

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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March 21, 2020

The Honorable Alex M. Azar II
Secretary
The Honorable Robert Kadlec, M.D.
Assistant Secretary for Preparedness and Response
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Azar and Assistant Secretary Kadlec:

Our top priority is to promote the health and safety of the American people as we face the ongoing coronavirus crisis. For this reason, we are extremely concerned about widespread shortages of personal protective equipment, severe shortfalls of ventilators and other critical medical equipment, and a dangerous lack of hospital bed capacity. We are writing today to request a briefing on the Administration's plan to address these shortfalls.

Doctors, nurses, and other medical professionals who work with sick patients are at heightened risk of contracting coronavirus. They should not be forced to choose between caring for patients and protecting their own lives and the lives of their families. Yet many health care professionals who do not have sufficient equipment are already putting their health on the line to treat patients. If they become ill, hospitals will lose critically needed staff to treat the influx of patients. If providers continue to work without adequate protection, they will be more likely to transmit the virus to patients and other health care workers, which will exacerbate this pandemic even further.

Shortages of Personal Protective Equipment

The Committee has been in contact with medical providers across the country who are grappling with significant shortages of personal protective equipment, including respirator masks, surgical masks, face shields, surgical gowns, isolation gowns, goggles, disposable caps, disposable shoe covers, and disposable gloves.

N95 respirator masks are particularly critical because they protect against respiratory droplets that transmit the virus. However, the Department of Health and Human Services (HHS)

has previously acknowledged that the United States has only 1% of the N95 masks that may be needed by medical professionals during this pandemic.¹

During a hearing on March 3, 2020, Dr. Kadlec stated, “If it were to be a severe event, we would need 3.5 billion N95 respirator masks. We have about 35 million.”² According to Secretary Azar, the United States has only 12 million N95 masks in the Strategic National Stockpile—our country’s largest reserve of medical supplies—and as many as 5 million may be expired.³ Although President Trump announced that the federal government will order 500 million respirator masks to address these shortages, it may take up to 18 months for orders to be fulfilled despite the immediate need for this lifesaving equipment.⁴

New York Governor Andrew Cuomo—whose state is one of the most critically affected in the country—warned at a press briefing on Thursday, “[W]e’re going to need protective equipment in hospitals. We’re going to need ventilators. And that is something that a state can’t do, but the federal government can do.”⁵

The City of New York requested 2.2 million masks from the federal government but received only about 78,000—all of which were expired.⁶ The city is currently seeking 3 million N95 masks, 50 million surgical/face masks, 15,000 ventilators, 45 million face shields, 45 million surgical gowns, 45 million coveralls, and 45 million disposable gloves.⁷

¹ *HHS Clarifies US Has About 1% of Face Masks Needed for ‘Full-Blown’ Coronavirus Pandemic*, CNBC (Mar. 4, 2020) (online at www.cnbc.com/2020/03/04/hhs-clarifies-us-has-about-1percent-of-face-masks-needed-for-full-blown-pandemic.html).

² Senate Committee on Health, Education, Labor, and Pensions, *Hearing on An Emerging Disease Threat: How the U.S. Is Responding to COVID-19, the Novel Coronavirus* (Mar. 3, 2020) (online at www.help.senate.gov/hearings/an-emerging-disease-threat-how-the-us-is-responding-to-covid-19-the-novel-coronavirus).

³ *HHS Clarifies US Has About 1% of Face Masks Needed for ‘Full-Blown’ Coronavirus Pandemic*, CNBC (Mar. 4, 2020) (online at www.cnbc.com/2020/03/04/hhs-clarifies-us-has-about-1percent-of-face-masks-needed-for-full-blown-pandemic.html); *The US Has a Stockpile of Masks, Health Secretary Says*, CNN (Feb. 26, 2020) (online at www.cnn.com/asia/live-news/coronavirus-outbreak-02-26-20-intl-hnk/h_d18cf0c9f803033ffdeff947ad1bae26).

⁴ *Coronavirus: Trump’s Promised 500 Million Respirators Could Take 18 Months to Arrive*, The Independent (Mar. 19, 2020) (online at www.independent.co.uk/news/world/americas/coronavirus-trump-respirator-ventilator-us-cases-map-states-latest-a9411566.html).

⁵ *Transcript of March 19, 2020, Coronavirus Briefing by Governor Andrew Cuomo* (Mar. 19, 2020) (online at www.rev.com/blog/transcripts/andrew-cuomo-march-19-coronavirus-briefing-orders-75-of-new-yorkers-to-stay-home-from-work).

