

In the last couple weeks, countless people reached out to ask me questions about Governor Whitmer's executive orders. There's a lot of misinformation out there and that is leading to confusion and frustration for many Michiganders. This may not answer all of your questions, but I will be working on answering additional questions soon. When our laws are not being followed by our own government, it is up to us to take action. Hopefully the information contained herein will help you know how to do just that.

Your friend in liberty,  
Katherine Henry, Attorney at Law

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1. Does Executive Order 2020-33, the Expanded Emergency & Disaster Declaration, reset the clock and give the Governor more time of police power?

On March 10, 2020, Governor Whitmer issued Executive Order 2020-4, which declared a state of emergency in Michigan to address the COVID19 epidemic. In doing so, she relied upon MCL 30.403, which requires her to terminate the executive order when the emergency conditions no longer exist or after 28 days if the conditions of emergency continue to exist. The 28th day was April 7, 2020. The statute allows the state of emergency to be extended for a specific number of days at the Governor's request and the approval of both houses of the state legislature.

Some Republican legislators have stated that if the legislature did not vote to extend the Governor's state of emergency, she would have simply let the original executive order (declaring the state of emergency) expire only to turn around and immediately issue another executive order declaring a state of emergency. Similarly, when Governor Whitmer rescinded Executive Order 2020-4 and replaced it with Executive Order 2020-33 on April 1, 2020, Democratic House Minority Leader Christine Greig claimed that this new declaration of a state of emergency restarted the 28 day clock, meaning that under the law, the state of emergency would end on April 29th instead of the original date of April 7th. However, the language of the law is very clear. MCL 30.403 contemplates that emergency conditions may very well last beyond the initial 28 day period. The statute specifically says that the ONLY way the governor can extend the state of emergency is if she makes a request to the legislature to extend it for a specific number of days AND both houses of the legislature approve that extension. Representative Greig even acknowledged this very statutory language in her April 4th letter to Speaker of the House Lee Chatfield. Indeed, Speaker Chatfield replied in his letter dated April 4th that "Executive Order 2020-33 did not restart the twenty-eight day timeframe required by statute and make a legislative extension on April 7th unnecessary. By its own terms, that order is merely an 'expansion' of the original declaration and thus subject to the same time constraints. Your interpretation results in an obvious absurdity - that any governor could just revise and reissue declarations in perpetuity, rendering the clear language of the law and the legislative branch meaningless."

Moreover, "[s]tatutory language should be construed reasonably, keeping in mind the purpose of the act." Twentieth Century Fox Home Entertainment, Inc. v. Dep't of Treasury, 270 Mich.App. 539, 544, 716 N.W.2d 598 (2006) (quotation marks and citation omitted). Winkler v. Marist Fathers of Detroit, Inc., 321 Mich.App. 436, 446 (2017). Given the explicit 28 day time limit required, it is not reasonable to interpret MCL 30.403 to allow a governor to circumvent the 28-day time limit by simply issuing new orders that address the same emergency conditions of the original order.

Every governor we've had since the Emergency Management Act was enacted understands the 28-day limitation only gets extended through the legislature. As Speaker of the House Lee Chatfield wrote on April 4, 2020, "[s]ince 1977, there have been thirty-five [35] states of emergencies and fifty-two [52] states of disaster declared by the governor's office. In total, four [4] states of emergencies and six [6] states of disasters have been extended by the Legislature. None of these emergencies or disasters have been extended unilaterally by the governor, reflecting the twenty-eight day limit written into state law." [Back to Top](#)

2. Does the Governor's reliance upon MCL 10.31 (the 1945 law without specifics, definitions or timelines) allow her unilateral authority to extend the State of Emergency?

Several legislators are saying they had NO CHOICE and HAD to vote to give the Governor an extension for the state of emergency. One just posted "if we voted no or did nothing the [1945] law actually allows her to do it any amount of days on her own. Our vote was the only method we currently have to limit it at all. When the budget comes we could do something but that isn't until October."

The governor derives her powers of declaring a state of emergency from two portions of our laws. The first is MCL 10.31, enacted in 1945, and found in the chapter of our laws which spells out all of the governor's rights and responsibilities. The second is MCL 30.403, enacted in 1976, and found in the chapter of our laws called the Emergency Management Act, which spells out applicable definitions, limitations on emergency powers, and time frames required in these situations. These statutes must both be followed in the governor's exercise of emergency powers.

