

# CORNAVIRUS

WHAT YOU NEED TO KNOW

## Addressing COVID Personnel and Safety Issues: Protecting Your Team and Your Patients

**March 26, 2020**

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The NCPA Innovation Center thanks CPA for its generous support of additional informational webinars for community and LTC pharmacies during these extraordinary times.



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# Introduction

# Introduction

- It is an understatement to see that what the country is experiencing is unprecedented—there is no playbook on how to respond.
- The law is frantically trying to catch up with events unfolding on the ground.
- Everything contained herein is the best information we had as of this morning—it will change and may have already changed. Be sure to continue to monitor developments and seek additional information.

# Introduction

- This webinar will present information and ideas designed to help pharmacies navigate the COVID-19 crisis.
- The motivation for pharmacies to successfully navigate this crisis are:
  - The pharmacy wants to take care of its patients.
  - The pharmacy wants to take care of its employees.
  - The pharmacy wants to keep its doors open.
  - And sadly, but predictably, plaintiffs' attorneys will likely come out of the woodwork six months from now and will contemplate suing pharmacies for negligence. The attorneys will attempt to argue that the pharmacies did not take all reasonable steps to protect patients and employees. By following the steps discussed in this webinar, pharmacies will be able to argue that they did all that they reasonably could do to protect patients and employees.

**What do I do if the owner or an employee of the pharmacy has confirmed or suspected COVID-19?**

# If Owner or Employee is Exhibiting COVID-19 Symptoms

- There is no requirement to close the pharmacy if the owner or an employee is exhibiting symptoms or tests positive for COVID-19.
- Owner or employee will need to self-quarantine for 14 days or until he/she tests negative for COVID-19.
- Notify employees immediately if owner or an employee tests positive for COVID-19 or if he/she is exhibiting symptoms consistent with COVID-19.

# If Owner or Employee is Exhibiting COVID-19 Symptoms

- Perform enhanced cleaning and disinfection after owner or employee is suspected/confirmed to have COVID-19.
- Continue to routinely clean and sanitize all frequently touched surfaces in the pharmacy, such as workstations, keyboards, telephones, countertops, restrooms, shared spaces, doorknobs, etc.
- Pharmacy must have a sufficient stock of soap, hand sanitizer, and other supplies for employees to regularly sterilize throughout the day.



# If Owner or Employee is Exhibiting COVID-19 Symptoms

- If the owner or a key employee is quarantined, then identify alternate key employee(s) to run essential business functions and maintain critical operations.
  - Ensure that employee is familiar and understands the pharmacy's policies and procedures, especially with respect to COVID-19 issues.
  - Employee will need to monitor ongoing public health recommendations and make sure pharmacy policies and practices are consistent with the recommendations.
  - Employee should stay in contact (*via* video or telephone conference) with owner or key employee to keep him/her updated on business operations.
  - Employee will continue to educate pharmacy employees about how they can reduce the spread of COVID-19.

**How do I handle a patient that exhibits symptoms or that may have a positive diagnosis?**

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# How do I handle a patient that exhibits symptoms or that may have a positive diagnosis?

- Establish a standard protocol to minimize contact with the patient but ensures that he/she still receives necessary medications.
- Patients with symptoms but no diagnosis:
  - If the patient is high risk (e.g., elderly), then advise the patient to get tested as soon as possible.
  - If the patient is not high risk, testing is not recommended at this time.
  - Encourage patients to minimize contact with others (e.g., enroll the patient in medication synchronization and home delivery).
  - Provide education on prevention/mitigation measures (e.g., frequent handwashing, social distancing).

# How do I handle a patient that exhibits symptoms or that may have a positive diagnosis?

- Patients with positive diagnosis:
  - Minimize interaction with patient (e.g., home delivery using e-signing measures).
  - Establish a protocol for interacting with patients to minimize exposure risk (e.g., gloves, no contact, sanitizing areas after interaction).
  - Encourage patients to minimize contact with others (e.g., enroll the patient in medication synchronization and home delivery).
  - Provide education on prevention/mitigation measures (e.g., frequent handwashing, social distancing).

