March 28, 2020

The President  
The White House  
1600 Pennsylvania Ave., NW  
Washington, D.C. 20500

Re: Urgent Request to Invoke Powers under the Defense Production Act to Save American Lives

Dear Mr. President:

We are a broad group of state and national disability and chronic health conditions, disability rights, and health and other organizations concerned with and representing individuals throughout the country with a variety of health conditions. Many of our clients, members and staff have conditions which put them at particular risk of severe complications and death in the event they contract the Covid-19 virus. We write to join the request of the American Medical Association, the American Hospital Association and the American Nurses Association that you immediately use the manufacturing authority in the Defense Production Act (DPA) to increase the domestic production of personal protective equipment, medical supplies and equipment that hospitals, health systems, physicians, nurses and all front line providers so desperately need, so as to save hundreds of thousands of American lives.

We very much appreciate the efforts that you have already taken to respond to the Covid-19 pandemic, including your declaration of a national emergency. We also appreciate your using your executive authority on March 18 to invoke the DPA’s authority generally. Your call to manufacturers to voluntarily ramp up production of these crucial supplies and equipment has been helpful, so far as it has gone. And the FDA, with your support, just released guidance to help manufacturers produce more ventilators, and issued an emergency use authorization to cover other equipment that can be modified to operate as a ventilator.

While your encouragement and the FDA guidance are both helpful, almost all projections are that these efforts alone will not meet the need. Even with an infusion of supplies from the strategic stockpile and other federal resources, there will not be enough personal protective equipment (like N95 respirators), medical supplies, including ventilators, to respond to the projected outbreak. The ventilator shortage nationally is expected to be in the hundreds of thousands during the peak. Already, hospitals in New York have started to use the highly unorthodox technique of splitting one ventilator to keep alive two people. This untested and drastic approach is being deployed despite strong misgivings from experts because of the severe shortage — there is simply no other choice.
Quite soon, painful choices about who lives and who dies because of an absence of ventilators will need to be made by someone – maybe doctors, as we have sadly seen in Italy. Given the shortage, individuals who have disabilities and chronic health conditions are very likely to be the ones denied this life-sustaining equipment, no matter what laws like the Americans with Disabilities Act say, because someone trying to manage in the overwhelming crisis will say they are less likely than younger and healthier people to survive their ordeal.

The best way to avoid this catastrophe is to follow the policy you have started to set – to produce enough vitally necessary medical equipment, and personal protective equipment, so that the tragic shortages we will inevitably have can be held to a minimum. We know that you have wanted to hold the DPA’s manufacturing authority in reserve, to be used when and if the country needs it. Unfortunately, the events of the past few days have shown that, despite manufacturers’ best efforts, the country needs you to invoke it now.

As you have aptly pointed out, this is a war against an unseen enemy. Invoking the DPA’s allocation authority was the right step for you to begin to fight that war. It is now time to move onto the next step to invoke the manufacturing authority of the DPA to assure full federal funding for the conversion of factories and the guaranteed federal purchasing of all needed equipment and supplies in the categories specified above. The situation is extremely urgent because it will take weeks to produce the needed equipment, while the peak of hospital cases is also just a few weeks away. Given the vast needs and the difficulty for states and health care providers to vet potential equipment leads, we further urge you to consider federalizing the supply chain distribution. We have a well-grounded fear that an approach to wait and see if existing efforts are sufficient will put vulnerable individuals’ health and lives at risk. Invoking this DPA manufacturing authority at that point will be tragically too late.

Under the DPA, authority should be invoked to submit “rated orders” for this equipment. This authority necessarily includes the authority to compel manufacture, but that final step may not be necessary if the immediate financial incentives provided under the act dramatically increase the manufacturing capacity to promptly meet the need, as expected. That is what happened in World War II and it can happen in this war.

Finally, we note what an extraordinary request this is. But these are extraordinary times. The short-term temporary conversion of manufacturing capacity to fight this war and meet the urgent national need is an action that only a decisive war president can take, for the nation’s overall good, and you will be widely appreciated for taking that action. We urge you to take it immediately, while there is still time left to ramp up production and prevent the national catastrophe of tens or hundreds of thousands of American lives being lost for want of effective medical equipment or protective equipment.
Thank you for your ongoing leadership during this extremely challenging national crisis. If you have any questions, please contact Sheldon Toubman (stoubman@nhlegal.org or 203-710-8104) or Lew Golinker (lgolinker@aol.com or 607-227-6213).

Respectfully,

**National Organizations**
- American Academy of Physical Medicine and Rehabilitation (AAPM&R)
- American Association for People with Disabilities
- American Association on Disability and Health
- AFSCME: American Federation of State, County & Municipal Employees
- American Medical Student Association
- American Music Therapy Association
- American Muslim Health Professionals
- American Network of Community Options & Resources (ANCOR)
- Asian Pacific Community Health Organizations
- Assistive Technology Law Center
- Association for Community Affiliated Plans
- Bazelon Center for Mental Health Law
- Brain Injury Association of America
- Center for Medicare Advocacy
- Center for Public Representation
- Christopher & Dana Reeve Foundation
- Coalition for Disability Health Equity
- Disability Rights Education & Defense Fund
- DQIA: Disabled Queers in Action
- Easterseals
- Equality Labs
- Family Equality
- GLMA: Health Professionals Advancing LGBTQ Equality
- GLSEN
- Healthcare Rights Coalition
- Heartland Alliance
- Japanese American Citizens League
- Just Future Project
- Justice in Aging
- Lakeshore Foundation
- Muslim Public Affairs Council
- National Association of Pediatric Nurse Practitioners
- National Association of Rights Protection and Advocacy
- National Center for Learning Disabilities
- National Center for Transgender Equality
- National Coalition for LGBT Health
National Committee to Preserve Social Security and Medicare
National Disability Rights Network
National Equality Action Team
National Health Law Program
National Multiple Sclerosis Society
National Partnership for Women & Families
Pride at Work
SEIU
TASH
The Arc of the United States
Union for Reform Judaism
URGE: Unite for Reproductive & Gender Equity
State/Local Organizations

ADAPT Montana
Asian Americans Advancing Justice – Los Angeles
Colorado Children’s Campaign
Colorado Cross-Disability Coalition
Connecticut Cross Disability Lifespan Alliance
Connecticut Health Policy Project
Connecticut Legal Rights Project, Inc.
Connecticut State Independent Living Council
Disabilities Law Program of Community Legal Aid Society
Disability Law Center of Alaska
Disability Rights Arkansas
Disability Rights California
Disability Rights Connecticut
Disability Rights Florida
Disability Rights Mississippi
Disability Rights Nebraska
Disability Rights New Hampshire
Disability Rights New Jersey
Disability Rights New York
Disability Rights North Carolina
Disability Rights Tennessee
Disability Rights Vermont
Easter Seals Massachusetts
Equip for Equality
Georgia ADAPT
Georgia Advocacy Office
Keep the Promise Coalition
Kentucky Equal Justice Center
Massachusetts Law Reform Institute
Michigan Protection & Advocacy Service, Inc.
New Haven Legal Assistance Association
New York Lawyers for the Public Interest
Northwest Health Law Advocates
Oklahoma Disability Law Center
Protect Our Care Connecticut
Protection and Advocacy for People with Disabilities, South Carolina
SC Appleseed Legal Justice Center
Tennessee Justice Center
Whitman-Walker Health
Utah Disability Law Center