On June 13, 2020, New Jersey Governor Phil Murphy signed Executive Order 105 ("EO 154"), permitting the reopening of “personal care service facilities,” at 6:00 a.m. on June 22, 2020, provided the facilities comply with mandated social distancing and other health safeguarding requirements. Specifically, EO 154 covers, “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.” To reopen these personal care service facilities must comply with standards issued by the New Jersey Department of Health ("DOH"), and Division of
Consumer Affairs, as applicable.

Personal care services provided by licensees and owners of premises subject to regulation by the New Jersey State Boards of Cosmetology and Hairstyling (“Cosmetology Board”) and Massage and Bodywork Therapy (“Massage Board”) must comply with the requirements stated in Administrative Order 2020-09 issued by the Commissioner of Consumer Affairs on June 13, 2020. The order contains a lengthy detailed list of requirements addressing:

1. Preparing for Reopening the Premises to Facilitate Social Distancing
2. Establishing Protocols for the Scheduling of Client Appointments
3. Implementing Protocols for Screening All Staff
4. Requiring Protective Equipment and Supplies
5. Enhancing Disinfection and Cleaning Practices
6. Staying informed About Developments and Obligations.

The following summarizes and provides examples of the requirements.

- Install physical barriers, if feasible, to minimize client contact with staff in the reception area.
- Install hand sanitizers for use by clients and staff.
- Use floor markers (such as signs or tape) to designate six-foot distance in common areas, client service stations, bathrooms and employee break rooms.
- Rearrange or remove seating in reception/waiting areas to ensure that individuals will be seated at least six feet apart.
- Reconfigure the premises and/or staffing schedule(s) to ensure that staff-client pairs maintain at least six feet distance from other staff-client pairs at all time, unless separated in closed rooms or by physical barriers.
- Use pre-payment or remote, contactless payment options, when possible.
- Establish an isolated area for delivery of supplies and materials.
- Clean and sanitize all surfaces before reopening; wipe counters and hand wash/sanitize after each cash transaction.
- Remove items that are intended to be used by multiple persons and are difficult to disinfect, e.g., magazines; candy dishes; product testers/samples and toys (contactless beverage dispensers accompanied by single-use cups are permitted).
- Install hand sanitizers for use by clients and staff
- Train staff on health safeguarding policies and procedures, e.g., reporting
symptoms of illness, infection control procedures, cleaning and disinfecting, proper use of PPE, cough and sneeze etiquette, handwashing, etc.

• Post signage in common areas reminding clients of the importance of social distancing, handwashing, face coverings, and coughing and sneezing etiquette.

• Limit services to appointment-only; appointments must be made by telephone texting, or online.

• Space appointments to allow adequate time for cleaning and disinfecting and to minimize person-to-person contact.

• Screen clients by telephone or online within 24 hours of their appointment via consultation or questionnaire. Individuals who answer yes to a screening question may not be provided services (businesses may not charge clients who are prevented from receiving services because of screening). Follow CDC Guidance for determining when a client may be rescheduled, including that the client may not return for services for at least 72 hours after being symptom free, without having taken fever-reducing medication or before 14 days after exposure to a suspected or confirmed COVID-19 positive individual.

• Ask clients screening questions again upon arrival and require clients to submit to no-contact forehead temperature screening. Deny entry to anyone who answers “yes” to a screening question or who has a temperature exceeding 100.4 degrees, along with individuals accompanying them. Disinfect thermometers after each use.

• Limit individuals inside the premises to clients, minor children of clients, parent or single companion of a minor child or client needing assistance.

• Require all staff immediately prior to the initial re-entry after the re-opening of the premises to respond to screening questions. Deny entry to any staff member who answers “yes” to any of the screening questions. Follow CDC guidance to determine when an individual may return to the premises, including not permitting staff to return to work for at least 72 hours after being symptom free, without having taken fever-reducing medication or before 14 days after exposure to a suspected or confirmed COVID-19 positive individual.

• Require all persons on premises to wear cloth face coverings at all times, except when a client is face down on a massage table or when doing so would inhibit an individual’s health or the individual is under two years.

• Adopt enhanced cleaning and disinfection practices.

• 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.

• 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.
Stay informed about new developments and guidance related to COVID-19. The complete list can be found in Administrative Order 2020-09.

Tattoo parlors (i.e., “Body Art Establishments”) and tanning salons must follow health and safety standards issued by the DOH in Executive Directive No. 20-015, as summarized below, and which are similar though not identical to the requirements for licensees and businesses regulated by the Cosmetology Board and Massage Board.

- Obtain all required municipal permits and local health authority approvals before opening and/or reopening and resuming operations. Ensure the tanning facility is registered with the DOH.
- Body Art Establishments must obtain all required municipal permits and local health authority approvals before opening and/or reopening establishment.
- Require appointments.
- Modify areas of the facility to achieve a minimum distance of six feet between equipment where appropriate; tanning beds/booths, work stations, waiting areas etc. Consider installing physical barriers (e.g., shields, partitions) in areas where 6 feet of physical distance cannot be maintained. Use signs/guides on floors and walls to remind clients and visitors to remain six feet apart.
- Space appointment times to allow adequate time to clean and disinfect tables, chairs, workspaces and other reusable items after each use and in between clients.
- Perform prescreening and temperature checks of clients and staff prior to entering the facility.
- Recommend that clients wait in cars or away from facility if the waiting area cannot accommodate social distancing.
- Require face coverings.
- Notify the local health department immediately of any known positive COVID-19 case in the facility and cooperate with contact tracing while maintaining confidentiality.
- Maintain daily logs of all employees/clients/visitors entering the facility.
- Establish and implement a COVID-19 plan, which, at a minimum, addresses training on illness reporting, infection control practices, social distancing, proper use of personal protective equipment, employee health assessment, and cleaning, and disinfection procedures.
- Develop and provide, post or make available, the COVID-19 safety plan and training for clients.
- Adopt appropriate infection control, disinfection, and sanitization practices.
• Ensure clients in tanning facilities provide their own goggles or provide disposable goggles.

The complete list can be found in Executive Directive No. 20-015.

Pursuant to EO 154, personal care services offered outside of personal care service facilities or health facilities providing medically necessary or therapeutic services ("other personal care services") remain prohibited, until explicitly authorized by an order from the State Director of Emergency Management. If such an order is issued, these personal care services must be provided in a manner that complies with the above-referenced standards issued by Consumer Affairs and DOH, as applicable. The prohibition of other personal care services does not, however, prohibit the provision of services to a person that is confined to their home and unable to travel due to a disability, if these services (i) are permitted under existing statutes and regulations and (ii) are provided in a manner that substantially complies with standards issued by Consumer Affairs and DOH.

In addition, nothing in EO 154 precludes an individual from providing personal care services in a shop, office, or other premises licensed, or otherwise authorized by Consumer Affairs or one of its licensing boards or the DOH that is located in a residence, provided the facility complies with the above standards.

Finally, EO 154 states that cosmetology schools and other places that provide instruction and training for personal care services must continue to remain closed pursuant to Gov. Murphy's prior Executive Order 107.

©2020 Epstein Becker & Green, P.C. All rights reserved.

National Law Review, Volume X, Number 174

Source URL: https://www.natlawreview.com/article/nj-governor-permits-hair-salons-and-other-personal-care-services-facilities-to