United States Senate
WASHINGTON, DC 20510

July 17, 2020

The Honorable Michael R. Pence
Vice President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

The Honorable Deborah Birx, M.D.
Coronavirus Task Force Coordinator
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Vice President Pence and Ambassador Birx,

We write today to urge you to withdraw your confusing and harmful changes to hospital reporting requirements for Coronavirus Disease 2019 (COVID-19). In the midst of a global pandemic, these changes pose serious challenges to the nation's response by increasing the data management burden for hospitals, potentially delaying critical supply shipments, compromising access to key data for many states, and reducing transparency for the public. The Trump Administration's mismanagement of the COVID-19 response and refusal to heed public health expertise continue to put the country in a dangerous position.

The Centers for Disease Control and Prevention (CDC) is the primary repository of the nation's public health data, including data on COVID-19. Leading public health groups agree that CDC is "uniquely qualified to collect, analyze and disseminate information regarding infectious diseases."[1] The agency's National Healthcare Safety Network (NHSN), which has played a critical role in collecting public health data for fifteen years, is used in over 25,000 health care facilities across the United States for mandatory reporting of infection-related data and for voluntary use for quality improvement. NHSN's COVID-19 reporting module for hospitals, which launched on March 27, 2020, enables facilities to submit data on cases, personnel, and supply shortages. Following the launch of the COVID-19 module, Vice President Pence and the Centers for Medicare and Medicaid Services (CMS) required both hospitals and nursing homes to report to NHSN. Within six weeks of its launch, over 60 percent of the nation's hospitals were reporting daily through the NHSN COVID-19 module. As a result, many states have built their own COVID-19 data management systems on this NHSN data feed.

Despite the CDC's well-established reporting mechanism, in early April, the Assistant Secretary for Preparedness and Response (ASPR) issued a six-month contract for $10 million on a non-competitive basis to TeleTracking to create an alternate hospital reporting pathway to the Department of Health and Human Services (HHS). The new system inexplicably created a second, duplicative mechanism through which hospitals could report the same information already collected through NHSN – this time managed by a private contractor.

[1] https://www.tfah.org/article/order-to-bypass-cdc/

On July 13, 2020, you directed hospitals to cease reporting data to NHSN and instead report to HHS via the newly established TeleTracking or HHS Protect systems within 48 hours, splitting out hospital reporting and nursing home reporting into separate systems. Your request states "[a]s of July 15, 2020, hospitals should no longer report the COVID-19 information in this document to the National Healthcare Safety Network site. Please select one of the above methods to use instead." [2] You further unreasonably urged states to consider deploying the National Guard to the nation's hospitals to support this data reporting change.[3]

The change in reporting mechanism that you have ordered will only exacerbate ongoing challenges to tracking COVID-19 data, which is already hampered by serious limitations in how data is collected, managed, reported, and disseminated. Combined with insufficient testing capacity, this has led to an incomplete picture of the scope and impact of the COVID-19 pandemic in the United States. The CDC has indicated it believes the true number of cases in the country is 10 times higher than the official counts.[4]

The CARES Act, signed into law by President Trump on March 27, 2020, included $500 million for the CDC Data Modernization Initiative, to help CDC update, streamline, and scale up data collection. Rather than focusing on these critical efforts, however, the Trump Administration has chosen to instead reorganize and redirect data flow. This decision by the Administration to change the reporting process in the midst of a pandemic is deeply troubling. While there are certainly steps needed to improve public health data collection, waging interdepartmental jurisdictional battles to sideline our nation's leading public health agency in the middle of an historic pandemic is bad management at best and malpractice at worst.

Rather than focusing on emergency response and patient care, hospitals must now spend precious time and resources changing their processes for reporting data. You also announced that as soon as next week shipments of critical supplies that are in shortage, including personal protective equipment (PPE), will be based on data collected from these new systems. That means hospitals that are unable to change their reporting in under 48 hours may lose out on access to those critical supplies. Furthermore, the lack of transparency under the new data reporting requirements raises major concerns regarding their distribution. An opaque data collection mechanism invites political interference in processes and decisions that must be driven by data and public health.

Moreover, the abrupt change in data collection mechanisms threatens to leave states that rely on the NHSN data feeds in the dark about the spread of COVID-19 in their communities. By eliminating NHSN as the data source, and moving all federal hospital reporting to two systems that do not automatically share data or analytic reports created by CDC medical epidemiologists with states, the federal government is significantly undermining states' ability to effectively respond to this crisis. This is unacceptable at any point in a pandemic – it is especially dangerous in a moment where cases are surging to unprecedented levels, with more than 66,000 new cases

[2] https://www.hhs.gov/sites/default/files/covid-19-faqs-hospitals-hospital-laboratory-acute-care-facility-data-reporting.pdf
[3] https://www.washingtonpost.com/health/2020/07/13/trump-administration-recommend-national-guard-an-option-help-hospitals-report-covid-19-data/
[4] https://www.nbcnews.com/health/health-news/cdc-says-covid-19-cases-u-s-may-be-10-n1232134

reported in the U.S. on July 15.[5] This Administration has repeatedly underscored the role and responsibility of states in responding to COVID-19, yet steps like these actively undermine states' responses.

