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July 2, 2021

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

Dear Secretary Walsh,

On behalf of the American Academy of Pediatrics (AAP), a non-profit professional organization of more than 67,000 primary care pediatricians, pediatric medical subspecialists, and pediatric surgical specialists dedicated to the health, safety and well-being of infants, children, adolescents, and young adults, I write to express concerns related to the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) COVID-19 Healthcare emergency temporary standard (ETS), and to request a delay in the compliance deadline in order to reduce the unintended impact of this rule, which is a likely decrease in access to care for children.

Pediatricians have taken heroic measures to ensure the safety of their patients and employees during the pandemic. They have rapidly adopted and scaled telehealth. They have modified schedules to separate well-care from sick-care, implemented intensive infection control practices, and set up drive-through immunization and testing clinics. They have invested heavily in personal protective equipment (PPE), abided by cleaning and disinfecting standards put forth by the Centers for Disease Control and Prevention (CDC), and set up protocols for screening patients and employees for COVID-19 prior to entry. Group practices are additionally required to comply with state requirements to protect healthcare workers.

AAP appreciates that OSHA aims to protect healthcare workers through this interim final rule. Based on feedback from our members, pediatricians have likely implemented measures that meet or exceed the components of the ETS. However, while AAP expresses its shared commitment to protect healthcare workers from the grave danger posed by COVID-19, we believe the ETS was issued much too late to set the standards for worker safety, without sufficient stakeholder input, and with too little time to comply. The extremely short implementation timeline does not give pediatric practices adequate time to fully understand the newly promulgated requirements, to crosswalk their existing measures with new regulations in accordance with the ETS, and to take any additional actions to ensure compliance.

We are deeply concerned that practices overwhelmed by the short timeline for compliance may feel compelled to stop seeing patients who have any COVID-19 symptoms in order to be a workplace that is not covered by the ETS. This will disproportionately impact children and pediatric providers because children under age 12 are not yet eligible for a COVID-19 vaccine, and many common illnesses that children experience share symptoms with COVID-19. For example, many parts of the country are currently experiencing an unusually high number of cases of respiratory syncytial virus (RSV), the most common cause of bronchiolitis and pneumonia in infants.

If pediatric practices cannot meet the compliance timeline and instead begin turning away patients with COVID-19 symptoms, children and families will have to rely on emergency departments for care that is best received within the pediatric medical home. In addition, that disruption to the medical home undermines the trusted patient-clinician relationship that best promotes vaccine confidence, a critical issue as we race to address the more than 11 million missed doses of routine childhood vaccines that have been missed during the pandemic.

Since the beginning of the COVID-19 pandemic, pediatricians have worked tirelessly to care for their patients and employees. They have truly been on the front lines for more than 18 months. AAP believes the protocols pediatric practices have had in place for over a year already fulfill the spirit of what the ETS is trying to achieve. Implementing a new layer of requirements at this late stage of the public health emergency (PHE) is duplicative, confusing, and will divert time and resources away from patient care. Moreover, the ETS will hold pediatricians to a standard on which they were denied the opportunity to provide feedback, before being required to comply.

We strongly urge you to revise the compliance timelines for the ETS from 14 and 30 days to 45 and 60 days from publication in the Federal Register to ensure that pediatricians have adequate time to review, provide feedback through public comment, and implement any needed changes to their practices to continue keeping their patients and employees safe.

If you have any questions, please do not hesitate to contact Stephanie Glier, Director, Federal Advocacy, at sglier@aap.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lee Savio Beers', with a long, sweeping horizontal line extending to the right.

Lee Savio Beers, MD, FAAP
President

LSB/nw