

OSHA ETS – Member Comments

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OSHA ETS

- Addresses COVID-19 exposure to workers in healthcare settings
- Applies to SNF, AL, and ICFs/IID
- Effective date: June 21
- Compliance date: July 6
 - Exception: physical barriers, ventilation and training by July 21
- More information available on the [OSHA ETS website](#)



OSHA ETS Overview

- COVID-19 Plan
- Patient Screening & Management
- Standard & Transmission-Based Precautions
- PPE
- Physical Distancing
- Physical Barriers
- Cleaning and Disinfecting
- Ventilation
- Health Screening & Medical Management
- Vaccination
- Training
- Anti-retaliation
- Requirements at no cost
- Record Keeping
- Reporting to OSHA
- Respiratory Protection Program





Getting Started

- ✓ Identify a COVID-19 site safety coordinator
- ✓ Download and complete the [COVID-19 plan template](#)
- ✓ Use OSHA's [COVID-19 Healthcare Worksite Checklist & Employee Job Hazard Analysis](#) to identify what is already in place
- ✓ Plan and prioritize implementing what is not
- ✓ Document progress to show good faith efforts in case of inspection
- ✓ For additional assistance:
 - ✓ Check out resources on the [ETS website](#)
 - ✓ Check out the [OSHA ETS FAQ's](#)
 - ✓ AHCA/NCAL member webinar available [here](#)



Comment Themes

- Our healthcare heroes have cared for our residents and put their lives on the line during the pandemic
- We fully support efforts to improve workplace safety and employee health
- Some of these standards, such as use of PPE and infection control measures, are already in place in our facility
- Our comments and recommendations are made to ensure the intent and purpose of the standards are met



Priority Areas

- Recognizing Good Faith Efforts
- Reporting to Other Employers
- Consistent Guidance
- Supports through Consultation



Recognizing Good Faith Efforts

- **Comment:** Many places throughout the standards refer to good faith efforts (e.g. physical barriers), encouraging providers to meet increased standards (e.g. encouraging elastomeric respirators or PAPRs during aerosol-generating procedures), implementing standards as feasible or if available (e.g. physical barriers or airborne isolation rooms). We appreciate and support OSHA's intent to enhance workplace safety for employees. However, some elements of these standards simply are not feasible to meet in long-term care. For example, we do not have airborne isolation rooms, nor is it feasible to add them. There are places in our facility where physical barriers are not feasible.
- **Recommendation:** We strongly encourage OSHA to maintain consistency with using enforcement discretion when OSHA evaluates compliance with these standards by recognizing situations where these options are not feasible and overall recognize providers for their good faith efforts to meeting the standards.



Reporting to Other Employers

- **Comment:** The ETS requires notification of COVID-19 exposure to employees and other employers within 24 hours. These notifications cannot include the employee's name, contact information or occupation. Long term care facilities often have contract or agency staff working on an as needed basis, as well as visitors. They may not have contact information for all these individuals or be aware of other employers they may be working for. Notifying any employee of potential exposure within 24 hours may not always be feasible. In addition, notifying employer of visitors is not feasible. Overall, notification of other employer without providing the name of the individual will not provide necessary information for the other employer to act or respond.
- **Recommendation:** Modify the standard to allow “as feasible” and remove the requirement to notify the other employer.



Consistent Guidance

- **Comment:** At several points throughout the ETS, OSHA repeats infection control or clinical guidance from the CDC. Examples of this include, but are not limited to, listing symptoms of COVID-19, PPE requirements for aerosol generating procedures, exceptions for vaccinated employees, and medical removal from work criteria. This introduces several challenges. First, there are several inconsistencies between OSHA and CDC guidance. For example, OSHA requires employers to allow employees to change face masks once per day, whereas the CDC recommends only wearing one mask per day for infection control. OSHA also introduces an elevated respirator standard for aerosol-generating procedures, one which is not supported by CDC guidance. Second, CDC guidance changes rapidly based on new data, which will likely introduce more inconsistencies and/or render these standards out of date. Finally, it adds a layer of confusion and burden on employers to choose to be compliant with one guidance which will make them non-compliant with the other guidance. This interferes with the abilities of professionals to make good, clinical decisions.
- **Recommendation:** We recommend that rather than re-stating any clinical or infection control standards, OSHA point to CDC guidance at least for long term care facilities where extensive guidance already exists.



Supports through Consultation

- **Comment:** Long Term Care has been hit extremely hard by this pandemic and continue to confront substantial staffing challenges. Some of the new standards require a level of resources that many facilities do not currently have available and will take extended time to fully implement. For example, designating a COVID-19 workplace safety coordinator is extremely difficult for small or independent facilities with limited resources staffing wise as well as financial due to census impacts from COVID-19. The timeline for full implementation is unrealistic in light of other requirements recently implemented for long term care facilities, such as CMS' recent rule on vaccine reporting for nursing homes, as well as day to day ongoing COVID-19 management.
- **Recommendation:** OSHA should recognize provider good faith efforts toward meeting these standards, allowing flexibility for full implementation beyond the designated deadlines as long as the facility is working towards full implementation. Also, we ask OSHA to provide more resources to long term care facilities in all states through their OSHA consultation. Finally, we would ask OSHA provide an email or phone support for providers who have questions on implementing these standards appropriately.



Where to Submit Comments

- Comments must be submitted by July 21, 2021
- Comments can be submitted at <https://www.regulations.gov/document/OSHA-2020-0004-1033>

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