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**OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION**  
**GUIDANCE ON BARBERING, COSMETOLOGY & ESTHETICS**  
**PURSUANT TO EMERGENCY ORDER #40**

<b>Reference Number:</b>	SFY 2020-04
<b>Authorized by:</b>	Lindsey B. Courtney, Interim Executive Director 
<b>Division/Board/Council/Commission:</b>	Office of Professional Licensure and Certification, Division of Health Professions
<b>Effective Date:</b>	May 8, 2020
<b>Subject:</b>	Barbering, Cosmetology & Esthetics Guidance
<b>Description:</b>	Guidance concerning barbering, cosmetology, and esthetic services pursuant to emergency order #40

Pursuant to Emergency Order #40, and upon authorization by the Business and Economic Affairs (“BEA”), the Office of Professional Licensure and Certification (“OPLC”) issues the following guidance pursuant to paragraph 1 of the emergency order. This guidance is being issued to provide supplemental information and clarification to individuals and shops licensed by the Board of Barbering, Cosmetology & Esthetics (the “Board”) regarding the authorized practice of barbering, cosmetology and esthetics following the issuance of Emergency Order #40.

On May 1, 2020, Governor Sununu issued Emergency Order #40, extending and modifying Emergency Order #17 concerning the closure of non-essential businesses and requiring Granite Staters to stay at home. Pursuant to Exhibit D of Emergency Order #40, “[e]ffectively May 11, 2020, barbers, hair salons, and other cosmetology businesses may open their physical facilities to workers, customers, and the public and resume in person operations if they operate in accordance with . . . guidelines [set forth in the Order].” These guidelines limit the services that may be

provided by individuals and shops licensed by the Board to “haircuts and root touch-up color services.” **“Root touch-up color services” are those color services that may be completed within one (1) hour and do not require the use of blow dryers and/or hooded dryers.** Pursuant to Emergency Order #40, licensees are not required to open shops or provide authorized services; rather, consistent with recommendations by the Department of Health and Human Services, Division of Public Health Services, authorized services may be provided at the licensee’s discretion within the guidelines set forth in the Order.

Answers to commonly asked questions are noted below.

**1. What services may be provided?**

At this time, pursuant to Emergency Order #40, only haircuts and root touch-up color services may be provided. As noted, “root touch-up color services” are color services that may be completed within one (1) hour and do not require the use of blow dryers and/or hooded dryers.

**2. Who may provide services?**

All individuals licensed by the Board to provide the services outlined in #1 above. Manicurists, estheticians, and tanning facilities are not allowed to operate under Emergency Order #40.

**3. I am concerned about accepting clients from other states or other areas that have high COVID-19 rates. Can I refuse service if I am concerned that someone has symptoms of COVID-19 or may have been exposed to COVID-19?**

Staff and clients should be screened (questioned about) for any current symptoms of COVID-19 or close contact to a person with diagnosed COVID-19 in the preceding 14 days before each shift (for staff), and before the appointment (for clients). Staff with any symptoms should not be allowed to work. Clients with any symptoms should be rescheduled. Licensees should refuse services to someone if they have symptoms of COVID-19 or have been exposed to a person with COVID-19 in the preceding 14 days because these individuals should be quarantining at home.

**4. Under Emergency Order #40, am I allowed to provide services to clients in their homes if they are not able to leave their residence because of a disability, limited mobility, or by reason of the person’s age, pursuant to RSA 313-A:25, IX?**

Yes, provided clients and other household members that staff may come into contact with while in the home environment are properly screened in accordance with #3 above and are able to follow the universal guidelines about mask use, cleaning and disinfection, and hand hygiene.

**5. Are licensees required to open pursuant to Emergency Order #40?**

No. Pursuant to Emergency Order #40, licensees are not required to open shops or provide authorized services; rather, consistent with recommendations by the Department of Health and Human Services, Division of Public Health Services, authorized services may be provided at the licensee’s discretion within the guidelines set forth in the Order.

**6. Can we purchase masks from the State for our salon?**

The State of New Hampshire is providing masks to businesses at no cost. To request masks, please visit: [https://prd.blogs.nh.gov/dos/hsem/?page\\_id=8451](https://prd.blogs.nh.gov/dos/hsem/?page_id=8451).

