

Congress of the United States
Washington, DC 20510

March 13, 2017

The Honorable Tom Price
Secretary
Department of Health and Human Services
200 Independence Ave. SW
Washington, DC 20201

Anne Schuchat, MD (RADM, USPHS)
Acting Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

Dear Secretary Price and Acting Director Schuchat:

We write regarding a report earlier this month about “a surge in human infections of a deadly bird flu in China [that] is prompting increasing concern among health officials around the world . . . [and that] poses the greatest risk of a pandemic threat if it evolves to spread readily from human to human.”¹

The Department of Health and Human Services (HHS) and the Centers for Disease Control and Prevention (CDC) would lead the federal government response to a pandemic flu. Before leaving the CDC in January 2017, the former Director, Dr. Thomas Frieden, stated his concerns about such a pandemic, noting that the greatest public health threat we face is “always for an influenza pandemic,” and that “[I]f the resistant organisms emerge in one part of the world, they will inevitably come to other parts of the world. . . . [A] pragmatic approach will rely on proven programs that protect Americans.”²

We share these concerns, but alarmingly, President Trump has issued at least seven threats to these “proven programs,” which threaten not only pandemic flu preparedness, but also a broad range of public health programs overseen and administered by the CDC: (1) President Trump's proposed drastic budget cuts, which reportedly include cuts to public health programs that would lead the response to a pandemic flu outbreak; (2) plans by President Trump and congressional Republicans to abolish the Prevention and Public Health Fund (PPHF) as part of

¹ Lena H. Sun, “Surge in Human Cases of Deadly Bird Flu is Prompting Alarm,” *Washington Post* (March 3, 2017) (online at: https://www.washingtonpost.com/news/to-your-health/wp/2017/03/03/surge-in-human-cases-of-deadly-bird-flu-is-prompting-alarm/?postshare=8471488556990075&tid=ss_tw&utm_term=.40b2cf15e3cb).

² Lena H. Sun, “Outgoing CDC Chief Talks about Agency’s Successes – and His Greatest Fear,” *Washington Post* (January 16, 2017) (online at: https://www.washingtonpost.com/news/to-your-health/wp/2017/01/16/outgoing-cdc-chief-talks-about-the-agencys-successes-and-his-greatest-fear/?tid=a_inl&utm_term=.8ca1cf116944).

their repeal of the Affordable Care Act (ACA); (3) President Trump's failure to appoint key public health officials to respond to a pandemic; (4) his executive order imposing a federal government hiring freeze; (5) his executive orders imposing a regulatory freeze and instituting barriers and delays to new regulations; (6) his executive order imposing a travel ban on citizens from Iran, Somalia, Sudan, Yemen, Syria, and Libya; and (7) his own history of false statements about vaccine safety.

President Trump will reportedly propose a \$54 billion budget cut on non-defense discretionary spending, which could include CDC, HHS, and other programs that are critical to preventing and responding to a pandemic flu outbreak.³ A cut of such size could impact our ability to effectively respond to any public health emergency, including a disease outbreak.

In addition, the President and congressional Republicans have developed plans to abolish the Prevention and Public Health Fund as part of their efforts to repeal the ACA. The PPHF provides critical funding to public health programs, accounting for more than 12 percent of the CDC's total program funding and 40 percent of the CDC's immunization program.⁴ The PPHF also provides 100 percent of the funding for the Preventive Health and Health Services Block Grant, which helps state and local governments build their public health infrastructure and fund immunization and infectious disease programs.⁵ Repealing the Prevention and Public Health Fund would deprive federal, state, and local governments of funding needed to fully prepare for and respond to a flu pandemic.

Other actions taken by President Trump could also impair our readiness in the face of a public health crisis, such as a flu pandemic. The President has failed to put in place permanent appointees in key public health positions at the HHS or CDC. He has not nominated a Deputy Secretary, General Counsel, Assistant Secretary for Planning and Evaluation, Assistant Secretary for Health, Assistant Secretary for Global Affairs, or Assistant Secretary for Preparedness and Response. Further, he has not appointed a CDC Director.

President Trump signed a Presidential memorandum on January 23, 2017, that instituted a federal government hiring freeze, stating that "no vacant positions existing at noon on January 22, 2017, may be filled and no new positions may be created."⁶ The President's memorandum allows the head of any agency to "exempt from the hiring freeze any positions that it deems necessary to meet national security or public safety responsibilities" and further allows the Director of the Office of Personnel Management (OPM) to "grant exemptions from this freeze

³ Eric Katz, "Trump's Budget Will Require 10 Percent Spending Cuts at Non-Defense Agencies," *Government Executive* (February 27, 2017) (online at: <http://www.govexec.com/management/2017/02/trumps-budget-will-require-10-percent-spending-cuts-non-defense-agencies/135720/>).

