

United States Senate

WASHINGTON, DC 20510

March 4, 2020

The Honorable Chad F. Wolf
Acting Secretary
U.S. Department of Homeland Security
Washington, D.C. 20528

The Honorable Mark A. Morgan
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20229

The Honorable Matthew T. Albence
Deputy Director and Senior Official Performing the Duties of the Director
U.S. Immigration and Customs Enforcement
500 12th St. SW
Washington, D.C. 20536

Dear Acting Secretary Wolf, Acting Commissioner Morgan, and Deputy Director Albence:

As the nation prepares for an outbreak of coronavirus disease 2019 (COVID-19), we write to urge the U.S. Department of Homeland Security (DHS), specifically U.S. Customs and Border Protection (CBP) and U.S. Immigration and Customs Enforcement (ICE), to suspend all immigration enforcement actions in and around hospitals and other medical facilities. In addition, we ask that DHS, specifically CBP and ICE, publicly announce this suspension to ensure that individuals who might otherwise refrain from seeking care due to fear of immigration enforcement are encouraged to seek treatment for COVID-19. Such a suspension has precedent in similar actions taken by DHS, ICE and CBP following hurricanes, tropical storms, and other public emergencies.

DHS has traditionally taken steps to ensure that individuals—including undocumented individuals who might otherwise refrain from accessing medical care due to fears of deportation or other adverse immigration enforcement actions—can access health care and other services in the midst of public emergencies. In July 2019, for example, ICE chose to “temporarily suspend its routine targeted immigration enforcement activities” in parts of Louisiana and Mississippi impacted by Tropical Storm Barry.¹ ICE took a similar approach in 2017, during and after

¹ NOLA.com, “Tropical Storm Barry means New Orleans won’t be part of planned weekend ICE raids,” Elizabeth Crisp and Matt Sledge, July 11, 2019, https://www.nola.com/news/politics/article_6c12e938-a40c-11e9-96df-1b6c2bc85bb7.html.

Hurricanes Harvey and Irma, and in 2018, during and after Hurricane Florence.² In August 2019, as Hurricane Dorian approached Florida, ICE also publicly reiterated that the agency “does not conduct immigration enforcement operations at hurricane evacuation sites or shelters,” stating that “a crisis such as the devastation and destruction caused by a hurricane is not a time to compound one tragedy upon another by spreading fear in our community”—an acknowledgement that ICE operations can engender fear and have a chilling effect on a community.³

A coronavirus global health emergency also poses significant risks to the American public. In December, Chinese officials began reporting a novel virus originating in Wuhan, China. Researchers soon identified the virus as a new coronavirus strain (which causes COVID-19).⁴ To date, the virus has infected nearly 90,000 people and killed over 3,000.⁵ On January 30th, the World Health Organization declared the novel coronavirus a global health emergency,⁶ and on January 31st, Secretary of Health and Human Services Alex Azar declared it a U.S. public health emergency.⁷ Studies suggest that COVID-19 presents as a mild illness in the vast majority of people who contract it.⁸ COVID-19, however, is highly transmissible, meaning that individuals with mild cases, if they do not seek treatment, run the risk of passing the virus on to other individuals who may experience more severe infections.⁹ If individuals do not seek treatment for COVID-19 when they suspect they are infected, it renders containment efforts more difficult.¹⁰

Immigration enforcement actions, when they take place in or around hospitals or other medical facilities, could discourage undocumented immigrants from seeking necessary medical care.¹¹ Under existing policies, immigration enforcement actions—including “apprehensions,

² USA Today, “ICE says it will not conduct immigration enforcement operations in affected areas during Hurricane Dorian,” Savannah Behrmann, September 3, 2019, <https://www.usatoday.com/story/news/politics/2019/08/30/ice-immigration-enforcement-operations-during-dorian/2168682001/>.

³ USA Today, “ICE says it will not conduct immigration enforcement operations in affected areas during Hurricane Dorian,” Savannah Behrmann, September 3, 2019, <https://www.usatoday.com/story/news/politics/2019/08/30/ice-immigration-enforcement-operations-during-dorian/2168682001/>.

⁴ New York Times, “Coronavirus Map: Tracking the Spread of the Outbreak,” K.K. Rebecca Lai, Jin Wu, Allison McCann, Derek Watkins, Jugal K. Patel, and Richard Harris, February 18, 2020, <https://www.nytimes.com/interactive/2020/world/asia/china-wuhan-coronavirus-maps.html>.

⁵ Johns Hopkins, “Coronavirus COVID-19 Global Cases by Johns Hopkins CSSE,” <https://gisanddata.maps.arcgis.com/apps/opsdashboard/index.html#/bda7594740fd40299423467b48e9ecf6>.

⁶ NPR, “WHO Declares Coronavirus Outbreak a Global Health Emergency,” Merrit Kennedy, January 30, 2020, <https://www.npr.org/sections/goatsandsoda/2020/01/30/798894428/who-declares-coronavirus-outbreak-a-global-health-emergency>.

⁷ U.S. Department of Health and Human Services, “Secretary Azar Declares Public Health Emergency for United States for 2019 Novel Coronavirus,” press release, January 31, 2020, <https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html>.

⁸ New York Times, “Most Coronavirus Cases Are Mild. That’s Good and Bad News,” Vivian Wang, February 27, 2020, <https://www.nytimes.com/2020/02/27/world/asia/coronavirus-treatment-recovery.html>.

⁹ New York Times, “Most Coronavirus Cases Are Mild. That’s Good and Bad News,” Vivian Wang, February 27, 2020, <https://www.nytimes.com/2020/02/27/world/asia/coronavirus-treatment-recovery.html>.

