



## Alerts

### Guidance for Protecting Pharmacy Staff and Customers from COVID-19

**May 14, 2020**  
*Health Care Alert*

Employees concerned about their workplace safety amidst the COVID-19 pandemic recently filed a legal action against their employer (Smithfield Foods) seeking a court order that would require the company to comply with Centers for Disease Control (CDC) and Occupational Safety and Health Administration (OSHA) guidelines.

The litigation alleges that the employer, Smithfield Foods, in direct contravention of CDC guidelines, at its Milan, Missouri plant, (1) provided insufficient personal protective equipment; (2) forced workers to work in close proximity and schedules their worktime and breaks in a manner where workers cannot practice social distancing, (3) refused to provide workers sufficient opportunities or time to wash their hands, (4) discouraged workers from taking sick leave when they are ill and establishes bonus payments that encourage workers to come into work sick, and (5) failed to implement a plan for testing and contact-tracing workers who may have been exposed to COVID-19.

While the Smithfield Foods lawsuit was dismissed due to the executive order issued by President Trump absolving meat processing facilities from liability, pharmacies and many other workplaces remain potentially liable if CDC and OSHA guidance is not followed. The CDC and OSHA recommendations may form a standard of care used to evaluate whether the employer has provided a workplace free from recognized hazards, and may have an impact on issues such as State Board of Pharmacy licensure and payor contracts.

Pharmacies need to be proactive and develop workplace safety plans, policies, and procedures now to avoid potential liability risks which, in turn, may ultimately result in fines and citations. Pharmacies are critical to the health care system infrastructure during a pandemic, thus it is important that pharmacists, pharmacy technicians, and other pharmacy staff are adequately protected to ensure that there is no disruption in the availability for pharmacy services due to pharmacy staff illness or other unavailability.

#### Attorneys

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## I. Patient and Staff Education on COVID-19

### Patient Education

Pharmacists have a shared responsibility with other healthcare providers for COVID-19 patient education. Pharmacists should remain up to date with clinical information about COVID-19 in order to answer customer questions regarding infection control, prevention measures, symptoms, and treatment; and be prepared to provide counselling and education to address customer concerns with regards to symptom identification, supportive management, and when and where to seek medical attention.

In addition to educating customers about COVID-19, it is important for pharmacists to assist customers with the selection of medications used to treat COVID-19-related symptoms. Useful advice for pharmacists to provide to patients include recommendations to: (1) keep over-the-counter medications on-hand for fever, colds, and pain; (2) maintain an adequate supply of prescription drugs; (3) utilize the pharmacy's drive-thru pickup and delivery service, if available; and (4) advise patients to call the pharmacy if they have any questions or concerns, especially if they are ill, rather than coming into the pharmacy.

### Staff Education

Pharmacies should utilize daily calls or written communications providing staff with information about COVID-19. Pharmacies should ensure that staff understand their roles and responsibilities regarding prevention management and infection control measures. Pharmacy staff should be educated regarding drugs utilized for COVID-19 patient symptomatic treatment, and how to manage potential drug shortages for COVID-19 treatment medications.

## II. Centers for Disease Control Guidance

The CDC recently published [updated guidance](#) (the "CDC guidance") for pharmacies, based on safety practices and precautions for COVID-19. The CDC guidance notes that pharmacies are a vital part of the healthcare system, and that ensuring continuously functioning pharmacies during the pandemic is important for communities and patients. Pharmacies can minimize the risk of pharmacy staff and customer exposure to the virus that causes COVID-19 by implementing the CDC strategies recommended below into their pharmacy operations.

### Pharmacy Staff and Customer Face Coverings and Preventive Health

Pharmacies should post policies that require everyone entering the pharmacy to wear a face covering to protect other people in case the person is infected. Pharmacists, pharmacy technicians and other pharmacy staff that work in the pharmacy area should always wear a facemask while they are in the pharmacy. Pharmacy staff should wash hands frequently and frequently use hand sanitizer.

### Managing Pharmacy Staff and Customers Suspected of Having COVID-19

Pharmacy staff who have a fever or symptoms that may be due to COVID-19 should be required to stay home and away from the workplace until they have recovered. As both influenza and COVID-19 may present with very similar presentations, it is important that pharmacy staff who have a respiratory illness are referred to their primary care physician or a COVID-19 testing center for further testing in order to confirm a diagnosis of COVID-19. Pharmacies should develop emergency plans based on the potential for absenteeism due to illness in their staff and manage workflow and staff absences due to illness or caregiving obligations.

