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April 20, 2022

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

Re: Emergency Temporary Standard (ETS), Occupational Exposure to COVID-19 in Healthcare Settings (OSHA-2020-0004)

Dear Assistant Secretary Parker:

The Association of American Medical Colleges (AAMC or the Association) welcomes the opportunity to submit comments in response to the notice of reopening of the comment period for the Occupational Safety and Health Administration's (OSHA's) interim final rule entitled "Emergency Temporary Standards (ETS) Occupational Exposure to COVID-19 in Healthcare Settings" 87 *Fed. Reg.* 16426 (March 23, 2022). We appreciate OSHA's acknowledgement that some provisions in the initial ETS should be revisited. The Association agrees that the health and safety of employees, visitors, and patients to health care settings is of the utmost importance. However, as we noted in our previous [comment letter](#), the responses to how we ensure that safety will continue to change as the public health emergency (PHE) evolves and regulations and requirements should reflect this fluid environment.

The AAMC is a nonprofit association dedicated to improving the health of people everywhere through medical education, health care, medical research, and community collaborations. Its members comprise all 155 accredited U.S. and 16 accredited Canadian medical schools; approximately 400 teaching hospitals and health systems, including Department of Veterans Affairs medical centers; and more than 70 academic societies. Through these institutions and organizations, the AAMC leads and serves America's medical schools and teaching hospitals and the millions of individuals employed across academic medicine, including more than 191,000 full-time faculty members, 95,000 medical students, 149,000 resident physicians, and 60,000 graduate students and postdoctoral researchers in the biomedical sciences. In 2022, the Association of Academic Health Centers and the Association of Academic Health Centers International merged into the AAMC, broadening the AAMC's U.S. membership and expanding its reach to international academic health centers.

The science is unequivocal. COVID-19 vaccines are safe and prevent severe illness, hospitalization, and death when dealing with all known coronavirus variants. Vaccine

requirements help the nation continue to combat the spread of the pandemic. The experience of AAMC-member institutions demonstrates that an overwhelming majority of employees get vaccinated after a requirement is instituted, contributing to the health and safety of patients and staff alike.

While we acknowledge OSHA's limitations on enforcing the ETS in non-health care settings, the Association calls on employers to take independent action to protect their employees from the potential threat of exposure to COVID-19 at work by requiring vaccination, where permitted by law, or imposing regular testing and masking policies. The AAMC will continue to work with policymakers at all levels, and the public, to increase the number of people getting vaccinations and boosters, increase federal support for testing, and improve the health of communities across the country.

The Association supports OSHA's proposal to link certain ETS regulatory requirements to the Centers for Disease Control and Prevention's (CDC's) current guidance for health care workers. The CDC's guidance and recommendations have been the standard for safety throughout the COVID-19 PHE, and the Centers for Medicare & Medicaid Services (CMS) has held health care providers accountable to comply with those standards. It is important to have alignment between the CDC standards, CMS requirements, and OSHA standards to create more certainty on the best ways to protect employees, patients, and visitors and to ensure that the requirements are in line with evolving science and literature.

Below we outline our responses to specific requests for comment in the ETS notice.

A.1 – Alignment with CDC Recommendations for Healthcare Infection Control Practices. The AAMC appreciates OSHA's acknowledgement of stakeholders' comments to the initial ETS and its reopening of the comment period to solicit additional comments to revise and finalize some aspects of the ETS. The reopening of the comment period also is a recognition of the need to align OSHA requirements with various CDC recommendations that health care settings are also required to follow. In response to the COVID-19 PHE, AAMC members have made substantial investments to ensure the safety of employees, patients, and visitors while complying with CDC guidelines. Hospitals continue to modify protocols in response to the ebb and flow of the COVID-19 PHE with many of these changes being in response to recommendations made by the CDC. Therefore, we support OSHA's goal of aligning ETS requirements with CDC requirements to decrease confusion and burden associated with implementing both sets of standards.