⁶ *Here’s Why Florida Got All the Emergency Medical Supplies It Requested While Other States Did Not*, ProPublica (Mar. 20, 2020) (online at www.propublica.org/article/heres-why-florida-got-all-the-emergency-medical-supplies-it-requested-while-other-states-did-not?utm_medium=twitter&utm_source=social&utm_campaign=publishtweet#179829).

⁷ Letter from Bill de Blasio, Mayor of New York City, to Secretary Alex Azar, Department of Health and Human Services (Mar. 19, 2020) (online at www1.nyc.gov/assets/home/downloads/pdf/office-of-the-mayor/2020/Mayor-de-Blasio-Letter-to-HHS.pdf).

Other states have reported similar experiences. Oregon and Oklahoma received about 10% of the supplies they requested from the federal government, while New Jersey received less than 6%.⁸ In Washington State, Providence St. Joseph Health hospitals reported that shortages of N95 masks have forced staff to construct face shields using supplies purchased at craft stores and Home Depot. In other cases, mask shortages have led doctors to wash N95 masks with bleach so they can be reused, and one emergency department is repairing old surgical masks with broken elastic bands.⁹ One doctor interviewed about the shortage of N95 masks warned, “Not only can I not protect myself, I can’t protect my patients.” Another physician described the shortage as being “at war with no ammo.”¹⁰ According to a survey conducted by Premier Inc., a Charlotte-based group purchasing organization, hospitals are receiving fewer than half of the N95 masks they order.¹¹

The shortage of respirator masks is so severe that the Centers for Disease Control and Prevention relaxed its guidance on the use of respirator masks, recommending that health care providers use expired masks and even “homemade masks (e.g., bandana, scarf) for care of patients with COVID-19 as a last resort.”¹² On March 12, 2020, the Committee received a letter from National Nurses United—the largest union of registered nurses in the United States—describing these changes as “irresponsible” and warning that they “put nurses, health care workers, and patients at risk.”¹³

Trump Administration Actions

Last Wednesday, President Trump issued an Executive Order that would allow him to invoke his authority under the Defense Production Act to increase the production of personal

⁸ *Here’s Why Florida Got All the Emergency Medical Supplies It Requested While Other States Did Not*, ProPublica (Mar. 20, 2020) (online at www.propublica.org/article/heres-why-florida-got-all-the-emergency-medical-supplies-it-requested-while-other-states-did-not?utm_medium=twitter&utm_source=social&utm_campaign=publishtweet#179829).

⁹ *U.S. Hospital Workers Are Making Masks, Protective Gear from Office Supplies Amid Equipment Shortage*, Time Magazine (Mar. 18, 2020) (online at www.time.com/5805557/homemade-medical-face-mask-shortage/).

¹⁰ *‘At War Without Ammo’: Doctors Say Shortage of Protective Gear Is Dire*, New York Times (Mar. 19, 2020) (online at www.nytimes.com/2020/03/19/health/coronavirus-masks-shortage.html?action=click&module=Spotlight&pgtype=Homepage).

¹¹ *U.S. Hospital Workers Are Making Masks, Protective Gear from Office Supplies Amid Equipment Shortage*, Time Magazine (Mar. 18, 2020) (online at www.time.com/5805557/homemade-medical-face-mask-shortage/).

¹² Centers for Disease Control and Prevention, *Strategies for Optimizing the Supply of Facemasks* (online at www.cdc.gov/coronavirus/2019-ncov/hcp/ppe-strategy/face-masks.html).

¹³ Letter from Deborah Burger, RN, President, National Nurses to United, to Chairwoman Carolyn B. Maloney, House Committee on Oversight and Reform, Ranking Member Jim Jordan, House Committee on Oversight and Reform, and Members of the House Committee Oversight and Reform (Mar. 12, 2020) (online at oversight.house.gov/sites/democrats.oversight.house.gov/files/NNU%20letter%20CDC%20guidance%20Oversight%20Cmte%203.12.2020.pdf).

protective equipment and medical equipment—such as ventilators and other respiratory gear—to treat infected patients. This order authorizes the Secretary of HHS to determine “the proper nationwide priorities and allocation of all health and medical resources, including controlling the distribution of such materials (including applicable services) in the civilian market, for responding to the spread of COVID-19 within the United States.”¹⁴

However, on the same day he issued the Executive Order, President Trump tweeted that he “only signed the Defense Production Act ... should we need to invoke it in a worst case scenario in the future.”¹⁵ The next day, on Thursday, the President stated:

The federal government is not supposed to be out there buying vast amounts of items and then shipping. You know, we’re not a shipping clerk. ... as with testing, the governors are supposed ... to be doing it.¹⁶

On Friday, however, the President appeared to reverse his position again, stating at a briefing of the White House Coronavirus Task Force, “I invoked the Defense Production Act, and last night, we put it into gear.”¹⁷ It remains unclear how the Defense Production Act will be used to satisfy immediate shortages of personal protective equipment and medical equipment.

