

**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. 154 (MURPHY) (JUNE 13,  
2020); EXECUTIVE ORDER NO. 157 (MURPHY) (JUNE 26, 2020)**

**PROVIDING PERSONAL CARE SERVICES:  
COSMETOLOGY AND MASSAGE AND BODYWORK THERAPY SERVICES**

**DCA Administrative Order No. 2021-13  
Superseding DCA Administrative Order 2020-11**

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

Date: May 28, 2021

Authority: P.L. 2020, c. 18; Executive Order No. 154 (Murphy) (EO 154); Executive Order No.  
157 (Murphy) (EO 157); Executive Order No. 242 (Murphy) (EO 242)

Effective Date: May 28, 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.

\* \* \*

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 multiple  
times, most recently by Executive Order 240, issued on May 14, 2021, and continues to exist today;  
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,  
implemented social distancing requirements for individuals when in public and required the

closure of the brick-and-mortar premises of all non-essential retail businesses for as long as the Order remained in effect; and

WHEREAS, the implementation of social distancing strategies in EO 107 was based upon Centers for Disease Control and Prevention (CDC) recommendation to engage in social distancing to limit community spread of the virus; and

WHEREAS, in EO 107, paragraph 9(g), Governor Murphy specifically ordered facilities where personal care services are performed that, by their very nature, result in noncompliance with social distancing guidelines, to close to the public for as long as the Executive Order remained in effect, including cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons and massage establishments; and

WHEREAS, on April 27, 2020, Colonel Patrick J. Callahan, State Director of Emergency Management, in the exercise of the discretion granted to him by Governor Murphy in Executive Order No. 4, paragraph 7, to clarify the list of the essential and non-essential businesses, issued Administrative Order No. 2020-10, and therein ordered that “licensees, owners, operators, employees, or independent contractors of personal care services facilities ordered to be closed to the public in paragraph 9(g)” of EO 107 are not permitted to provide personal care services “in their own homes, the homes of others, or in any facility of business setting unless the individual personal care service provider is providing the service to their household members, immediate family or other individual with whom the personal care services provider has a close personal relationship, such as those for whom the personal care service provider is a caretaker or romantic partner”; 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, Governor Murphy has taken strategic and methodical steps to reopen and relax restrictions on businesses and activities; and

WHEREAS, on June 13, 2020, through EO 154, the facts and circumstances of which are adopted by reference herein, Governor Murphy rescinded paragraph 9 of EO 107 and declared that cosmetology shops; barber shops; beauty salons; hair braiding shops; nail salons; electrology facilities; spas, including day spas and medical spas, at which solely elective and cosmetic medical procedures are performed; massage parlors, tanning salons, and tattoo parlors, collectively referred to as “personal care service facilities,” were permitted to reopen to the public provided that the facility complies with health and safety standards issued by the Director of Division of Consumer Affairs in the exercise of his authority under P.L. 2020, c.18; and

WHEREAS, on June 13, 2020, pursuant to EO 154, then-Acting Director Paul R. Rodríguez issued Administrative Order 2020-09 (DCA AO 2020-09) establishing certain mitigation strategies as preconditions to the reopening and ongoing operation of shops that provide cosmetology services; and

WHEREAS, on June 26, 2020, through EO 157, the facts and circumstances of which are adopted by reference herein, Governor Murphy permitted personal care services to be provided that require the removal of a client's mask, provided that clients must wear a face covering at all times before and after the service, and subject to enhanced standards adopted by the Division of Consumer Affairs; and

WHEREAS, on July 2, 2020, pursuant to EO 157, in recognition of the protection from transmission of COVID-19 infection afforded by proper use of PPE by licensees, including the wearing of facemasks, face shields, and goggles, even when those receiving personal care services are unable to wear facemasks due to the nature of the service being performed, , then-Acting Director Paul R. Rodríguez issued Administrative Order 2020-11 (DCA AO 2020-11), superseding DCA AO 2020-09, permitting personal care services to be provided that require the removal of a client's mask, to accommodate the changes contemplated by EO 157, and to make other clarifications; and

WHEREAS, on November 10, 2020, through Executive Order No. 194, Governor Murphy confirmed that personal care services performed in indoor settings are subject to the same indoor capacity limits as those imposed on recreational and entertainment businesses, and that premises would be limited to 25% of their stated maximum capacity, in order to reduce the risk of transmission of COVID-19 infection; and

WHEREAS, on May 12, 2021, through Executive Order No. 239, the facts and circumstances of which are adopted by reference herein, Governor Murphy eliminated, as of May 19, 2021, capacity restrictions that had been imposed by previous executive orders on various businesses including those where personal care services are performed; and

WHEREAS, on May 14, 2021, through Executive Order No. 240, the facts and circumstances of which are adopted by reference herein, Governor Murphy acknowledged the CDC's guidance that outdoor environments pose a lesser risk of transmission of COVID-19 infection and eliminated the requirement for individuals to wear masks in outdoor public spaces, subject to certain limitations and exceptions; and

