National Rural Health Association

April 20, 2022

Douglas L. Parker
Assistant Secretary of Labor
Occupational Safety and Health Administration
200 Constitution Avenue, NW
Washington, D.C. 20210

**RE: OSHA-2020-0004. Limited Reopening of Comment Period. Occupational Exposure to COVID-19 in Healthcare Settings Emergency Temporary Standard (ETS)**

Dear Assistant Secretary Parker:

The National Rural Health Association (NRHA) appreciates the opportunity to participate in the limited reopening of the comment period on the now expired COVID-19 Emergency Temporary Stand (ETS) for Healthcare. OSHA's original COVID-19 healthcare ETS, issued under section 6(c)(1) of the Occupational Safety and Health Act (Federal Register June 21, 2021), required covered healthcare employers to develop and implement COVID-19 response plans to identify and control COVID-19 hazards in healthcare settings.

NRHA is a non-profit membership organization with more than 21,000 members nationwide that provides leadership on rural health issues. Our membership includes nearly every component of rural America's health care, including rural community hospitals, critical access hospitals, doctors, nurses, and patients. We provide leadership on rural health issues through advocacy, communications, education, and research.

NRHA recognizes the need to protect healthcare and healthcare support service workers from occupational exposure to COVID-19 in settings where people with COVID-19 are reasonably expected to be present. **As OSHA works towards permanent regulatory solutions, we encourage the agency to recognize already established protocols given where healthcare providers are at this point in the pandemic.** The prior ETS requires health care employers to extensively exceed what many have already put in place following Centers for Disease Control and Prevention (CDC) guidelines, such as social distancing barriers, patient screening, and implementing a wholistic COVID-19 plan.

Adding burdensome standards, like the prior ETS proposes, will not protect patients or employees. Rather it will pull limited staff and financial resources in directions that could be better used providing health care to patients, especially in rural areas. We have heard from members across the country about loss of staff due to the mandatory vaccination requirements, creating significant workforce shortages in our rural health care facilities.

**Alignment with the CDC's recommendations for healthcare infection control procedures**

**NRHA recommends OSHA develop language around maintaining standards that follow the most current CDC guidelines.** The past two years have shown the COVID-19 virus will be present for some time to come, requiring healthcare providers and communities to stay fluid based on evolving variants, current infection rates and vaccination status. It seems illogical that any guidelines set at a single point in time will stay relevant with an everchanging virus. Implementing overly burdensome and out of date guidelines related to cleaning, physical

requirements, patient screening, etc. will be a waste of valuable time and resources, as well as particularly difficult and financially challenging for rural providers operating on slim margins, especially as rural providers attempt to recover from the pandemic.

**Additional flexibility for employers**

**NRHA supports OSHA's proposal to provide additional flexibility for employers,** including implementation of broader requirements with a "safe harbor" enforcement policy for employees who are following CDC guidance. The breadth of the pandemic's impact on rural communities portends a difficult period for the rural health safety net in the aftermath of the pandemic. Health disparity gaps between rural and urban communities may be widening, and new gaps have emerged within rural communities, most notably those where a hospital vulnerable to closure is located.[1] Employers in these communities need flexibility to meet appropriate standards in a way that do not add additional burden on what already is a fragile healthcare system.

**Tailoring controls to address interactions with people with suspected or confirmed COVID-19**

**NRHA supports OSHA's proposal to eliminate COVID-19 specific infection control measures in areas where healthcare employees are not reasonably expected to encounter people with suspected or confirmed COVID-19.** We believe adding new regulations from OSHA at this state of the pandemic is not needed for patients and employees to feel safe in the health care setting. Discretion should be left to individual employers and their employees to best determine when and where infection control requirements should be followed. NRHA agrees it seems appropriate that a more narrowed scope of controls, would have a provision that allows employers to ramp up infection control measures should an outbreak occur.