- a. Do the 28-day requirements in MCL 30.403 apply to the Governor's executive orders even though she cited MCL 10.31 which has no time limits?

Yes, regardless of Governor Whitmer citing MCL 10.31, the time limits of MCL 30.403 still apply. Indeed, "all statutes relating to the same subject, or having the same general purpose, should be read in connection with it, as together constituting one law, although enacted at different times, and containing no reference one to the other." *State Treasurer v. Schuster*, 456 Mich. 408, 417 (1998). In other words, the State of Emergency powers given to the governor in MCL 10.31 (the statute that has no "end date") must be read in conjunction with the definitions, requirements, and timeframes of the Emergency Management Act. Thus, when she utilizes power given to her under MCL 10.31 (where the emergency "shall cease to be in effect upon declaration by the governor"), MCL 30.403 requires that "[a]fter 28 days, the governor SHALL ... declar[e] the state of emergency terminated," unless the legislature CHOOSES TO GIVE her more time. In other words, if they had voted AGAINST giving her more time, or if they had not even convened the legislature at all, her POLICE POWERS WOULD HAVE ENDED April 7th, as the law required her to declare the state of emergency terminated by the 28th day.

If Governor Whitmer were allowed to create an executive order under MCL 10.31 and ignore the requirements of MCL 30.403, then that would mean she gets to pick and choose which laws apply to her actions. That reasoning would be seriously flawed, as it would render all restrictions upon her exercises of authority as unenforceable. "I am not bound by the legal requirements of XYZ law, because I did not reference that law when I took this action." Quite frankly if that's how it works, I then choose to not follow any executive orders - or the 70mph speed limit on I96, because I don't like them and I'd rather just follow the other laws.

But clearly Governor Whitmer recognizes that a "statute must be interpreted in a manner that ensures that it works in harmony with the entire statutory scheme. [Walters v. Leech, 279 Mich.App. 707,] 710 (2008); see also Wayne Co. v. Auditor General, 250 Mich. 227, 233 (1930)." *Winkler v. Marist Fathers of Detroit, Inc.*, 321 Mich.App. 436, 446 (2017). That is why she references the Emergency Management Act of 1976 and the Emergency Powers of the Governor Act of 1945 in each of her executive orders.

- b. Does MCL 30.417 (d) stop the Emergency Management Act (MCL 30.401 - 30.421) from

## applying to the Emergency Powers of Governor in MCL 10.31?

No. Legislators have said that the time limits in 1976 law do not apply to emergency powers exercised by a governor under the 1945 law. MCL 30.417 (part of the 1976 Act) states that the 1976 Act "shall not be construed to . . . limit, modify, or abridge the authority of the governor to proclaim a state of emergency pursuant to . . . 10.31" or exercise powers under other relevant laws. First, MCL 30.403 and MCL 10.31 clearly refer to the exact same kind of emergency conditions requiring extraordinary government action. Second, MCL 30.403 does not "limit, modify, or abridge the authority of the governor to proclaim a state of emergency." In fact, MCL 30.403 bolsters the governor's authority to proclaim a state of emergency by giving such proclamations full "force and effect of law," while MCL 30.405 adds "additional powers of governor," and MCL 30.402 (e) and (h) add additional circumstances which may qualify for exercise of these emergency powers.

However, a few legislators think MCL 30.417 (d) "has rendered [the entire Emergency Management Act] basically an empty shell because it defers entirely to the coverage of the old law [MCL 10.31]." We must remember, though, that "[s]tatutory language should be construed reasonably, keeping in mind the purpose of the act." *Winkler v. Marist Fathers of Detroit, Inc.*, 321 Mich.App. 436, 446 (2017), citing *Twentieth Century Fox Home Entertainment, Inc. v. Dep't of Treasury*, 270 Mich.App. 539, 544 (2006). Also, it is a long-accepted principle of statutory construction that "[s]tatutes which may appear to conflict are to be read together and reconciled, if possible." *People v. Bewersdorf*, 438 Mich. 55, 68 (1991). And, "[i]f statutes lend themselves to a construction that avoids conflict, that construction should control. *Id.*; *House Speaker v. State Administrative Bd.*, 441 Mich. 547, 568-569 (1993)." *Walters v. Leech*, 279 Mich.App. 707, 761 N.W.2d 143 (2008). Moreover, a "statute must be interpreted in a manner that ensures that it works in harmony with the entire statutory scheme." *Winkler v. Marist Fathers of Detroit, Inc.*, 321 Mich.App. 436, 446 (2017), citing *Walters v. Leech*, 279 Mich.App. 707, 710 (2008) and *Wayne Co. v. Auditor General*, 250 Mich. 227, 233 (1930). Thus, you cannot read MCL 30.417 (d) to say that all the other provisions of MCL 30.401 - 30.421 are "basically an empty shell [that] defers entirely to [MCL 10.31]." In other words, despite these absurd claims about MCL 30.417 (d), ALL provisions of MCL 30.401 - 30.421 are in full force and effect. After all, it is not reasonable to interpret the new law as saying it has zero force and effect and that it is simply reaffirming every provision of the old law. [Back to Top](#)