Last night, our Committee received a briefing from Federal Emergency Management Agency (FEMA) Administrator Peter T. Gaynor. When asked by several Committee Members about severe shortages in personal protective equipment around the country, Administrator Gaynor and his staff explained that FEMA is now working to develop a system to track the supply chain and availability of critical supplies. However, he cautioned that FEMA has only been “at this for 48 hours.” Despite FEMA officials’ claims that the agency has been responding to the coronavirus outbreak since January, Administrator Gaynor was not invited to join the White House coronavirus task force until “earlier this week,” and FEMA did not host its first “interagency synchronization call” until yesterday.

Request for Briefing

One of the most important ways the federal government should be helping states is by ensuring their health care workers have the supplies they need to address this crisis. It is the

¹⁴ The White House, *Executive Order on Prioritizing and Allocating Health and Medical Resources to Respond to the Spread of Covid-19* (Mar. 18, 2020) (online at www.whitehouse.gov/presidential-actions/executive-order-prioritizing-allocating-health-medical-resources-respond-spread-covid-19/).

¹⁵ Donald J. Trump, *Twitter* (Mar. 18, 2020) (online at twitter.com/realDonaldTrump/status/1240391871026864130).

¹⁶ The White House, *Transcript of March 19, 2020 Briefing of White House Coronavirus Task Force* (Mar. 19, 2020) (online at www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-coronavirus-task-force-press-briefing-6/).

¹⁷ The White House, *Transcript of March 20, 2020 Briefing of White House Coronavirus Task Force* (Mar. 20, 2020) (online at www.whitehouse.gov/briefings-statements/remarks-president-trump-vice-president-pence-members-c-oronavirus-task-force-press-briefing/).

responsibility of the federal government—particularly during a national emergency—to lead response efforts and provide states with critical support that they need.

We need information about the Administration’s specific plans to ensure the production and distribution of personal protective equipment to determine whether Congress must take additional action. The House has already passed significant legislation to help address this crisis, and we are considering additional measures. We need to understand what steps are being taken to address immediate shortages and how the Administration is planning to ensure that hospitals are able to acquire lifesaving equipment that is in short supply.

For these reasons, we request that you provide a briefing for Committee Members next week to address the following topics:

1. The Administration’s plans to acquire and distribute personal protective equipment, including N95 masks, surgical masks, face shields, surgical gowns, isolation gowns, goggles, disposable caps, disposable shoe covers, and disposable gloves, as well as the quantities to be acquired, the method of acquisition (whether by manufacture, import, or otherwise), the anticipated dates of acquisition, and the locations of distribution;
2. The Administration’s plans to acquire and distribute ventilators to hospitals, including the quantities to be acquired, the method of acquisition (whether by manufacture, import, or otherwise), the anticipated dates of acquisition, and the locations of distribution;
3. The Administration’s plans to increase hospital bed capacity, including targeted locations, the methods to be used to increase capacity (i.e., using military resources, acquiring private property, constructing temporary hospitals, etc.), and relevant timing;
4. How HHS intends to utilize its authority under the Executive Order issued on March 18, 2020, including plans to utilize the Defense Production Act to increase the production of personal protective equipment and medical equipment and to increase hospital bed capacity; and
5. How HHS will work with FEMA in the acquisition and distribution of critical personal protective equipment and critical medical supplies.

The Committee on Oversight and Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

If you have any questions regarding this request, please contact Committee staff at (202) 225-5051.

Sincerely,



Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform



Raja Krishnamoorthi
Chairman
Subcommittee on Economic and
Consumer Policy



Stephen F. Lynch
Chairman
Subcommittee on National Security



Gerald E. Connolly
Chairman
Subcommittee on Government
Operations



Jamie Raskin
Chairman
Subcommittee on Civil Rights and Civil Liberties



Harley Rouda
Chairman
Subcommittee on Environment

cc: Mr. Peter T. Gaynor, Administrator
Federal Emergency Management Agency
500 C Street, S.W.
Washington, D.C. 20472

The Honorable Mark Meadows, Ranking Member
Committee on Oversight and Reform

The Honorable Michael Cloud, Ranking Member
Subcommittee on Economic and Consumer Policy

The Honorable Jody B. Hice, Ranking Member
Subcommittee on National Security

The Honorable Mark Meadows, Ranking Member
Subcommittee on Government Operations

The Honorable Chip Roy, Ranking Member
Subcommittee on Civil Rights and Civil Liberties

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The Honorable James Comer, Ranking Member
Subcommittee on Environment