# How do I handle a patient that exhibits symptoms or that may have a positive diagnosis?

- If a symptomatic patient comes into the pharmacy:
  - Establish a protocol to isolate the patient to minimize his/her interaction with others.
  - Have an employee calmly approach the patient and ask to speak with him/her privately. Employee should use protocols to minimize exposure (e.g., gloves, no contact).
  - Escort the patient to an area without others to determine the patient's needs.
  - Have the patient wait separately for his/her medications (e.g., secluded from all others, ask the patient to wait in the car). Encourage enrollment in home delivery or similar service.
  - Sanitize any areas the patient came into contact with upon his/her departure.

# How do I handle a patient that exhibits symptoms or that may have a positive diagnosis?

- If a symptomatic patient comes into the pharmacy (continued):
  - Advise the patient to get tested.
  - Provide the patient with education on minimizing exposure.

# How do I handle a patient that exhibits symptoms or that may have a positive diagnosis?

- Can I ask the patient to leave the pharmacy without providing services to him/her?
  - Check state law requirements on refusal to fill prescriptions. Some states permit pharmacists to refuse fills for any reason but may require the prescription be transferred in order to service the patient.
  - If state law requires prescriptions to be transferred, it may be preferable to adopt a practice of secluding the patient and serving him/her to avoid larger potential exposure.
- What if a patient becomes hostile/violent?
  - Asking the patient to leave to mitigate harm to staff and other patrons is acceptable.
  - If the patient threatens violence or attempts to harm anyone, call the police.

# Federal Employment Law Addressing the COVID-19 Crisis

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# Employee Leave Laws

- New Employee Leave Laws
  - Emergency Paid Sick Leave Act
  - Emergency Family and Medical Leave Expansion Act (“FMLA”)
  - Both were passed as part of the Families First Coronavirus Response Act.
  - The laws become effective on April 2, 2020.
  - The laws sunset on December 31, 2020.

# Emergency Paid Sick Leave Act

- All employees are eligible regardless of their length of service, but the Department of Labor may exclude certain health care providers and emergency responders.
- Employers with fewer than 500 employees must provide paid sick leave, but the Department of Labor may exclude certain small businesses with fewer than 50 employees if providing paid sick leave would jeopardize the business as a going concern.

# Emergency Paid Sick Leave Act

- For full-time employees, 80 hours of sick leave is available.
- For part-time employees, the average number of hours the employee works in a two-week period of sick leave is available.
  - For example, if a part-time employee regularly works 25 hours per week, he/she would be eligible for 50 hours of paid sick leave.

# Emergency Paid Sick Leave Act

- When is the sick leave available for use?
  - It must be made available immediately.
  - Employers cannot require waiting periods.
  - Employers cannot require employees to use other available PTO or sick time first.

# Emergency Paid Sick Leave Act

- Circumstances where an employee can use emergency sick leave
  - The employee is subject to a federal, state, or local quarantine or isolation order concerning COVID-19.
  - The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
  - The employee is experiencing symptoms of COVID-19 and is seeking medical diagnosis.
  - The employee is caring for someone subject to an order of quarantine or isolation or someone who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
  - The employee is caring for his/her minor child whose daycare or school has been closed or whose childcare provider is unavailable due to COVID-19.
  - The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

# Emergency Paid Sick Leave Act

- Employers must only provide paid sick leave to employees who are unable to work or telework due to a covered reason.
- For reasons 1 – 3 above, employers must pay the greater of minimum wage *or* the employee's regular rate of pay up to a cap of \$511 per day or a total of \$5,110.
  - Most employers will pay the employee's regular rate of pay.
  - The minimum wage provision was likely included for tipped employees like waiters who are paid less than minimum wage.
- For reasons 4 – 6 above, employers must pay 2/3 of an employee's regular rate of pay up to a cap of \$200 per day or \$2,000 total.

# Emergency Family and Medical Leave Expansion Act

- All employees are eligible who have been employed for at least 30 days, but the Department of Labor may exclude certain health care providers and emergency responders.
- Employers with fewer than 500 employees must provide expanded FMLA leave, but the Department of Labor may exclude certain small businesses with fewer than 50 employees if providing paid sick leave would jeopardize the business as a going concern.
- 12 weeks of FMLA leave is available if qualifying condition

# BUT...IF YOU HAVE LESS THAN 50 EMPLOYEES...IT IS COMPLICATED

- Law protected employees if a child is home due to a school or daycare closure, but not necessarily if the child is sick
- Does it protect the employee if he/she is sick?
- What if a member of the employee's family is sick?
- Straight Talk Legal Advice- factor in employee's other available leave after the 10 days and consider concessions made previously for other employees
- Consider Unpaid Leave of Absence for sick employees (pandemic rationale)
- Consider Furlough
- Flexibility and communication make good sense



