



September 2020

COVID-19: Combatting the Administration's Failures

COMMITTEE ON ENERGY & COMMERCE

President Trump has failed to provide any national leadership in responding to the coronavirus disease of 2019 (COVID-19) pandemic. Since day one of this pandemic, Trump has disregarded scientific expertise and actively undermined our public health experts in an attempt to downplay the severity of this crisis and serve his own political interests. His refusal to develop a national strategy to combat COVID-19 has cost American lives and has left States, localities, territories, and Tribes fending for themselves.

The Energy and Commerce Committee has been demanding answers, a national strategy, and a change in priorities from the Trump Administration, while also putting forward legislative solutions to the Administration's many failings.

TESTING

From the start of the COVID-19 pandemic, the Trump Administration has failed on testing. Seven months into the crisis, and six months after President Trump falsely declared "Anybody that needs a test can have a test," our country still faces testing shortages and trails behind other developed countries in testing per capita.

- The Administration refuses to develop and implement a national testing strategy and instead has pushed this responsibility to states, resulting in a patchwork of 50 different responses.
- The Administration has recommended testing goals for the states lower than what many public health experts view as sufficient to effectively identify and control outbreaks.
- On August 24, the Administration issued, without explanation or scientific evidence, new guidelines through the Centers for Disease Control and Prevention (CDC). The new guidelines advise that some people without symptoms don't necessarily need to be tested for COVID-19, even if they have been in close contact with an infected person. This change could dramatically reduce the number of people tested and only served to confuse health care providers and the public, as it is contrary to the prevailing recommendation of most public health experts.
- On August 19, the Administration announced that lab developed tests no longer need review by the Food and Drug Administration (FDA) prior to coming to market. Flooding the market with unregulated and potentially inaccurate tests will only further undermine our response.
- **Nationally, right now, only about 800,000 tests are conducted daily when public health experts say we need to be doing at least 4 million every day.**
- These failures will become only more detrimental as the nation faces flu season and another possible resurgence in COVID-19 cases.

THE COMMITTEE'S ACTION:

- In April, Chairman Pallone wrote a [letter](#) to Coronavirus Task Force Coordinator Dr. Deborah Birx, calling on the Trump Administration to develop a widespread COVID-19 testing strategy.
- In June, Chairman Pallone wrote a [letter](#) to Department of Health and Human Services (HHS) Secretary Alex Azar raising further concerns and pressing for the need for a national testing strategy. The Committee has also continually pressed the Administration to expand testing.
- In July, Committee leaders wrote a [letter](#) to FDA Commissioner Stephen Hahn highlighting the need for FDA to ensure all tests that come to the market are accurate.

- In August, Chairman Pallone [demanded](#) a briefing from HHS on its decision to bypass FDA and allow lab developed tests to come to market without review.
- In September, Committee leaders [demanded](#) a briefing from CDC on changes to testing guidance.
- Legislatively, the House-passed Heroes Act requires a national testing strategy with clear federal benchmarks and timelines and provides \$75 billion in funding to support testing, contact tracing, surveillance, and containment.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

The Trump Administration has failed to develop and implement a comprehensive strategic plan to manufacture, procure, and efficiently distribute PPE to areas of need.

- Widespread PPE shortages have forced state and local governments, health care providers, and other frontline workers to compete against each other for scarce supplies. This competition drives up prices and forces those without the most resources to go without lifesaving supplies.
- State and local governments and health systems must also navigate complex supply chains in which the risk of error and fraud is dangerously high, which puts both frontline workers' and patients' lives at risk.
- **In August, the president of the American Medical Association cautioned that persistent shortages of PPE—including N95 masks, gowns, and gloves—continue to impede frontline workers and jeopardize our ability to fight COVID-19.**
- Reports indicate that shortages of PPE and other medical supplies may continue into 2021, especially with the onset of the flu season this Fall, and could last for years without strategic government intervention.

THE COMMITTEE'S ACTION:

- In June, the Committee held a [hearing](#) with three Governors on the front lines of the pandemic response, who testified about the challenges they faced and how the lack of centralized coordination resulted in a counterproductive competition between the states and the federal government.
- The Committee sent oversight letters to the Trump Administration regarding its handling of PPE shortages—[pressing](#) the Administration on how it is responding to states' requests for supplies and distributing PPE to areas of greatest need, and [requesting](#) information on how the Administration is overseeing PPE suppliers.
- In April, Chairman Pallone joined other committee chairs in [urging](#) Trump to coordinate production and acquisition of medical supplies, and in July, committee chairs [demanded](#) answers on why the administration was not boosting production of medical supplies.
- Legislatively, the House-passed Heroes Act places a Medical Supplies Response Coordinator in charge of all federal efforts related to PPE to coordinate a national response, makes important supply chain improvements to help respond to critical supply chain shortages, and provides greater flexibility and transparency related to the management and procurement of supplies for the Strategic National Stockpile.

POLITICS OVER SCIENCE

Since the beginning of the pandemic, President Trump has consistently placed politics over science, undermining the independence and integrity of our public health agencies.

- Public health agencies have been sidelined, their critical guidance has been undermined, and their

scientific experts have been attacked.

