



SEP 14 2011

Charles Preston, M.D., M.P.H.
Public Citizen Health Research Group
1600 20th Street, NW
Washington, DC 20009

Dear Dr. Preston:

This letter responds to your letter of September 2, 2010, in which Public Citizen Health Research Group (Public Citizen) along with the Committee of Intern and Residents/SEIU Healthcare (CIR/SEIU), American Medical Student Association (AMSA), Bertrand Bell, M.D., Charles A. Czeisler, Ph.D., M.D., and Christopher P. Landrigan, M.D., M.P.H. petitioned the Occupational Safety and Health Administration (OSHA) to promulgate a federal workplace standard to regulate and enforce limits on the number of duty hours of resident physicians and subspecialty resident physicians.

OSHA evaluated the evidence presented in your petition very carefully. As support for the duty-hour regulations requested, the petitioners cite literature that associates current levels of intern and resident duty hours with an increased risk of motor vehicle accidents, mental health impairments, adverse pregnancy outcomes, and percutaneous injuries (such as needlestick injuries).

Additionally, the Agency received 15 letters in support of OSHA regulating resident physician duty hours, and 26 letters opposing OSHA regulation and supporting the Accreditation Council for Graduate Medical Education (ACGME) as the more appropriate organization to regulate and enforce resident duty hour standards. After a careful and thorough review of your petition and supporting documentation, the Agency has decided to deny it for the reasons outlined below.

While OSHA is very concerned about the occupational safety and health effects of long hours, worker fatigue due to extended work hours is not limited to medical interns and residents. Inadequate staffing of nurses and other health care providers can lead to long hours and fatigue, and can potentially impact the health of these employees as well. Employees in many other professions also experience fatigue caused by working extended hours or rotating and night shift schedules. These occupations include construction workers, oil drillers, miners, military defense personnel, public utility workers, service industry workers, and many others. Were OSHA to consider development of a standard to address fatigue due to extended hours, it would be appropriate to consider all industries and occupations within the scope of the standard.

OSHA recognizes that resident physicians and subspecialty resident physicians are in a unique situation. Although it is clear that they are employees, and therefore covered by the Occupational Safety and Health Act of 1970, resident physicians are also students since they receive training critical to their professional education. In addition, as addressed by Public Citizen, this issue goes beyond the occupational safety and health of the residents and impacts patient safety and quality of care.

OSHA also recognizes that ACGME regulates duty work hours for resident physicians since ACGME is the organization responsible for the broader accreditation process and oversight of the medical residents' sponsoring institutions. ACGME first published duty hour standards for resident physicians in 2003, and updated them in 2011, lowering the allowed number of duty hours and adding new enforcement procedures. These new duty hour standards along with the new enforcement mechanisms that took effect in July 2011 provide an opportunity for ACGME to take meaningful steps to protect the health of resident physicians within the context of their overall residency experience.

OSHA's decision comes at a time when the Agency faces significant challenges. Unfortunately, OSHA must prioritize limited resources and cannot move forward on every rulemaking request.

At this time, OSHA has determined that resident duty hour standards are best addressed within the context of resident training and education. However, the whistleblower provisions of the Occupational Safety and Health Act protect employees, including interns and residents, who experience retaliation as a consequence of voicing occupational safety and health concerns related to extended work hours. 29 U.S.C. § 660(c). OSHA will continue to watch with interest whether the new ACGME standards result in improved working conditions for medical residents and interns. In addition, the Agency is currently working on guidance which will provide advice on coping with the effects of fatigue and sleep deprivation related to working extended hours.

Thank you for sharing with us your concerns regarding the workplace hours of resident physicians and subspecialty resident physicians.

Sincerely,

A handwritten signature in blue ink, appearing to read 'DM', is written over a light blue horizontal line.

David Michaels, Ph.D., M.P.H.