⁴ Centers for Disease Control and Prevention, "Accomplishing CDC's Mission with Investments from the Public Health and Prevention Fund, FY 2010-FY2016" (online at: <https://www.cdc.gov/funding/documents/cdc-pphf-funding-impact.pdf>).

⁵ Centers for Disease Control and Prevention. "PHHS Block Grant: Funding by Health Program Areas, Fiscal Year: 2016" (December 9, 2016) (online at: <https://www.cdc.gov/phhsblockgrant/funding/blockgrant16.htm>).

⁶ "Presidential Memorandum Regarding the Hiring Freeze," *White House Office of the Press Secretary* (January 23, 2017) (online at: <https://www.whitehouse.gov/the-press-office/2017/01/23/presidential-memorandum-regarding-hiring-freeze>).

where those exemptions are otherwise necessary.”⁷ An HHS internal memo has further clarified that “public health emergencies might include responses to pandemic influenza, Ebola, and the Zika outbreak,” and that positions involved in such emergencies fall under the public safety exemption from the hiring freeze.⁸ However, it remains unclear how those exemptions will apply to CDC or other HHS agencies and programs, whether they will apply to positions involved in pandemic flu prevention activities or whether exemptions will only be obtained in response to the onset of a pandemic influenza outbreak, and how exemptions would be implemented in the event of a pandemic flu outbreak.⁹

On January 20, 2017, President Trump imposed an executive order freezing all regulations in progress,¹⁰ and on January 30, 2017, he issued a second executive order, imposing a new requirement that “whenever an executive department or agency publicly proposes . . . a new regulation, it shall identify at least two existing regulations to be repealed.”¹¹ OMB guidance on this order allows exemptions “for emergency situations or other urgent circumstances relating to health, safety, financial, or national security matters, or otherwise.”¹² CDC has limited regulatory authority, but frequently works with other agencies to collaborate on regulations that can help prevent public health emergencies by putting in place necessary safeguards. For instance, following the Ebola outbreak in 2014, the CDC issued a final rule amending its foreign and domestic quarantine regulations.¹³ As with the hiring freeze executive order, it is not clear how those exemptions will apply to regulation or guidance from CDC or other HHS agencies and programs, whether they apply to prevention efforts, or how they will be implemented in the event of a pandemic flu outbreak.

President Trump has issued two separate executive orders imposing a travel ban on individuals from predominantly Muslim countries. During the recent Ebola outbreak, U.S. researchers worked together with scientists around the world and at multilateral institutions to contain the outbreak and speed progress toward a vaccine.¹⁴ In response to the January 27

⁷ “Presidential Memorandum Regarding the Hiring Freeze,” *White House Office of the Press Secretary* (January 23, 2017) (online at: <https://www.whitehouse.gov/the-press-office/2017/01/23/presidential-memorandum-regarding-hiring-freeze>).

⁸ Memo from Colleen Barros, Acting Deputy Secretary, “2017 HHS Hiring Freeze Exemptions” (online at: [http://raps.org/uploadedFiles/Site_Setup/Regulatory_Focus/News/2017/02/2017%20HHS%20Hiring%20Freeze%20Exemptions%20-%20signed%20\(002\).pdf](http://raps.org/uploadedFiles/Site_Setup/Regulatory_Focus/News/2017/02/2017%20HHS%20Hiring%20Freeze%20Exemptions%20-%20signed%20(002).pdf)).

⁹ “Trump Signs Federal Hiring Freeze, But Impact on FDA Unclear,” *Inside Health Policy* (January 23, 2016) (online at: <https://insidehealthpolicy.com/daily-news/trump-signs-federal-hiring-freeze-impact-fda-unclear>),

¹⁰ Reince Priebus, “Memorandum for the Heads of Executive Departments and Agencies,” *White House Office of the Press Secretary* (January 20, 2017) (online at: <https://www.whitehouse.gov/the-press-office/2017/01/20/memorandum-heads-executive-departments-and-agencies>).

¹¹ “Presidential Executive Order on Reducing Regulation and Controlling Regulatory Costs,” *White House Office of the Press Secretary* (January 30, 2017) (online at: <https://www.whitehouse.gov/the-press-office/2017/01/30/presidential-executive-order-reducing-regulation-and-controlling>).

¹² Mark Sandy, then Acting Director of the Office of Management and Budget, “Memorandum: Implementation of Regulatory Freeze,” *White House Office of the Press Secretary* (January 24, 2017) (online at: <https://www.whitehouse.gov/the-press-office/2017/01/24/implementation-regulatory-freeze>).

¹³ Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS), “Control of Communicable Diseases” (January 19, 2017) (online at: <https://www.federalregister.gov/documents/2017/01/19/2017-00615/control-of-communicable-diseases>).

