



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

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March 6, 2020

Chad Wolf
Acting Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528

Kenneth T. Cuccinelli
Senior Official Performing the Duties of the Director
U.S. Citizenship and Immigration Services
20 Massachusetts Ave. NW
Washington, DC 20001

Dear Acting Secretary Wolf and Senior Official Cuccinelli:

We urge the Department of Homeland Security (DHS) to immediately stop implementation of the *Inadmissibility on Public Charge Grounds Rule* (“Public Charge Rule”), *see* 84 Fed. Reg. 41,292 (Aug. 14, 2019), in the wake of the COVID-19 coronavirus. During the notice-and-comment period for the Rule, DHS received warnings of the potentially devastating effects of the Rule if its implementation were to coincide with the outbreak of a highly communicable disease – a scenario exactly like the one confronting our communities with the COVID-19 public health emergency. Your agency failed to consider such legitimate concerns.

Communities across America are undertaking extensive efforts to limit the spread of COVID-19. Your agency’s Public Charge Rule undermines those efforts by deterring individuals from accessing critical health benefits. Failure to immediately stay implementation of the Rule so that we can take the steps necessary to contain and mitigate the outbreak of the disease puts the public health and safety of our communities at increased risk.

The overwhelming evidence – including from the World Health Organization (WHO), Department of Health and Human Services (HHS), and the Centers for Disease Control (CDC) – shows COVID-19 is highly communicable and likely to spread in increasing numbers. On February 26, Dr. Nancy Messonnier, the Director of the CDC’s National Center for Immunization and Respiratory Diseases, explained “it’s not so much a question of if [community spread] will happen anymore but rather more a question of exactly when this will happen and how many people in this country will have severe illness.”¹ Analysis by Trevor Bedford, an investigator and expert in vaccines and infectious diseases at the Fred Hutchinson Cancer Research Center in Seattle, suggests that new coronavirus cases in Western Washington are

¹ *See* <https://www.cdc.gov/media/releases/2020/t0225-cdc-telebriefing-covid-19.html>

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likely doubling every six days.² Dr. Messonnier also warned the necessary public health responses may result in “disruption to everyday life [that] may be severe,” including interruptions to work and school closures.³ Despite these warnings, there is still hope the disease may be contained, provided governments at all levels take appropriate and comprehensive steps to limit its transmission. As the Director General of the WHO recently explained, “[w]ith early, aggressive measures, countries can stop transmission and save lives.”⁴

CDC’s data and public statements underscore the urgent importance of such measures. As of February 26 – just two days after DHS began implementation of the Public Charge Rule – CDC had already documented multiple cases of COVID-19 spreading person-to-person within the United States.⁵ CDC further acknowledges “person-to-person spread will [likely] continue to occur, including in the United States.”⁶ If an individual gets sick with suspected COVID-19 symptoms, CDC urges that they consult with their medical and healthcare professionals, including by “seek[ing] prompt medical attention if [their] illness is worsening.”⁷ CDC’s emphasis on coordination with healthcare professionals closely aligns with similar guidance from WHO, which warns that a successful response will require “all countries to educate their populations, to expand surveillance, to find, isolate, and care for every case, to trace every contact, and to take an all-of-government and all-of-society approach.”⁸ Inexplicably, DHS contravenes this guidance by implementing a public charge rule punishing certain lawful immigrants for seeking effective medical treatment that might mitigate COVID-19’s harmful scope and effect.

DHS’s implementation of the Public Charge Rule during this public health crisis is irresponsible and reckless. As noted by Plaintiff States in ongoing litigation challenging the Rule,⁹ DHS openly concedes the Rule could lead to “increased prevalence of communicable diseases,”¹⁰ disenrollment from public programs,¹¹ and increased use of emergency rooms as a primary method of health care.¹² Washington State has already had eleven deaths attributable to COVID-19. The State is doing everything in its power to limit the spread of the disease and prevent

² See <https://bedford.io/blog/ncov-cryptic-transmission/>

³ See <https://www.cdc.gov/media/releases/2020/t0225-cdc-telebriefing-covid-19.html>

⁴ <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19--2-march-2020>

⁵ <https://www.cdc.gov/coronavirus/2019-ncov/cases-in-us.html>

⁶ <https://www.cdc.gov/coronavirus/2019-ncov/summary.html>

⁷ <https://www.cdc.gov/coronavirus/2019-ncov/about/steps-when-sick.html>.

⁸ <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19--28-february-2020>

⁹ See *Washington v. DHS*, Case No. 4:19-cv-05210-RMP, Dkt. No. 158 (E.D. Wa., Sept. 27, 2019); *California v. DHS*, Case No. 4:19-cv-04975-PJH, Dkt. No. 17 (N.D. Cal., Aug. 26, 2019); *New York, et al. v. U.S. Dep’t of Homeland Sec.*, Case No. 1:19-cv-07777-GBD, Dkt. No. 35 (S.D.N.Y. Sept. 9, 2019) (explaining that the Final Rule jeopardizes Plaintiffs’ ability to reduce the spread of communicable diseases, will cause individuals to disenroll from public programs, and will increase use of emergency departments).

¹⁰ 83 Fed. Reg. at 51,270.

¹¹ 84 Fed. Reg. at 41,463.

¹² 83 Fed. Reg. at 51,270.

