



July 2, 2021

James Frederick
Acting Assistant Secretary of Labor for
Occupational Safety and Health
Occupational Safety and Health Administration
200 Constitution Ave NW
Washington, DC 20210

Dear Acting Assistant Secretary Frederick:

On behalf of our more than 5,000 nonprofit aging services providers and other mission-minded organizations, LeadingAge is writing to request a delay of the compliance dates and for additional time to comment on the Occupational Safety and Health Administration's (OSHA) recently published COVID-19 Emergency Temporary Standard (ETS) for healthcare settings.

LeadingAge requests that OSHA delay the COVID-19 ETS compliance and enforcement dates for six months.

The requirements of the COVID-19 ETS were effective immediately upon publication in the Federal Register on June 21, 2021, with compliance dates of July 6th for most provisions and July 21st for provisions relating to barriers, ventilation systems, and training. This is too short of a time frame for long-term care and other healthcare providers to digest the requirements of the ETS as well as change policies and procedures to comply with the intricacies of the ETS.

Long-term care providers have been on the front lines of battling COVID-19 as they care for some of the most vulnerable citizens in our country. Federal and state guidance and regulations have changed consistently during the pandemic and providers, along with the rest of the country, are now just starting to surface from the depths of the pandemic. The new requirements in this lengthy and intricate ETS will take time to implement – more than the 14-day and 30-day compliance dates specified in the ETS.

To implement the types of changes required and analyze how those differ from existing policies and procedures cannot be done quickly or without thought. There is additional confusion on how this interacts (and conflicts) with the myriad of other guidance that pertains to aging services providers from the Centers for Disease Control (CDC), Centers for Medicare and Medicaid Services (CMS), and state regulatory agencies.

Moreover, providers may need to procure materials to comply with barrier or ventilation requirements, which may add to the time it takes to be in compliance with the ETS. Doing all of this, while continuing to care for America's seniors, is a task that will realistically take more time that allotted in the ETS.

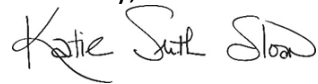
Therefore, we respectfully request that OSHA extend the compliance and enforcement dates of the COVID-19 ETS for healthcare settings for six months. We also hope that OSHA's initial enforcement of the ETS consider the good faith efforts to comply with the ETS by aging service providers and not impose an unduly punitive approach to compliance.

LeadingAge requests OSHA extend the comment deadline to August 20, 2021.

LeadingAge and its members are working diligently to understand the full scope of the requirements in the ETS. An extension of time will enable nursing homes, assisted living, and other long-term care providers to analyze and prepare comments for OSHA's review. We are gathering member input on the requirements of the ETS and its impact on their operations, but the short time frame makes it unrealistic to give thorough and thoughtful comments. An additional 30 days would allow us to more adequately gauge how these requirements impact members.

Thank you for your consideration and please contact Ruth Katz (rkatz@leadingage.org), senior vice president for policy and advocacy, for additional information or to discuss these requests.

Sincerely,

A handwritten signature in black ink that reads "Katie Smith Sloan". The signature is written in a cursive style with a large, stylized "K" and "S".

Katie Smith Sloan, President and CEO, LeadingAge