

June 29, 2021

James Frederick
Acting Assistant Secretary of Labor for
Occupational Safety and Health
Occupational Safety and Health Administration
200 Constitution Ave NW
Washington, DC 20210

Dear Acting Assistant Secretary Frederick:

On behalf of our nearly 5,000 member hospitals, health systems and other health care organizations, and our clinician partners – including more than 270,000 affiliated physicians, 2 million nurses and other caregivers – and the 43,000 health care leaders who belong to our professional membership groups, the American Hospital Association (AHA) is writing with two requests with regard to the recently published COVID-19 Health Care Emergency Temporary Standard (ETS).

First, we request that the Occupational Safety and Health Administration (OSHA) delay the ETS compliance dates for at least an additional six months. The agency has dictated that the COVID-19 Health Care ETS be effective immediately upon publication in the Federal Register. This rule is long and complex, and would require changes in hospital policies, procedures and structures. Hospitals and health systems are just now emerging from the disruption caused by the COVID-19 pandemic. Our members have told us that they need more time to implement the many new requirements contained in the 916-page ETS.

For example, hospitals and health systems will have to consider how to deal with the differences between the ETS requirements and guidelines established by the Centers for Disease Control and Prevention, particularly in areas in which the ETS approach will put health care workers at greater risk of COVID-19 infection. Among these are the barrier requirements that could impede airflow; another area of concern is the requirement that rooms in which an aerosol-generating procedures are performed be cleaned/disinfected after every such procedure – even when the patient remains in the room and staff are protected by vaccines and personal protective equipment (PPE).

Our members also are unsure how they will implement the provisions in the mini respiratory protection standard that permit employees who are not required to wear respirators to bring their own into the hospital. Moreover, this provision will allow



James Frederick
Acting Assistant Secretary of Labor for
Occupational Safety and Health
June 29, 2021
Page 2 of 2

employers to provide respirators to employees who are not required to wear them, and without the benefit of fit-testing, medical evaluation or a written program. Many of our members have noted that these requirements, which contradict OSHA's own PPE and respiratory protection standards, raise huge liability exposures for the employer and puts these employees at additional risk.

Changes in hospital policies and procedures are not simply a matter of changing words on paper; they require careful analysis and planning, the acquisition of needed materials and tools, and the retraining of personnel. For organizations that are already busy caring for their communities' ill and injured, it will take time to accomplish all of these required changes. Therefore, to ensure that they can do so in a thoughtful and effective manner, we request that OSHA extend the compliance period. We further ask OSHA to ensure that the agency's initial enforcement efforts take into account hospitals' good faith efforts to comply and address enforcement in an educational, non-punitive manner.

Second, we urge OSHA to extend the comment deadline by an additional 30 days, through August 20. The AHA and its members are working diligently to understand the full scope of the agency's rationale, analysis and requirements in the ETS. An extension will enable hospitals and others to analyze and prepare comments for OSHA's review. As such, we are gathering input from our members regarding their concerns and the ETS's likely impact on their operations and employees so that we can provide the agency with substantive and data-informed comments. Having only having 30 days to do so, however, is extremely challenging. Thus, we request that OSHA allow for an additional 30 days of public comment.

Thank you for your consideration of our requests. Please contact me if you have questions or feel free to have a member of your team contact Roslyne Schulman, AHA's director of policy, at rschulman@aha.org or 202-626-2273.

Sincerely,

/s/

Stacey Hughes
Executive Vice President
Government Relations and Public Policy