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The Honorable William Barr
United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

May 8, 2020

Dear Attorney General Barr:

I am calling on your office to begin an independent investigation into the actions of Governor Cuomo and his administration's handling of our long-term care facilities (LTCFs) here in New York. It is my fear and belief that to leave it in the hands of our Governor and our NYS Attorney General Letitia James would be a disservice to the lives we have lost and the families who mourn them.

As you may be aware, on March 25, 2020, Gov. Cuomo issued an Executive Order that effectively unleashed a wolf into a hen house by not allowing LTCFs the right to deny the acceptance of COVID patients into their facilities. In his daily briefing on April 19, the Governor even acknowledged the increased risk nursing homes faced stating, "It can just spread like fire through grass," yet the order continued even after the USNS Comfort arrived on March 30, the Javits Center facility opened on April 3 and the South Beach Psychiatric Facility opened on April 7.

There are growing calls throughout the state for an investigation into this directive and rightfully so. We want the truth and the facts but I do not believe that the state government has the ability to conduct a truly independent investigation. In a letter to Governor Cuomo and Dr. Howard Zucker, Commissioner of the NYS Department of Health dated April 30, 2020, I expressed my sense of alarm at the extraordinary number of deaths at these LTCF's to our most vulnerable population, which we began learning about on April 17. My questions have not been answered, but the Governor did address these deaths by ascribing blame to the LTCFs themselves and calling on his own investigation. That is disingenuous at best, criminal at its worst.

The day before he signed the Executive Order, the Governor stated during his daily press briefing, "My mother is not expendable, and your mother is not expendable, and our brother and sisters are not expendable and we are not going to accept a premise that human life is disposable and we are not going to put a dollar figure on lives." Well, who exactly was he referring to here because someone's mother was expendable, someone's brother and sister were expendable and human life was disposable when they, our most vulnerable, were faced with the very COVID patients that most health care professionals felt overwhelmed by? Yet these vulnerable residents of the LTCFs became some of our frontline casualties, unarmed, frightened, because the Governor did not provide an adequate supply of PPE needed to protect them and the staff that cared for them. He did not require that the local municipalities provide it either. Additionally, these facilities were not provided with tests to identify all infected patients and staff members so they can be quarantine, putting the facilities in further risk. Yet, our Governor wants to place blame on these facilities, staff and their administrators for the enormous death toll that his edict ensured.

I implore you to take charge of the investigation into the deaths of our most vulnerable population in our LTCFs so that we can ensure that what happened here will be exposed, justice served and families given adequate assurances that the investigation into the deaths of their loved ones will hold the right person or persons accountable.

While I believe in many areas, the Cuomo administration met the challenge, in this critical one they simply did more than drop the ball, they kicked it to the curb.

Even if unwittingly, these lives are forever gone.

Sincerely,

Nicole Malliotakis
Member of the Assembly
64th District