The CDC recommends that pharmacies use text messages or other methods of communication to patients who are sick with a respiratory illness and ask the patient to send someone else to get their medication or use alternative pickup methods. If a patient sick with COVID-19 visits a pharmacy and interacts with pharmacy staff, the exposure risk as



classified by the CDC is generally low risk. With low risk exposures, the CDC recommends that health care providers self-monitor for illness. Self-monitoring means that health care provider employees should monitor themselves for fever by taking their temperature twice a day and remain alert for respiratory symptoms (e.g. cough, shortness of breath, and sore throat).

## Prescription Orders and Refills

The process of preparing medications for dispensing—such as prescription intake, patient counseling, and patient education—could expose pharmacy staff and customers to individuals who have COVID-19. Pharmacy staff should avoid touching objects that have been handled by customers. For example, pharmacies should encourage all prescribers to submit prescription orders via telephone or electronically, and develop procedures to avoid handling paper prescriptions without wearing gloves. In addition, pharmacy staff should not handle or accept patient bottles for refills and should have customers discard the bottles in a trash container located near the pharmacy counter. After a prescription has been prepared, the packaged prescription can be placed on a counter for the customer to retrieve, with the pharmacy staff standing behind a barrier instead of directly handing the medication to the customer.

Other potential strategies may include advising patients to have an ample supply of their prescription drugs to limit exposure by coming into the pharmacy and encouraging patients to call in refills to avoid extended waiting at the pharmacy. Likewise, a pharmacy should consider establishing a process for older adults, pregnant women, and individuals with chronic health conditions to pick up medications without waiting in line.

## Physical Contact with Pharmacy Customers

*Social Distancing.* Pharmacies should minimize physical contact with customers and between customers by maintaining social distancing (six feet between individuals) for people entering the pharmacy as much as possible. To the extent possible, pharmacy staff should maintain social distancing when working within the pharmacy and should limit the number of patients waiting inside the pharmacy area to less than 10 people (including pharmacy staff). Pharmacies should use signage/barriers and floor markers to instruct waiting customers to remain six feet back from the counter, from other customer interfaces, and from other customers and pharmacy staff.

*Physical Barriers.* To shield against droplets from coughs or sneezes, pharmacies should put physical barriers or sneeze guards between patients and staff (e.g. plexiglass, clear plastic, curtains, etc.) at the customer contact area to provide barrier protection. According to the CDC, barrier controls are a good strategy, considering the current personal protective equipment (PPE) shortage.

*Transactions.* All pharmacy staff handling money, cash, or credit cards should wear gloves. Pharmacies should avoid cash transactions as much as possible and request patients and caregivers to use a credit card instead of the debit card function to avoid PIN input, if possible. The CDC recommends that pharmacies ask customers to take and forward a photo or read out loud the information on their governmental benefit or insurance cards, so that pharmacy staff do not have to handle the cards to process payments. Pharmacies should not require patients to provide a signature to pick up prescriptions during the pandemic. CMS has suspended Part D plan signature requirements and state boards of pharmacies have done the same, therefore no signature is required.

*Cleaning and Disinfecting Pharmacy Customer Contact Areas.* Pharmacies should frequently clean and disinfect all customer service counters, credit card machine keypads, and customer contact counters or waiting areas with an EPA-approved disinfectant; and should provide hand sanitizer for customers on counters and sufficient soap and water and hand sanitizer for staff. Pharmacies should clean and disinfect frequently touched objects and surfaces in the pharmacy area such as workstations, keyboards, telephones, and doorknobs; and discontinue the use of magazines and other shared items in pharmacy waiting areas. In addition, pharmacies should consider removing customer seating and self-serve blood pressure testing areas to limit surfaces that may be touched by multiple customers.



*Dispensing Prescriptions.* The CDC recommends that pharmacies should consider using signs on doors and websites to divert as many customers as possible to drive-through windows, curbside pick-up, or home delivery, where feasible. Delivery personnel should wear gloves and not enter the customer's home. Pharmacists who are providing patients with chronic disease management services, medication management services, and other services that do not require face-to-face encounters, should make every effort to use telephone, telehealth, or tele-pharmacy strategies.

*Routine Clinical Preventive Services.* The CDC recommends that routine clinical preventive services that require face to face encounters, such as adult immunizations, should be postponed and rescheduled.

## Retail Clinics Located Inside Pharmacies

The CDC guidance indicates that if a pharmacy has a co-located retail clinic, the pharmacy should use signs to ask customers and patients who have respiratory symptoms to wait for their appointment in a specific part of the store rather than in the pharmacy waiting area.