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additional fatalities. States, cities, and counties are undertaking similarly dramatic efforts to limit the spread of the disease and mitigate its harmful effects. With this threat looming, however, DHS's policy of deterring immigrants from using the medical benefits to which they are legally entitled directly undermines and frustrates our public health professionals' efforts, putting our communities and residents at unnecessary risk.

You have authority to swiftly correct your agency's failure to consider the Public Charge Rule's risks to public health and safety. We urge that you immediately stay implementation of the Public Charge Rule pending successful containment of COVID-19 to assist our public health professionals and protect our communities.

Sincerely,



Bob Ferguson
Washington State Attorney General



Laurie Jenkins
Speaker, Washington House of Representatives
27th District



Derek Stanford
Washington State Senate, District 1



Bob Hasegawa
Washington State Senate, District 11



Sam Hunt
Washington State Senate, District 22



Claire Wilson
Washington State Senate, District 30



Jesse Salomon
Washington State Senate, District 32



Karen Keiser
Washington State Senate, District 33

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Joe Nguyen
Washington State Senate, District 34



Reuven Carlyle
Washington State Senate, District 36



John McCoy
Washington State Senate, District 38



Lisa Wellman
Washington State Senate, District 41



Manka Dhingra
Washington State Senate, District 45



Patty Kuderer
Washington State Senate, District 48



Lisa Callan
Washington State House of Representatives
5th District



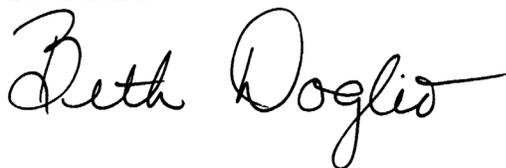
Steve Bergquist
Washington State House of Representatives
11th District



Strom Peterson
Washington State House of Representatives
21st District



Lillian Ortiz-Self
Washington State House of Representatives
21st District



Beth Doglio
Washington State House of Representatives
22nd District



Sherry Appleton
Washington State House of Representatives
23rd District

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Christine Kilduff
Washington State House of Representatives
28th District



Mike Pellicciotti
Washington State House of Representatives
30th District



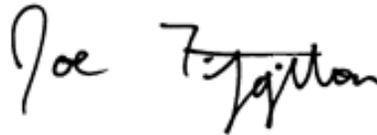
Cindy Ryu
Washington State House of Representatives
32nd District



Mia Gregerson
Washington State House of Representatives
33rd District



Eileen Cody
Washington State House of Representatives
34th District



Joe Fitzgibbon
Washington State House of Representatives
34th District



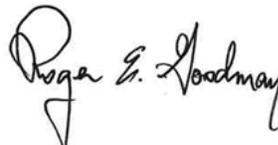
Sharon Tomiko Santos
Washington State House of Representatives
37th District



My-Linh Thai
Washington State House of Representatives
41st District



Frank Chopp
Washington State House of Representatives
43rd District



Roger Goodman
Washington State House of Representatives
45th District

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Larry Springer
Washington State House of Representatives
45th District



Gerry Pollet
Washington State House of Representatives
46th District



Javier Valdez
Washington State House of Representatives
46th District



Amy Walen
Washington State House of Representatives
48th District



Dave Somers
Snohomish County Executive

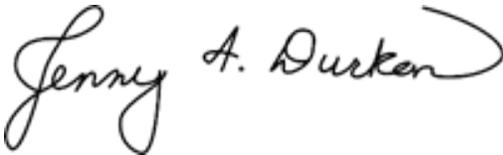
Carol Benson
Mayor, City of Black Diamond



Mary Lou Pauly
Mayor, City of Issaquah



Linda Newing
Mayor, City of Newcastle



Jenny Durkan
Mayor, City of Seattle



Girmay Zahilay
King County Council, District 2



Jeanne Kohl-Welles
King County Council, District 4

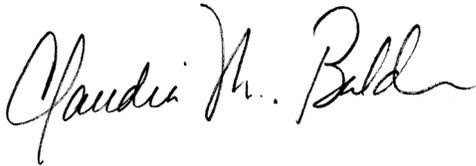


Dave Upthegrove
King County Council, District 5

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Claudia Balducci
King County Council, District 6



Joe McDermott
King County Council, District 8



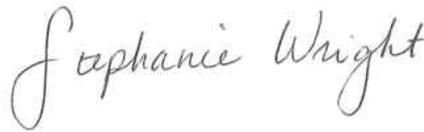
Derek Young
Pierce County Council, District 7



Rick Hughes
San Juan County Council Chair



Megan Dunn
Snohomish County Council, District 2



Stephanie Wright
Snohomish County Council, District 3



Lorena González
President, Seattle City Council, Position 9



Lisa Herbold
Seattle City Council, District 1



Tammy Morales
Seattle City Council, District 2



Debora Juarez
Seattle City Council, District 5



Andrew Lewis
Seattle City Council, District 7

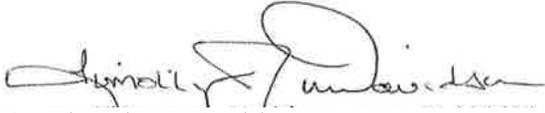


Teresa Mosqueda
Seattle City Council, Position 8

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A handwritten signature in black ink, appearing to read "Timothy J. Davidson". The signature is fluid and cursive, with a large loop at the end.

Dr. Timothy J. Davidson
Cowlitz County Coroner

CC: Vice President Mike Pence
Secretary Alex Azar, U.S. Department of Health and Human Services