

July 23, 2020

The Honorable Alex Azar
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue S.W.
Washington, D.C. 20201

Dear Secretary Azar,

The undersigned organizations write to urge you to rescind the guidance¹ for hospitals, hospital laboratories, and acute care facilities to direct daily COVID-19 data reports to the Department of Health and Human Services (HHS) via a system managed by a private contractor. Requiring hospitals to reroute daily reporting from the Centers for Disease Control and Prevention's (CDC) National Healthcare Safety Network (NHSN) to HHS's new HHS Protect limits transparency and access to key public health data, and hinders the ability of researchers, modelers, the media and the public to evaluate government recommendations as the country works to control the spread of the novel coronavirus.

The justification for this change is to streamline data-gathering and assist the administration's efforts to allocate health supplies, including personal protective equipment and drugs such as remdesivir. Experts recognize the government's current system needs improvements. However, changes introduced by the recent guidance will not fill those persistent gaps. Instead, these changes create new and urgent concerns about politicization of data, transparency and accountability.

The CDC was established as a data-driven, nonpartisan entity to, in part, coordinate responses to public health threats. The CDC has the necessary infrastructure, expertise and preexisting relationships with hospitals to lead federal efforts on coronavirus monitoring and surveillance. Requiring hospitals to report patient information to a central database at HHS shifts this key data collection effort away from the CDC to HHS, a more political entity. HHS Protect is a duplicative system that will make patient data most readily available to HHS staff, many of whom are political appointees without scientific expertise or long-standing working relationships with hospitals. This creates new opportunities for political appointees to conceal coronavirus patient data, delay reporting, or worse, facilitate the politicization of data in an attempt to keep concerning trends from public view.

CDC's NHSN was a trusted source of timely hospitalization data that allowed government officials and researchers to track key indicators of COVID-19's spread.² Its removal rightfully

¹ <https://www.hhs.gov/sites/default/files/covid-19-faqs-hospitals-hospital-laboratory-acute-care-facility-data-reporting.pdf>

² <https://www.nytimes.com/2020/07/14/us/politics/trump-cdc-coronavirus.html>

caused a public outcry,³ and its restoration with a notice that it is only current through July 14⁴ leaves unanswered questions about whether decisionmakers and the public will have timely access to high-quality COVID-19 hospitalization data in the future. Data released by the CDC earlier this month provided crucial insights into how the virus is disproportionately impacting people of color.⁵ The availability of comprehensive, disaggregated data remains vitally important to understanding – and appropriately responding to – the disparate impact of COVID-19 on communities across the country.

HHS’s decision to contract with a pair of outside vendors, TeleTracking and Palantir, to manage HHS Protect also raises its own set of concerns. Initial reporting on USASpending.gov showed that the multimillion-dollar contract was awarded to TeleTracking on a sole-source basis.⁶ HHS officials have since cited a coding error on USASpending.gov and clarified that in fact six firms bid on the contract,⁷ but concerns remain about the role of Palantir. Palantir – a company co-founded and currently chaired by Peter Thiel, a notable donor to President Trump⁸ – has a history of conducting shadowy data-mining and analysis for the federal government, including the military and Immigration and Customs Enforcement, as well as police departments across the country.⁹ Palantir’s involvement with HHS Protect raises concerns about how the data submitted by hospitals will be used and whether privacy interests will be protected. Even now, as HHS Protect is live, questions remain about the vendors’ ability to protect patient data, conduct data checks, or if it intends to sell data for profit. These transparency and accountability concerns are in addition to broader implementation concerns, as hospital staff have been given minimal notice to implement an entirely new reporting system – a significant burden while these staff are in the midst of responding to a surge in coronavirus cases across the country.

We recognize that there is need for improvement in the nation’s disease surveillance, monitoring and reporting systems. We strongly believe, however, that requiring hospitals to report patient information to HHS is not an appropriate solution. Any changes to coronavirus patient reporting systems should maintain or increase data access and transparency. And to the extent possible, changes in reporting systems should provide hospital staff sufficient notice in order to minimize the administrative burden. The recent guidance fails to meet these basic requirements.

The public needs to trust that they have as complete a picture as possible of the government’s response to the pandemic, and to trust that proper accountability mechanisms are in place. That trust is fostered by transparency and accountability when issuing public health recommendations. The recent guidance limits the ability for researchers, modelers, the media and the public to evaluate scientifically informed recommendations, and hinders the CDC’s ability to carry out

³ <https://www.washingtonpost.com/health/2020/07/16/coronavirus-hospitalization-data-outcry/>

⁴ <https://www.propublica.org/article/out-of-view-after-public-outcry-cdc-adds-hospital-data-back-to-its-website-for-now>

⁵ <https://www.nytimes.com/interactive/2020/07/05/us/coronavirus-latinos-african-americans-cdc-data.html>

⁶ <https://www.nytimes.com/2020/07/15/us/politics/coronavirus-database.html>

⁷ <https://www.nytimes.com/2020/07/17/us/politics/coronavirus-database-trump.html>

⁸ <https://www.theverge.com/2020/4/21/21230453/palantir-coronavirus-trump-contract-peter-thiel-tracking-hhs-protect-now>

⁹ <https://www.vox.com/recode/2020/7/16/21323458/palantir-ipo-hhs-protect-peter-thiel-cia-intelligence>

one of its core functions. A move to HHS Protect limits transparency and accountability, and raises new concerns around data politicization that undermine the public's ability to trust future public health recommendations from the federal government. We urge you to rescind the guidance in order to preserve transparent and accountable data reporting, and foster public trust in the integrity and rigor of government public health decisions.

Sincerely,

Alianza Nacional de Campesinas
American Civil Liberties Union
The Carter Center
Center for Reproductive Rights
Center for Science in the Public Interest
Citizens for Responsibility and Ethics in Washington
ECI Communications
Equity Forward
Essential Information
FracTracker Alliance
Government Executives International
Government Information Watch
Jacobs Institute of Women's Health
The Leadership Conference on Civil and Human Rights
NAACP
National Center for Health Research
National Coalition Against Censorship
National Employment Law Project
National Federation of Federal Employees
National Freedom of Information Coalition
National Health Law Program
Open The Government
Public Employees for Environmental Responsibility
Revolving Door Project
Rural Coalition
Special Libraries Association
Union of Concerned Scientists