## III. Employee Workplace Safety Guidance

Pharmacy managers should review [OSHA's COVID-19 Guidance](#) to understand and implement applicable recommendations for reducing employees' risk of exposure to COVID-19. A summary of the OSHA guidance is provided below.

### Infectious Disease Prevention

*Develop or Update an Infectious Disease Preparedness and Response Plan.* Pharmacies should consider updating or preparing an infectious disease preparedness and response plan to address specific exposure risks, sources of exposure, routes of transmission, and other unique characteristics of COVID-19. Such plans should, among other things, consider employees' potential exposure risks, prepare for increased rates of absenteeism, and develop plans for staggered work shifts and other exposure-reducing measures.

*Implement Infection Prevention Measures.* Pharmacies should emphasize basic infection prevention measures, such as good hygiene and infection control practices. Promote handwashing and use of hand sanitizer (at least 60% alcohol), practice social distancing (i.e. staying six feet away from co-workers and members of the public, if possible), encourage sick workers to stay home, and maintain routine cleaning and disinfecting practices.

*Developing Policies and Procedures.* Employees must be informed how to appropriately report symptoms of COVID-19, and pharmacy managers should be prepared to isolate and remove sick employees from the workplace. Pharmacies should develop procedures for employees to report when they are sick or experiencing symptoms, encourage prompt identification/isolation, and encourage self-monitoring if potential exposure is suspected.

### Administrative Controls

*Employee Training.* Pharmacies should train all workers with reasonably anticipated occupational exposure to COVID-19 about the sources of exposure to the virus, the hazards associated with that exposure, and appropriate workplace protocols in place to prevent or reduce the likelihood of exposure. Training should include information about how to isolate individuals with suspected or confirmed COVID-19 or other infectious diseases, and how to report possible cases. Training should be offered during scheduled work times.

*Employee Wellness.* OSHA encourages pharmacies to recognize, and communicate, the need for sick employees to stay home and to maintain flexible practices regarding the use of sick leave for an employee's own condition or a family member's condition. Pharmacies should change sick leave policies or procedures, including altering work schedules, discontinuing nonessential travel, training employees for proper PPE (see below) use, and preparing communication plans. Pharmacies should also provide staff with resources that promote personal hygiene, such as fresh wipes, no-touch



trash cans, hand soap or alcohol-based hand sanitizer containing at least 60% alcohol, and disinfectants to clean surfaces.

## Workplace Controls

The OSHA guidance divides pharmacies into four risk categories and provides recommendations on engineering controls, administrative controls, and personal protective equipment to protect employees from COVID-19.

*Engineering Controls.* Implement exposure reduction solutions such as installing high-efficiency air filters, increasing ventilation rates, and installing physical barriers (e.g. clear plastic sneeze guards). The use of drive-thru windows for prescription drug pick-ups and/or pharmacy area windows that can be open and closed when speaking with patients are effective engineering controls for pharmacies to reduce face to face contact between pharmacy staff and customers.

*Administrative Controls.* Encourage social distancing and the use of cloth face coverings (if appropriate) in the workplace. If possible, pharmacies should alter workspaces to encourage social distancing and schedule stocking during off-peak hours. Pharmacies should consider implementing a comprehensive screening and monitoring program to prevent COVID-19 from entering the worksite.

*Personal Protective Equipment.* Based on type of job tasks, provide protective equipment to protect pharmacy staff from exposure. For workplaces with a medium (or higher) risk of exposure, pharmacies need to assess the need for PPE and provide PPE to employees, if required. According to OSHA's Guidance, employees in a workplace classified as posing a medium risk may need to wear some combination of gloves, a gown, a face mask, and/or a face shield or goggles and, depending on what protection is selected, an employer may be required to implement a PPE Program. Immunizing pharmacists should put on PPE when administering vaccines. Pharmacies that require their employees to wear PPE must draft a "PPE Program" that addresses, at a minimum, the hazards present in the workplace; the selection, maintenance, and use of PPE; the training of employees on the proper use, maintenance and disposal of PPE; and monitoring of the program to ensure its ongoing effectiveness.

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Hinshaw has a team of health care law attorneys monitoring State Boards of Pharmacy, Pharmacy, Drug Enforcement Administration, and Federal Drug Administration policies and regulatory responses to COVID-19. Please contact your Hinshaw attorney with any questions and for additional guidance on how other COVID-19 considerations may impact your pharmacy organization. Hinshaw has also has [published](#) additional guidance regarding how companies can address other COVID-19-related business and legal issues.