AUSTIN KNUDSEN

STATE OF MONTANA

May 8, 2024

President Joseph R. Biden Jr.
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

**Re World Health Organization's *International Health Regulations* (IHR) and new *Pandemic Treaty*.**

Dear Mr. President:

As the chief legal officers of our States, we oppose two instruments under negotiation that could give the World Health Organization (WHO) unprecedented and unconstitutional powers over the United States and her people. Justice Neil Gorsuch remarked that the COVID-19 pandemic may have been "the greatest intrusions on civil liberties in the peacetime history of this country."[1] Meanwhile, the WHO failed to hold the Chinese Communist Party accountable for its lies and deceptions during the pandemic.[2] Rather than learning from these failures, some inexplicably want to relinquish more power to unelected and unaccountable institutions.

These proposed accords could radically transform the WHO's existing International Health Regulations (IHRs) and institute a new "Pandemic Agreement" (Treaty).[3] The current draft of the Pandemic Agreement purportedly serves as "negotiating text" for international consideration. Although the latest iteration is far better than prior versions, it's still highly problematic. The fluid and opaque nature of these proceedings, moreover, could allow the most egregious provisions from past versions to return. Meanwhile, the IHR amendment process has largely occurred behind closed doors as the working group considers hundreds of proposals. To varying degrees, these measures would threaten national sovereignty, undermine states' authority, and imperil constitutionally guaranteed freedoms. Ultimately, the goal of these instruments isn't to protect public health. It's to cede authority to the WHO—

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[1] *Arizona v. Mayorkas*, 143 S. Ct. 1312, 1314 (2023) (Gorsuch, J., concurring).
[2] *See The Origins of the Global Pandemic, Including the Roles of the CCP & WHO*, Committee on Foreign Affairs, U.S. House of Representatives (Sept. 2020),
[3] Revised draft of the negotiating text of the WHO Pandemic Agreement, World Health Organization (March 2024), https://apps.who.int/gb/inb/pdf_files/inb9/A_inb9_3-en.pdf.

DEPARTMENT OF JUSTICE
215 North Sanders
PO Box 201401
Helena, MT 59620-1401
(406) 444-2026
Contactdoj@mt.gov
mtdoj.gov

specifically its Director-General—to restrict our citizens' rights to freedom of speech, privacy, movement (especially travel across borders) and informed consent.

We therefore oppose such accords for several important reasons. First, the two proposed instruments would transform the WHO from an advisory, charitable organization into the world's governor of public health. The WHO currently lacks authority to enforce its recommendations. Under proposed IHR amendments and the Pandemic Treaty, however, the WHO's Director-General would achieve the power to unilaterally declare a "public health emergency of international concern" (PHEIC) in one or more member nations. Such declarations can include perceived or *potential* emergencies other than pandemics, including climate change, immigration, gun violence, or even "emergencies" involving plants, animals, or ecosystems. The more egregious versions of the proposals would authorize the Director-General to dictate what must be done in response to a declared PHEIC. In other words, America's elected representatives would no longer set the nation's public health policies. Even watered down, these proposals would inappropriately cede American sovereignty to the WHO.

Second, the federal government cannot delegate public health decisions to an international body. The U.S. Constitution doesn't vest responsibility for public health policy with the federal government. It reserves those powers for the States. Even if the federal government had such power, Article II, Section 2 requires approval by the United States Senate.

Third, the proposed IHR amendments and the Pandemic Treaty would lay the groundwork for a global surveillance infrastructure, ostensibly in the interest of public health, but with the inherent opportunity for *control* (as with Communist China's "social credit system"). The current draft instructs signatories to "cooperate, in accordance with national law, in preventing misinformation and disinformation." This is particularly dangerous given that your administration pressured and encouraged social-media companies to suppress free speech during COVID-19.[4]

The COVID-19 pandemic exposed fundamental flaws with the WHO and other public health institutions. These entities breached public trust and are unquestionably in need of reform. The proposed measures, however, would only exacerbate the WHO's underlying problems and enable more civil liberties violations during future "emergencies." Accordingly, we will resist any attempt to enable the WHO to directly or indirectly set public policy for our citizens.

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[4] *See Missouri v. Biden*, No. 3:22-CV-01213, 2023 U.S. Dist. LEXIS 114585 (W.D. La. July 4, 2023).

Respectfully,

Austin Knudsen
Attorney General of Montana

Steve Marshall
Attorney General of Alabama

Tim Griffin
Attorney General of Arkansas

Ashley Moody
Attorney General of Florida

Christopher M. Carr
Attorney General of Georgia

Raúl Labrador
Attorney General of Idaho

Todd Rokita
Attorney General of Indiana

Brenna Bird
Attorney General of Iowa

Kris Kobach
Attorney General of Kansas

Russell Coleman
Attorney General of Kentucky

Liz Murrill
Attorney General of Louisiana

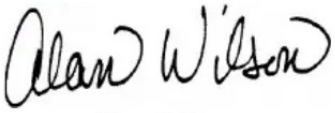
Lynn Fitch
Attorney General of Mississippi

Andrew Bailey
Attorney General to Missouri

Mike Hilgers
Attorney General of Nebraska

Dave Yost
Attorney General of Ohio

Gentner Drummond
Attorney General of Oklahoma



Alan Wilson
Attorney General of South Carolina

Jonathan Skrmetti
Attorney General of Tennessee

Ken Paxton
Attorney General of Texas

Sean Reyes
Attorney General of Utah

Jason Miyares
Attorney General of Virginia

Patrick Morrisey
Attorney General of West Virginia