### 3. Is COVID19 an "Emergency" or "Disaster" in state law? Does it matter?

Some have argued that the Governor's Executive Order 2020-33 starts the clock over on her 28 days of emergency powers because it declares COVID19 a state of *disaster* in addition to the prior order declaring it a state of *emergency*. This is not true. Although COVID19 might appear to be an "occasion . . . [where] state assistance is needed to supplement local efforts and capabilities to save lives," as MCL 30.402 (h) defines "emergency," it more appropriately fits the definition of "disaster" in MCL 30.402 (e) of "an occurrence or threat of widespread or severe damage, injury, or loss of life . . . resulting from . . . epidemic." This distinction does not matter in terms of the powers given to the governor, nor of the time limits involved, as the language of MCL 30.403 (3) regarding states of "disaster" and MCL 30.403 (4) regarding states of "emergency" are identical, both limiting the declarations to 28 days without legislative approval.

It is clear, however, that the law only allows one such declaration to be made for any such occurrence. In Executive Order 2020-33, Governor Whitmer states "MCL 30.403(3)-(4) provides that '[t]he governor shall, by executive order or proclamation, declare a state of emergency' **and/or** a 'state of disaster' upon finding

that an emergency **and/or** disaster has occurred or is threatening to occur." Thus, a "state of emergency and a state of disaster [were] both declared across the State of Michigan." However, it is clear by the statutory language throughout the Emergency Management Act that such a dual declaration is not permitted. As discussed above, MCL 30.402(e) is used to describe "disaster" as a situation separate and distinct from the "emergency" defined in MCL 30.402(h), meaning that the same menacing situation would not be labeled under both categories. MCL 30.404(1) calls for the disbursement of stockpiled supplies under a "proclamation of a state of disaster or a state of emergency." The provisions of MCL 30.405 come into effect "upon the declaration of a state of disaster or a state of emergency," and contain powers to help her in "coping with the disaster or emergency." Likewise, MCL 30.403 states that the governor is the one "responsible for coping with dangers to this state or the people of this state presented by a disaster or emergency." Consequently, the same COVID19 pandemic is *not* two separate events capable of having two distinct classifications under the Emergency Management Act. [Back to Top](#)

#### 4. What is the legal effect of the legislature not extending the Governor's State of Emergency?

Governor Whitmer's Executive Order 2020-4 declared a state of emergency on March 10, 2020. On April 1, 2020, she replaced that order with Executive Order 2020-33. Under MCL 30.403, this state of emergency was required to end on April 7, 2020 without the legislature granting additional time. On April 7, 2020, the Michigan Legislature voted to extend the state of emergency to April 30, 2020. All of the other executive orders relating to COVID19 rely on the state of emergency continuing. In other words, when the state of emergency ends on April 30, 2020, ALL other COVID19-related executive orders will no longer have legal effect. So, the "stay at home" order, the order restricting "non-essential" medical and dental services, the order releasing prisoners early, the order cancelling the rest of the school year, the order extending FOIA deadlines, the order restricting access to loved ones at care facilities, the order cutting off kids in juvenile detention centers from their families and support services, the order closing movie theaters and gyms, the order limiting restaurants to take-out service, etc., will immediately end.

- a. What happens if the legislature votes against her request to further extend the State of Emergency, allowing no more time past April 30th?

As explained in detail above, the state of emergency will end, and all executive orders relating to COVID19 will immediately lose legal effect.

- b. What happens if the legislature does not meet to vote on extending the State of Emergency past April 30th?

