



February 22, 2023

The Honorable Lourdes Castro Ramirez, Secretary
California Business, Consumer Services & Housing Agency
500 Capitol Mall, Suite 1850
Sacramento, CA 95814

Re: Recognition of PREP Act to Ensure Continued Access to COVID-19 Testing, Treatment and Immunizations in California

Dear Secretary Castro Ramirez,

I am writing to alert you of an extremely time sensitive consumer protection issue that, if not addressed, will result in a steep decline in access to healthcare services for Californians beginning next week.

The State Public Health Emergency related to COVID-19 expires on February 28, 2023. Several Department of Consumer Affairs (DCA) licensing waivers also expire on that date, including a pharmacy law waiver allowing pharmacists to independently furnish COVID-19 treatment and a waiver allowing pharmacy technicians to administer COVID-19 vaccinations.

The Federal Public Readiness and Emergency Preparedness (PREP) Act gives pharmacists and pharmacy technicians the authority to continue these immunizations and treatments until the PREP Act, which expires on October 1, 2024. Given the fact that the PREP Act preempts state law, these critical pharmacy services should continue in California until the PREP Act expires next year.

Unfortunately, the California Board of Pharmacy, which is under the purview of the Department of Consumer Affairs, and the California Business, Consumer Services & Housing Agency, is refusing to recognize that the PREP Act preempts state law. This creates significant uncertainty for California's community pharmacies, who fear enforcement from the Board if they continue to offer PREP Act-authorized services such as immunizations for COVID-19 administered by pharmacy technicians after February 28th.

The California Retailers Association is requesting the legal counsel of the Business, Consumer Services and Housing Agency review the PREP Act and provide a statement, in writing, confirming the PREP Act does in fact preempt state law and if pharmacists comply with the requirements of the PREP Act, they can continue to perform duties authorized pursuant to the PREP Act.

Millions of Californians receive COVID-19 testing, vaccines and treatment from community pharmacies, which are an integral part of California's healthcare system, and our community pharmacies are committed to ensuring all Californians have equitable access to healthcare services, especially to COVID-19 testing, treatment and vaccinations. In order for these services to continue, our community pharmacies need clear guidance from the state to ensure these services can continue to be made available to all Californians through the end of the PREP Act.

The Department of Public Health received \$158 million from the State of California last year to launch a Test to Treat campaign to encourage patients to go to pharmacies to test and be treated for COVID-19. Paxlovid is only effective if taken within five days of symptoms and, given the difficulty for many Californians to get an appointment with a physician within this time frame, our community pharmacists are key to treating COVID-19.

Community pharmacies are an easily accessible healthcare destination for patients. In fact, almost 90 percent of the U.S. population lives within five miles of a community pharmacy. Access to COVID-19 prevention and treatment services will significantly diminish if pharmacies can no longer offer these COVID-19 services because of a lack of clarification from the State.

I hope you can quickly provide the clarity needed for pharmacies to continue to serve Californians in combatting COVID by continuing the PREP Act as authorized through the federal state of emergency. Without clarity, there will be up to ¹68,000 fewer pharmacy technicians available to administer COVID-19 vaccinations in California which will diminish access and equity to Californians seeking testing and treatment for COVID-19, specifically in many of our rural and underserved communities.

Thank you for considering our comments on this important issue. Please do not hesitate to reach out to me directly at 916/443-1975 or via email at RMichelin@calretailers.com if you have any questions or would like to discuss in more detail.

Sincerely,



Rachel Michelin
President & CEO
California Retailers Association

cc: Dr. Mark Ghaly, MD, MPH, Secretary, California Health and Human Services Agency
Dana Williamson, Executive Secretary, Office of Governor Newsom
Dee Dee Myers, Director, GoBIZ; Senior Advisor to Governor Newsom
Richard Figueroa, Office of Governor Newsom
Kimberly Kirchmeyer, Director, Department of Consumer Affairs
Anne Sodergren, Executive Officer, Board of Pharmacy

¹ https://www.pharmacy.ca.gov/about/license_total.shtml