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Background to the Public Citizen Petitions to OSHA and CMS about Work-Hour Regulations for Resident Physicians

Resident physicians in the United States may work up to 88 hours per week (averaged over four weeks), including extended shifts that may last up to 28 consecutive hours.

Substantial evidence demonstrates that long work hours and extended shifts are associated with sleep deprivation and fatigue among resident physicians, with profound effects on their health, safety, and well-being. Sleep deprived resident physicians have an increased risk of needlestick injuries, motor vehicle crashes and depression, burnout and other mental health conditions. Pregnant resident physicians are at a higher risk of obstetric complications. Impaired sleep from long work hours has also been linked to increased medical errors, attentional failures and preventable adverse events for patients.

Research has also demonstrated that reduced work hours help to mitigate these risks and have an overall positive effect on patient safety outcomes - importantly - without significantly reducing educational and clinical experiences of resident physicians.

Public Citizen and the American Medical Student Association (AMSA), an international organization representing over 30,000 physicians-in-training, have separately [petitioned the Occupational Safety and Health Administration \(OSHA\)](#) and the [Centers for Medicare and Medicaid Services \(CMS\)](#) to regulate the work hours of resident physicians in all residency and subspecialty fellowship programs:

- (1) A limit of 80 hours of work in each and every workweek, without averaging;
- (2) A limit of 16 consecutive hours worked in one shift for *all* resident physicians and subspecialty resident physicians, with no exceptions;
- (3) At least one 24-hour period of time off work per week (no averaging) and one 48-hour period of time off work per month, no averaging;
- (4) In-hospital on-call frequency no more than once every three nights, no averaging;
- (5) A minimum of at least 10 hours off work after a day shift and a minimum of 12 hours off work after a night shift; and
- (6) A maximum of four consecutive night shifts with a minimum of 48 hours off after a sequence of three or four night shifts.

Public Citizen and co-petitioners previously petitioned OSHA in [2001](#) and [2010](#) to regulate the work hours of resident physicians. OSHA denied both petitions, citing in part updates to resident

work schedules implemented by the [Accreditation Council for Graduate Medical Education \(ACGME\)](#). At present, the ACGME is solely responsible for accrediting residency programs in the United States and for monitoring residency programs' compliance with its work hour standards.

The ACGME limited work hours for all resident physicians in 2003 and again in 2011, but to a lesser extent than recommended by expert panels. In 2017, when the ACGME implemented the work hour standards which [are still in place today](#), it rolled back some previous work hours requirements. As the workplace protections for resident physicians have deteriorated, Public Citizen is filing this [updated petition to OSHA](#).

In 2003, 2011, and again in 2017, the ACGME failed to demonstrate that it can establish and enforce work hour standards that ensure "[safe and healthful working conditions](#)" for resident physicians as required by the Occupational Safety and Health Act of 1970 for every employee – including resident physicians – in the United States. OSHA has acknowledged that resident physicians as employees are covered by the Occupational Safety and Health Act. The petitioners therefore maintain that it is OSHA's responsibility to protect resident physicians in the same ways that the agency protects workers in other industries.

The petitioners have [separately petitioned CMS](#), which is both the main funder of residency programs and the largest payer for health care in the United States. CMS has a vested interest and responsibility to regulate work hours so that resident physicians have a safe and healthful work environment and that they provide safe and effective care. Moreover, as specified in Title 42 of the Code of Federal Regulations, hospitals participating in Medicare must meet certain requirements that may be amended "[if they are found necessary in the interest of the health and safety of the individuals who are furnished services in hospitals](#)."

Promptly implementing the evidence-based recommendations for resident physician work hours in the petitions to [OSHA](#) and [CMS](#) will 1) protect the safety of resident physicians, 2) help to reduce medical errors, and 3) contribute to a safer, better standard of patient care.

Public Citizen and its co-petitioners also request that the regulations be strictly enforced; inadequate enforcement has undermined previous efforts to limit resident physician work hours.