



November 23, 2020

Phillip L. Husband, General Counsel  
District of Columbia Department of Health  
899 North Capitol Street, NE, 6<sup>th</sup> Floor  
Washington, DC 20002

Via email: [DCHFpubliccomments@dc.gov](mailto:DCHFpubliccomments@dc.gov)

**RE: DEPARTMENT OF HEALTH PROPOSED AND EMERGENCY RULEMAKING – COVID-19 TESTING BY PHARMACISTS**

Dear Mr. Husband,

The National Community Pharmacists Association (NCPA), the National Association of Chain Drug Stores (NACDS), the National Grocers Association (NGA), and the Food Industry Association (FMI) write again in regard to the recently adopted Department of Health (DOH), Board of Pharmacy (BOP) emergency rule and proposed rule- **§ 6516, COVID-19 Testing by Pharmacists**. We commend the DOH's efforts to curb the spread of the novel coronavirus disease (COVID-19) while protecting the health, safety, and welfare of the District's residents. In addition, we applaud the DOH and BOP efforts in addressing some of our concerns on the previously released emergency rules on COVID-19 testing. However, the proposed rule language needlessly restricts patient access to receive COVID-19 tests at pharmacies by including PPE requirements that exceed federal guidelines, restricting some pharmacy technician activities, and limiting location standards due to misunderstanding on antibody vs. serology test differences.

These requirements have created inefficiencies in the District's efforts to establish minimum standards for the safe and effective operation of testing in pharmacies and it negatively impacts patient access to testing. As such, we urgently request that the DOH and BOP amend these rules, taking into account our following recommendations.

**PPE Requirements 6516.10, 6516.11, 6516.30, and 6516.31**

We support ensuring the safety of patients, pharmacists, and pharmacy staff during testing. However, the PPE requirements within this proposed rule far exceed national guidelines for safe PPE use and may lead to wasteful use of limited resources. Section 6516.11 requires the pharmacist-in-charge to implement policies and procedures for the use of PPE, which may create confusion as the requirements in the rule exceed the Centers for Disease Control and Prevention's (CDC's) national guidelines, which is the typical standard to apply.

As COVID-19 cases continue to surge in Washington, DC and nationwide, PPE guidelines should follow national standards and not needlessly exceed them. **With this in mind, we highly recommend the**

**following amendment to the proposed rule, striking specific PPE requirements and referencing the CDC's national infection control guidelines:**

- 6516.10 All Pharmacists and pharmacy interns involved in administering diagnostic COVID-19 testing shall wear appropriate personal protective equipment (PPE), ~~which shall include at a minimum, a mask, gloves (which may be nonsterile), a face shield, and a protective gown.~~ in accordance with the Centers for Disease Control (CDC) and Prevention's national infection control guidelines.6516.11 The pharmacist-in-charge of a pharmacy where diagnostic COVID-19 testing will be administered shall:
- (a) Implement appropriate policies and procedures for the safe performance of COVID-19 testing at that location which shall include appropriate training, collection procedures, availability and use of PPE, and proper disposal of used PPE in accordance with CDC's national infection control guidelines.

**Testing Locations**

Section 6516.9 and 6516.14 require that diagnostic and self-administered COVID-19 testing occur outdoors. These safeguards for testing indoors create an unfounded inconsistency and discrepancy between how institutional and non-institutional settings are treated. Given that outdoor space is hard to find in urban settings, requiring diagnostic and self-administered COVID-19 testing to occur only outdoors may prevent pharmacies from participating. Pharmacies are keenly aware of the importance in taking necessary safety precautions when providing patient care services, adhering to CDC guidance and developing the necessary protocols to ensure the safety of healthcare workers and patients. They are well-positioned to determine the location to conduct testing, without additional burdensome requirements.

Additionally, section 6516.14 also prevents pharmacies from participating in convenient off-site testing models including employer-site testing, which is being done in other states and jurisdictions. We have heard from our member pharmacists that they have been asked by businesses in the District to offer such services but cannot participate due to the language in this rule. **Thus, we recommend amending section 6516.9 and striking section 6516.13 and 6516.14 to give pharmacies flexibility in testing location, in accordance with CDC infection control guidelines, as follows:**

- 6516.9 A COVID-19 testing location operated by a pharmacy in a non-institutional setting that performs diagnostic COVID-19 testing shall may:
- (a) Be in an indoor, outdoor, or offsite location ~~in close proximity to the pharmacy building,~~ based on the pharmacy's preferences, who have put in place appropriate measures in accordance with the CDC's national infection control guidelines, to ensure patient and pharmacy staff safety during testing. ~~Outdoor testing may include a parking lot; which may include drive up, curbside, or walk up access;~~

(b) ~~Not be located within six (6) feet of the entrance of the pharmacy building;~~

### Pharmacy Technician Participation

Although the DOH's Notice of Second Emergency and First Proposed Rulemaking that precedes the Rule language references pharmacists, pharmacy interns and pharmacy technicians participating in COVID-19 tests, sections 6516.7, 6516.10, 6516.18 do not include references to pharmacy technicians. Through the U.S. Department of Health and Human Services (HHS') two-part PREP Act Guidance on pharmacy technicians, qualified pharmacy technicians are authorized to administer COVID-19 testing. **We recommend consistently including pharmacy technicians in this proposed rule, and adding them to sections 6516.7, 6516.10, and 6516.18 that make the rule language consistent with its stated intent.**

### Accessible COVID-19 Testing Services

For the District to reopen safely, testing capacity should be increased significantly. The accessibility and convenience of community pharmacies allows the District's residents to receive quality COVID-19 testing services within their own neighborhood. However, section 6516.24 limits pharmacies' ability to extend their patient reach by requiring appointments for patients to receive COVID-19 testing. This type of language has the potential to limit patient access to testing services without improving efficiency or safety. Pharmacists are well-positioned and capable of conducting COVID-19 testing services by appointment or for walk-ins as determined by the pharmacy. In fact, eight fire houses across the District and other public testing sites across the city offer residents walk-up testing delivered by paramedics and EMTs with no appointment needed. Residents should have the flexibility to do the same at pharmacies. **Thus, we strongly urge striking rule 6516.24 or amend language to allow for each respective pharmacy to decide on a testing system that works best for them, whether it be via appointments or walk-ins.** Recommended amended language:

6516.24 All COVID-19 testing conducted in a non-institutional pharmacy location may be performed by walk-ins or appointment only, which may be scheduled the same day, ~~and onsite.~~ based on the pharmacy's preference.

### Conclusion

Frontline community pharmacists stand ready to continue helping in their authorized capacity, and they remain well-positioned to play an essential role to expand testing and provide mass vaccination to the District's residents once a vaccine is available. The recommendations above remove existing restrictive barriers to testing, establish minimum consistent standards for COVID-19 testing in pharmacies, and enhance patient care in the District. Thank you for your time and consideration, please do not hesitate to contact Jill McCormack, Director of State Government Affairs NACDS at 717-592-8977 or at

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[JMcCormack@nacds.org](mailto:JMcCormack@nacds.org) or Ronna Hauser, Vice President, Policy & Government Affairs Operations at 703-798-0118 or at [ronna.hauser@ncpa.org](mailto:ronna.hauser@ncpa.org) with any questions you may have.

Sincerely,

FMI – The Food Industry Association  
Nation Association of Chain Drug Stores  
National Community Pharmacists Association  
National Grocers Association

Cc:

The Honorable Muriel Bowser

Executive Director Shauna White

City Council Health Committee members: Vincent C. Gray, Mary M. Cheh, Brandon T. Todd, David Grosso, Brianne K. Nadeau