# Emergency Family and Medical Leave Expansion Act

- An employee can use expanded FMLA when he/she is unable to work (or telework) due to a need to care for his/her minor child whose school or daycare has been closed due to a public health emergency declared by a federal, state, or local authority related to COVID-19.
- The first 10 days may be unpaid, but don't forget that employees get two weeks (10 workdays) of emergency paid sick leave.
- The next 10 weeks are paid at 2/3 of an employee's regular rate of pay, up to a cap of \$200 per day or \$10,000 total.

# Tax Credits

- The government is helping offset the cost.
- Employers are permitted a tax credit in an amount equal to 100% of the qualified sick leave wages and qualified family leave wages paid per calendar quarter, up to the applicable caps.
  - Tip: Create separate pay codes for emergency paid sick leave wages and expanded family leave wages in order to track expenditures.

# Decline in Business Issues

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# Decline in Business Issues

- Options if employers do not have enough work for employees:
  - Temporary lay offs
    - Employees are eligible for unemployment compensation.
    - These are “off the books” and not eligible for continuing benefits.
  - Temporary furloughs
    - Furloughs should be for a stated period of time.
    - The employee remains on the books (and should still be eligible for health insurance).
    - Employees may also be eligible for unemployment compensation, depending on state laws.

# Decline in Business Issues

- Options if employers do not have enough work for employees (continued):
  - Reduced Work Hours
    - Non-exempt, hourly employees need only be paid for hours actually worked.
    - Exempt employees must be paid their full weekly salary for every week in which they perform any work.
      - Consider one week on, one week off schedules for exempt employees.

# What are PBMs doing in response to COVID-19?

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# What are PBMs doing in response to COVID-19?

- Prescription Refills
  - Waiving early refill limits on prescriptions.
  - Encouraging 90-day supplies for maintenance medications.
- Prescription Delivery
  - Waiving home delivery fees for patients.
- Audits
  - Suspension of field audits and desk audits.
- Signature Logs
  - Loosening signature requirements from patients.

# CVS Caremark

- Prescription Refills
  - Waiving early refill limits on 30-day prescription maintenance medications.
  - Encouraging health care providers to write prescriptions for 90-day supplies for maintenance medications.
  - Expanding ability of pharmacies to mail or deliver medications by waiving some provisions of network agreements.
  - Relaxation of signature log requirements.



# Express Scripts

- Early Refills
  - Permitting early refills for prescriptions.
  - *ESI Express Communications* - March 11, 2020
    - Communication provided instructions on how to override claims for early refills .
    - <https://www.express-scripts.com/art/prc/recentMessagesEmergencyCOVID19.pdf>
  - Recommends keeping documentation of override either on the prescription or within the prescription's annotation notes.
  - Warns that overrides will be monitored and may be audited.

# Express Scripts

- Patient Signature Logs
  - *ESI Express Communications – March 20, 2020*
    - “Pharmacies are NOT required to obtain signatures from patients during this unprecedented pandemic, unless required by law.”
  - Other ways to document:
    - Use of logbook that includes prescription number and date of service.
    - Cash register receipts include prescription number.
    - Text message or email from patient.
    - Note on the hard copy.
    - Electronic annotation in pharmacy system.

# Express Scripts

- Audits
  - *ESI Express Communications – March 23, 2020*
    - “As of March 13, 2020, Express Scripts suspended all network pharmacy field audits. Effective March 23, 2020, we are suspending desk audits, as well.”
    - Note – Suspension of audits does not apply to fraud, waste and abuse investigations or other exceptions that may be required by law.

# Final Legal Considerations

- Key Legal Issues and Considerations
  - Common Pitfalls and Legal Issues
  - Practical Considerations
  - Remember, there is lots of fear in the market. Patients, employees, and the general public are scared. Calm and confident leadership and demeanor can go a long way.
  - Document all of your efforts and any decision that may be questioned down the road. Keep complete records.

