



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

May 1, 2020

VIA EMAIL

Seema Verma
Administrator, Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

**Re: RECENT NURSING HOME FACILITY NOTIFICATION REQUIREMENTS
RELATED TO COVID-19**

Dear Administrator Verma:

As Attorneys General of New York, California, the District of Columbia, Delaware, Hawaii, Illinois, Iowa, Maine, Massachusetts, Michigan, Minnesota, Nevada, Oregon, Pennsylvania, Washington and Wisconsin, we acknowledge the positive steps announced in the Centers for Medicare & Medicaid Services' ("CMS") recently issued memorandum (the "guidance") relating to new 2019 novel coronavirus ("COVID-19") family notification requirements for nursing home facilities.¹ As we know all too well, COVID-19 has already devastated the public health of our states, imposing unthinkable harms to the elderly and our most vulnerable, many of whom are housed in nursing homes. While the guidance maps out important new requirements, we call upon CMS to immediately issue specific regulations to fully implement the guidance issued on April 19, 2020.

To ensure that nursing homes are quickly notifying family members of illness and that the data is tracked by federal public health institutions, the guidance provides that: (i) nursing home facilities will be required to report COVID-19-related data including the existence of residents or staff with suspected or confirmed COVID-19, residents with severe respiratory infection resulting in hospitalization or death, and more than three residents or staff with new-onset respiratory symptoms within three days of each other to the Centers for Disease Control and Prevention ("CDC"), (ii) this information may be shared with the public, and (iii) nursing

¹ Upcoming Requirements for Notification of Confirmed COVID-19 (or COVID-19 Persons under Investigation) Among Residents and Staff in Nursing Homes, QSO-20-26-NH, April 19, 2020, <https://www.cms.gov/files/document/qso-20-26-nh.pdf>.

home facilities must separately notify residents and their representatives of this information within very narrow timeframes and with information about efforts to mitigate transmission. The guidance also states that failure to comply with these requirements could result in enforcement action.

While the guidance presents positive measures toward ensuring that the public is informed of the presence of COVID-19 cases in nursing homes, it appears that CMS has not yet issued proposed regulations or rules to implement this guidance and its notification requirements. The public needs immediate access to accurate information about the presence of COVID-19 cases in nursing homes in order for public health institutions to better understand the extent of the disease, and for family members to better plan for the well-being of loved-ones. The guidance states that it will be followed by rulemaking and additional guidance, but as the writing of this letter, CMS has yet to do so. Any delay in implementing these requirements means that individuals and families must continue to struggle to obtain essential information.

The Office of the Attorney General urges CMS to act quickly to implement and enforce these new nursing home notification requirements and to ensure that the public has full access to this important information. Given the extent of this contagious disease ravaging our nursing home facilities, we have no time to wait.

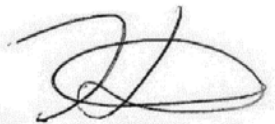
Very truly yours,



Letitia James
Attorney General of New York



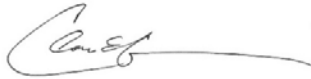
Xavier Becerra
California Attorney General



Karl A. Racine
Attorney General for the District of Columbia



Kathleen Jennings
Attorney General of Delaware



Clare E. Connors
Attorney General of Hawaii



Kwame Raoul
Attorney General of Illinois



TOM MILLER
Attorney General of Iowa



Aaron Frey
Attorney General of Maine



Maura Healey
Attorney General of Massachusetts



Dana Nessel
Michigan Attorney General



Keith Ellison
Attorney General of Minnesota



AARON D. FORD
Attorney General of Nevada



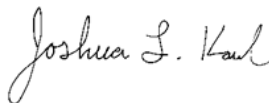
Ellen F. Rosenblum
Attorney General of Oregon



JOSH SHAPIRO
Attorney General of Commonwealth of
Pennsylvania



Bob Ferguson
Washington State Attorney General



Joshua L. Kaul
Wisconsin Attorney General