

April 22, 2022

Douglas L. Parker
Assistant Secretary of Labor
Occupational Safety and Health
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Re: Docket No. OSHA–2020–0004, Occupational Exposure to COVID–19 in Healthcare Settings

Dear Acting Assistant Secretary Parker:

The Pennsylvania Homecare Association (PHA) represents nearly 700 home-based care providers who bring skilled nursing, therapy, personal care, and end-of-life care into hundreds of thousands of individuals' homes across Pennsylvania every year. Thank you for the opportunity to provide comments on the Occupational Safety and Health Administration's (OSHA's) COVID-19 Healthcare Rule.

PHA members share OSHA's goal of protecting healthcare workers and mitigating the risk of COVID-19 in healthcare settings. They are committed to providing safe and effective quality care to patients and consumers across Pennsylvania and keeping caregivers across the healthcare continuum safe and healthy. We respectfully submit the following:

Clarification on Applicability to Non-Medical Home Care/Personal Care

When the ETS was issued, there was much confusion about which home-based care settings were subject to it, and particularly whether it applied to non-medical home care providers. Non-medical home care, also called Personal Care Services, or Personal Assistance Services, involves assistance with Activities of Daily Living (ADL), such as bathing, transferring, bathroom assistance, meal preparation, and more. Unlike home health, therapy, and hospice, these caregivers often spend many hours at a time with consumers in their homes. Some are paid family caregivers.

The final rule should clearly define which home-based care providers are subject to OSHA's COVID-19 standard for healthcare employees, including specific examples of which home care providers are subject to the requirements, and which are not.

Home-Based Care Administrative/Office Staff With Unplanned or Limited Patient Contact

Although home-based care agencies often employ healthcare professionals or others who work almost exclusively in an office or administrative setting and do not see clients, there may be extraordinary circumstances where administrative/office personnel do have patient contact, as in the case of a staffing emergency. Would this limited/extraordinary occurrence require the entire administrative office to follow the OSHA COVID-19 Healthcare Rule? Additional guidance on the Rule's applicability to these types of circumstances would be helpful.

Overlapping/Potentially Inconsistent Federal Requirements

PHA supports aligning OSHA standards with the Centers for Disease Control and Prevention (CDC) recommendations. Over the last two years, CDC guidance and other regulatory rules have conflicted on multiple occasions, creating confusion and requiring the significant allocation of time and resources in responding to multiple standards to achieve compliance. It is critical that OSHA's COVID-19 Rule for Healthcare be carefully drafted to prevent unnecessary creation of multiple, parallel compliance standards that would require significant resource allocation and negatively impact access to quality care.

In OSHA's request for additional comments, it acknowledged the frequently-changing, COVID-19 guidance and sought input on whether OSHA should align its rule with recommendations that have been issued since the close of the original comment period for the ETS and the close of the current comment period. Although PHA supports updating the guidance to stay more current with evolving knowledge and circumstances, the obvious concern with adopting overly-specific requirements in this Rule is that the guidance will continue to evolve. If OSHA's standard cannot keep pace with changes, it could quickly become outdated and/or overly prescriptive.

PHA urges OSHA to make its Rule generalized enough to adapt to updated CDC guidance, as circumstances change. OSHA should exempt healthcare settings that are subject to other regulatory standards that protect employees, including the CMS Vaccine Mandate.

Additional Flexibility for Employers – A.2

The Healthcare ETS standard applied a blanket rule to a wide range of healthcare providers. In the home-based care industry, this created challenges, as many of the Rule's specifics focused on facility-based or institutional settings. Home-based care has different challenges than facility-based care, including that caregivers have very little control over the care environment. Among other concerns, they cannot control who enters or resides in the home.

PHA strongly supports the adoption of a "safe harbor" for healthcare employers following applicable CDC guidelines.

Clarification/Removal of Exemptions – A.3

PHA does not support eliminating the exemption for home health personnel when all employees are fully vaccinated. Additional protective strategies should only be indicated for employees not fully vaccinated against COVID-19.

Implementing additional requirements/protections for all employees, regardless of vaccination status, is inconsistent with current guidance and would be unnecessarily burdensome for healthcare providers.

As shared in previous comments, any recommendation that home health providers could or should "remove" themselves from locations where COVID-19 positive patients are present raises issues relating to patient access to care.

Tailoring Controls to Address Interactions with People Suspected or Confirmed COVID-19 – A.4

PHA supports relaxing COVID-19 infection control measures in areas where healthcare employees are not reasonably expected to encounter patients or consumers with COVID-19 and urges OSHA to retain the exception for employees who support healthcare support services not in a healthcare setting.

Booster Doses - A.5.1

OSHA should recognize “fully vaccinated” employees, consistent with the CMS Vaccine Mandate. Adding booster doses to this definition will create confusion regarding the standards that healthcare providers subject to the CMS mandate will have to follow. In addition, adding boosters to current standards or requirements will only exacerbate the current staffing crisis.

Recordkeeping and Reporting: New Cap for COVID-19 Log Retention Period - A.7

PHA supports capping the COVID-19 log at one year from the date of the last entry.

Level of Community Transmission - A.8

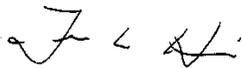
PHA supports consideration of community-based levels of COVID-19 transmission risks when considering regulatory requirements for prevention. We also encourage OSHA to allow healthcare providers to collaborate with local public health authorities to determine appropriate interventions and controls. The criteria for implementation of interventions should be guided by the CDC.

Evolution of SARS-CoV-2 into a Second Novel Strain - A.9

PHA agrees with this approach and believes that a more generalized rule would cover current and future variants of SARS-Cov-2.

Thank you for the opportunity to submit comments and for your consideration of our recommendations. Please contact me if we can provide any additional information at thenning@pahomecare.org or (717) 649-6498.

Sincerely,



Teri L. Henning, CEO
Pennsylvania Homecare Association