(Added)

# COVID-19



**BEST PRACTICES**



[ncpa.org/coronavirus](https://ncpa.org/coronavirus)



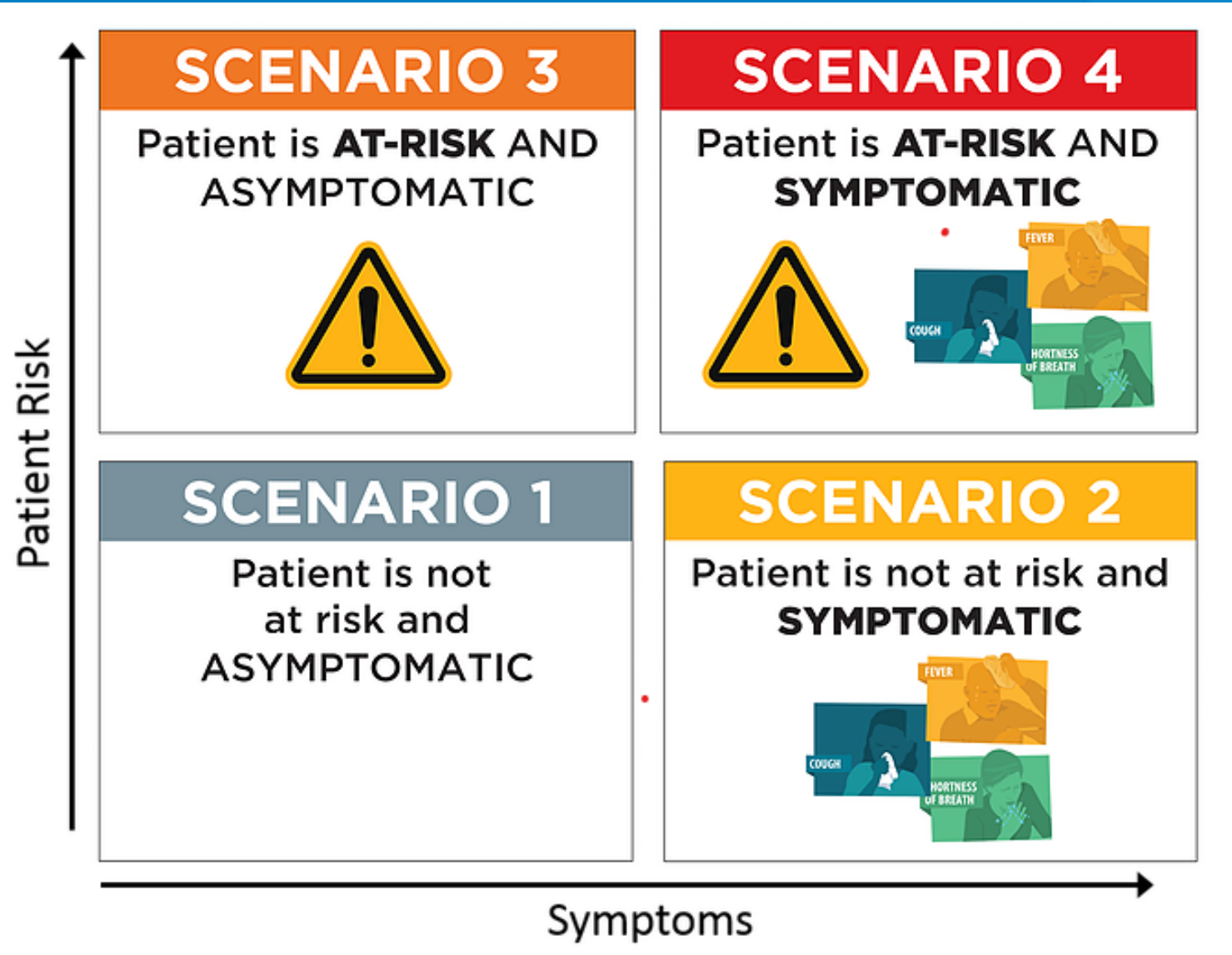




Prepare for the Worst

# COVID-19 State of Emergency Declarations: Effects on Pharmacy Practice

- All 50 states and the District of Columbia have declared a State of Emergency for COVID-19.
- Many of these declarations have effects on pharmacy practice.
- Many changes include relaxed standards on refills, use of pharmacy technicians, licensing, and remote practice of pharmacy.
- Many states continue to add/modify to their respective state of emergency declarations which may affect pharmacy practice.
- Check your State Pharmacy Board and Department of Public Health websites daily for up-to-date information on changes affecting your pharmacy practice.





