

April 22, 2022

The Honorable Marty Walsh
Secretary
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Re: Occupational Exposure to COVID-19 in Health Care Settings; Reopening of Comment Period

Dear Secretary Walsh:

On behalf of the physician and medical student members of the American Medical Association (AMA), I am writing in response to the U.S. Department of Labor's Occupational Safety and Health Administration's (OSHA) Occupational Exposure to COVID-19 in Health Care Setting Emergency Temporary Standard comment solicitation and proposal to make permanent a COVID-19 exposure standard. The AMA shares OSHA's commitment to protecting workers in health care setting from exposure to COVID-19; however, we have continuing concerns about making the requirements included within the ETS permanent. While it is critical that we protect our nation's health care workers from ongoing exposures to COVID-19, the continually evolving nature of the COVID-19 pandemic makes permanent OSHA infection control standards—on top of implementing Centers for Disease Control and Prevention (CDC) infection prevention and control guidance—unwieldy, difficult, and burdensome, particularly for smaller physician offices and ambulatory care settings. **The AMA therefore continues to recommend that the OSHA COVID-19 Healthcare ETS either not be made permanent, exempts physician practices and other non-hospital ambulatory care settings, or provides a safe-harbor for those care settings complying with the CDC guidance and best practices on COVID-19 infection control.**

Since the beginning of the pandemic, physicians have consistently met the ongoing and evolving challenges related to running a practice and treating patients with COVID-19. Physicians have been on the frontlines of this pandemic caring for patients and identifying ways to protect themselves and colleagues. The AMA has partnered with the CDC and other public and private stakeholders to share the best available evidence for physicians on how to prevent and treat COVID-19. Throughout the pandemic, the AMA has continued to update and circulate the newest information. Physician practices took numerous steps to stem the transmission of COVID-19. Early in the pandemic, physician practices invested in technology and rapidly adopted telehealth, and they totally revamped their scheduling. They also purchased significant amounts of personal protective equipment and additional cleaning supplies and disinfectants (often at inflated prices) while redesigning their offices and protocols to meet infection control standards.

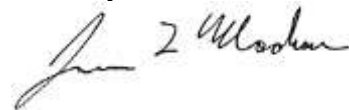
Our physicians remain, as always, deeply committed to protecting their patients, their staff, and themselves against the threat of COVID-19 and recognize OSHA's important role in protecting the health

and safety of health care workers. The CDC has provided significant guidance for COVID-19 infection control, including guidance aimed specifically at reducing infections for health care workers. As noted in the comment solicitation, unlike OSHA standards, CDC guidance is designed to continually evolve and update to reflect the current threat of COVID-19 to physicians, patients, and other health care workers. Given CDC's evolving approach to appropriate infection control practices and the significant burden of compliance with two sets of infection control standards, the AMA suggests that the CDC guidance represents the more appropriate approach for COVID-19 infection control practices in physician offices and non-hospital ambulatory settings. Should physician practices and other non-hospital ambulatory settings be subject to the OSHA standard without exemption or safe harbor, practices may be facing duplicative regulatory burdens or, alternatively, conflicting requirements/guidance. **Given the potential significant burden of both OSHA and CDC compliance, as well as the relatively less vulnerable patient population seen in non-hospital settings, the AMA recommends that physician practices and non-hospital ambulatory care settings be either exempt from any final OSHA standard or be provided a safe harbor from OSHA enforcement when in full compliance with the latest CDC guidelines and recommendations.**

The COVID-19 pandemic has resulted in immense burdens for nearly every business in every sector of the economy. However, physicians have borne the brunt of the impact of the pandemic in significant ways—impacts that are still being felt as our health care system works to recover from the strain of the last two years while still faced with ongoing threats. Practices have experienced shutdowns, have seen patients delay care or not return at all, and have been forced to deal with implementing significant infection control practices at times when supplies were unavailable, or prices were astronomical. To ask these practices to continue to comply with potentially conflicting federal standards/guidance or to continue to comply with what may eventually become outdated and unnecessary OSHA standards represents additional burden on practices already overburdened by the challenge of the last two years. We believe CDC guidance represents the best available and most up-to-date guidance for health care workers and practices and that CDC guidance represents the most nimble method of appropriately addressing the current level of threat posed by COVID-19 to physicians, health care workers, and patients.

We look forward to continuing to work with OSHA and other regulatory agencies to find the best path forward for mitigating the continued spread of COVID-19. For any questions or to discuss this issue further, please contact Margaret Garikes, Vice President of Federal Affairs, at 202-789-7409 or margaret.garikes@ama-assn.org.

Sincerely,

A handwritten signature in dark ink, appearing to read "James L. Madara".

James L. Madara, MD