

Chairwoman Milagro Rodriguez
Virginia Safety and Health Codes Board
Virginia Department of Labor and Industry
600 East Main Street, Suite 207
Richmond, VA 23219

Re: Comments on Final Permanent Standard (FPS)

Dear Chairwoman Rodriguez:

I am writing as President and CEO of the Virginia Health Care Association and Virginia Center for Assisted Living (VHCA-VCAL) to offer the association's comments on the *Proposed Amendments to the Final Permanent Standard (FPS), for Infectious Disease Prevention of the SARS-CoV-2 Virus*. VHCA-CAL represents 350 long term care providers across the Commonwealth including 95 percent of the nursing homes and nearly 100 assisted living facilities.

As we have described in previous comments to the agency, nursing homes and assisted living facilities have been ground zero of the pandemic. Our members and their staffs have selflessly stood on the frontlines to protect their residents and patients, as well as themselves from the virus. Over the past 18 months, they have adhered to frequently changing federal and state regulatory and sub-regulatory guidance on infection prevention and control, workplace safety, testing, screening, vaccination, and more.

As the Department of Labor and Industry requests comments on the proposed amendments to the FPS, VHCA-VCAL would again respectfully request that the FPS be repealed. The standard is inflexible in numerous areas where the science, regulatory guidance, and best practices have evolved over time. In addition, nursing homes are already governed by extensive requirements issued by the Centers for Medicare and Medicaid Services (CMS), in collaboration with the Centers for Disease Control and Prevention (CDC), for the core principles of COVID-19 infection control.

Should the agency choose not to repeal the FPS, at a minimum, we would request that DOLI adopt Gov. Ralph Northam's recommended substitute language to 16VAC25-220-10(E) to deem compliance with the FPS if the employer complies with the CDC guidance to mitigate the spread of the SARS-CoV-2 virus.

We appreciate your consideration of our comments and would be pleased to answer any questions you may have about long term care operations.

Sincerely,

Keith Hare
President and CEO

cc: Jay Withrow, Director, Division of Legal Support, DOLI
Princy Doss, Director of Policy, Planning, and Public Information, DOLI
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