WHEREAS, on May 24, 2021, through Executive Order No. 242, the facts and circumstances of which are adopted by reference herein, in recognition of the progress made throughout the State in the response to the COVID-19 pandemic and information issued by the CDC indicating that vaccinated individuals can safely visit barber shops and hair salons when unmasked, Governor Murphy eliminated, as of May 28, 2021, all requirements to wear masks and engage in social distancing in various indoor settings, including in locations where personal care services are provided, except that the affected businesses remain subject to orders and guidance, including from the Division, as may be updated in accordance with that Order; and

WHEREAS, in accordance with applicable Executive Orders and in recognition of the substantial decrease in the number of new COVID-19 infections, in addition to the simultaneous need to maintain adequate protections for staff and clients from COVID-19, it is appropriate to supersede DCA Administrative Order No. 2020-11 (July 1, 2020) to relax public protection restrictions including masking and social distancing; revise screening protocols to require only staff, rather than clients, to undergo screening; relax restrictions on the number of people who may be present in personal care service premises; permit licensees of the New Jersey State Board of Cosmetology and Hairstyling to provide services, within the scope of cosmetology and hairstyling, in the area surrounding a licensed shop's premises; and remove other restrictions on businesses where personal care services are performed; and

WHEREAS, to facilitate the provision of personal care services in locations where such services cannot currently be performed in accordance with Administrative Order No. 2020-10, it is appropriate to modify related provisions of DCA Administrative Order No. 2020-11 (July 1, 2020), so that personal care services may be performed in such locations as soon as the prohibition in Administrative Order No. 2020-10 is lifted, provided that such services are performed in accordance with this Order and any other applicable law or regulation;

**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, and EO 154, EO 157 and EO 242, 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:

**A.** The following words and terms when used in this rule shall have the following meaning, unless the context indicates otherwise:

“Cosmetology Board” means the New Jersey State Board of Cosmetology and Hairstyling, which pursuant to N.J.S.A. 45:5B-1 et seq. and N.J.A.C. 13:28-1 et seq., regulates cosmetologists, beauticians, barbers, manicurists, skin care specialists and hair braiders, as well as shops at which any of such services are offered or performed by any of those licensees.

“Client” means any person receiving services from a licensee of the Cosmetology Board or the Massage Board.

“Fully vaccinated” means it has been two or more weeks since the person received the second dose in a two-dose COVID-19 vaccine series, or two or more weeks after the person received a single-dose COVID-19 vaccine.

“Licensee” means any person holding a license to engage in any practice within the definition of cosmetology or massage and bodywork therapy in New Jersey.

“Massage Board” means the New Jersey Board of Massage and Bodywork Therapy which, pursuant to N.J.S.A. 45:11-53, et seq. and N.J.A.C. 13:37A-1.1 et seq., regulates massage and bodywork therapists.

“Personal Protective Equipment” (also known as “PPE”) refers to items worn or used by an individual to provide protection against the spread of COVID-19, including but not limited to face coverings, masks, face shields, goggles, gloves, drapes or any other item that provides protection against the spread of COVID-19.

“Premises” means any fixed establishment where practices included in the definition of cosmetology and hairstyling, beauty culture, barbering, manicuring, skin care specialty, and hair braiding are provided, licensed as a shop, or any fixed establishment or place where massage services are provided and which is controlled by an employer registered with the Massage Board or by an individual licensee who does not employ another licensee to provide massage and bodywork services.

“Screening questions” refers to questions which are to be asked at the time of arrival at the premises to screen staff for symptoms consistent with COVID-19, with regard to presentation of a list of symptoms. Such questions must include, at a minimum, the following questions:

- 1) Within the past 24 hours, have you had any of the following symptoms? (Yes or No)
  - Fever or chills
  - Cough
  - Shortness of breath or difficulty breathing
  - Fatigue
  - Muscle or body aches
  - Headaches
  - New loss of taste or smell
  - Sore throat
  - Congestion or runny nose
  - Nausea or vomiting
- 2) Within the past 14 days, have you had a known exposure to any individual suspected or confirmed to have COVID-19? (Yes or No) You may answer “no” if you are fully vaccinated, unless you are experiencing any of the symptoms described above.
- 3) Within the past 14 days, have you traveled outside the United States? If yes, for fully vaccinated individuals, have you received a negative COVID test taken between three and five days after your return? And if yes, for individuals who are not fully vaccinated, have you received a negative COVID test taken between three and five days after your return and completed a seven-day self-quarantine after your return?

4) Have you tested positive for COVID-19 in the last 10 days?

“Staff” or “Staff member” shall include any person employed by a licensee or at premises at which licensees of the Cosmetology Board or the Massage Board provide services as well as, owners, managers, contractors, and administrative personnel.

**B.** All licensees and owners of premises subject to regulation of the Cosmetology Board or the Massage Board are authorized to provide services consistent with the laws and regulations of their respective boards and the applicable scope of practice, unless specifically waived or modified during the state of emergency or public health emergency, and shall be required to adopt and comply, and ensure that their staff comply, with policies that include, at a minimum, all of the requirements below.

