

March 20, 2020

The Honorable Charlie Baker
Governor of the Commonwealth of Massachusetts
Boston, MA 02133

Dear Governor Baker,

I greatly appreciate your leadership in marshalling a strong response to COVID-19 here in Massachusetts. I know that you and the senior members of your administration are working hard to mitigate the inevitable harms that we are facing as a result of the pandemic.

I am writing to point out one emergency order that was recently issued that is misguided and will, in fact, undermine both individual and public health. Requiring local boards of health to disclose the addresses of people who have tested positive for COVID-19 to officials administering the response to emergency calls and, in turn, to first responders, is not sound public health policy.

Our first responders must treat everyone as if they potentially have COVID-19 and use universal precautions on all calls. Relying on information provided by state health officials is not helpful. There will be no effective "list" as the overwhelming majority of people who are infected with COVID-19 do not know it. And sadly, over time, more than half the addresses in our state will likely end up on the list. Given this reality, sound public health policy during this pandemic dictates that first responders treat everyone as if they were infected with the Coronavirus.

Screening is critical to addressing this pandemic and is the front line of slowing the spread of this disease. Once we have an effective testing and screening system in place, we must reduce all barriers to screening. Given the stigma and discrimination surrounding any infectious disease, the idea that our addresses will be disclosed to local officials and first responders will likely deter some people from being screened - particularly immigrants and other vulnerable populations who already live in fear and in the shadows because of the Trump administration's policies.

For those of us who lived through the start of the AIDS epidemic, the similarities with COVID-19 are apparent. I know first-hand as I have been working in health and public health law and policy for over 30 years. I was the original director of law and policy programs at the AIDS Action Committee of Massachusetts, and served in that role from 1987-2000. I am currently a clinical professor of law at Harvard Law School, teaching public health law and serving as faculty director of the Law School's Center for Health Law and Policy Innovation.

As we were at the start of the AIDS epidemic, everyone is frightened. Everyone wants to feel safe and protected. And, of course, we all want to protect our first responders. One important lesson we learned from the AIDS epidemic is that a solution to addressing the legitimate concerns of first responders is not to identify those living with the disease – for the reasons articulated above, it will not make anyone safer and may actually put first responders at greater risk.

What we need right now is to ensure that our first responders have up-to-date training on COVID-19, the protective equipment they so desperately require, and other supports that make it possible for them to do their job - such as providing child care for their children (given that our children are not in school), and priority screening to protect themselves and others.

We need sound emergency orders. Free and universal testing must be made available to everyone. Resources must be committed to help address shortages of medical supplies, such as respirators. Medicaid and other safety net programs must be flexed to live up to their full potential. We should focus on these important objectives, and avoid invoking emergency orders that undermine individual and public health.

Sincerely,

Robert Greenwald
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CC: Secretary Marylou Sudders, Executive Office of Health and Human Services
Commissioner Monica Bharel, Department of Public Health
Undersecretary Lauren Peters, Executive Office of Health and Human Services