

United States Senate

May 13, 2022

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human
Services
200 Independence Avenue, SW
Washington, DC 20201

Dr. Rochelle P. Walensky
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

Dear Secretary Becerra and Director Walensky,

We write to urge the Department of Health and Human Services (HHS) and the Centers for Disease Control and Prevention (CDC) to actively include in pandemic planning and response efforts seniors, people with disabilities, and those with compromised immune systems, and ensure that COVID-19 messaging prioritizes these high-risk populations. While COVID-19 remains a threat to the health and safety of all Americans, the virus presents a particularly grave risk to these individuals. As the federal government continues to respond to the COVID-19 pandemic, we urge you to highlight and emphasize the needs of high-risk populations in messaging, decision making, and public health guidance and policy.

As our nation's premiere public health agency, the CDC is the lead communicator for the federal government's COVID-19 response. With the Administration's recent pivot to promoting a return to normal routines, some of the CDC's messaging has failed to take into account the experiences of those most vulnerable to COVID-19. For example by focusing on hospitalization rates instead of community transmission, most Americans may not heed recommendations for elevated precautions, such as masking.¹ This can endanger the health and safety of high-risk populations, as high-risk individuals are forced to follow all mitigation measures themselves or self-isolate from indoor or crowded spaces to reduce their risk of contracting COVID-19. While the CDC is charged with crafting and sharing public health information for all Americans, it should promote messaging that prioritizes protecting populations at highest risk for severe illness and death from COVID-19.

In particular, millions of Americans are affected by comorbidities that increase their risk for severe illness from COVID-19, including pregnancy, depression, diabetes, asthma, dementia, and being overweight or obese, among others.² Seniors also remain at higher risk of severe illness and death from COVID-19 infection; nearly two thirds of COVID-19 deaths during the Omicron

¹ Adam Cancryn and Sarah Owerhohle, *CDC relaunching Covid tracker with an eye on eased mandates*, Politico (Feb. 24, 2022), <https://www.politico.com/news/2022/02/24/cdc-relaunching-covid-tracker-eased-mandates-00011680>; Ed Yong, *America Is Zooming Through the Pandemic Panic-Neglect Cycle*, Atlantic (Mar. 17, 2022), <https://www.theatlantic.com/health/archive/2022/03/congress-covid-spending-bill/627090/>.

² CDC, *COVID-19 Information for Specific Groups of People: People with Certain Medical Conditions*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last updated Feb. 25, 2022).

wave were of those 75 years or older, up from one third during the Delta variant wave.³ The Omicron wave also saw vaccinated people account for more than 40 percent of COVID-19 deaths, meaning that Americans, especially those at high risk, cannot eliminate all risk solely by following CDC vaccine schedules. For these reasons, we urge the CDC to amplify guidance that includes other public health mitigation measures and helps protect those most vulnerable to COVID-19.

Further, we urge you to include in CDC's pandemic planning and response efforts representatives from communities at highest risk. We appreciate HHS and CDC's willingness to meet with disability rights organizations earlier this year to discuss their policy goals.⁴ We ask that you continue to regularly engage with representatives from these communities, in addition to representatives of other vulnerable groups, to hear their concerns and feedback. This is particularly important as the CDC undergoes a month-long evaluation and transformation period,⁵ which will focus on the agency's "core capabilities," including health equity and preparedness and response to disease outbreaks. As part of this review, the CDC should consult those communities living at greatest risk for COVID-19. Maintaining and strengthening the relationship between these communities and our federal health and public health agencies is essential as the United States continues to contend with COVID-19.

We also urge you to step up efforts to protect disabled, immunocompromised, senior, and other high-risk populations in health care and congregate facilities, especially as highly transmissible omicron variants remain dominant in the United States. The Omicron BA.1 variant pushed COVID cases, hospitalizations, and deaths to record numbers in January 2022 — doubling the number of cases in January 2021.⁶ During the Omicron BA.1 surge, COVID-19 infections contracted during a hospital stay also peaked,⁷ more than doubling from 2,050 daily infections during winter 2020 to 4,700 in January 2022 at the height of the Omicron wave.⁸ The number of COVID-19 infections in health care facilities rose as cases in the community rose, despite precautionary measures such as routine COVID-19 testing and screening for patients and staff.⁹

³ Fenit Nirappil and Dan Keating, *Covid deaths no longer overwhelmingly among the unvaccinated as toll on elderly grows*, Washington Post, (Apr. 29, 2022), <https://www.washingtonpost.com/health/2022/04/29/covid-deaths-unvaccinated-boosters/>.

⁴ CDC, Press Release, Readout of Dr. Walensky's call with Disability Advocacy Groups and Allies (Jan. 14, 2022), <https://www.cdc.gov/media/releases/2022/s0114-call-disability-groups.html>.

⁵ Lena Sun, *CDC, under fire for covid response, announces plans to revamp agency*, Washington Post, (Apr. 4, 2022), <https://www.washingtonpost.com/health/2022/04/04/walensky-cdc-revamp-pandemic/>.

⁶ Shelly Tan, *Four charts that analyze how omicron's wave compares to previous coronavirus peaks*, Washington Post, (Jan. 11, 2022), <https://www.washingtonpost.com/health/interactive/2022/omicron-comparison-cases-deaths-hospitalizations/>.

⁷ Madeline Evans, *As Omicron surged, Non-Covid-19 patients Contracted Virus In Hospitals in Higher Numbers*, Wall Street J. (Feb. 18, 2022), https://www.wsj.com/articles/as-omicron-surged-covid-19-spread-through-patients-in-hospitals-11645180201?mod=hp_lead_pos4.

⁸ *Id.*

⁹ *Id.*

As the more transmissible BA.2 strain of Omicron now dominates in the United States,¹⁰ steps to improve infection control in health care settings are necessary for reducing preventable infections and saving lives.