MCL 30.403 requires that a state of emergency be terminated after 28 days "unless a request by the governor for an extension of the state of emergency for a specific number of days is approved by resolution of both houses of the legislature." The COVID19 state of emergency was declared in Michigan on March 10, 2020, creating an April 7, 2020 termination date absent legislative extension. The legislature convened on April 7, 2020 and voted to extend the state of emergency to April 30, 2020. If the legislature does not vote to extend the state of emergency again, for whatever reason, the state of emergency ends on April 30, 2020. In other words, if they simply do nothing and do not even meet to vote on the issue, the law requires the state of emergency to end on April 30, 2020.

- c. What happens if the legislature attempts to meet to vote on the issue of extending the State of Emergency past April 30th, but the House or the Senate or both fail to have enough members present to constitute a quorum?

MCL 30.403 requires that a state of emergency be terminated after 28 days "unless a request by the governor for an extension of the state of emergency for a specific number of days is approved by resolution of both houses of the legislature." The COVID19 state of emergency was declared in Michigan on March 10, 2020, creating an April 7, 2020 termination date absent legislative extension. The legislature convened on April 7, 2020 and voted to extend the state of emergency to April 30, 2020. If the legislature does not vote to extend the state of emergency again, for whatever reason, the state of emergency ends on April 30, 2020. In other words, if the legislature attempts to meet to vote on another extension of time for the state of emergency, but they fail to have enough members present in either the House, the Senate, or both, the vote would not pass, and the law requires that the state of emergency would end on April 30, 2020. [Back to Top](#)

## 5. COVID19 is still in Michigan, so doesn't that mean our State of Emergency has to continue?

No, work can and will be done to combat COVID19 without a state of emergency declaration in effect by Governor Whitmer. Unfortunately, our state legislators have said that "the state and federal emergency funding on which our healthcare infrastructure currently depends, relies on there being a declared 'state of emergency,'" and that is why they voted to extend the state of emergency to April 30, 2020. However, this is simply not true. MCL 30.416 specifically contemplates emergency conditions whose devastating effects would extend beyond our state borders. While these legislators have focused on the governor being able to seek aid for Michigan under her own power to declare a state of emergency with MCL 30.403, they are failing to acknowledge MCL 30.416 specifically allows the governor to "apply for, accept, and disburse grants from the federal government" along with related functions once the "president of the United States declares an emergency or a major disaster . . . to exist in this state." On March 13, 2020, the President declared a nationwide state of emergency for the COVID19 outbreak, effective March 1, 2020. Thus, under MCL 30.416 and President Trump's declaration of a nationwide state of emergency, Governor Whitmer has the power to receive and disburse emergency funding for Michigan.

Furthermore, countless private businesses have come together to provide for the needs created by COVID19. Teaming with American Express and JPMorgan Chase, "Marriott has committed to provide \$10 million worth of hotel stays for healthcare professionals leading the fight against COVID-19 in the United States. The initiative, called Rooms for Responders, will provide free rooms in some of the areas most impacted including . . . Detroit . . . To implement this initiative, we collaborated with the American College of Emergency Physicians and the Emergency Nurses Association to match doctors and nurses with free accommodations at participating hotels." Email from Marriott International April 9, 2020. Marriott, in a separate effort for frontline healthcare workers called the Community Caregiver Program, is providing "significantly discounted rates for first responders and healthcare professionals who want to book rooms at hotels in close proximity to the hospitals where they're working. The rate is available on Marriott.com at nearly 2,500 hotels." *Id.* Major airlines have also offered to fly doctors, nurses and first responders to COVID19 hotspots for free of charge. As Governor Whitmer announced during her 3pm press conference on April 13, 2020, companies like DTE are donating millions of items of personal protective equipment (PPE) to the COVID19 fight here in Michigan. Additionally, doctors around the state, prior to Governor Whitmer's threats, were already prescribing hydroxychloroquine for patients to combat the effects of COVID19. Even teachers I work with have been making face shields with 3D printers. [Back to Top](#)

6. How do these executive orders impact mowing my lawn or doing normal yard work?

Most cities and townships in Michigan have ordinances regarding lawn maintenance, like grass length. Additionally, most homeowners associations and condominium associations have requirements for lawn maintenance. Further, in some communities, "yard waste pick up has been halted." So, with the Governor stating that "cosmetic and non-emergency maintenance and improvements to the outdoor areas of residences and business are not permissible under this order," some Michigan residents have assumed that lawn maintenance ordinances and property association rules are suspended. That is not the case. Some townships are even putting out "Yard Waste and Lawn Maintenance Updates," reminding residents of their lawn maintenance responsibilities.