**7. Can we require clients to wear masks when receiving services?**

Yes, you should require clients to wear, at a minimum, a cloth face covering at all times while in the salon. If a client is unable to wear a cloth face covering they should be declined service until another stage of the pandemic when community transmission is low.

**8. Why do the guidelines restrict the services to haircuts and color services that can be performed in a short timeframe?**

Longer durations of close contact to an individual that has COVID 19, even if asymptomatic, increases the risk of transmission of COVID-19.

**9. Do children need to wear a mask?**

Yes. Service shall be refused to clients who are not able to comply with the requirement to wear masks.

Per [CDC guidance](#), cloth face coverings should not be placed on young children under the age of 2 years. There is, however, no requirement for asking a client's age, and the decision about whether a child is able to appropriately wear a mask is at the discretion of the parent/guardian. Young children who are unable to appropriately wear a mask or cloth face covering should be declined service until community transmission of COVID-19 is low, especially because children with COVID-19 are more likely to have mild or unrecognized symptoms or infection but are still probably able to spread COVID-19.

**10. The guidelines to Emergency Order #40 states that “[a] maximum of no more than 10 total people at any one time (staff and clients combined) are allowed in the facility at any time . . . .” Does the parent of a young child count as one of the 10 people permitted to be present in the salon?**

Yes.

**11. Why am I not allowed to use a blow dryer or hooded dryer?**

Coronavirus (COVID-19) is primarily transmitted through an infected person's respiratory droplets. We do not want forced airflow from a blow dryer spreading respiratory droplets from a person infected with COVID-19, which can put people further away than 6 feet at risk.

**12. If I have a medical condition and cannot wear a cloth mask, can I wear a shield only?**

Clients who are unable or unwilling to wear a face mask/covering should be declined service until a later stage of the pandemic when community transmission is low.

**13. Can schools provide authorized services pursuant to Executive Order #40?**

Yes. Schools licensed pursuant to Bar 301.10 may provide authorized services in accordance with Executive Order #40.

#### **14. Is shaving an authorized service pursuant to Executive Order #40?**

No.

#### **15. Am I eligible for unemployment in light of Emergency Order #40?**

New Hampshire Employment Security (NHES) has provided the following information regarding eligibility under the Pandemic Unemployment Assistance (PUA) Program created by the CARES Act:

In addition to regular state UI eligibility where a worker is unemployed through no fault of their own, the CARES Act created additional categories of eligibility for federal UI benefits under the PUA program. Beginning Sunday, May 9, 2020, claimants will be presented with a new series of certification questions when filing their weekly claim. This is required by the Federal CARES Act based upon guidance just released by USDOL. NHES has included the questions on its website ([www.unemploymentbenefits.nh.gov](http://www.unemploymentbenefits.nh.gov)) so people can familiarize themselves with the questions now and be prepared to file weekly claims going forward. These questions track closely with questions that people would have seen when filing their initial claim but are presented in a clearer fashion to try to eliminate confusion and concern.

**In short, if the claimant is able to self-certify as to being unable or unavailable to work because any one of the following circumstances related to COVID-19 then they are eligible for unemployment benefits under the Federal CARES Act:**

- Last week, did you have COVID-19 or did you experience symptoms and seek a medical diagnosis?
- Last week, did a member of your household have COVID-19?
- Last week, were you caring for a family or household member that had COVID-19?
- Last week, were you caring for your child or other person for whom you have primary care-giving responsibility because their school or care facility is closed because of COVID-19?
- Last week, were you unable to report to work because you were self-quarantined on the advice of a health care provider?
- Last week, were you unable to report to work because you were self-quarantined at the direction of your employer?
- Last week, were you out of work because you were supposed to start a new job which is still unavailable due to COVID-19?
- Last week, were you out of work because your employer is closed due to COVID-19?
- Last week, were you out of work because you have been temporarily laid off due to COVID-19?
- Last week, were you unable to get to your place of employment because of a government imposed stay at home order or travel restriction due to COVID-19?
- Have you become the major source of income for your household because the individual that was the major source of income has died of COVID-19?
- Last week, were you out of work because you are self-employed and unable to conduct your business because of COVID-19?
- Last week, did you quit your job due to health complications caused by COVID-19?

