

June 16, 2020

Loren Sweatt
Acting Assistant Secretary for Occupational Safety and Health
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

Re: Review of Temporary Emergency Standards

Dear Acting Assistant Secretary Sweatt:

In an Executive Order issued on May 19, 2020, President Trump directed heads of federal agencies to review the regulatory standards that were temporarily waived during the COVID-19 emergency, and to identify any that would promote economic recovery if made permanent. On behalf of the American Nurses Association (ANA), I urge your careful consideration during this review of standards for personal protective equipment (PPE) required for nurses to perform their work safely.

Although, we have acknowledged certain PPE strategies for the COVID-19 crisis, we strongly support holding healthcare employers accountable for science-based best practices. ***OSHA's standards for PPE must be restored and robustly enforced without further delay, for the sake of the economy as well as safety of individual health care workers. We also urge OSHA to follow up and report on the complaints that were filed during the emergency, with particular attention to complaints of healthcare workers who experienced retaliation for raising concerns about PPE availability and quality.***

The President's declaration of national emergency, effective March 1, 2020, empowered federal agencies to grant temporary regulatory relief to bolster continued economic activity, as well as enable the health care system to respond to surging COVID-19 demands. Pursuant to emergency authority, the Occupational Safety and Health Administration (OSHA) took a series of steps related to PPE standards and enforcement discretion. Of particular concern to the nation's 4 million nurses were OSHA's relaxation of standards requiring N95 protection or greater for face coverings; and OSHA's suspension of enforcement of the annual fit requirement for N95 respirators. These waivers of science-based requirements were deemed necessary due to severe PPE shortages, and were accompanied by guidance that addressed alternative equipment to maximize healthcare worker safety from COVID-19 or other infection. OSHA also released guidance recognizing decontamination as an emergency method to address N95 shortages. ANA strongly believes OSHA standards for PPE should be restored; decontamination guidance should be rescinded; and enforcement of the annual fit requirement should be a priority going forward in all health care settings.

The coronavirus pandemic has shined a bright light on the U.S. healthcare system, revealing certain systemic weaknesses, but also clearly demonstrating the centrality of health care delivery within the U.S. economy. While parts of the system were dedicated to the COVID-19 response, other parts contracted or closed, resulting in a cascade of lost jobs and lost hours worked. For instance, typical non-pandemic emergency room visits declined by 42 percent in April 2020, compared to the previous

month.¹ The Bureau of Labor Statistics reported that 1.2 million jobs in ambulatory care were lost in April, along with 135,000 hospital jobs.² As elective procedures were canceled or postponed, healthcare workers were furloughed or laid off. In primary care, office visits dramatically decreased under local shut-down orders or because patients feared going to the doctor. Although telehealth options gradually opened capacity, clinicians were not always certain they would be paid for virtual care.³

Employment in health care has increased somewhat as some regions of the country began to reopen in May.⁴ However, economic recovery continues to be inextricably linked with continued COVID-19 response, and with a return to normal in all other parts of the healthcare system. The safety of healthcare workers is critical to economic recovery. The healthcare system needs a full capacity of workers, especially nurses, to respond to COVID-19 spikes and outbreaks, while meeting the needs of patients who delayed care or have new care needs. Employers in other sectors of the economy must be able to rely on adequate healthcare delivery to ensure their employees can return to their workplaces, including manufacturing sites, schools, and offices. While we are requesting that pre-pandemic PPE standards be restored, the agencies must collaborate to ensure there is an adequate supply of approved PPE for all healthcare providers in every setting to continue to open all sectors of care.

ANA respectfully urges OSHA to prioritize a safe healthcare workforce, for sustainable economic recovery as well as the nation's health in a post-pandemic environment. PPE is still not up to standard in many healthcare settings, despite reports of improvements in the supply chain. In a recent ANA survey of more than 14,000 nurses, addressing the time frame of May 15-31, almost half of the respondents experienced shortages of PPE, and 43 percent said their facility is decontaminating N95 respirators for reuse. More than half of these respondents said they feel unsafe using decontaminated respirators.⁵ ANA does not support the use of decontamination methods as a standard practice.

ANA is the premier organization representing the interests of the nation's 4 million RNs, through its state and constituent member associations, organizational affiliates, and individual members. ANA members also include the four advanced practice registered nurse roles (APRNs): Nurse practitioners (NPs), clinical nurse specialists (CNSs), certified nurse-midwives (CNMs) and certified registered nurse anesthetists (CRNAs).⁶ ANA is dedicated to partnering with health care consumers to improve practices, policies, delivery models, outcomes, and access across the health care continuum.

¹ Centers for Disease Control and Prevention. Impact of the COVID-19 Pandemic on Emergency Department Visits. June 3, 2020. Accessible online at https://www.cdc.gov/mmwr/volumes/69/wr/mm6923e1.htm?deliveryName=USCDC_425-DM29706

² Bureau of Labor Statistics. Current Employment Statistics Highlights, April 2020. May 8, 2020. Accessible online at <https://www.bls.gov/ces/publications/highlights/2020/current-employment-statistics-highlights-04-2020.pdf>

³ See The Commonwealth Fund. Primary Care and the COVID-19 Pandemic. April 22, 2020. Accessible online at <https://www.commonwealthfund.org/blog/2020/primary-care-and-covid-19-pandemic>

⁴ Bureau of Labor Statistics. Current Employment Statistics Highlights, May 2020. June 5, 2020 Accessible online at <https://www.bls.gov/web/empsit/ceshighlights.pdf>

⁵ American Nurses Association. Personal Protective Equipment Survey. Infographic. May 2020. Accessible online at <https://www.nursingworld.org/~49cd40/globalassets/covid19/ppe-infographic-june-5-2020.pdf>

⁶ The Consensus Model for APRN Regulation defines four APRN roles: certified nurse practitioner, clinical nurse specialist, certified nurse-midwife and certified registered nurse anesthetist. In addition to defining the four roles, the Consensus Model describes the APRN regulatory model, identifies the titles to be used, defines specialty, describes the emergence of new roles and population foci, and presents strategies for implementation.

If you have questions, please contact Brooke Trainum, JD, Assistant Director of Policy and Regulatory Advocacy, at (301) 628-5027 or brooke.trainum@ana.org.

Sincerely,



Debbie Hatmaker, PhD, RN, FAAN
Acting Chief Executive Officer

cc: Robert R. Redfield, MD, Director, Centers for Disease Control and Prevention
Ernest J. Grant, PhD, RN, FAAN, ANA President