**1. Preparation of the Premises and Staff Training**

- a. Install hand sanitizers for use by clients and staff.
- b. Post signs in common areas and restrooms to advise clients of the importance of hand washing for at least 20 seconds and proper coughing and sneezing etiquette.
- c. Ensure that occupancy on premises at no point exceeds capacity limits established by any applicable code, including fire code; law; rule; or Executive Order.
- d. Train all staff on the importance of reporting symptoms of illness, infection control procedures, cough and sneeze etiquette and hand-washing, always after eating, smoking, using the restroom, removing any PPE, and before and after providing client services.
- e. For shops licensed by the Cosmetology Board, services may be performed outdoors, outside of the shop’s premises, on property that is
  - i. owned or otherwise controlled by the licensee or shop owner; and
  - ii. in the immediate vicinity of the licensed shop’s premises,

so long as the outdoor space complies with all essential cleanliness and sanitization standards imposed by N.J.A.C. 13:28-2.5, 2.6, and 2.6A.

**2. Implement Protocols for Screening**

- a. Require all staff to respond to screening questions and perform a temperature check by means of a no-contact thermometer or one with a disposable cover, prior to the start of their shift. All thermometers shall be disinfected after each use. Temperature checks

should be performed in a manner that complies with CDC guidelines to protect staff, including self-administration, physical barriers, and/or the use of PPE.

- b. Any staff member who answers “yes” to any of the screening questions or who has a temperature over 100.4 degrees, and who does not have a documented alternative explanation or assurance that they do not have COVID-19 (e.g. proof of a recently received a COVID-19 vaccine dose to explain symptoms, a negative COVID-19 test), shall not be permitted to enter the premises at that time. Any staff member who develops a temperature above 100.4 degrees or symptoms of illness shall be required to leave the premises immediately. The staff member shall be advised that no return to work will be permitted for at least 24 hours after being symptom free, without having taken fever-reducing medication, or, if the employee is not fully vaccinated, before 14 days after exposure to a suspected or confirmed COVID-19 positive individual. Licensees shall follow CDC guidance to determine when an individual may return to the premises. <https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>.
- c. Nothing in this paragraph shall be read to prohibit any licensee or premises owner from requiring screening or inquiring about vaccination status of any clients, guests, or others on the premises where otherwise consistent with federal and State law.

### **3. Require Protective Equipment and Supplies**

- a. Encourage premises owners, managers, staff who are not fully vaccinated to wear a cloth face covering, disposable mask or other personal protective equipment at all times before, during, and after performing services. Nothing in this paragraph shall be read to prohibit any licensee or premises owner from imposing stricter requirements regarding mask-wearing for employees, clients, guests, and other individuals, where otherwise consistent with federal and State law. No licensee or premises owner may restrict any individual from wearing a mask, and shall not in any way penalize or retaliate against an individual who elects to wear a mask except that they may refuse to provide any service that cannot be provided without the removal of a mask if the individual declines to remove their mask.
- b. Allow for break time for repeated hand washing between clients, throughout the day.
- c. Provide supplies for regular hand washing with soap and water, alcohol-based hand rub with at least 60 to 95% alcohol or antiseptic hand wash and use no-touch receptacles for disposal.
- d. Make sanitizing and disinfectant materials available to staff and clients, such as hand sanitizer and sanitizing wipes for hands and surface disinfecting for environment surfaces.

#### **4. Enhance Disinfection and Cleaning Practices**

- a. Improve ventilation by increasing the circulation of outdoor air as much as possible, by opening doors and windows and by using HEPA air filtration systems, whenever possible.
- b. Perform enhanced cleaning and disinfection after individuals suspected or confirmed to have COVID-19 have been in the premises, referring to CDC guidance on “Cleaning and disinfecting your building or facility if someone is sick.” <https://www.cdc.gov/coronavirus/2019-ncov/community/disinfectingbuilding-facility.html>.

#### **5. Stay Informed About Developments and Obligations**

- a. Monitor guidelines and directives issued by the New Jersey Department of Health; the Cosmetology Board (<https://www.njconsumeraffairs.gov/cos/Pages/default.aspx>); the Massage Board (<https://www.njconsumeraffairs.gov/mbt/Pages/default.aspx>), the CDC; and OSHA on an ongoing basis.
- b. Maintain an appointment book with contact information regarding clients served, as well as a daily log of staff, and submit such information if requested to do so by, or on behalf of, the Department of Health or the local board of health.
- c. Notify the local health department immediately if it is suspected that any person who is known to have contracted COVID-19 was on the premises while COVID-19 positive, and cooperate with contact tracing efforts.

#### **C. Waivers of Statutes and Rules**

- 1. N.J.S.A. 45:5B-8, -9, and -12(g) are hereby waived to the extent they are inconsistent with paragraph **B.1.e.** of this Order.
- 2. N.J.A.C. 13:28-2.5, -2.6, and -2.6A, are hereby waived to the extent they are inconsistent with paragraph **B.1.e.** of this Order.



**D.** This Order supersedes DCA Administrative Order No. 2020-11 (July 1, 2020).

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: May 28, 2021

A handwritten signature in black ink that reads "Kaitlin Caruso". The signature is written in a cursive, flowing style.

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Kaitlin A. Caruso, Acting Director