September 25, 2020

House Interim Committee on Business and Labor
Oregon State Legislature
900 Court St NE
Salem, OR 97301

RE: Requesting health care exemption for Draft COVID-19 Temporary Standard dated Aug. 17, 2020

Dear Chair Holvey, Vice-Chair Bynum, Vice-Chair Barreto, and Members of the Committee:

WVP Health Authority represents more than 500 physicians practicing primary and specialty care in Marion and Polk Counties. On behalf of our members, we are writing to express concerns about OR-OSHA's Draft COVID-19 Temporary Standard dated Aug. 17, 2020.

The members of WVP Health Authority are already taking extraordinary measures to protect patients, providers, and staff from COVID-19 transmission. When applied to health care clinics, this rule creates workforce and compliance challenges that will draw resources away from treating patients safely. Health care clinics are accustomed to dealing with infection control, including evidence-based guidelines specific to COVID-19. **WVP Health Authority respectfully requests an exemption to the rule for health care settings.**

Duplicative and overlapping requirements

Draft COVID-19 Temporary Standard would add a new layer of requirements to existing state and federal guidelines, such as the comprehensive Infection Prevention and Control Guidance document developed by the Oregon Health Authority.

- The rule creates three sets of standards, and medical facilities would be subject to all three, including workplaces at "heightened risk and exceptional risk." Clinics are already following OHA guidance on patient traffic flow and distancing and should not be subject to multiple sets of requirements from different agencies.

- Section (2)(b) creates yet another standard on face coverings on top of existing guidance from OHA and CDC. Further, it lacks flexibility on masking for patients with disabilities and procedures involving the face.

- Section (3)(a) requires a new, redundant process for COVID-19 exposure risk assessment. In health care facilities where medical-grade PPE is used, distancing standards and the use of physical barriers may not be necessary and the standard should be adapted accordingly.

- Section (3)(b) creates new recordkeeping requirements, which are administratively burdensome and duplicative while adding little benefit.

- Section (3)(c) and (d) creates new requirements for information and training that add cost while providing no additional benefit given existing OHA guidance for health care facilities. The practice of medicine is more regulated now than at any period in recent history.

- Section (4) requires infection control plans that are duplicative of other requirements on health care providers. This standard would need to be modified to give clinics the necessary flexibility to follow standards for infection control that already exist.

Health care providers should be accountable to a single set of requirements consistent with evidence-based best practices and sufficiently flexible to adapt to emerging evidence.

Lack of clarity for health care providers

As written, it is unclear what some of these requirements mean and how employers can comply, particularly in health care settings.

- Section (2)(b)(E) creates a standard for 12 feet of distance. What is meant by "forceful exertion" in a health care context, and does it still apply if personal protective equipment is used? This will lead to confusion and make it more difficult for health care providers to complete essential duties.

- Section (2)(c) regarding sanitation creates confusing new standards. In health care settings, multiple employees may be involved with patient care, and this standard could impede the ability to do so in a timely manner, which is critical for reducing risk of infection.

- Section (3)(e) creates a standard for decontamination that is unclear and could create confusion about what is technically feasible.

Draft COVID-19 Temporary Standard appears to be based on a zero-risk standard, which is not reasonable in health care facilities.

New paid leave policy

We understand from the testimony delivered in your recent committee meeting that the new paid leave policy described in Section (2)(g) will be removed. However, we would like to put on the record that we support the Oregon's existing paid family and medical leave policy and the Families First Coronavirus Relief Act and do not believe an additional policy is necessary.

- It is unclear if the added benefit would stack onto existing employee benefits in terms of additional time, additional compensation, or both.

- Additionally, Section (2)(g) appears to require authorization of medical removal and return to work by health officials or health care providers. Employers cannot request detailed health information about employees, nor do they want to. If directives from providers and health officials are in conflict, they will have to err on the side of keeping employees at home.

As reassignment is often unfeasible in the delivery of health care, this rule could exacerbate existing workforce challenges and undermine our health care system.

Conclusion

Thank you for consideration of our comments. WVP Health Authority supports an exemption for health care facilities similar to the exemption provided for schools.

Sincerely,

Manuel Rivera
Executive Director