permit; and

WHEREAS, historically, students at New Jersey county vocational-technical high schools who have undergone education and training that renders them eligible for licensure by the Board have taken both the written and practical portions of the licensing examination prior to graduating, and thus, frequently did not obtain temporary permits; and

WHEREAS, practical examination protocols, which involve dozens of individuals remaining in close proximity to each other for extended periods of time while the examination is conducted, are inconsistent with social distancing strategies that mitigate community spread of COVID-19; and

WHEREAS, due to the COVID-19 pandemic, practical examinations for cosmetology professionals, namely cosmetologist-hairstylists, barbers, beauticians, skin care specialists, manicurists, and hair braiders, have been cancelled or postponed, and are unlikely to be rescheduled or otherwise made readily available for the foreseeable future; and

WHEREAS, there are a significant number of applicants who are eligible to sit for the practical examination but have been unable to do so because of the cancellations or postponements of the examination; and

WHEREAS, on September 1, 2020, through DCA Administrative Order No. 2020-16 and DCA Waiver No. W-2020-15, in recognition of this backlog of applicants waiting to sit for the practical examination, I revived and extended the validity of certain previously expired temporary permits, and extended the period of validity of temporary permits that will expire, for a period of one year beyond each such permit's original expiration date; and

WHEREAS, it is reasonable and appropriate to provide a path to licensure for all applicants who have passed the written examination within three years preceding the date of this order and who would thereby otherwise be eligible to sit for the practical examination, as passage of the

written examination within the past three years provides a level of assurance that the applicant presently possesses the theoretical knowledge required for the license the applicant seeks; and

WHEREAS, in recognition that individuals whose temporary permits expired before March 9, 2020, prior to the public health emergency, are currently unable to practice, and but for the suspension of the practical examination would otherwise be afforded the opportunity to fulfill the requirements for licensure, it is in the public interest to waive the single temporary permit limitation under N.J.S.A. 45:5B-26, and allow those individuals whose temporary permits expired prior to March 9, 2020, to apply for a second temporary permit so that those individuals may practice under the supervision of an “experienced practicing licensee” pursuant to the terms of this Order; and

WHEREAS, in recognition that applicants for licensure are currently unable to schedule practical examinations, and that it is unlikely that such practical examinations will be made readily available in the foreseeable future, it is in the public interest to waive the practical examination required for licensure and to permit licensure of individuals who have passed the written portion of the examination within three years preceding the date of this Order, including individuals who hold active temporary permits, provided that such individuals demonstrate practical skills and are able to secure a written attestation of their skills to be provided by a supervising licensee or an instructor, in a manner consistent with the provisions set forth below;

**NOW, THEREFORE**, I, Kaitlin A. Caruso, 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:

1. The Board of Cosmetology may issue a license to a graduate of a licensed school who meets all requirements for licensure, including passage of the written portion of the examination for the license the applicant is seeking within the three years preceding the date of this order, but who has not taken and passed the applicable practical examination, if:
  - a. The individual holds an active temporary permit issued by the Board, to include any such permit that has been extended through operation of DCA AO 2020-16 or issued pursuant to this Order; and
  - b. The individual arranges to be submitted to the Board a written attestation, in a form prescribed by the Division, by an experienced practicing licensee who shall have supervised the individual, stating that that the individual has:
    - i. worked under the experienced practicing licensee’s supervision for a minimum of 30 days; and
    - ii. demonstrated practical skills at a level sufficient to meet the standard of practice in this State, in such practice areas as may be specified by the Division

to correspond to subject areas that would have otherwise been tested on the practical examination.

2. The Board of Cosmetology may issue a license to a graduate of a New Jersey county vocational-technical high school who meets all requirements for licensure, including passage of the written portion of the examination for the license the applicant is seeking within the three years preceding the date of this Order, but who has not taken and passed the applicable practical examination, if the individual arranges to be submitted to the Board a written attestation, in a form prescribed by the Division, by an instructor who: (1) is employed by that county vocational-technical high school; (2) holds either a cosmetologist-hairstylist license or a license type equivalent to, or more comprehensive than, that sought by the individual; and (3) has taught and/or otherwise had opportunity to observe the practice skills of the individual within three years of the date of entry of this Order. Such attestation shall state that the individual has demonstrated practical skills at a level sufficient to meet the standard of practice in this State, in such practice areas as may be specified by the Division to correspond to subject areas that would have otherwise been tested on the practical examination.
3. Nothing in this Order shall affect the authority of the Board or Director to limit, suspend, revoke or otherwise take action against a license pursuant to N.J.S.A. 45:1-7 et seq., N.J.S.A. 45:5B-1 et seq., or any other authority.
4. N.J.S.A. 45:5B-26 is hereby waived to the extent that it limits applicants to one temporary permit, so that individuals whose temporary permits expired before March 9, 2020 may obtain a second temporary permit.
5. An applicant seeking a temporary permit after the date of this Order shall not be required to pay the temporary permit fee set forth at N.J.A.C. 13:28-5.1.
6. The provisions of this Order shall apply only to those applicants seeking initial licensure to obtain a license to engage in the practice of cosmetology and hairstyling, barbering, beauty culture, manicuring, skin care specialty, and hair braiding. Nothing in this Order shall be interpreted to apply to a licensee seeking further licensure as a teacher pursuant to N.J.S.A. 45:5B-23.
7. The Division may terminate this program at any time, including but not limited to such time as an alternative option for administration of a practical examination may be developed and such alternative examination becomes available, at which time applicants may be required to take and pass the practical examination in order to obtain licensure.
8. In addition to the waiver contained in paragraph 4 of this Order, N.J.S.A. 45:5B-6(b) and -27, and N.J.A.C. 13:28-1.2, -1.3(a) and -5.1, are hereby waived to the extent they are inconsistent with 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: February 5, 2021

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Kaitlin A. Caruso, Acting Director