

March 19, 2020

Secretary Eugene Scalia
Secretary of Labor
200 Constitution Avenue, NW
C-2318
Washington, DC 20210

Dear Secretary Scalia,

The nation's 21,000 community pharmacies, including independent and small regional chains which are locally and regionally owned, are located in all U.S. states and territories. As you consider regulations and guidance to combat the coronavirus (COVID-19) outbreak, please keep in mind that our members are frontline small business health care providers caring for patients in community and long-term care settings and stand ready to assist in fighting this pandemic, especially in rural areas.

We appreciate the Department of Labor moving quickly to mitigate the threats COVID-19 poses to public health, our economy, and workers across the country, including its work with Congress on H.R. 6201, the *Families First Coronavirus Response Act*. H.R. 6201 contains critical provisions, including expanded unemployment insurance and increased access to testing; however, **we urge the Department of Labor to work with Congress in explicitly including pharmacists and pharmacies under the healthcare providers exemptions under the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act.**

Given the role community and long-term care pharmacists are currently playing in this crisis, especially in rural areas, they may be the only available health care provider for a large population of patients. We fear that possibly subjecting community and long-term care (LTC) pharmacies, who are small business owners, to these mandates will accelerate pharmacy closures, causing many Americans to lose access to their community and LTC pharmacies in a time of need.

Under Division C, the Emergency Family and Medical Leave Expansion Act, employers with 50 or more employees must adhere to expanded Family and Medical Leave Act (FMLA) requirements. Under Division E of the package, the Emergency Paid Sick Leave Act, an employer must provide paid sick time to each employee experiencing certain situations relating to COVID-19. Both sections exempt employers of employees who are "health care providers or emergency responders" from these expanded FMLA and paid sick leave requirements.¹

The definition of healthcare providers is linked to the underlying FMLA statute, which is limited to a "doctor of medicine or osteopathy" or "any other person determined by the Secretary to be

¹ H.R. 6201 Sec. 3105.

capable of providing health care services.” However, the package permits the Secretary of Labor to issue regulations under this section for good cause² to exclude “certain health care providers and emergency responders from the definition of eligible employee.”³ **As such, NCPA urges the Secretary of Labor to explicitly deem pharmacists and pharmacies as health care providers, thereby including pharmacists and pharmacies under the health care provider exemptions.**

We urge you to consider implementing this clarification and thank you for moving swiftly and decisively to help American workers, their families, and the businesses that employ them. We stand ready to work with you at this critical moment.

Sincerely,



Karry K. La Violette
Senior Vice President of Government Affairs & Director of the Advocacy Center
National Community Pharmacists Association

CC: Russell Vought, Acting Director of Office of Management and Budget

² 5 U.S.C. § 553(b)(B) and 553(d)(A).

³ § 110(a)(1)(A).