# Hydroxychloroquine and Chloroquine Prescription Restrictions

- Hydroxychloroquine and Chloroquine prescriptions have been on the rise by physicians for the prevention and treatment of COVID-19.
- Several states including New York, Ohio, and Arkansas have implemented heightened restrictions or recommendations pertaining to filling prescriptions for these drugs.
- Some restrictions may include permitting the dispensing of these drugs only for FDA-approved indications, as part of a state-approved clinical trial for COVID-19, or for patients which have tested positive for COVID-19.
- Check your State Board of Pharmacy website to determine whether your state has implemented restrictions on dispensing these drugs.

# Infection Control Procedures: Alternative Patient Servicing Methods

- Many states have recommended that pharmacies either implement or consider implementing infection control procedures for serving or dispensing prescriptions to patients.
- These procedures include exploring options to serve patients via drive-thru, curbside pick-up, or delivery rather than in the pharmacy itself.
- If your pharmacy is allowing the public to enter, the pharmacy should consider limiting the number of people who can be in the pharmacy.

# Infection Control Procedures: Alternative Patient Servicing Methods



- One way to lower the number of people in the pharmacy is to create targeted procedures for more “at-risk” patients including older adults (60+), pregnant women, and individuals with chronic health conditions.
- This may be accomplished with signs directing these patients to drive-thru, curbside delivery, mail delivery, or “senior hours”, etc.

# Infection Control Procedures: Social Distancing of Patients

- If patients are allowed to enter the pharmacy, create procedures to ensure proper “social distancing” of the patients.
- This may include placing signs encouraging social distancing, spacing of chairs in the waiting area at least six feet apart, and marking on the floor where patients should stand in line to ensure proper distancing from each other.
- If space allows, place barrier table or clear shower curtain in front of the pharmacy counter to ensure at least 6 ft separation between staff and patients.



# Infection Control Procedures: Automated Dispensing Machines

- Many states are seeing an increase in Automated Dispensing Machines (ADM) by pharmacies.
- However, most states do not allow the placement of an ADM in an establishment properly registered as a pharmacy.
- Some states have relaxed the rule of the placement of an ADM and when and how they may be used (e.g., Texas), but others have not (e.g., New York).
- Before expanding the use of an ADM, be sure to check with your State Board of Pharmacy to determine whether your state has relaxed its standards.

# Infection Control Procedures: Staffing

- Team A and Team B (and Team C)

- Example from Day's Pharmacy:

*"We are now splitting days with Team A & Team B from 9:30a - 3p & 3p - 8p. Normally on Monday we have an extra tech from 10a - 4p, but he's on Team B so he's coming in 3p - 8p. Neither team will be able to do all of the hours if one team goes down, but if only one person goes down maybe. If not, we'll shift pharmacy hours."*



# Infection Control Procedures: Identify your Reserves

- Contact other pharmacists in your area who would be willing to work to prevent a potential emergency closing.
- Contact your state pharmacy association for a list of pharmacists and technicians looking for hours.
- Contact local schools of pharmacy to solicit student help. APPE students needing hours to meet graduation requirements may be interested and willing to assist. For more information, visit <https://www.covidbestpractices.com/act>.

# IF you must close your pharmacy:

- If the pharmacy is closed due to known exposure from an individual who has tested positive for the virus, refer to the CDC “Environmental Cleaning and Disinfecting Recommendations”.
- Every pharmacy has a contingency plan because it is required by HIPAA. Review the contingency plan and make modifications to access dispensing records as needed. HHS has called out Apple FaceTime, Facebook Messenger video chat, Google Hangouts video, or Skype as acceptable video chats during the COVID-19 public health emergency.
- Communicate to patients about how and where they can fill/refill scripts during the temporary closure.
  - Check with your state board regarding allowances for patients to refill medications at other pharmacies while you are closed. Many states allow for an emergency 30-day supply of certain medications if the patient can present the prescription container.
- Make arrangements to have someone perform a regular check of the pharmacy (security, refrigeration, etc.)



# Communications

- Update your Phone Recording (IVR) with COVID-19 Messaging
  - Update the recording on your phone systems to inform patients of your new procedures
- Social Media:
  - Ask patients to like your Facebook Page to receive updates
  - Utilize your Website and/or Facebook page to regularly update patient
  - Inform on how to best communicate with the pharmacy, how to pick-up meds, how the delivery process has changed, what OTC products that you have available, etc.