¹⁴ Julia Belluz, “Trump Has Set the U.S. up to Botch a Global Health Crisis,” *Vox* (March 4, 2017) (online at: <http://www.vox.com/2017/3/4/14803596/trump-pandemic-response-global-health-cdc>).

executive order imposing a travel ban, the Massachusetts Biotechnology Council stated: “The recent refugee and immigration executive order is a threat to the sustainability and growth of the life sciences industry throughout the United States and, in particular, in Massachusetts, and a threat to scientific discovery.”¹⁵ These travel bans could pose a threat to the international collaboration necessary to building a global public health infrastructure and that would be required to develop an effective response to a global pandemic flu outbreak.

Finally, the President himself – on social media and in other forums – has repeatedly cast doubt on the safety of vaccines, falsely claiming that they can cause autism¹⁶ and reportedly promising to convene a “vaccine safety” panel led by Robert Kennedy, Jr., a notorious vaccine safety skeptic.¹⁷ These allegations are both scientifically baseless and potentially dangerous, as the public depends on “herd immunity” to prevent the spread of serious – sometimes deadly – diseases, such as polio and measles.¹⁸ The yearly flu vaccine also curbs the spread of the virus, and we have seen that a widespread outbreak can occur when there is no effective vaccine – as was the case with H1N1.¹⁹

To address these concerns, we ask that you provide written answers to the following questions March 27, 2017.

1. How would the lack of a permanent Presidential appointee in many key positions impact the ability of HHS and CDC to coordinate a response in the case of a pandemic flu outbreak? What are the responsibilities of the following offices with regard to pandemic flu preparedness?
 - a. CDC Director
 - b. HHS Deputy Secretary
 - c. HHS General Counsel
 - d. HHS Assistant Secretary for Planning and Evaluation
 - e. HHS Assistant Secretary for Health
 - f. HHS Assistant Secretary for Global Affairs
 - g. HHS Assistant Secretary for Preparedness and Response
 - h. Any other relevant public health position nominated or appointed by the President
2. What impact could substantial budget cuts have on pandemic flu preparedness?
 - a. What specific centers and divisions within CDC receive funding that is used for pandemic flu preparedness?

¹⁵ Massachusetts Biotechnology Council, “Statement by MassBio President & CEO Robert K. Coughlin on President Trump’s Immigration Ban Executive Order” (January 30, 2017) (online at: <https://www.massbio.org/news/recent-news/statement-by-massbio-president-and-ceo-robert-k-coughlin-on-president-trumps-immigration-ban-executive-order-129942>).

¹⁶ Tweet from @realDonaldTrump (March 28 2014) (online at: https://twitter.com/realDonaldTrump/status/449525268529815552?ref_src=twsrc%5Etfw).

¹⁷ Dylan Scott, “Robert F. Kennedy Jr. Says He Expects Trump Vaccine Panel Will Move Forward,” *STAT* (February 15, 2017) (online at: <https://www.statnews.com/2017/02/15/vaccines-trump-panel-kennedy/>).

¹⁸ Department of Health and Human Services, “Community Immunity (‘Herd Immunity’)” (January 18, 2017) (online at: <https://www.vaccines.gov/basics/protection/>).

¹⁹ Centers for Disease Control and Prevention, “The 2009 H1N1 Pandemic: Summary Highlights, April 2009-April 2010” (June 16, 2010) (online at: <https://www.cdc.gov/h1n1flu/cdcresponse.htm>).

- b. How are these funds used in each center and division?
 - c. What impact will the President's budget have on funding in each of these centers and divisions?
 - d. How would these centers and divisions address potential budget cuts, if such cuts were ordered by the President?
 - i. Will staff be cut?
 - ii. Will research, monitoring, or response activities be reduced or eliminated?
 - iii. What other changes will be made?
 - e. Was Dr. Schuchat or any other CDC staff consulted by White House or other Administration officials with regard to the impact of President Trump's budget proposal on pandemic flu preparedness?
- 3. What impact would the American Health Care Act's elimination of the Prevention and Public Health Fund beginning in FY 2019 have on pandemic flu preparedness and outbreak response capabilities?
 - a. What impact would elimination of the PPHF have on the CDC's capacity to administer its Epidemiology and Laboratory Capacity (ELC) and immunization programs?
 - b. What impact would elimination of the PPHF have on funding that CDC provides to state governments for public health laboratories, surveillance, and immunization programs?
 - c. What impact would elimination of the PPHF have on funding that CDC provides to local governments for public health laboratories, surveillance and immunization programs?
 - d. How would cuts to federal, state, and local funding for these activities impact the pandemic flu preparedness activities that CDC coordinates?
- 4. What will be the long- and short-term impacts on pandemic flu preparedness of President Trump's executive order instituting a government-wide hiring freeze?
 - a. Does this executive order apply to CDC?
 - b. Has the executive order prevented CDC from hiring any employees since it was put in place in January 2017?
 - c. Will this executive order cause CDC to reduce projected number of staff employed by the agency to address pandemic flu preparedness?
 - d. Has OMB provided clear guidance and a clear timeline on implementation of the exemption process?
 - i. In the event of a pandemic flu outbreak, will you exempt any positions at CDC from the hiring freeze because they are necessary "to meet national security or public safety responsibilities"?
 - ii. How many positions will be exempted in this manner? Please provide a detailed list of these positions.
 - iii. Does the exemption apply to prevention personnel engaged in preparedness activities, or does it only apply to an emergency once a pandemic has begun?

