

**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; P.L. 2021, c. 103; 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. 2021-17
Superseding DCA Administrative Order 2021-13**

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

Date: July 6, 2021

Authority: P.L. 2020, c. 18; P.L. 2021, c. 103; Executive Order No. 154 (Murphy) (EO 154);
Executive Order No. 157 (Murphy) (EO 157); Executive Order No. 242 (Murphy) (EO 242)

Effective Date: July 6, 2021

Expiration Date: January 11, 2022.

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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 was extended and then was ended on June 4, 2021, as described below; 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, 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 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, 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 personal protective equipment (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 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 Centers for Disease Control and Prevention (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 remained subject to orders and guidance, including from the Division, as may be updated in accordance with that Order; and

WHEREAS, on May 28, 2021, 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, I issued Administrative Order No. 2021-13, which superseded Administrative Order No. 2020-11 (July 1, 2020), and which relaxed public protection restrictions including masking and social distancing; revised screening protocols to require only staff, rather than clients, to undergo screening; relaxed restrictions on the number of people who may be present in personal care service premises; permitted 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 removed other restrictions on businesses where personal care services are performed; and

WHEREAS, on June 4, 2021, through Executive Order No. 244, the facts and circumstances of which are adopted by reference herein, Governor Murphy terminated the public health emergency declared in EO 103, as extended, and signed into law P.L. 2021, c. 103, which authorized the head of a State agency to modify administrative orders entered while the public health emergency was in place; and

WHEREAS, the requirements in this Order may be supplemented by non-binding guidance on best practices;

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 and EO 157, 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 was declared in EO 103, and, consistent with P.L. 2021, c.103, hereby ORDER:

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

- a. "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.
 - b. "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.
2. 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.
 3. For shops licensed by the Cosmetology Board, services may be performed outdoors, outside of the shop's premises, on property that is owned or otherwise controlled by the licensee or shop owner and 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.
 4. Nothing in this Order 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.
 5. N.J.S.A. 45:5B-8, -9, and -12(g) are hereby waived to the extent they are inconsistent with paragraph 3 of this Order.
 6. N.J.A.C. 13:28-2.5, -2.6, and -2.6A are hereby waived to the extent they are inconsistent with paragraph 3 of this Order.
 7. This Order supersedes DCA Administrative Order No. 2021-13 (May 28, 2021).

This Order shall take effect immediately and shall remain in effect until January 11, 2022, unless expressly revoked or superseded by a subsequent Administrative Order issued by the Director of the Division of Consumer Affairs.



Date: July 6, 2021

Kaitlin A. Caruso, Acting Director