STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS

BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR

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Order Waiving Restrictions on Pharmacists Ordering and Collecting Specimens for COVID-19 Tests

On March 4, 2020, the Governor proclaimed a State of Emergency to exist in California as a result of the impacts of COVID-19 to make additional resources available, formalize emergency actions already underway across multiple state agencies and departments, and help the state prepare to respond to an increasing number of individuals requiring medical care and hospitalization as a result of a broader spread of COVID-19.

Pursuant to the Governor's Executive Order N-39-20, during the State of Emergency, the Director of the California Department of Consumer Affairs may waive any statutory or regulatory professional licensing requirements and amend scopes of practice pertaining to individuals licensed pursuant to Division 2 of the Business and Professions Code. This authority allows the Director to waive restrictions on activities that licensees may undertake.

Business and Professions Code section 4050, subdivision (c), states that pharmacists are health care providers who may provide health care services. Business and Professions Code section 4051, subdivision (b) authorizes pharmacists to provide any "clinical advice, services, information, or patient consultation" set forth in Chapter 9 of Division 2 of the Business and Professions Code, if certain conditions are met. Business and Professions Code section 4052, subdivision (a)(12) authorizes pharmacists to order only certain tests, subject to certain conditions.

Pursuant to Executive Order N-39-20, the Director waives Business and Professions Code section 4051, subdivision (b) and section 4052, subdivision (a)(12), to the extent those provisions would otherwise prohibit pharmacists from ordering or otherwise authorizing tests for the presence of the virus SARS-CoV-2 ("COVID 19 tests") in individual patients, and without coordination with the patient's primary care provider or diagnosing prescriber. Those provisions are also waived to the extent they would otherwise prohibit pharmacists from physically collecting (such as through the use of nasopharyngeal swabs or other means) specimens necessary to perform such COVID-19 tests. This waiver does not authorize the analysis or testing of samples collected, to the extent such analysis or testing is not otherwise authorized by law.

The waiver is subject to the following conditions:

- The test is authorized by the United States Food and Drug Administration (FDA) and is processed in a public health, commercial, or clinical laboratory pursuant to state and federal rules; and,
- The pharmacist is competent and trained to collect the specimen necessary to perform the test, and the specimen is collected consistent with the provisions of an Emergency Use Authorization issued by the FDA.

Pharmacists acting within the scope of this wavier may order and collect specimens for authorized COVID-19 tests.

This order is effective immediately, and may be amended from time to time in the discretion of the Director.

This order terminates 60 days from the date of the order, unless further extended.

Dated: May 12, 2020

Signature on File

Kimberly Kirchmeyer
Director