5. While CDC has limited regulatory authority, your agency has issued rules related to disease outbreak, publishes public health guidance, and would work with HHS, FDA, and other regulatory agencies with relevant jurisdiction to respond to a pandemic flu outbreak.
 - a. In previous outbreaks, have these agencies needed to impose any new regulations – either to address short-term concerns, to respond to “lessons learned” during the outbreak, or to prevent future outbreaks?
 - b. Would the executive orders imposing a regulatory freeze and requiring the repeal of two existing regulations for every new regulation put in place potentially prevent these agencies from imposing similar regulations in a future pandemic flu outbreak? Would they have any impact on the CDC guidance process or other agencies’ ability to issue regulations during or after a public health emergency?
 - c. Has OMB provided clear guidance and a clear timeline on implementation of the executive order's exemption process “for emergency situations or other urgent circumstances relating to health, safety, financial, or national security matters, or otherwise?”²⁰ In the event of a pandemic flu outbreak, will these exemptions be necessary to impose new regulations?
6. In January, President Trump issued an executive order banning travel from citizens of seven predominantly Muslim countries from entering the United States. He recently issued a second executive order implementing a revised travel ban for citizens of six predominantly Muslim countries.
 - a. How have CDC employees been impacted by the January 27 travel ban?
 - b. How have CDC employees been impacted by the March 6 travel ban?
 - c. How frequently does the CDC collaborate with international scientists in its efforts to develop vaccines?
 - d. How frequently does the CDC collaborate with international scientists in its efforts to engage in pandemic flu preparedness activities?
 - e. Do limitations on travel of scientists from the six countries named in the March 6 travel ban constrain CDC’s ability to engage in ongoing immunization and pandemic flu preparedness activities?
7. President Trump has linked vaccines to autism and has embraced vaccine “skeptics.”
 - a. In January of this year, Dr. Price stated that “general scientific consensus at this time is that vaccines do not lead to autism spectrum disorder.”²¹ Have you subsequently identified any scientific or medical validity to President Trump's concerns about vaccine safety? If so, please indicate which sources lend scientific or medical validity to his concerns.

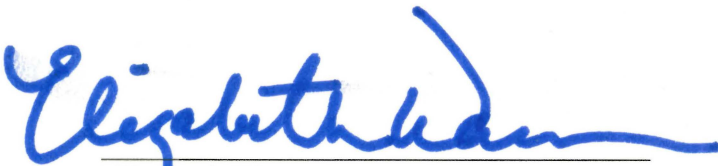
²⁰ Mark Sandy, then Acting Director of the Office of Management and Budget, “Memorandum: Implementation of Regulatory Freeze,” *White House Office of the Press Secretary* (January 24, 2017) (online at: <https://www.whitehouse.gov/the-press-office/2017/01/24/implementation-regulatory-freeze>).

²¹ Questions for the Record, “The Honorable Thomas E. Price Nomination Hearing for HHS Secretary” (January 24, 2017)

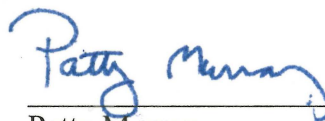
- b. Are you concerned that President Trump's statements may dissuade members of the public from receiving flu or other vaccines?
- c. Does CDC have a plan in place to prevent and minimize reductions in vaccination rates that could be caused by the statements from the President?

We ask that you provide us with written answers to these questions no later than March 27, 2017. In addition, we ask that you conduct a full briefing for our staff on CDC's pandemic flu preparedness efforts and the impact of Trump Administration policies and proposals.

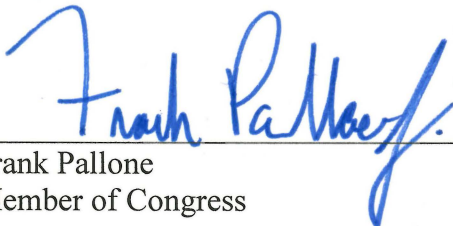
Sincerely,



Elizabeth Warren
U.S. Senator



Patty Murray
U.S. Senator



Frank Pallone
Member of Congress



Gene Green
Member of Congress



Diana DeGette
Member of Congress