¹⁰ *Id.*

¹¹ Healthcare Finance, “Could immigration enforcement in hospitals spawn a public health crisis?” Beth Jones Sanborn, October 30, 2017, <https://www.healthcarefinancenews.com/news/could-immigration-enforcement-hospitals-could-spawn-public-health-crisis>.

arrests, interviews, or searches, and for purposes of immigration enforcement only, surveillance”¹²—that are “at or focused on sensitive locations such as schools, places of worship, and hospitals should generally be avoided,” except under “limited circumstances.”¹³ Under these policies, enforcement actions at sensitive locations like hospitals should only occur under “exigent circumstances, if other law enforcement actions have led officers to a sensitive location, or with prior approval from an appropriate supervisory official.”¹⁴ Notably, this restriction on enforcement actions at sensitive locations does not apply to locations “within the immediate vicinity of the international border”—though officers operating within 100 miles of the border¹⁵ are “expected to exercise sound judgement and common sense while taking appropriate action, consistent with the goals of [the sensitive location] policy.”¹⁶

Recent reports, however, suggest that the agencies’ “sensitive locations” policy is inconsistently enforced.¹⁷ Furthermore, medical providers across the country are seeing an uptick in “the presence of immigration authorities...at health care facilities.”¹⁸ Doctors worry that this trend “could undermine public health in cities with large immigrant populations” by “frightening patients” and “prompting them to avoid hospitals.”¹⁹ As public health officials work to contain the spread of COVID-19, it would be extremely damaging to the nation’s public health efforts if individuals who may be suffering from the virus fear seeking medical help.

To ensure that federal, state, and local public health responses to coronavirus are as robust and unhindered as possible, we urge your agencies to take a step similar to those they have taken during recent natural disasters and immediately announce the suspension of all immigration enforcement activities taking place in and around hospitals. We also ask that you expand this suspension to include other medical facilities, such as clinics and urgent care facilities, and to include hospitals and other medical facilities within 100 miles of the international border in the list of facilities where the suspension is in place. We urge you to publicize this suspension to ensure that individuals who may be dissuaded from seeking care due to fears of immigration enforcement actions are instead able to seek COVID-19 testing and treatment. In addition, we request a staff-level briefing on additional efforts underway at DHS, CBP, and ICE to ensure that the agencies’ activities supplement and do not interfere with the response to COVID-19.

¹² U.S. Department of Homeland Security, “FAQ on Sensitive Locations and Courthouse Arrests,” <https://www.ice.gov/ero/enforcement/sensitive-loc>.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ 8 U.S.C. § 1357; 8 C.F.R. § 287.1

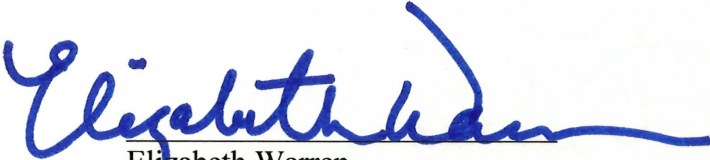
¹⁶ *Id.*; Physicians for Human Rights, “Establishing Sanctuary Hospitals: Protecting the Right to Access Health Care,” <https://phr.org/wp-content/uploads/2019/09/PHR-Sanctuary-Hospitals-Fact-Sheet-FINAL.pdf>.

¹⁷ Physicians for Human Rights, “Establishing Sanctuary Hospitals: Protecting the Right to Access Health Care,” <https://phr.org/wp-content/uploads/2019/09/PHR-Sanctuary-Hospitals-Fact-Sheet-FINAL.pdf>.

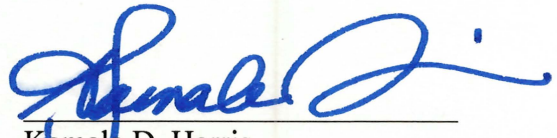
¹⁸ Associated Press, “Border Patrol’s growing presence at hospitals creates fear,” Adriana Gomez Licion, October 17, 2019, <https://apnews.com/52a38ce1d4b84e289b8073b47674514e>.

¹⁹ *Id.*


Sincerely,



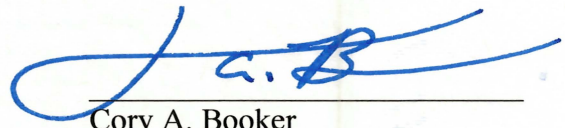
Elizabeth Warren
United States Senator



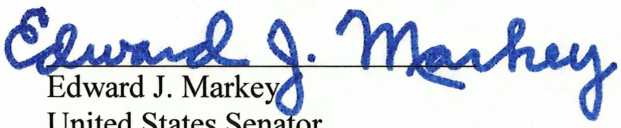
Kamala D. Harris
United States Senator



Richard Blumenthal
United States Senator



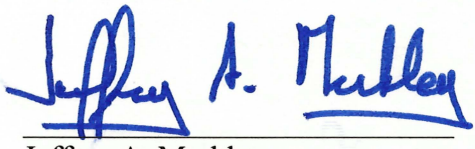
Cory A. Booker
United States Senator



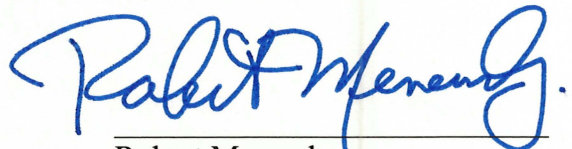
Edward J. Markey
United States Senator



Mazie K. Hirono
United States Senator



Jeffrey A. Merkley
United States Senator



Robert Menendez
United States Senator