- **Trump has called FDA “the deep state,” forced revisions of CDC community and school reopening guidance, politicized face coverings and masks, and has belittled or contradicted CDC, National Institutes of Health, and White House Coronavirus Task Force scientists.**
- The White House has politicized the nation’s search for safe and effective COVID-19 vaccines and treatments, ignoring concerns from the Administration’s own scientists.
- The Trump Administration’s unfounded attacks, undermining of public health, and dangerous disregard for science have jeopardized the health and safety of all Americans.

THE COMMITTEE’S ACTION:

- The Committee raised alarm over the Trump Administration’s efforts to prioritize politics over science in a June 23 [hearing](#) with Administration officials.
- The Committee sent a [letter](#) to HHS Secretary Azar on June 29 regarding the sidelining of CDC and its experts.
- Following the continued escalation of political expediency over public health priorities, the Committee sent a [letter](#) to HHS Secretary Azar on July 20 urging him to protect public health or step aside.

VACCINES

The Trump Administration has failed to develop a national COVID-19 vaccine plan while its actions feed concerns that political influence, and not science, will guide the COVID-19 vaccine approval process.

- These failures threaten the future distribution and equitable allocation of a COVID-19 vaccine and risk eroding the trust of the American people.
- The Operation Warp Speed (OWS) initiative has promised unprecedented timelines, but a future COVID-19 vaccine must be safe, effective, accessible, and affordable for all who need it once it is available—assurances and details the Trump Administration has yet to provide.
- **The Administration’s prior Emergency Use Authorizations of hydroxychloroquine and convalescent plasma have raised questions about politicization of FDA. The Administration must follow science and transparent processes—not politics—in allowing any vaccine to come to market.**

THE COMMITTEE’S ACTION:

- In a May 21 bipartisan [letter](#) to White House Coronavirus Task Force Coordinator Deborah Birx, the Committee urged the Trump Administration to develop and release a comprehensive national COVID-19 vaccine plan.
- The Committee raised safety and efficacy concerns in an [oversight hearing](#) on July 21 to a panel of vaccine manufacturers engaged with OWS.
- Committee leaders again demanded answers and stressed vaccine distribution logistics and equitable allocation concerns in a [letter](#) to Dr. Birx and HHS Secretary Azar on August 5, followed by a [letter](#) to FDA Commissioner Hahn on August 24 urging that science and not politics guide the COVID-19 vaccine approval process.
- In September, Committee leaders [demanded](#) a briefing from CDC Director Robert Redfield on its notification to states that they be prepared to distribute a potential vaccine by November 1.
- Legislatively, the House-passed Heroes Act requires the creation of a plan to distribute and administer COVID-19 vaccines and enhances vaccine manufacturing capacity.

COVERAGE FOR TESTING AND TREATMENT

The Trump Administration has undermined a statutory mandate to make testing free to all Americans, and has done nothing to rein in price gouging in testing that continues to harm consumers. Increasing the availability of COVID-19 diagnostic and serological tests and making testing more accessible are critical steps in stopping the spread of the virus and safely reopening our nation's communities.

- In June, the Trump Administration issued guidance that places barriers on Americans' ability to receive free COVID-19 testing, allowing insurers to skirt the rules and deny coverage for COVID-19 testing in a wide range of circumstances. This guidance is contrary to the broad coverage requirements mandated by Congress and increases the likelihood that insurers will not cover certain COVID-19 tests and related items and services free of cost-sharing.
- The Administration's priority appears to be giving insurance companies loopholes instead of getting people the free testing they need.
- **Citing the Administration guidance, many insurance companies are declining to provide COVID-19 testing coverage free of cost-sharing under numerous circumstances, despite the broad coverage requirements mandated by Congress.**
- The Trump administration has also failed to take any effective action against reports of serious price gouging, with some providers billing thousands of dollars for administration of COVID-19 testing and related items and services.

THE COMMITTEE'S ACTION:

- In March, the House passed, and the President signed into law, the Families First Coronavirus Response Act. This law requires insurance companies to cover COVID-19 diagnostic and serological testing without cost sharing under all circumstances, and categorically prohibits insurance companies from using medical management to deny testing claims.
- In July, Chairman Pallone and other Democratic health leaders sent a [letter](#) to the Trump Administration expressing serious concerns about the Administration's June guidance and reports of insurers refusing to provide coverage for COVID-19 tests.
- In July, the Committee launched an [investigation](#) into disturbing reports of COVID-19 testing price gouging, and sent a letter to ten companies requesting information on their billing practices and prices for diagnostic and serological tests for COVID-19.
- In August, the Committee launched an [investigation](#) into insurance companies' compliance with the Families First Act and the CARES Act, and the extent to which the insurance industry may be profiting off the pandemic while simultaneously reducing access to free COVID-19 testing.
- Legislatively, the House-passed Heroes Act ensures access to COVID-19 treatment, drugs, and vaccines without concern for cost and goes after price gouging for health care services, medical equipment or supplies, including medical testing supplies, by providing the Federal Trade Commission and State attorneys general the authority to seek civil penalties.