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Donna McKay
Executive Director

Physicians for
Human Rights

256 West 38th Street
9th Floor
New York, NY
10018

+1.646.564.3720
phr.org

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Ms. Princy Doss
Director of OPPPI
600 E. Main Street
Suite 207
Richmond, VA 23233

Virginia Must Implement an Emergency Temporary Standard to Protect Workers during the COVID-19 Pandemic

Re: Comment on the Virginia Safety and Health Codes Board's presentation of an Emergency Temporary Standard/Emergency Regulation, Infectious Disease Prevention, SARS-CoV-2 Virus That Causes COVID-19, §16 VAC 25-220, applicable to all employers and employees covered by Virginia Occupational Safety and Health (VOSH) program jurisdiction.

Dear Director Doss,

I write on behalf of Physicians for Human Rights (PHR), an organization that uses science and medicine to promote and protect human rights globally, to express our strong and urgent support for the proposed Emergency Temporary Standard (ETS)/Emergency Regulation, Infectious Disease Prevention, SARS-CoV-2 Virus That Causes COVID-19, §16 VAC 25-220, applicable to all employers and employees covered by Virginia Occupational Safety and Health (VOSH) program jurisdiction. In the absence of adequate, mandatory, and enforceable federal standards for worker protections during the COVID-19 pandemic, it is imperative that the Commonwealth of Virginia exercise its authority through the VOSH program to protect health workers during the COVID-19 pandemic with clearly defined and universally enforceable workplace safety standards.

Since the start of the COVID-19 pandemic, PHR has been a leader in calling for health worker protections, spearheading campaigns with leading U.S. and international medical voices to ensure that frontline health workers have the resources they need to do their lifesaving work safely. Yet to date, the federal Occupational Safety and Health Administration (OSHA) has only issued suggested voluntary standards for worker protections in health care settings, which leaves these standards unenforceable. As a result, state-level government must set and enforce workplace protection standards for health care facilities.

To this end, the Government of the Commonwealth of Virginia must work to implement and enforce standards to mandate the provision of protective equipment, clear procedures for social distancing and hygiene practices, and enhance protections against retaliation to safeguard health workers' ability to raise the alarm about dangerous conditions without fear of discrimination or retribution.

Under the proposed ETS, the Safety and Health Codes Board issues mandatory requirements for employers in all exposure risk levels (§40) to: implement policies and procedures for employees to report when they are sick and require that SARS-CoV-2-positive employees are not allowed to go to or remain at work; notify employees of possible exposure to SARS-CoV-2; ensure that sick leave policies are flexible and non-punitive; provide guidance for observing social distancing; comply with applicable respiratory protection and personal protective equipment (PPE) regulations; and enforce requirements for sanitation and disinfectant procedures.

PHR strongly recommends that these mandatory requirements meet or exceed the suggested guidance set by the federal Centers for Disease Control and Prevention, as well as state-level best practice standards and definitions as modeled by the 2009 [California OSHA Aerosol Transmissible Disease Standards](#), which



set clear standards for: social distancing; use of face masks; hand sanitizing, washing, and gloves; regular workplace disinfection procedures; increased ventilation; and notification of infections, among other key provisions.

These standards must include protection from discrimination, intimidation, or dismissal of health workers for speaking out in the face of dangerous conditions to management, co-workers, the government, or the general public. Likewise, standards must stipulate that health workers cannot face retribution for bringing additional PPE to work when employers are unable to provide it. In this regard, PHR supports the ETS prohibition of discrimination against an employee for exercising rights under the emergency temporary standard/emergency regulation. In particular, no person shall face discrimination for voluntarily providing or wearing one's own PPE when an employer is unable to provide adequate PPE.

Strong state-level enforcement is also essential. Once the ETS is issued, relevant state authorities must be mandated to enforce these standards under their own administrative authority and when following up on individual complaints presented to their offices. The attorney general or other state and local attorneys must likewise be mandated to act in the public's interest to enforce these standards through the courts.

At no other point in recent memory has the leadership of state governments across the country been as critically important as it is during this pandemic. In this public health emergency, protecting workers from COVID-19 at work will play a key role in protecting the public at large. If exposure to the coronavirus is not mitigated in health facilities, it will continue to spread in the workplace and then back out into the community.

In sum, the Virginia Safety and Health Codes Board must approve this standard to protect all residents of Virginia, and set a positive example for other states that have yet to institute such vital protections. Without mandatory requirements for employers to protect workers, the Commonwealth risks further uncontrolled spread of this potentially deadly virus. The Virginia Safety and Health Codes Board must approve this essential protective emergency standard and meet its responsibility to protect the safety and health of working health workers in Virginia during this national and global health emergency.

Sincerely,

Donna McKay
Executive Director,
Physicians for Human Rights