

July 2, 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:

The American Health Care Association and National Center for Assisted Living (AHCA/NCAL) represent more than 14,500 non-profit and proprietary skilled nursing facilities, assisted living communities, sub-acute centers, and homes for individuals with intellectual and developmental disabilities (ID/DD). AHCA/NCAL aims to improve the lives of the millions of frail, elderly, and individuals with disabilities who receive long term or post-acute care in our member facilities each day. We are writing to you with our requests on the recently published COVID-19 Health Care Emergency Temporary Standard (ETS).

First, we ask that OSHA delay the ETS compliance dates for at least an additional six months. Compliance is required by July 6 for most items and July 21 for a few requirements. The ETS addresses many topics ranging from, but not limited to, cleaning and disinfection, recordkeeping, ventilation, health screening and medical management, physical barriers, and a COVID-19 plan. This rule is long and complex, to say the least, and would require changes in long term care policies, procedures, and structures.

Even though COVID-19 cases in long term care are at historic lows, providers are struggling to recover from the economic crisis the pandemic has induced. Our provider members have expressed deep concern with being able to implement the many new requirements contained in the lengthy ETS in such a short time span while focusing at the same time on providing the best possible care to our residents. There is also concern about the agency's initial enforcement efforts around the ETS -- and that the good faith efforts of our providers to comply are taken into consideration.

Long term care has been hit extremely hard by this pandemic and continues to confront substantial staffing challenges. While many of these standards are already in place in our provider's communities, some of the new standards require a level of resources that many centers do not currently have available and will take extended time to fully implement. For example, designating a COVID-19 workplace safety coordinator is challenging for small or independent facilities with limited resources staffing wise as well as financially due to census impacts from COVID-19. The timeline for full implementation is unrealistic considering other requirements recently put forth for long term care, such as the Centers for Medicare and Medicaid Services' rule on vaccine reporting for nursing homes, as well as day to day ongoing COVID-19 management.

AHCA/NCAL requests that OSHA inspectors recognize provider's good faith efforts toward meeting these standards, allowing flexibility for full implementation beyond the designated deadlines if the facility is working towards full implementation. We hope that OSHA will address any enforcement in an educational, non-punitive manner. Also, we ask OSHA to provide more resources to long term care facilities in all states through their OSHA consultation. Furthermore, we would ask OSHA to provide an email or phone support for providers who have questions on implementing these standards appropriately.

Lastly, we urge OSHA to extend the comment deadline by an additional 30 days, through August 20. We are working to gather member feedback during a time of pandemic recovery, while reading through every page of the ETS. In order to have adequate time to fully understand the impact of these policies and allow for provider input to deliver the best possible comments to OSHA, we request an additional 30 days of public comment.

We thank you in advance for your consideration of these important requests. Please feel free to contact AHCA/NCAL's Senior Vice President of Government Relations, Clif Porter, at [cporter@ahca.org](mailto:cporter@ahca.org) with any questions or if we can provide further information. We would also be happy to connect you directly with some of our members so you can hear firsthand the impact this ETS will have on our nation's caregivers and the individuals they serve.

Sincerely,



Clif Porter  
Senior Vice President  
American Health Care Association



Scott Tittle  
Executive Director  
National Center for Assisted Living

CC: Leah Ford, Chief of Staff