

Prepared Statement of Ranking Member Richard Burr

Nomination of Dr. Rachel Levine, Assistant U.S. Secretary of Health and Human Services

Nomination of Dr. Vivek Murthy, Medical Director in the Regional Corps of the Public Health Service and the Surgeon General of the Public Health Service

February 25, 2021

Thank you Senator Murray for the opportunity to provide remarks as the Committee reviews the qualifications for two critical public health positions at HHS, the Assistant Secretary for Health and Surgeon General. Dr. Levine, welcome. Dr. Murthy, welcome back.

Each of you have accepted nominations at an important time, when our country is facing one of the most challenging times in our history as we combat COVID-19. I have no doubt that, should you be confirmed to these important leadership positions, the majority of your time will be focused on responding to the novel coronavirus and its impact. As Assistant Secretary for Health, Dr. Levine, you would be in charge of a range of health issues, including human research protections and research integrity. As Surgeon General, Dr. Murthy, you would be responsible for providing Americans with the best scientific information and overseeing the Public Health Service Commissioned Corps, both of which continue

to be critical to the pandemic response. The question before us today is whether you are both prepared and qualified to take on the roles and responsibilities required, in addition to the challenges that face us today with the pandemic. This hearing will help answer that question. But I am very concerned about a nomination that is not before us today, in fact it hasn't even yet been made by the Biden Administration.

The Assistant Secretary for Preparedness and Response – or the ASPR for short – is the top advisor to the Secretary of HHS during public health emergencies. Congress created the ASPR to serve in a dedicated role that coordinates among all of the operating divisions and agencies within HHS – including the Assistant Secretary for Health and the Surgeon General. We have before us the nominees for both the Assistant Secretary for Health and the Surgeon General, but not their coordinator, the ASPR.

While the words of this administration claim urgency in their response to COVID-19, their actions, or lack thereof, speak otherwise. The law calls for strong leadership during a public health emergency. But the nominations before us today, while important, do not fill the role at the Department charged with leading an emergency response. This Administration claimed to be ready on “Day One” but the fact that a nomination for the ASPR hasn't yet been made, and no meaningful

effort at consultation with Congress about filling that position, raises serious concerns.

The ASPR is directed to communicate information from across the Department to the Secretary – bringing a daily vigilance and constant urgency to the health care needs of Americans, so that the Secretary can make informed decisions both in the midst of a public health crisis, and in times of preparation for the next threat we will face. We have been grappling with the novel coronavirus public health emergency for over a year. The new administration has had ample time to choose an individual for this critical role, so it is very difficult to understand why the ASPR nominee is not sitting here with the two of you today.

Since it is still our responsibility as members of this Committee to vet the two nominees before us, I will try to understand the roles each of you will play at HHS during the COVID-19 pandemic, and the qualifications and experience you have to do so.

The position of Assistant Secretary for Health evolved during the pandemic under the previous administration, playing an integral role in the COVID-19 response. Dr. Giroir worked with NIH and BARDA as they partnered with innovators to develop and scale up testing technologies, helped to address shortages of testing supplies, and worked with states to meet their testing needs.

Dr. Levine, you have been on the front lines of the COVID-19 response in your home state of Pennsylvania, which faced great challenges with testing capacity early in the pandemic and vaccine rollout to this day. The state public health lab was only able to perform about 6 tests per day in March of last year, severely limiting the public health response that relied on identifying where in the state the virus was spreading.

Along with the testing challenges from last spring, your state failed to adequately protect nursing home residents from the virus, and is making unacceptable mistakes in the vaccine distribution process. Pennsylvania ranks as one of the most dangerous states for long-term care residents battling COVID-19. Fifty-two percent of Pennsylvania's COVID-19 deaths came from nursing homes, and 3 in 10 of the deadliest facilities in the country were in Pennsylvania. Your state came in 46th in the country in its efforts to put safeguards in place that manage the spread of infections in these settings— with only 16 percent of your state's nursing homes receiving infection control inspections that could have helped to save residents from the spread of COVID-19.

While you have stated that you relied on federal guidance for nursing home care during the pandemic, the tragically high mortality rate in your state's nursing homes shows that more needed to be done, but wasn't.

In my state of North Carolina, our health Secretary also relied on federal guidance for nursing homes and long-term care settings. In North Carolina, our nursing home mortality rates, while still too high, account for 36% of deaths in the state. This discrepancy clearly shows that hiding behind federal guidance is no excuse for taking action to protect our most vulnerable. I look forward to understanding exactly why your decision-making, when relying on the same federal guidance as my state, resulted in such different outcomes for your seniors.

In regards to vaccine roll-out, reports from your state recently indicated that tens of thousands of Pennsylvania residents mistakenly received dedicated second doses of the Moderna vaccine. While you may have not been in office during the last few weeks of challenges facing your state, you were serving as the state's health secretary during the development and submission of its COVID-19 vaccination plan last October, and cannot separate your role from the performance of your agency a matter of weeks after your departure.

At each step – testing, treatment, and now vaccination – your state's response has fallen short. As the state's health secretary, this track record reflects on your ability to meet the challenges that would come across your desk immediately, should you be confirmed for this role.

Dr. Murthy, earlier this week you and I had the opportunity to discuss a range of issues that the Surgeon General will face during this administration,

starting with the response to COVID-19. You have already served once as the nation's doctor, and my friend, the Senator from Kentucky, often tells us there's not much education in the second kick of a mule. So I hope to learn more about why you want to do this job again.

Should you be confirmed, the American people will be placing their trust in you to communicate, without political preference or pressure, the best ways to keep their families safe during this crisis. I worry about your ability to separate political influence from your ability to communicate health care decisions. In fact, you spoke at the Democratic National Convention – a wholly political event – just a few months ago.

As Co-Chair of the transition team's Coronavirus Taskforce you said that that the President's goal of 100 million vaccinations by 100 days was "doable," lowering expectations for an accomplishment well within our reach today. Before President Biden took office our country was already vaccinating 900,000 people a day and had administered over 20 million shots. I'm in politics, so I know lots of people try to lower expectations in order to look like they are accomplishing something when they are simply showing up, but the Surgeon General has to be trusted on the facts. 100 million people in 100 days isn't a stretch goal and you shouldn't be afraid to stand up to the political staff who want you to lower expectations so the Administration can easily reach them. The American people

deserve a Surgeon General who will separate fact from fiction and level with us on the science.

Dr. Levine and Dr. Murthy, the actions and positions you have taken prior to your nomination in the pandemic response leave me with serious concerns. I hope that you use today's hearing to address these concerns to earn my support. The positions of Assistant Secretary for Health and Surgeon General are important and must be filled, but it is frustrating that the administration chose to prioritize the nomination of candidates for these positions, as important as they are, instead of the nomination of the leader for the federal government's response to pandemics that is required by law. Strong leadership will continue to be an absolute necessity through this phase of the pandemic response, and I will use my time today to get an answer to the question of "who is in charge?"

Chairman Murray, the actions of the two candidates today reveal questions in their abilities to bring our country out of this pandemic. Dr. Levine's challenges in Pennsylvania to bring early adequate testing and to keep nursing home residents safe, and Dr. Murthy's inability to separate politics from good public health policy are especially concerning when the role of ASPR still stands vacant. I look forward to hearing their testimony today, and their plans to navigate a response at HHS without a senate-confirmed ASPR to provide direction for these two offices during this challenging time.