



March 20, 2020

Dear Governor:

On behalf of the American Herbal Products Association (AHPA), the Consumer Healthcare Products Association (CHPA), the Council for Responsible Nutrition (CRN), and the United Natural Products Alliance (UNPA)—the national trade organizations representing the leading manufacturers of dietary supplements, we applaud the leadership each one of you has shown in the face of the COVID-19 pandemic. The public health challenges facing our country are serious and require bold, decisive action.

These unique times have spurred unprecedented, but necessary action by federal, state, and local officials in an attempt to reduce the spread of this virus. Some jurisdictions have limited non-essential commerce including restricting business activity for restaurants, gyms, retailers, manufacturers of non-essential goods, and some service providers. While these difficult decisions are based on legitimate public health concerns, it is critical that key sectors of the economy maintain active operations during this time—especially key industries like food and healthcare product manufacturing that contribute vital products that keep people nourished and promote better health to meet continuing need and demand.

On March 16th, the White House and the Centers for Disease Control and Prevention (CDC) released the “Coronavirus Guidelines for America”¹ which included directives on how to slow the spread of the virus over the next few weeks. Part of the guidance included a recognition of “critical infrastructure” that must continue to operate during this time including “healthcare services and pharmaceutical and food supply.”² We strongly agree that food and healthcare product manufacturers have a central role to play in the fight against this pandemic. Provided employers comply with CDC guidelines to protect workers, food and healthcare product manufacturers have the special responsibility to maintain their current work schedules.

Dietary supplements qualify as essential because of their unique position as both food and healthcare products.³ According to CRN’s Annual Survey, 77 percent of Americans take dietary supplements. They do so for overall health and wellness benefits, to provide energy, to support immune health, to fill nutrient gaps, support healthy aging, and to support heart health, among many other reasons.⁴ This \$46 billion industry provides billions more in healthcare cost savings as

¹ <https://www.whitehouse.gov/briefings-statements/coronavirus-guidelines-america/>.

² https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-guidance_8.5x11_315PM.pdf.

³ Federal law recognizes dietary supplements as “food.” 21 USC 321 (ff)(3) [*“Except for purposes of paragraph (g) and section 350f of this title, a dietary supplement shall be deemed to be a food within the meaning of this chapter.”*]. However, federal law also permits dietary supplements to make a range of health-related claims for these products. 21 USC 343(r)(6) [*“...a statement for a dietary supplement may be made if—(A) the statement claims a benefit related to a classical nutrient deficiency disease and discloses the prevalence of such disease in the United States, describes the role of a nutrient or dietary ingredient intended to affect the structure or function in humans, characterizes the documented mechanism by which a nutrient or dietary ingredient acts to maintain such structure or function, or describes general well-being from consumption of a nutrient or dietary ingredient,...*].

⁴ <https://www.crnusa.org/2019survey/Topline-Infographic#more>.

consumers reduce their risk of certain chronic disease through supplement usage.⁵ Now more than ever, consumers need to access dietary supplements to assure they receive proper nutrition, maintain their immune health, receive proper sleep, promote bone and heart health, and proactively reduce their risk of certain chronic diseases without burdening an already overstretched healthcare system. Dietary supplements help consumers achieve all these ends.

As each of you plan your own approach to this challenging issue, we respectfully request you mirror the White House/CDC guidelines, and make special accommodation for critical infrastructure industries that specifically include not only conventional foods but all subcategories of food, including dietary supplements, infant formulas, medical foods and spices and flavors. For instance, the northern California ordinances for sheltering in place include exceptions for essential activity broadly, and for grocery and other retail food outlets⁶ and healthcare operations⁷ specifically, which should help ensure continued supply of these products. These ordinances also include exceptions for the companies that supply these consumer-facing operations.⁸ We also request that your communications on the essential nature of these supplier companies explicitly state that this status must apply throughout the supply chain, to include upstream suppliers (e.g., suppliers of ingredients, excipients and other manufacturing materials, transportation and warehousing, and necessary service providers, such as analytical labs used to verify ingredient identity and prevent contamination).

Our industry is ready to do our part in serving Americans during this pandemic.

Respectfully submitted,

Michael McGuffin
President
American Herbal Products Association

Steve Mister
President & CEO
Council for Responsible Nutrition

Scott Melville
President and CEO
Consumer Healthcare Products Association

Loren Israelsen
President
United Natural Products Alliance

⁵ <https://www.crnusa.org/resources/smart-prevention-health-care-cost-savings-supplements>.

⁶ “For the purposes of this Order, “Essential Businesses” means: ... ii. Grocery stores, certified farmers’ markets, farm and produce stands, supermarkets, food banks, convenience stores, and other establishments engaged in the retail sale of canned food, dry goods, fresh fruits and vegetables, pet supply, fresh meats, fish, and poultry, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries and also sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences.” City and County of San Francisco ORDER OF THE HEALTH OFFICER No. C19-07, subparagraph 10(f).

⁷ “For purposes of this Order, individuals may leave their residence to work for or obtain services at any “Healthcare Operations” including hospitals, clinics, dentists, pharmacies, pharmaceutical and biotechnology companies, other healthcare facilities, healthcare suppliers, home healthcare services providers, mental health providers, or any related and/or ancillary healthcare services. “Healthcare Operations” also includes veterinary care and all healthcare services provided to animals. This exemption shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. “Healthcare Operations” does not include fitness and exercise gyms and similar facilities.” City and County of San Francisco ORDER OF THE HEALTH OFFICER No. C19-07, subparagraph 10(b).

⁸ “Businesses that supply other essential businesses with the support or supplies necessary to operate.” City and County of San Francisco ORDER OF THE HEALTH OFFICER No. C19-07, subparagraph 10(f)(xv).