We call on HHS to collect and publicly report data on hospital-acquired COVID-19 infections and deaths by hospital. Although the federal government tracks hospital-acquired infections for other viruses, HHS is not publicly reporting COVID-19 infections for individual hospitals.¹¹ As disabled, immunocompromised, and senior patients make plans with their health care providers about their care — especially for surgical procedures or their long-term care needs — they need to better understand their individual risk for a hospital-acquired COVID-19 infection. Disclosing this data will also help policymakers and health care leaders identify areas of high transmission and take steps to reduce hospital-acquired COVID-19 infections.

Clarifying and strengthening COVID-19 infection control measures for health care facilities is also critical. We applaud the CDC's recent policy clarification allowing patients and visitors at health care facilities to wear their own N95 or KN95 masks rather than being required to replace these high-quality masks with a hospital-issued surgical mask.¹² N95 and KN95 masks are more protective and can help prevent COVID-19 transmission within hospitals and other health care settings.¹³ Nevertheless, the CDC should further clarify masking guidance for health care and congregate facilities to better protect the disabled and immunocompromised, and senior patients and visitors. Whether masks are still recommended or required in health care facilities is unclear, with different public facing websites suggesting different answers.¹⁴ CDC guidance should make clear that masks are required in health care facilities to protect high-risk populations when they seek essential care.

Finally, we applaud Biden administration initiatives that will help protect high-risk populations by making high-quality masks more widely available, including the distribution of 400 million

¹⁰ CDC, *COVID Data Tracker: Variant Proportions*, <https://covid.cdc.gov/covid-data-tracker/#variant-proportions> (last accessed Apr. 26, 2022).

¹¹ Lauren Weber and Christina Jewett, *As Patients Fell Ill with Covid inside Hospitals, Government Oversight Fell Short*, Kaiser Health News (Dec. 23, 2021), <https://khn.org/news/article/as-patients-fell-ill-with-covid-inside-hospitals-government-oversight-fell-short/>.

¹² CDC, *Clinical Questions about COVID-19: Questions and Answers* (Mar. 24, 2022), <https://www.cdc.gov/coronavirus/2019-ncov/hcp/faq.html>; Rachel Levy, *CDC Updates Covid-19 guidance to allow patients wear N95s*, Politico (Mar. 24, 2022), <https://www.politico.com/news/2022/03/24/cdc-updates-covid-19-guidance-to-allow-patients-wear-n95s-00020342>.

¹³ Rachel Levy and Allan James Vestal, *Nowhere is safe: Record number of patients contracted COVID in the hospital in January*, Politico (Feb. 19, 2022), <https://www.politico.com/news/2022/02/19/covid-hospitals-data-00010283>.

¹⁴ CDC, *COVID-19: Preventing Getting Sick, Use and Care of Masks* (Feb. 25, 2022), <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>; CDC, *COVID-19 Community Levels* (Mar. 24, 2022), <https://www.cdc.gov/coronavirus/2019-ncov/science/community-levels.html>.

N95 masks from the Strategic National Stockpile.¹⁵ HHS should explore options to further increase access to high-quality masks for high-risk groups, including by mailing Medicare, Supplemental Security Income, and Social Security Disability Income beneficiaries high quality N95 or KN95 masks. Disabled, immunocompromised, and other high-risk populations may still face challenges obtaining high-quality masks because they lack accessible transit options, have other physical limitations, or cannot afford to buy them.

Although vaccines and treatments have helped reduce the severity of COVID-19 for many, the disease still poses a significant threat to the health and safety of large portions of the American public. The federal government's health agencies cannot leave behind the millions of American seniors, people with disabilities, and people with compromised immune systems who face significant risks from COVID-19 infection.

In addition to addressing the issues described above, we request that HHS and CDC respond in writing to following questions by May 25, 2022:

1. Will future CDC COVID-19 messaging, guidance, and recommendations prioritize the wellbeing of disabled, immunocompromised, and senior and other high-risk populations? If so, how?
2. Will CDC meet with members of affected communities during the CDC's evaluation and review process?
3. Throughout the duration of the pandemic, will HHS and CDC solicit feedback from representatives of the disabled, immunocompromised, and senior and other high-risk populations to address their concerns and feedback?
4. Will HHS publicly report hospital-level data for hospital-acquired COVID-19 infections?
5. Will the CDC clarify its masking guidance — specifically, whether masks are recommended or required in health care facilities — in order to protect high-risk populations from COVID-19 infection through community spread or hospital acquisition? Will the CDC update the “Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic” to reflect this clarification?¹⁶
6. Will HHS commit to increasing access to N95 and KN95 masks for high-risk populations, including by mailing masks to them?

¹⁵ Jeremy Diamond and Paul LeBlanc, *Biden administration to distribute 400 million N95 masks to the public for free*, CNN (Jan. 19, 2022), <https://www.cnn.com/2022/01/19/politics/n95-masks-biden-administration-covid-19/index.html>.

¹⁶ CDC, *Interim Infection Prevention and Control Recommendations for Healthcare Personnel During the Coronavirus Disease 2019 (COVID-19) Pandemic*, <https://www.cdc.gov/coronavirus/2019-ncov/hcp/infection-control-recommendations.html> (last updated Feb. 2, 2022).

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We also ask that you provide a briefing on your responses to these questions. Thank you in advance for your attention to this matter. If you have any questions, please contact Sedef Berk in Senator Markey's office at Sedef_Berk@markey.senate.gov.

Sincerely,


Edward J. Markey
United States Senator


Tammy Duckworth
United States Senator


Tim Kaine
United States Senator

CC: Dr. Ashish Jha, White House Coronavirus Response Coordinator