



ACADEMY OF MEDICAL-SURGICAL NURSES

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August 20, 2021

Mr. James Frederick
Acting Assistant Secretary of Labor for Occupational Safety and Health
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

ATTN: Docket No. OSHA-2020-0004, Occupational Exposure to COVID-19; Emergency Temporary Standard, 83 FR 32376, 6/21/2021

Dear Mr. Frederick and Colleagues,

On behalf of the 12,000 members of the Academy of Medical-Surgical Nurses (AMSUN), I submit this response to the interim final rule (IFR) with comment period of the Occupational Safety and Health Administration (OSHA) titled “Occupational Exposure to COVID-19; Emergency Temporary Standard” (ETS). In our comment, we:

- Summarize the professional role of AMSUN and its members and their interest in the OSHA ETS IFR;
- Concur with the intent of the IFR to promote the safety of patients, nurses and health care workers;
- Underscore the importance of aligning employer regulation and compliance in this area with the scientific evidence and guidance promulgated by the Centers for Disease Control and Prevention; and,
- Propose an approach in which nurses in general and medical-surgical nurses in particular are professionally and appropriately incorporated into local governance and decision making for safe care.

AMSUN and its Medical-Surgical Nurse Members

AMSUN is the sole national organization exclusively representing medical-surgical nurses. In hospitals and in a wide variety of environments, we are on the front lines of care. When COVID-19 patients arrive in the hospital, many receive their lifesaving care in medical-surgical units. AMSUN is the recognized leader in medical-surgical nursing, and its mission is to promote quality patient care through professional development, certification, scholarship, and advocacy.

AMSN Concur with the Intent of the OSHA COVID-19 ETS to Promote the Safety of Patients, Nurses and Health Care Workers

Patient safety and the safety of caregivers including medical-surgical nurses are the highest priorities of our professional organization. The preamble to the ETS summarizes the COVID-19 pandemic, the risk it puts to patients and health care professionals, and the importance of measures that secure and advance the safety of patients and health care professionals including medical-surgical nurses.

We strongly support effective measures that secure and advance the safety of our members to provide care to patients. We concur with the ETS requirement that health care employers develop and implement a COVID-19 plan to identify and control COVID-19 hazards in the workplace, and with the overall intent of the ETS to advance worker and patient safety based on current published and validated evidence-based guidance and standards.

OSHA Should Align the COVID-19 ETS with Guidance Promulgated by the Centers for Disease Control and Prevention

In the interest of health care workers and patient safety, there should be one source of truth guiding workplace safety hazard identification and the development, implementation and identification of hazard mitigation measures. With respect to COVID-19, government policy accepts that our one agreed source of truth is the Centers for Disease Control and Prevention (CDC). Complicating matters is that the impacts of the pandemic, the variants of COVID-19 novel coronavirus, and public health response measures (including vaccination) and their adoption continue to change with time. Moreover, the future will unveil other pandemics requiring response.

Into this dynamic environment OSHA has promulgated its COVID-19 ETS IFR. It is static and does not permit health care organizations and workers to adapt responsively to local conditions in the interest of worker and patient safety without simultaneously risking increased liability. It should be made clear that when a health care organization has a choice of following the scientific evidence and the guidance of CDC vs. static direction provided by OSHA at one point in time, the organization should follow CDC.

In several important respects, other commenters have noted that the COVID-19 ETS puts forth compliance requirements that conflict with current guidance published by the CDC and other OSHA regulations such as its PPE standard. One commenter noted some OSHA COVID-19 ETS standards may put health care workers at greater, not lesser, risk of COVID-19 infection, identifying specifically the ETS barrier requirements impeding airflow, the ETS requirements regarding aerosol-generating procedures, inconsistencies within the application of the ETS mini respiratory protection standard, and contradictions with OSHA's own PPE standards.

Hospital policies take months of expert work to develop, implement, evaluate and improve. They benefit from the engagement of medical-surgical nurses and other nurses and health care

professionals in their development and application to meet specific local conditions. We are concerned that the immediate effective application of a complex ETS that presents significant practical conflicts to nurses and health care organizations -- whether to follow CDC's evidence-based standards reflecting current local pandemic conditions vs. the OSHA COVID-19 ETS issued at one point in time and subject to strict enforcement -- poses significant adoption and implementation challenges that, taken by themselves, increase and do not diminish safety risks to nurses and other workers.

To Promote Worker and Patient Safety, Advance an Approach that Supports Nurse Engagement, Local Governance, with its Supporting Evidence Based on a Single Source of Truth

As OSHA considers regulatory approaches that advance worker and patient safety during the COVID-19 pandemic, responsive to coronavirus variants and to local conditions, and applicable to future pandemics, we recommend the agency encourage adoption and implementation of safety governance frameworks that support the engagement and professional contributions of nurses in general, and medical-surgical nurses in particular, to local health care delivery system policy, procedures, implementation and evaluation. Such initiatives should be based on a single source of truth recognized for the rigor of its evidence and validation: the guidelines and public pronouncements of the CDC.

Thank you for your attention to this issue and to our public comment. If you wish to follow up further, please contact us through AMSN legislative consultant Frank Purcell, frank.purcell@cardinalwaypoint.com.

Sincerely,

A handwritten signature in cursive script that reads "Dr. Summer Bryant". The signature is written in dark ink and is positioned above the printed name and title.

Dr. Summer Bryant, DNP, RN, CENP, CMSRN
President, AMSN