**Vaccination**

NRHA supports OSHA's adoption of CDC's definition of "up to date" to describe vaccination recommendations given the evolving nature of the pandemic. Further, **NRHA supports OSHA's proposal to not require mandatory vaccination for employees covered by this standard.** However, we agree with OSHA's approach to provide support, including time off, to employees who wish to stay up to date on vaccination and boosters. **Lastly, NRHA supports relaxation of requirements, as outlined in the proposal, based on key vaccination rates and status of the individuals involved.** We ask that OSHA keep in mind that any standards set in this space consider that the high levels of workforce shortages in rural areas, coupled with vaccination hesitancy and resistance, could have significant implications for healthcare access in rural communities.[2]

**Limited coverage of construction activities in healthcare settings**

Due to limited availability of construction resources and workforce in rural areas, NRHA would encourage OSHA to allow for exceptions for construction work in spaces where construction employees would not be exposed to patients or staff. Where interactions may occur, we encourage OSHA to allow flexibility for workers to meet infection control standards consistent with the current CDC guidelines.

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[1] Chartis Center for Rural Health. (January 2022). Pandemic Increases Pressure on Rural Hospitals & Communities. Retrieved from https://www.chartis.com/sites/default/files/documents/Pandemic-Increases-Pressure-on-Rural-Hospitals-Communities-Chartis.pdf.

[2] Chartis Center for Rural Health (May 2021). Vaccine Hesitancy Among Rural Hospitals: The Arrival of a Challenging "New Normal". Retrieved from https://www.chartis.com/sites/default/files/documents/Chartis-Rural_COVID-Vaccine-Survey.pdf.

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**COVID-19 recordkeeping and reporting provisions**

Federal policy changes and regulatory requirements often have significant and problematic consequences for rural providers. NRHA encourages OSHA to consider the administrative burden and cost associated with recording keeping and reporting requirements. Too often Federal rules that fail to consider the unique circumstances of small or rural community hospitals, including smaller size and limited staff capacity. Throughout 2020, rural hospitals were on the front lines of the COVID-19 pandemic that has impacted rural America disproportionately. These hospitals did not have the time nor the resources they needed to comply with onerous regulations. It is imperative that OSHA address burdensome requirements so that rural hospitals are not subject to unfair penalties.

**Triggering requirements based on community transmission levels**

**NRHA supports alignment of regulatory requirements to CDC guidelines around the epidemic.** In most situations, healthcare facilities are already required to meet with state and local requirements, many of which are based on the CDC guidelines. Wherever possible, requirements should be aligned in order to reduce administrative burden and confusion by small rural providers.

**The health effects and risk of COVID-19 since the ETS was issued (B.10)**

America's rural communities suffer from greater health disparities than their urban counterparts. Residents in these communities are older, less healthy, and more likely to lack health insurance. They also face declining access to care as the nation's rural health crisis has shuttered 138 rural hospitals and left another 453 vulnerable to closure. [1] Health disparities are in fact worsening within rural communities themselves as we have discovered community health status is weakest in those places in which the local rural hospital is vulnerable to closure. Analysis shows COVID vaccine hesitancy and declination are prominent among rural healthcare personnel. [2] Nurse staffing shortages are forcing rural hospitals to scale back services, which is compounding the impact of diminishing access to services and the delivery of care in vulnerable communities. [1] NRHA encourages OSHA to keep these facts in mind when implementing any further changes to the ETS, as well as allowing a reasonable timeline for compliance of any new requirements.

Based on the significant concerns NRHA detailed above, we request that OSHA eliminate burdensome standards and allow employer flexibility when appropriate, as well as align any permanent requirements with CDC guidelines pertaining to COVID-19 to reduce burden. This flexibility is necessary to stretch hospital resources and avoid amplifying the risk that many of the most vulnerable populations face regarding population health disparities, racial inequality, and declining access to care. If you have additional questions, please contact Josh Jorgensen at jjorgensen@ruralhealth.us.

Sincerely,

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