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United States Senate

COMMITTEE ON HEALTH, EDUCATION,
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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November 15, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Lauren McFerran
Chair
National Labor Relations Board
1015 Half Street SE
Washington, D.C. 20570-0001

Dear Chair McFerran:

On October 27, the National Labor Relations Board (NLRB) issued the final rule, Standard for Determining Joint Employer Status. I am concerned the NLRB did not follow applicable federal law in finalizing the effective date for this major regulation.

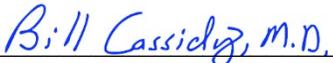
The Government Accountability Office (GAO) determined on November 9 that the NLRB is in violation of the Congressional Review Act's required 60-day delay before a major regulation's effective date. The Federal Register published the NLRB's joint employer regulation on October 27, the same day the House of Representatives received the rule. However, the Senate did not receive the rule until October 30.

By setting the effective date to December 26, the joint employer rule does not meet the Congressional Review Act's requirement that the 60-day delay take effect "from the date of publication the Federal Register or receipt of the rule by Congress, **whichever is later**" (emphasis added). Specifically, GAO determined based on the receipt of the rule by Congress, "the final rule does not have the required 60-day delay in its effective date."

Since the rule does not meet the 60-day threshold required under the Congressional Review Act (CRA), please detail how the NLRB will rectify this deficiency to ensure full compliance with federal law by November 29, 2023.

Thank you for your prompt attention to this important matter.

Sincerely,



Bill Cassidy, M.D.
Ranking Member
U.S. Senate Committee on Health,
Education, Labor, and Pensions