DEPARTMENT OF HEALTH
NOTICE OF EMERGENCY RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under §§ 102(11), 302 (14), and 1006 of the District of Columbia Health Occupation Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1202.01, 3-1203.02 (14)), and 3-1210.06, D.C. Official Code § 47-2885.01, D.C. Official Code § 47-2885.18, Mayor's Order 98-48 dated April 15, 1998, Mayor's Order 98-140, dated August 20, 1998, Mayor's Order 2020-045, dated March 11, 2020; and Mayor's Order 2020-050, dated March 20, 2020, gives notice of the adoption, on an emergency basis, of the following amendment to chapter 65 of Title 17 of the District of Columbia Municipal Regulations (DCMR) (Pharmacists) adding a new § 6516 (COVID-19 Testing by Pharmacists).

This emergency rulemaking is necessary to protect the health, safety, and welfare of the District's residents by reducing the spread of COVID-19 by establishing minimum standards for the safe and effective operation of pharmacies where pharmacists, and pharmacy interns under the direct supervision of a pharmacist, administer COVID-19 tests, and observe and facilitate collection of a self-administered COVID-19 test.

This emergency rulemaking was adopted on June 5, 2020, and became effective immediately on that date. The emergency rule will expire one hundred twenty (120) days from the date of adoption (October 3, 2020) or forty-five (45) days after the public health emergency declared by Mayor's Order 2020-050 dated March 20, 2020 or any substantially similar subsequent Mayor's Order is declared over, whichever occurs first.

A new Section 6516 is added to read as follows:

6516 COVID-19 Testing by Pharmacists

6516.1 A pharmacist licensed in good standing in the District of Columbia shall only perform COVID-19 tests as set forth in this section.

6516.2 For purposes of this section, the terms "COVID-19 test" and "COVID-19 testing" shall refer to COVID-19 diagnostic tests, COVID-19 antibody tests, and any other tests and testing mechanisms for COVID-19 that become approved by the United Stated Food and Drug Administration. Also, for purposes of this section, the term "perform COVID-19 tests" or "perform COVID-19 testing" shall mean to administer or supervise administration of COVID-19 tests or testing, or observe and facilitate collection of self-administered COVID-19 tests or testing.

6516.3 A pharmacist licensed in good standing in the District of Columbia shall only perform COVID-19 testing at a location site that meets the requirements set forth in § 6516.4 of this chapter.

6516.4 A COVID-19 testing location operated by a pharmacy in a non-institutional setting shall:

(a) Be an outdoor location in close proximity to the pharmacy building, such as 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;

(c) Have and follow a plan for the safe operation of the testing site, and an infection control plan; and

(d) Maintain a record of all patients who have undergone COVID-19 testing at the testing location. This information shall be maintained by the pharmacy for at least one year unless otherwise directed by the Department of Health.

6516.5 All COVID-19 testing conducted in a non-institutional pharmacy location shall be performed by appointment only, which may be scheduled the same-day and onsite.

6516.6 Prior to performing COVID-19 testing, a pharmacist shall review and familiarize himself/herself with the Center for Disease Control's "Guidelines for Collecting, Handling, and Testing Clinical Specimens from Persons for Coronavirus Disease 2019 (COVID-19)" and ensure that the pharmacist has appropriate personal protective equipment (PPE) to safely perform the testing.

6516.7 All pharmacists and pharmacy personnel involved in COVID-19 testing shall wear appropriate PPE, which shall include at a minimum, a mask, gloves (which may be nonsterile), a face shield, and a protective gown.

6516.10 The pharmacist-in-charge of a pharmacy where COVID-19 testing will be performed, 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; and

(b) Staff the pharmacy in a manner to ensure that the pharmacist(s) who is administering COVID-19 testing is engaged solely in performing COVID-19 testing, and is not dispensing prescriptions or counseling patients in between administering COVID-19 testing. The pharmacist performing COVID-19 testing shall only dispense prescriptions and counsel patients after all COVID-19 testing has been completed for the period during which he or she has been assigned to perform testing, after properly disposing of his or her PPE, and after thoroughly washing his or her hands.

6516.11 The health care practitioner who orders the COVID-19 test, who may be the same pharmacist who administers the test, shall be responsible for receiving the test results and directing a patient with a positive test result to receive care and monitoring.

6516.12 A pharmacist licensed in good standing in the District of Columbia may permit a licensed pharmacy intern to administer COVID-19 testing under the pharmacist's direct supervision, on an individual who is eighteen (18) years of age or older, in accordance with the requirements set forth in this section.