



**THE SENATE
STATE OF MICHIGAN**

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JUDICIARY AND PUBLIC SAFETY, VICE CHAIR

CAPITAL OUTLAY

February 23, 2021

Michigan Attorney General Dana Nessel
G. Mennen Williams Building
525 W. Ottawa St.
P.O. Box 30212
Lansing, MI 48909

Dear Ms. Nessel:

On behalf of grieving families in our districts and across the state, we are issuing a formal complaint and we request your office open a full investigation into Gov. Whitmer's handling of pandemic mitigation in our state's long-term care facilities to include her administration's policies, the accuracy of data, compliance with CDC guidelines and compliance with our state's Freedom of Information Act.

COVID-19 cases and deaths among the elderly have soared over the last year. Gov. Whitmer's administration has been questioned repeatedly about unintended consequences of her policies and discrepancies in the reported numbers of cases and deaths in our state's long-term care facilities. It has now come to our attention that these reporting errors have likely not been resolved.

Gov. Whitmer's regional hub policy placed patients with and without COVID-19 in the same facilities and may have exacerbated the death toll in those facilities. Executive Order 50 of 2020 required long-term care facilities with dedicated units to accept admission of residents who had tested positive for the virus regardless of whether those residents may have still been contagious. However, due to reporting failures, there will be no accurate data on how many residents may have been harmed by this policy because there is no clear reporting path to document nursing home patient cases by facility after a transfer takes place. Moving residents around the state between facilities and hospitals may have significantly increased exposure of nursing home residents to the virus, while simultaneously shielding the death toll.

It is essential that all COVID-19 cases originating in nursing homes are tracked and publicly documented to have data on when a patient from a facility tests positive or dies after transfer to the hospital. Without this tracking, we do not have data on cases or deaths attributed to outbreaks in nursing homes.

When we contacted nursing homes in our districts, there were discrepancies in how cases were being reported. When there is a suspected case of the virus and the patient is transferred to a hospital and receives a positive test result at the hospital, some nursing home facilities are reporting a positive test in their numbers, while other facilities are not. The executive orders have only required long-term care facilities to report when

they have a resident who had a positive test at their facility, but not when a patient who was transferred tests positive. Additionally, there may be similar discrepancies in how these deaths are reported after transfer.

On Aug. 26, 2020, the U.S. Department of Justice announced that it is seeking data from Michigan's governor and three other governors who issued orders that may have resulted in the deaths of elderly nursing home residents. We are requesting that your office request copies of all data submitted to DOJ and work with members of Michigan's Legislature for the protection of our most vulnerable elderly Michigan residents.

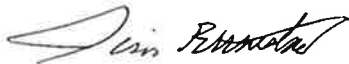
The state Legislature has the constitutionally prescribed power to provide oversight and, when necessary, conduct investigations into potential wrongdoing or abuses of power in state government. The Department of Attorney General has jurisdiction to investigate claims of abuse and neglect in long-term care facilities, to include oversight of COVID-19 mitigation efforts. It is your office's duty to fully investigate these processes and data discrepancies.

We formally request the attorney general immediately open a full investigation to review the critical matters identified in this letter, to include:

1. The processes and policies that may have contributed to the spread of the virus among our most vulnerable nursing home residents across the state;
2. The accuracy of the data reported by Gov. Whitmer's administration, taking into consideration the discrepancies in facility reporting policies as identified in this letter, to include the failure of some nursing homes to cite cases when a positive result comes back after a transfer to a hospital;
3. Compliance with all CDC guidelines and reporting requirements; and
4. Compliance with Michigan's Freedom of Information Act.

Thank you for your attention and response to this critical need for a full investigation.

Respectfully,



Jim Runestad
State Senator, 15th District



Tom Barrett
State Senator, 24th District



Ruth Johnson
State Senator, 14th District



Kim LaSata
State Senator, 21st District



Roger Victory
State Senator, 30th District



Lana Theis
State Senator, 22nd District



Dale Zorn
State Senator, 17th District



Curtis VanderWall
State Senator, 35th District