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To: **Democratic Caucus Members**
From: **Chairman Frank Pallone, Jr.**
Committee on Energy and Commerce
Date: **March 19, 2020**
Re: **Committee's oversight of the Trump Administration's response to the COVID-19 outbreak**

The purpose of this memo is to update you on the Committee's oversight of the Trump Administration's response to the COVID-19 outbreak. Also attached to this memo are two fact sheets for you and your staff to use as resources regarding the emergency declarations made by the Trump Administration and an overview of testing.

Inadequate Testing Has Hindered Our Response to COVID-19

Public health experts agree that robust testing is an integral part of a country's response to a pandemic. Testing plays a vital role in assessing the extent to which the virus has spread and gives public health officials critical information to help mitigate community spread.

The Trump Administration's testing strategy and execution has been woefully inadequate. Testing in the United States has been plagued by problems from the start, delaying access to tests for sick individuals and preventing state and local authorities from mounting robust contact tracing and community prevention responses.

Ashish Jha, Director of the Harvard Global Health Institute, has stated, "This is an unmitigated disaster that the administration has brought upon the population, and I don't say this lightly… We have had a much worse response than Iran, than Italy, than China and South Korea." As Dr. Anthony Fauci from the National Institutes of Health (NIH) recently testified about the country's systematic response, "It is a failing, let's admit it."

A Series of Missteps Has Cost Valuable Time

After a possible contamination in the Centers for Disease Control and Prevention's (CDC) test that resulted in inconclusive results in some laboratories in the first week, CDC had to roll-back faulty tests, causing delays. A CDC official stated, "This has not gone as smoothly as we would have liked."

Some have criticized the Administration for not providing clear guidance to commercial laboratories and test manufacturers about how they could bring tests to market until February 29, 2020.

CDC's initial stringent testing criteria prevented clinicians from ordering tests for patients they felt were at high-risk for COVID-19. While CDC expanded the criteria a month after the test was released, clinicians and health authorities continue to express concerns that the testing criteria are too restrictive to capture an accurate count of COVID-19 cases in the country.

Trump Administration Minimizes Its Response Shortcomings

The Administration has repeatedly promised that "millions" of tests would be available, but only a fraction of that number has been distributed and even fewer are able to be performed by laboratories across the country.

On March 5, Vice President Pence admitted, "We don't have enough tests today to meet what we anticipate will be the demand going forward." But the next day, President Trump visited CDC and said, "Anybody that needs a test can have a test. They're all set; they have them out there."

CDC, public health laboratories, and private diagnostic laboratories have collectively tested approximately 59,000 people to date, while other countries have conducted tens of thousands per day.

Ongoing Action by the Committee

The Committee will continue its oversight of the Trump Administration's response and preparedness for the COVID-19 outbreak by having frequent and ongoing discussions with key agencies under its jurisdiction related to this matter, including the Department of Health and Human Services (HHS), CDC, NIH, the Assistant Secretary for Preparedness and Response (ASPR), Biomedical Advanced Research and Development Authority (BARDA), and the Food and Drug Administration (FDA).

Chairman Pallone has scheduled a call with HHS officials this week to raise concerns about the Administration's actions that imperil robust response efforts. He will continue to push for expeditious resolutions to these and other ongoing issues.

It is imperative that people across the country have access to valid tests and can actually be tested, that our health care workforce and other front-line responders are supported, and that plans be in place to mitigate the impact of potential shortages of critical supplies. The Committee sent a letter to FDA Commissioner Hahn on March 9th to request further information regarding the steps the agency is taking to mitigate supply chain problems, and will continue to push the Administration to support public and commercial laboratories' capacity, and work with states, manufacturers, and providers on issues as they arise.

Finally, concerns continue to be raised about the availability of necessary medical products, including medical swabs, reagents, and other supplies needed to conduct tests, respirators, ICU

beds, and ventilators, necessary to care for critical COVID-19 patients. The Committee has ongoing discussions with key agencies under its jurisdiction to determine what additional actions may be needed to fill ongoing gaps and shortages.

Resources and the Strategic National Stockpile

I know that you are all hearing from your states and localities about the issues they are encountering, especially on testing capacity and the supply chain shortages. We are doing everything we can to push the Administration to alleviate these issues. FDA also has critical information about alternatives to use for testing supplies, which can be found here.

The Strategic National Stockpile (SNS) has received requests from every state, and the Committee has been told that the first allocation of SNS requests has been shipped. The SNS is not intended to supplant the current supply chain, and is instead prioritized for the highest-risk health care personnel. Local providers inquiring about shortages should first be directed to your state health department, as some state health departments keep their own stockpiles of personal protective equipment (PPE) for emergency purposes. If your state health department does not have additional PPE available for distribution, the appropriate state-designated official may request items directly through their regional ASPR Emergency Coordinator.

Please contact me with any further questions.