

Congress of the United States

Washington, DC 20515

August 3, 2022

The Honorable Martin Walsh, Secretary of Labor
The Honorable Douglas Parker, Assistant Secretary of Labor for Occupational Safety and Health
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Dear Secretary Walsh and Assistant Secretary Parker:

We write in support of the efforts by the U.S. Department of Labor (DOL) and the Occupational Safety and Health Administration (OSHA) to ensure that Arizona's state occupational safety and health plan, currently administered by the Arizona Division of Occupational Safety and Health (ADOSH), meets its legal requirements under the Occupational Safety and Health Act of 1970 (OSH Act). As part of its state occupational safety and health plan approval by OSHA, ADOSH must meet the legal requirement to be "at least as effective as" federal OSHA's program. However, ADOSH has failed to meet this requirement of its state occupational safety and health plan approval by OSHA, including by not fully adopting the Covid-19 Healthcare Emergency Temporary Standard (Covid-19 Healthcare ETS).

As the country now faces the latest surge in Covid-19 cases, the need for every health care employer to implement comprehensive infection and exposure control plans for Covid-19 persists as daily hospitalization and case rates continue to climb from the spread of the Omicron BA.5 subvariant. As you are aware, it has been over a year since OSHA issued the Covid-19 Healthcare ETS, recognizing the grave danger and significant risk that Covid-19 poses to health care workers. OSHA issued the Covid-19 Healthcare ETS in June 2021 because existing enforcement tools were inadequate to protect health care workers from the hazards of Covid-19. State occupational safety and health plans were required, as part of the requirements of their state plan approvals, to adopt a standard as effective as the Covid-19 Healthcare ETS within 30 days (or July 21, 2021). But ADOSH has yet to adopt the Covid-19 Healthcare ETS in full, unnecessarily placing Arizona's frontline health care workers and their patients at risk.

Last week, our offices heard from health care workers in Arizona that still do not have the basic protections promised by the Covid-19 Healthcare ETS. Two and a half years into the Covid-19 pandemic, egregious failures to provide infection control measures in Arizona's hospitals remain commonplace. Nurses are still not being informed about exposure to Covid-19 in a timely manner and report still being required to care for both Covid-19 and non-Covid-19 patients at the same time, threatening the safety of nurses and patients. They expressed that personal protective equipment is still not accessible to nurses at all times, and N95 respirators continue to be locked

away in managers' offices. At some Arizona hospitals, Covid-19 screening and testing procedures for patients are nonexistent or unenforced.

In the past year, nurses have filed complaints to ADOSH for Covid-19-related hazards that would have been violations of the Covid-19 Healthcare ETS, including failure to timely provide workers Covid-19 hazard control plans and logs of Covid-19 infections. Yet, these complaints have been summarily dismissed by ADOSH because the agency did not adopt the Covid-19 Healthcare ETS. Even more, nurses report that hospital administrators have refused to allow nurses to be present when ADOSH inspectors visited their hospitals.

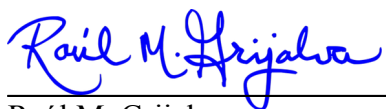
The time for ADOSH to adopt a similar or higher standard than the Covid-19 Healthcare ETS is well past due. Without the Covid-19 Healthcare ETS fully in effect in Arizona, there is no recourse for nurses to ensure basic workplace protections and plans on Covid-19 are in place. To ensure that workplace safety standards promulgated by OSHA are consistently enforced throughout the country, it is the statutory responsibility of OSHA to ensure that all approved state occupational safety and health plans adopt and enforce standards that are as effective as federal OSHA standards.

So long as ADOSH fails to match or exceed federal OSHA standards, it is not only appropriate but necessary for federal OSHA to proceed with its proposed reconsideration and revocation of Arizona's state plan approval and its tentatively scheduled informal public hearing on the matter. OSHA's proposal to hold an informal hearing on ADOSH's state plan approval is just the first step in the reconsideration and revocation process. It is necessary to ensure that Arizona's workers receive effective and enforceable health and safety protections at work. We support OSHA in taking the next steps in the process to exercise concurrent enforcement and standards-making authority on occupational safety and health for private sector workers in Arizona.

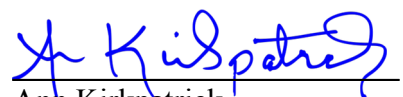
As federal OSHA has committed to issuing a permanent Covid-19 standard for health care workers in the near future, and the ETS has not been rescinded, it is important that state plans are not allowed to circumvent their obligations under the statute. Given the ongoing risks of Covid-19 for health care workers, we respectfully urge OSHA to exercise federal enforcement authority until deficiencies are remedied. Arizona's health care workers and our patients deserve the same protections afforded to other health care workers and patients across the country.

Thank you for your attention to this important matter.

Sincerely,



Raúl M. Grijalva
Member of Congress



Ann Kirkpatrick
Member of Congress

