

**STATE OF NEW JERSEY  
DEPARTMENT OF LAW AND PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS**

**ADMINISTRATIVE ORDER PURSUANT TO EXECUTIVE ORDER NO. 292  
(MURPHY) (MARCH 9, 2022)**

**HEALTH CARE SERVICES IN OFFICE PRACTICES**

**DCA Administrative Order No. 2022-01  
Modifying DCA Administrative Order No. 2021-11**

Modification of Administrative Order and Temporary Rule Adoption by Cari Fais, Acting Director, Division of Consumer Affairs

Date: July 22, 2022

Authority: Executive Order No. 292 (EO 292)

Effective Date of Modified Administrative Order: July 22, 2022

Expiration Date: Concurrent with the end of the state of emergency declared pursuant to Executive Order No. 103 (EO 103), or upon modification or revocation by the Division of Consumer Affairs, whichever is sooner.

WHEREAS, on March 9, 2020, in Executive Order No. 103 (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, pursuant to authority vested in the Director of the Division of Consumer Affairs by P.L. 2020, c. 18, and Executive Order No. 145, the Division of Consumer Affairs entered DCA Administrative Order 2021-11 (AO 2021-11) (superseding DCA Administrative Order No. 2020-07) on May 6, 2021, at a time when the Public Health Emergency and State of Emergency initially declared on March 9, 2020, pursuant to EO 103, continued in full force and effect; and

WHEREAS, although the Public Health Emergency initially declared in EO 103 has since been terminated, the State of Emergency continues to exist; and

WHEREAS, on March 9, 2022, Governor Murphy issued Executive Order 292 (EO 292), providing that certain actions taken by Executive Branch departments and agencies to respond to the Public Health Emergency presented by the COVID-19 outbreak remained in full force and effect, and would continue to remain in full force and effect until revoked or modified by the department or agency head, or until the State of Emergency (declared in EO 103) is no longer in effect, whichever is sooner; and

WHEREAS, AO 2021-11 is among the administrative actions extended by EO 292; and

WHEREAS, when AO 2021-11 was entered, it included enforceable provisions that applied to delivery of health care services by certain classes of health care professionals (defined in Section A of the AO) in an office (also defined in Section A of the AO), which provisions were consistent with, among other items, then current guidance issued by the Centers for Disease Control and Prevention ( “CDC”), the New Jersey Department of Health ( “NJDOH”), and the federal Occupational Safety and Health Administration (“OSHA”), including CDC guidance applicable in health care settings (including dental settings) and CDC guidance on infection control and prevention practices; and

WHEREAS, while the standards established in AO 2021-11 were consistent with then applicable guidance and standards, since that time the CDC has on multiple occasions modified its guidance and standards to reflect its evolving understanding of COVID-19, including with respect to, among other items, variants of COVID-19; the manner in which COVID-19 spreads; the need for isolation after testing positive for COVID-19; and the efficacy of masking and of vaccines; and, as a result, some of the enforceable provisions within AO 2021-11 are no longer consistent with current CDC, NJDOH, OSHA, and local health department guidance and standards; and

WHEREAS, the CDC guidance and standards applicable to “healthcare settings” apply to all the settings defined as “offices” within this AO, as the CDC defines “healthcare” settings as “places where healthcare is delivered and includes, but is not limited to, acute care facilities, long-term acute-care facilities, inpatient rehabilitation facilities, nursing homes, home healthcare, vehicles where healthcare is delivered (e.g., mobile clinics), and outpatient facilities, such as dialysis centers, physician offices, dental offices, and others”; and

WHEREAS, there is a continuing need to ensure that all health care services delivered in office settings are provided in a manner consistent with applicable guidance and standards issued by the CDC, NJDOH, OSHA, and local health departments, including without limitation guidance and standards concerning masking and infection control practices; and

WHEREAS, recognizing that the CDC, NJDOH, OSHA, and local health departments’ guidance has repeatedly been amended, and will likely be subject to further changes, the Division has decided to modify AO 2021-11 to remove many of the specific, static requirements therein, and instead to mandate that health care professionals providing health care in an office setting do so in a manner that is fully consistent with all then current guidance issued by the CDC, NJDOH, OSHA, and local health departments; and

WHEREAS, good cause exists for the entry of this modified Order, and the continuation of enforceable conditions on health care professionals is necessary to protect public health, safety, and welfare;

**NOW, THEREFORE**, I, Cari Fais, Acting Director of the Division of Consumer Affairs, by virtue of the authority vested in me by the statutes of this State and EO 292, 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 was declared in EO 103, and ORDER that AO 2021-11 is hereby modified to read as follows:

Definitions:

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

“Health care professionals” shall include licensees of the following New Jersey State Boards and Committees: Board of Dentistry, Board of Medical Examiners, Board of Nursing, Board of Optometrists, Board of Ophthalmic Dispensers and Ophthalmic Technicians, Board of Respiratory Care, Board of Pharmacy, Acupuncture Examining Board, Board of Chiropractic Examiners, Occupational Therapy Advisory Council, Board of Physical Therapy Examiners, Orthotics and Prosthetics Board of Examiners, Board of Polysomnography, Athletic Training Advisory Committee, and Audiology and Speech-Language Pathology Advisory Committee.

“Office” means a health care practice setting not licensed by NJDOH, including but not limited to health care professional offices, private practices, clinics, urgent care centers, and community medical centers.

- B. All health care professionals are authorized to provide in-person adult and pediatric services in an office, provided that such services are rendered consistent with their scope of practice and applicable statutes and regulations, except insofar as those statutes and regulations have been and remain waived in connection with the state of emergency declared in EO 103;
- C. All health care professionals shall be required to practice in a manner that is consistent with all applicable guidance related to COVID-19 issued by the CDC, NJDOH, OSHA, and their local health department, including without limitation guidance applicable to: health care settings generally; dental or eye care settings specifically; health care practitioners; scheduling, screening, vaccination, and testing of patients and health care workers; infection control, source control, and prevention practices; workplace safety; contact tracing; and field-specific practice.
- D. It shall further be the duty of all health care professionals to:

- a. Stay informed about applicable guidance issued by the CDC, NJDOH, OSHA, and the health care professional's local health department.
- b. Monitor indicia of community spread as reflected by the statewide weekly Variant Weekly Surveillance Reports and the CDC Community Levels, and adjust office practices in a manner consistent with CDC and NJDOH recommendations based on the level of community spread. NJDOH COVID-19 Weekly Surveillance Reports can be found at <https://www.nj.gov/health/cd/statistics/covid/>. The CDC Community Levels are posted online at <https://www.cdc.gov/coronavirus/2019-ncov/science/community-levels.html>. For additional information to guide decisions impacting the provision of clinical services, health care professionals should refer to the CDC, including the CDC Framework for Healthcare Systems Providing Non-COVID-19 Clinical Care During the COVID-19 Pandemic: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/framework-non-COVID-care.html>.
- c. Protect staff from retaliation for engaging in conduct that is recommended in guidance and standards issued by the CDC, NJDOH, OSHA, and the health care professional's local health department.
- c. Ensure that all health care practice in registered surgical practices that are required to be licensed by the NJDOH as ambulatory surgery centers, but that have not yet been licensed, is performed in a manner consistent with all requirements that may be imposed by the NJDOH upon ambulatory surgery centers.

E. This Order hereby modifies DCA Administrative Order No. 2021-11.

This Order modifying DCA AO 2021-11 shall take effect immediately and shall remain in effect until the end of the state of emergency declared by the Governor in EO 103, unless further modified or revoked by the Division of Consumer Affairs.



Date: July 22, 2022

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Cari Fais, Acting Director