**16. What if my employer chooses to remain closed even though the industry is permitted to open, may I still collect unemployment benefits?**

Yes. If your employer remains closed or does not request that you return to work, you would continue to meet eligibility under the CARES Act. Further, if you are requested to return to work by your employer, you would still be able to collect unemployment benefits if you are able to certify on your weekly claim that you continue to be unable to work due to one of the COVID-19 related reasons allowed under the Federal CARES Act, including compliance with the Stay-at-Home order or other travel restriction. However, someone cannot refuse to return to work simply because they would prefer to collect unemployment. They must be able to certify as to meeting one of the criteria listed above.

**17. If I am unable to work because I am quarantined for exposure to COVID-19, have symptoms of COVID-19, or am caring for a family member who is quarantined for a COVID-19 related reason, may I still collect unemployment benefits?**

Yes. Each of these situations are covered by the allowable reasons to collect unemployment benefits under the CARES Act.

**18. If I do not want to return to work even due to concern for being exposed or potentially exposing others in my family to COVID-19, even though my employer has chosen to open can I still collect unemployment benefits?**

Yes. An individual may continue to qualify for benefits if he or she is unable to reach the place of employment due to the state's Stay-at-Home order or other type of travel restriction put in place to reduce the spread of COVID-19. However, someone cannot collect unemployment benefits just out of a generalized concern with COVID-19. That being said, while the state's Stay-at-Home order continues to be in effect they are eligible to collect under the Federal CARES Act.

**19. If my employer opens, but I am only working part-time or earning the equivalent of part-time wages due to safety restrictions of what tasks that I am able to perform can I still continue to collect some amount of unemployment benefits?**

Yes. New Hampshire state law allows someone to work part-time and continue to collect unemployment benefits. However, you are not allowed to work full-time hours and collect unemployment. In cases of part-time employment, you need to report all of your work and earnings to the department on your weekly claim form. New Hampshire allows you to earn up to 30% of your weekly benefit amount without any reduction to your benefits. For every dollar earned above 30% of your weekly benefit amount then your benefit is reduced dollar-for-dollar. Essentially, if you earn less than 130% of your weekly benefit amount then you will still be eligible for some benefit. If you are still eligible for at least \$1 in your base benefit, then you also receive the \$600 federal payment without any reduction. If you earn 130% or more of your weekly benefit amount, then you would not be eligible for any benefits during that week including not being eligible for the \$600 federal payment. You may still be eligible for benefits for the following week depending upon your earnings in that week.

**20. If I am unable to secure daycare for children that I am caring for and therefore unable to return to work, may I still collect unemployment benefits?**

Yes. If you are caring for your child or other person for whom you have primary care-giving responsibility because their school or care facility is closed because of COVID-19 then you would be eligible for unemployment benefits under the Federal CARES Act regardless of whether you are offered new employment or asked to return to work by your employer.

**21. Is an individual who refuses an offer of work eligible for benefits under the Federal CARES Act?**

Only if the individual is unable or unavailable to work as a direct result of COVID-19 and is able to certify to meeting one of the criteria for eligibility under the Federal CARES Act. Eligibility under the Federal CARES Act requires that the individual be able to work and available to work within the meaning of applicable state law, unless the individual is unable or unavailable to accept the offer of work because of a reason listed above. If someone refuses an offer of employment simply because they desire to continue to collect unemployment, then they would not be eligible for benefits.

**22. Is someone who is unable to reach the place of employment because of a quarantine, including a state's Stay-at-Home order, or other type of government order restricting travel, eligible for benefits under the Federal CARES Act?**

Yes. An individual may continue to qualify for benefits if he or she is unable to reach the place of employment due to the state's Stay-at-Home order or other type of travel restriction put in place to reduce the spread of COVID-19. However, someone cannot collect unemployment benefits just out of a generalized concern with COVID-19. That being said, while the state's Stay-at-Home order continues to be in effect they are eligible to collect under the Federal CARES Act.

For questions regarding unemployment benefits, please visit the NHES website at: <https://www.unemploymentbenefits.nh.gov>. For general questions regarding this notification, please contact:

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