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Congress of the United States
House of Representatives
Washington, DC 20515–3222

March 17, 2021

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Attorney General Garland,

We have written to the Department of Justice previously to highlight deeply concerning activities related to New York State Governor Andrew Cuomo's handling of the COVID-19 pandemic response. Today, we write to bring yet another issue of urgent concern to your attention and request that it, too, be fully investigated. New York State's policies placed those with intellectual or developmental disabilities at increased risk of exposure to COVID, and we fear COVID-related deaths in group homes have been underreported. Given Governor Cuomo's poor track record of transparently sharing COVID-related data with the public, we therefore call on the Department of Justice to initiate an investigation into this matter to determine first whether the civil rights of those with disabilities have been violated and second to assess whether the statistics shared with federal authorities by New York State are accurate and truthful.

An April 10, 2020, directive from the New York State Office for People with Developmental Disabilities (OPWDD) stated, "No individual shall be denied re-admission or admission to a Certified Residential Facility based solely on a confirmed or suspected diagnosis of COVID-19." The practical effect of this directive was to return COVID-positive patients who were no longer symptomatic to group homes. This directive came at the early stages of the pandemic when guidance was changing, consistent protocols were not in place, and shortages of Personal Protective Equipment were widespread. The directive remains in place today.

The OPWDD has publicly stated there have been 552 COVID-related deaths in group homes, but we have reason to doubt New York State's numbers given its poor track record of transparently sharing COVID-19 data. We fear this number could be even higher given the large populations in New York's more than 7,000 group homes. Additionally, the directive regarding group homes is similar to the March 2020 directive for nursing homes, which was rescinded. In that case, an investigation by New York Attorney General Letitia James determined the number of deaths in nursing homes was as much as 50 percent higher than the New York State Department of Health was reporting. The facts and circumstances regarding nursing homes are similar to group homes, which is why we believe the OPWDD statistics must be scrutinized.

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greater risk. We urge you to conduct a comprehensive investigation to assess whether the directive violates the civil rights of these individuals and to determine accurate figures regarding group home deaths. We thank you in advance for your attention to this important matter.

Sincerely,

CLAUDIA TENNEY
Member of Congress

ELISE STEFANIK
Member of Congress

LEE ZELDIN
Member of Congress

NICOLE MALLIOTAKIS
Member of Congress

CHRIS JACOBS
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