# Role of Personal Protective Equipment ("PPE")

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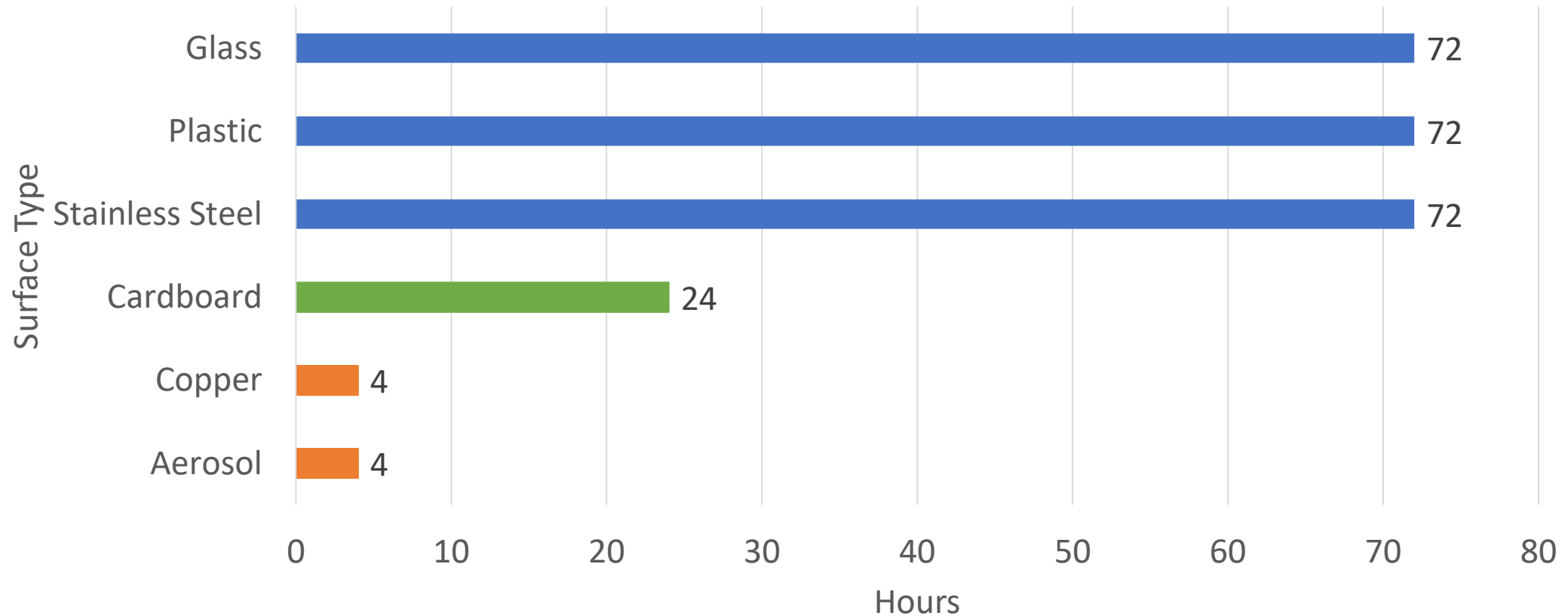
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# Role of personal protective equipment

- Legal Requirements to Provide PPE:
  - First line of defense includes hand washing, alcohol-based hand rub, visual signs and alerts, and physical barriers between personnel and patients.
  - If possible, employees should wear gloves if there is a concern that a patient may be COVID-19 positive; better practice would also include face masks.
  - Environmental decontamination is vital (appropriate cleaning).
  - If PPE is available, make it available to (i) staff and (ii) patients suspected of infection.
  - If PPE is not available, document attempts to obtain it and reinforce other best practices.
  - Currently not clear if exposure is reportable or could result in liability.

# Infection Control Procedures: Virus Stability on Surfaces



# To Immunize or Not?

- Some states have mandated that immunization practices should be suspended if proper PPE is unavailable.
- Risk of secondary pneumonia
  - *Already, some studies have found that 1 in 7 patients hospitalized with Covid-19 has acquired a dangerous secondary bacterial infection, and 50% of patients who have died had such infections.*

A microscopic image showing numerous blue, spherical virus particles with a textured surface, likely representing the SARS-CoV-2 virus. The background is a grayscale electron micrograph of cellular structures.

# COVID-19



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