



1300 I STREET, SUITE 125
P.O. BOX 944255
SACRAMENTO, CA 94244-2550

Public: (916) 445-9555
Telephone: (916) 210-7522
Facsimile: (916) 322-8288
E-Mail: Neli.Palma@doj.ca.gov

February 10, 2022

Center for Covid Control
1685 Winnetka Circle
Rolling Meadows, IL 60008
[Additional Recipients on Last Page]

RE: Demand under Business and Professions Code Section 17508 for Substantiation of Advertising Claims Made by Center for Covid Control

Dear Center for Covid Control Representatives:

We are writing to you to request information substantiating advertising representations and claims you have made on the internet and at your California locations concerning COVID-19 testing. We also want to ensure your compliance with California laws.¹

The Attorney General is charged with enforcing the State's consumer protection laws, including the Unfair Competition Law, Business & Professions Code section 17200, et seq (UCL), and the False Advertising Law, Business & Professions Code section 17500, et seq (FAL). The UCL prohibits, among other things, any unlawful, unfair, or fraudulent business act or practice. The "unlawful" practices prohibited by the UCL are any practices forbidden by law, be it civil or criminal, federal, state, or municipal, statutory, regulatory, or court-made. The FAL prohibits false or misleading advertising.

Your website contains numerous representations concerning rapid COVID-19 testing, including specific turnaround times for results. This office is investigating complaints that results were not received within the times advertised, and in some cases were never received. There are also concerns about your collection of protected health information for services that were not rendered.

It is unlawful under the FAL and UCL to advertise that a service will be given in a specified period of time if that statement is untrue or misleading. It is further unlawful under the FAL and UCL to indicate a testing service will be provided, or to indicate that a service is "effective," and then to provide inaccurate or falsified test results. It is further unlawful under the FAL and UCL to indicate a service will be free, and then charge customers for that service. It is further unlawful under the FAL and UCL to indicate certain privacy practices will be followed, and then to not sufficiently implement privacy protections.

¹ See <https://www.centerforcovidcontrol.org/> (last visited February 2, 2022).

Please be advised that it is also unlawful to operate a specimen collection site in California and send the specimens to a clinical testing laboratory for analysis if the clinical laboratory lacks certification under the federal Clinical Laboratory Improvement Amendments (CLIA) program and California licensure or registration from the California Department of Public Health.²

Under FAL, the Office of the Attorney General may require any person doing business in California to substantiate any advertising claim, including any claim that (1) purports to be based on factual, objective, or clinical evidence, (2) compares a product's effectiveness or safety to that of other brands or products, (3) or purports to be based on any fact. (Bus. & Prof. Code, § 17508, subd. (b).) This correspondence serves as a formal demand under Business and Professions Code section 17508, subdivision (b), that you provide evidence, within ten (10) calendar days of the date of this letter, of the facts on which the advertising claims listed below are based. Failure to adequately substantiate the claims listed below may result in further action. (Bus. & Prof. Code, § 17508, subd. (c).)

We request that your response include any and all business records, memoranda, or other documents that you believe substantiate the claims identified in this letter during all time periods when such claims have been made. These supporting business records, memoranda, or other documents should include any and all analyses, research, studies, or other evidence. Further, please provide evidence that you were and are in compliance with California's requirements regarding laboratory licensing. You may also provide a narrative response, provided that you produce any and all documents referenced in the narrative response. After we receive and review your response, we may request further clarification or request to arrange a telephonic conference with you to discuss the claims and evidence at issue.

Claims To Be Substantiated From Center for Covid Control's Website³

1. We are partnered with a CDC approved & licensed laboratory which is registered with the Clinical Laboratory Improvement Amendments (CLIA).
<https://www.centerforcovidcontrol.org/about>.
2. Free Rapid Covid Test. <https://www.centerforcovidcontrol.org/>.
3. Detects Omicron, Highly Effective. <https://www.centerforcovidcontrol.org/>.
4. Results by the End of Day. <https://www.centerforcovidcontrol.org/>.
5. Free RT-PCR Covid Test: Your results will be emailed within 48 hours.
<https://www.centerforcovidcontrol.org/>.

² <https://www.cdph.ca.gov/Programs/OSPHLD/LFS/Pages/COVID-19Guidance.aspx>.

³ <https://www.centerforcovidcontrol.org/> (last visited February 2, 2022).

6. Free Rapid Antigen Test: Results are verbally given within 15 minutes and an email confirmation is given within 3 hours. <https://www.centerforcovidcontrol.org/>.
7. When will I receive my results? A PCR test takes 24 to 48 hours to receive your results. This test is completely free of charge. With the rapid antigen test, results are verbally given within 15 minutes and an email confirmation is given within 3 hours. <https://www.centerforcovidcontrol.org/faq>.
8. We have implemented technical, physical, administrative and organizational measures designed to secure your PHI and other personal information from accidental loss and from unauthorized access, use, alteration, and disclosure. All information you provide to us is stored on our secure servers behind firewalls which conform to applicable state and federal regulations. <https://www.centerforcovidcontrol.org/privacy-policy>.

Claims To Be Substantiated From Facebook, Twitter, and Instagram

9. Fast results guaranteed within 48 hours (Facebook).
<https://www.facebook.com/Centerforcovidcontrol/photos/106666008162065>.
10. Results emailed in 1 hour (Twitter) (Tweet dated September 14, 2021).
11. Accepted by all major airlines (Twitter) (Tweet dated September 11, 2021).
12. Free Rapid Covid test available to all (Twitter) (Tweet dated August 26, 2021).
13. Results in approx. 20 minutes (Instagram).
<https://www.instagram.com/p/CMQU7eNgQfx/>.

Claims To Be Substantiated From Onsite Locations

14. Rapid test results from the lab come in 2-3 hours of your initial test.
15. PCR Tests can take up to 72 business hours.

You are also advised to review all advertising claims relating to your services and immediately cease, and require your representatives to cease, making claims that are not supported by substantiation.

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We thank you in advance for your cooperation. We look forward to reviewing your response and will contact you with any follow-up questions. Should you have the need to contact our office in the interim, please contact me directly at neli.palma@doj.ca.gov.

Sincerely,

Neli Palma

NELI N. PALMA
Supervising Deputy Attorney General

For ROB BONTA
Attorney General