A.2 – Additional Flexibility for Employers. OSHA is considering defining certain ETS requirements in broader terms and providing for a safe harbor enforcement policy for employers who are compliant with the CDC guidelines. The AAMC supports this proposal. Hospitals and health systems have been following the CDC's guidance and recommendations throughout the COVID-19 PHE. Allowing for broader definitions will provide employers the ability to structure protocols that align with both OSHA and CDC requirements while meeting the needs of their employees, patients, and visitors. Additionally, OSHA should consider releasing these standards in the form of guidance, instead of in regulation, to provide the maximum flexibility needed by

both OSHA and health care settings to quickly respond to the PHE and more easily incorporate recommendations for workplace standards identified by the CDC, medical professionals, and scientists.

A.5 – Vaccination. OSHA seeks comments on whether the ETS should adopt a change to the concept of “up to date” to describe vaccination status based on the Advisory Committee on Immunization Practices’ (ACIP’s) recommendation for individuals to receive additional doses of the COVID-19 vaccine. OSHA is considering how the ACIP and CDC recommendations impact the ETS requirements for an individual’s vaccination status (e.g., fully vaccinated, up to date). The AAMC supports the CDC current definition that fully vaccinated means that an individual is two weeks beyond having received all recommended doses in the primary vaccination series; however, we also support CDC guidance for individuals to receive a booster.

A.5.3 – Requirements for Vaccinated Workers. OSHA seeks feedback on whether to relax the requirements for masking, physical distancing, and the use of barriers for vaccinated workers in the health care setting. AAMC supports relaxing requirements for hospitals and health care settings to have physical distancing and barriers in place. Most health care staff are fully vaccinated – have received the primary course of the COVID-19 vaccinations – and many continue to wear masks. Therefore, the requirements to have strict physical distancing and barriers for vaccinated workers may be unnecessary in most health care settings. We urge OSHA to relax these requirements to give health care settings more flexibility to institute specific precautions as infection rates change. Masking offers greater protection for individuals at higher risk of severe illness and those who are sick or caring for someone who is sick with COVID-19.

A.7 – Recordkeeping and Reporting New Cap for COVID-19 Log Retention Period. We support OSHA’s proposal to limit the record retention period to one year from the date of the last entry in the log, and also relax some reporting requirements. Hospitals and health systems have remained vigilant in tracking COVID-19 infections among staff. However, now that infections are decreasing and the severity of these infections is diminishing, we believe that reporting requirements should be relaxed. Requiring hospitals to maintain a record of COVID-19 infections, regardless of whether the exposure is work related should be eliminated. Additionally, the requirements that employers record employee COVID-19 positive test results within 24 hours of learning that an employee has had a positive test should be relaxed to no more than 2 business days of a positive test result and should be limited to only known work-related exposures. Finally, reporting to OSHA on COVID-19 fatalities and hospitalizations should be changed to weekly reporting given the low prevalence among fully vaccinated individuals. Weekly reporting also aligns with other federal COVID-19 reporting requirements for health care institutions.

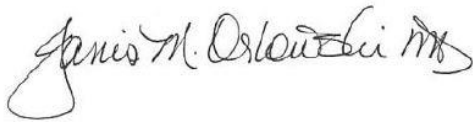
A.8 – Triggering Requirements Based on the Level of Community Transmission. We support efforts to align surveillance and reporting requirements with those of the CDC. As the ETS notice states, many of the CDC’s current guidance for healthcare workers are triggered based on

community transmission of COVID-19. Allowing hospitals and health systems flexibility to relax information collection and reporting when prevalence is low will decrease burden.

CONCLUSION

Thank you for consideration of these comments. The AAMC appreciates OSHA's acknowledgement that some of the initial requirements included in the ETS should be modified. Health care worker safety is a priority and hospitals and health systems must have the ability to remain flexible as they continue to learn about the disease and its variants and monitor the local disease prevalence while meeting the needs of their employees and the patients they serve. If you have questions regarding our comments, please feel free to contact Mary Mullaney at mmullaney@aamc.org.

Sincerely,

A handwritten signature in black ink that reads "Janis M. Orłowski" with a stylized flourish at the end.

Janis M. Orłowski, M.D., M.A.C.P.
Chief Health Care Officer, AAMC