Without adequate data, the country has been unable to appropriately adjust our response to COVID-19—a reality highlighted by the dearth of reliable data on the heavy burden of COVID-19 on communities of color and other vulnerable populations. The American people deserve to know the true scope of the pandemic, and that can only happen if public health experts lead in collecting and reporting data accurately and transparently. By abruptly changing the reporting process by requiring hospitals to report to HHS and circumventing CDC, we are concerned there will be a disruption in the data collected and questions about the accuracy of that data.

The federal government must ensure data collection is led by public health experts, remains transparent and accurate, and is appropriately safeguarded. We urge that these changes to COVID-19 hospital reporting requirements be halted immediately.

Additionally, we request answers to the questions below about the decision to change data reporting requirements for hospitals. Please respond to the questions by July 31, 2020:

1. What is the justification for requiring hospitals to change their reporting within 48 hours?
2. What is the public health rationale for moving data collection from the CDC to HHS?
3. Will HHS or TeleTracking now provide analytic reports of the hospital data to other federal government agencies, state health departments, and hospital facilities as CDC previously did?
4. Will HHS or TeleTracking publicly report a portion of the hospital data as CDC previously did?
5. To the extent HHS is limiting access to data or analytic reports for federal agencies, state health departments, hospital facilities, and/or the public, what is the justification for such limitations?
6. How will data reported to HHS be transmitted to CDC to support ongoing holistic public health surveillance and analysis efforts of COVID-19 infections?
7. Please detail any differences between the NHSN, TeleTracking, and HHS Protect systems on the basis of technological capability or data collected.
    a. Please explain why NHSN is insufficient to effectively collect and report relevant COVID-19 data.
    b. Is NHSN unable to determine any resource allotments or response activities for which TeleTracking or HHS Protect offers new capabilities?
        i. If so, what would be required to update NHSN in order to allow it to perform this function? Why was this not pursued?
        ii. If not, please explain the stated justification for these changes.
8. Which office or entity will be in charge of managing the data at HHS?
9. Please describe the steps the Administration is taking to ensure data is both accurate and readily available for CDC, states, public health departments, Congress, the research community, and the public.
10. How will the Administration ensure a transparent data collection process?

[5] https://coronavirus.jhu.edu/data/cumulative-cases

11. How will the Administration ensure improved collection of demographic data, including data broken down by race ethnicity, age, geography, disability status, sex (including sexual orientation and gender identity), and socioeconomic status?
12. What funding is being used to support the new HHS data collection system? Please include details about which COVID-19 emergency supplemental bill appropriated this funding and the justification for HHS to use it for this purpose. Please also include estimated costs for developing and implementing this new system as well as any other related expenses, the plans for its long-term use, and projections for its annual costs.

We look forward to your responses.

Please contact Andi Fristedt (Andi_Fristedt@help.senate.gov) with any questions.

Sincerely,

Patty Murray
United States Senator

Gary C. Peters
United States Senator

Charles E. Schumer
United States Senator

Amy Klobuchar
United States Senator

Richard Blumenthal
United States Senator

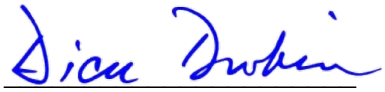
Robert Menendez
United States Senator

Michael F. Bennet
United States Senator

Sherrod Brown
United States Senator

/s/ Thomas R. Carper
Thomas R. Carper
United States Senator

/s/ Robert P. Casey, Jr.
Robert P. Casey, Jr.
United States Senator



Richard J. Durbin
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Tammy Baldwin
United States Senator

Edward J. Markey
United States Senator

/s/ Tom Udall

Tom Udall
United States Senator

/s/ Jack Reed

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Debbie Stabenow
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Tim Kaine
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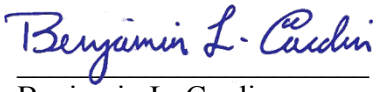
/s/ Martin Heinrich

Martin Heinrich
United States Senator

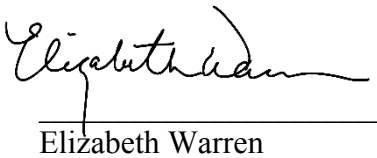
/s/ Patrick Leahy

Patrick Leahy
United States Senator

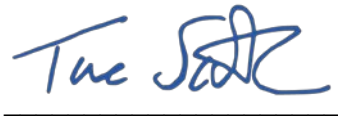


Benjamin L. Cardin
United States Senator

Jeanne Shaheen
United States Senator



Elizabeth Warren
United States Senator



Tina Smith
United States Senator

Sheldon Whitehouse
United States Senator

Angus S. King, Jr.
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Bernard Sanders
United States Senator

Cory A. Booker
United States Senator

Maria Cantwell
United States Senator

Catherine Cortez Masto
United States Senator

Kirsten Gillibrand
United States Senator

Margaret Wood Hassan
United States Senator

Doug Jones
United States Senator

Kamala D. Harris
United States Senator

/s/ Chris Van Hollen

Chris Van Hollen
United States Senator

Mazie K. Hirono
United States Senator

Brian Schatz
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Christopher A. Coons
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United States Senator

Jon Tester
United States Senator

/s/ Dianne Feinstein

Dianne Feinstein
United States Senator

/s/ Joe Manchin III

Joe Manchin III
United States Senator