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Business, Consumer Services and Housing Agency  
Department of Consumer Affairs  
Gavin Newsom, Governor



To: Board Members

Subject: Agenda Item XIV. Executive Officer Report

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**a. Discussion of Board's Response to COVID-19 Pandemic Pending Termination of the State's Declared Emergency**

On October 17, 2022, Governor Newsom [announced](#) that the COVID-19 State of Emergency will end on February 28, 2023. "The timeline gives the health care system needed flexibility to handle any potential surge that may occur after the holidays in January and February, in addition to providing state and local partners the time needed to prepare for this phaseout and set themselves up for success afterwards."

With this announcement, staff have partnered with the Department of Consumer Affairs on messaging for licensees, many of whom are operating under waivers. As has been done throughout the pandemic, the Board has relied on its subscriber alert system, Twitter account and website to serve as the primary communication tools for licensees and members of the public as well as information sharing with associations.

The Board's website continues to maintain centralized COVID related information on the dedicated webpage that is accessed from the Board's [homepage](#). Included [information](#) is notification released about action taken by the Board regarding the end of the COVID-19 state of emergency. Subscriber alerts have also been released.

Broad Waivers Issued/Extended

The Board currently has five broad waivers. Provided below is a brief summary of each waiver and the current expiration date.

1. [Mass Vaccination Sites](#)

**Summary:** Provides for the storage and redistribution of COVID-19 vaccines in compliance with CDPH and CDC Guidance Related to Mass Vaccination Sites and allows for the use of pharmacy technicians as part of the vaccination team at such sites sponsored by state or local authorities directly or through contractual arrangements with third parties. Further, this allows for an increase in the ratio of pharmacist to pharmacy technicians under specified conditions.

**Effective:** April 21, 2021

**Expiration:** May 28, 2023

2. [Remote Processing](#)

**Summary:** Waives limitations on the provisions of remote order entry.

**Reinstated:** September 3, 2021

**Expires:** May 28, 2023

**Note:** The Licensing Committee is evaluating the provisions of this waiver to determine if permanent changes to the law are appropriate. Statutory changes would be required.

3. [Staffing Ratio of Pharmacists to Intern Pharmacists and General Supervision – Immunizations \(BPC section 4114\)](#)

**Summary:** Increases the ratio of pharmacists to intern pharmacist under specified conditions.

**Amended and Reissued:** October 14, 2021

**Expiration:** May 28, 2023

4. [Prescriber Dispensing of COVID-19 Oral Therapeutic Medication to Emergency Room Patient \(Including BPC sections 4068\(a\)\(1\), 4068\(a\)\(5\), 4068\(a\)\(6\) and 4076.5](#)

**Summary:** Lifts prohibition against a prescriber dispensing FDA authorized or approved COVID-19 therapeutics to an emergency room patient under specified conditions.

**Effective:** January 14, 2022

**Expiration:** May 28, 2023

5. [Prescriber Dispensing Medication to Emergency Room Patient \(BPC 4068\(a\)\(1\), 4068\(a\)\(5\) and 4068\(a\)\(6\)](#)

**Summary:** Lifts prohibition against a prescriber to dispensing medications to an emergency room patient if the medication dispensed is a short-acting, beta-agonist inhalation product.

**Reissued:** December 5, 2022

**Expiration:** May 28, 2023

DCA Director Waivers

Pursuant to the Governor's state of emergency and subsequent executive order, the Director of the Department of Consumer Affairs has issued waivers of statutory and regulatory requirements to amend the scope of practice to individuals licensed pursuant to Division 2 of the Business and Professions Code. Although some waivers have been allowed to expire, the following remain in effect.

[DCA Waiver DCA-22-217](#) Waiving Restrictions of Pharmacists Independently Initiating and Furnishing Paxlovid to Individual Patients. Under the provisions of the waiver, pharmacists may independently initiate and furnish Paxlovid for individual patients subject to specified conditions.

**Amended and Reissued:** July 11, 2022

**Expiration:** February 28, 2023

[DCA Waiver DCA-21-142](#) Order Waiving Staffing Ratio of Pharmacists to Pharmacy Technicians Relating to Administering COVID-19 Vaccines. Under the provisions of this waiver, pharmacists engaged exclusively in initiating and administering COVID-19 vaccines, and pharmacy technicians engaged exclusively in administering COVID-19 vaccines under the direct supervision and control of such pharmacist, may increase the ratio to allow one pharmacist to supervise no more than two pharmacy technicians.

**Issued:** April 20, 2021

**Expiration:** February 28, 2023

**Note:** Following consideration of this issue, the Board voted to sponsor legislation to provide permanent authority for pharmacy technician to administer vaccinations.

[DCA-20-103](#), an order that waived provisions that prohibit pharmacy technicians from administering COVID-19 vaccines under specified conditions. **Note:** Consistent with the mobile pharmacy licenses under the provisions of BPC 4062, a process was established for pharmacies wishing to use pharmacy technicians as part of the vaccination team outside of the license pharmacy. To date the Board has approved approximately 3,284 mobile pharmacies for this purpose.

**Issued:** December 22, 2022

**Expiration:** February 28, 2023

[DCA Waiver-20-44](#), an order that waives restrictions on pharmacies, pharmacists, and pharmacy technicians related to ordering, collecting specimens for, and performing COVID-19 Tests.

**Amended and Issued:** August 25, 2020

**Expiration:** February 28, 2023

**Note:** Senate Bill 409 (Cabarello, Chapter 604, Statutes 2021), among other changes, established authority for pharmacists to perform CLIA waived tests under specified conditions. Further, the Board recently voted to sponsor legislation to make permanent the authority for pharmacy technicians to perform specimen collection of CLIA waived tests in specified conditions.

**b. Discussion on Federal PREP Act and the COVID-19 Federal State of Emergency**

Background

The Public Readiness and Emergency Preparedness Act (PREP Act) authorizes the Secretary of Health and Human Services (Secretary) to issue a Declaration to provide liability immunity to certain individuals and entities against any claim of loss caused by, arising out of, relating to, or resulting from the manufacture, distribution, administration, or use of medical countermeasures, except for claims involving “willful misconduct” as defined in the PREP Act.

On January 31, 2020, the former Secretary, declared a public health emergency for the entire United States to aid in the response to COVID-19 outbreak. Subsequent actions from the Secretary included a declaration under the PREP Act for medical countermeasures against COVID-19, which have been amended several times over the last three years.

As discussed under the prior item, the DCA Director issued temporary waivers to remove restrictions that would otherwise prohibit specified board licenses from performing specified tasks. Some of these waivers aligned with provisions included with the PREP Act.

With the expiration of the waivers, the Board encourages licensees interested in understanding the applicability of the PREP Act to review [information available](#) by the federal government and contact an attorney if necessary. The Board notes that unless further amended, expiration of the provisions contained within the PREP Act vary, with some provisions expiring either on the last day of the declaration of emergency or October 1, 2024, whichever is **sooner**; while other provisions appear to expire on October 1, 2024.

The Secretary renewed the federal public health [declaration](#) on January 11, 2023.