Some of us regularly mow our own lawns, so this portion of the governor's restrictions doesn't really affect us. However, many have raised concerns. One person pointed out that elderly, disabled and night shift workers rely on lawn maintenance companies to mow their lawns, etc. These individuals would not be able to abide by lawn maintenance ordinances or homeowners association requirements without the services of lawn mowing companies. Rakes, mulch and all other yard maintenance supplies have been deemed "non-essential" and illegal to purchase. So, even able-bodied individuals who simply need a new lawn mower or a rake, etc., would be unable to comply with lawn maintenance requirements.

Further, another individual pointed out health concerns. "Our landscape business is in jeopardy. How is landscaping not essential? It's a public health issue, especially due to concerns over ticks and mosquito-borne illnesses." Representative Julie Calley reminds us with her recent tweet that Eastern Equine Encephalitis (EEE) was a recent health concern that shut down sporting events and other outdoor activities state-wide just a mere six months ago. In fact, while "older adults and people of any age who have serious underlying medical conditions" (State of Michigan, [Coronavirus - Are some people at greater risk for getting the COVID-19 virus?](#), last accessed April 16, 2020) are most at risk for severe illness from COVID19, those with the highest risk for infection with EEE are those "who live in or visit woodland habitats, and people who work outside or participate in outdoor recreational activities." (MDHHS, *EEE and Aerial Spraying Frequently Asked Questions*, Updated 10/09/2019, last accessed on Michigan.gov on April 12, 2020)

With warmer weather arriving, nearly all Michigan residents will be spending more time outdoors, and more people than normal will be utilizing outdoor recreational activities since all indoor entertainment is forbidden by executive order. But we must not forget that "[s]evere cases of EEE infection begin with the sudden onset of headache, high fever, chills and vomiting. The illness may then progress into disorientation, seizures and coma. Approximately a third of patients who develop EEE die, and many of those who survive have mild to severe brain damage." (MDHHS, *EEE and Aerial Spraying Frequently Asked Questions*, Updated 10/09/2019, last accessed on Michigan.gov on April 12, 2020) Also, "[t]here is no specific treatment for EEE. Antibiotics are not effective against viruses, and no effective anti-viral drugs have been discovered. Severe illnesses are treated by supportive therapy which may include hospitalization, respiratory support, IV fluids and prevention of other infections." *Id.* If it's true that we have a shortage of ventilators and other medical equipment needed in treating COVID19, then why increase the risk of people getting EEE, who will then need the same medical equipment?

We also had concerns over West Nile Virus (WNV) just a few short months ago. As [www.Michigan.gov/EEE](http://www.Michigan.gov/EEE) explains, there are certain steps people should take to reduce their chance of getting infected with EEE and WNV. As we all know, unkempt lawns where grass and weeds are overgrown are more prone to have problems with mosquitoes and ticks. So, among other reasons, it defies logic that lawn maintenance companies are now deemed non-essential. The Governor has been focused solely on COVID19, but needs to make sure we have proper protections against other hazardous risks like EEE and WNV. [Back to Top](#)

7. With stores prohibited from selling many home improvement items, does that mean landlords no longer have a duty to keep residential properties in good repair?

No. Michigan law requires landlords to keep residential properties in good repair. Most cities and townships in Michigan have ordinances regarding property maintenance. Additionally, most homeowners associations and condominium associations have requirements for property maintenance. Nothing has been put into law or these executive orders that negates a landlord's legal obligations to keep residential properties in good repair. This is despite the fact that home improvement stores are prohibited from selling many necessary home improvement items under the broad language of Executive Order 2020-42, and all "non-emergency maintenance or improvements to residences are not permitted." (According to the Frequently Asked Questions portion of the Michigan.gov website, which now carries the full force of law under penalty of fines, criminal sanctions, and licensing consequences, according to both MDHHS Emergency Orders dated April 2, 2020.)

On the flip side to this, you have tenants suffering. For example, Steven writes "I have an 8 year old son. My washer in my apartment went out [but] they won't fix [it until] this is over. So now I have to go wash by hand and buy new stuff so him and I have clean clothes." Lacinda points out that as a landlord, she is even prohibited from maintaining the exterior of her rental property, "which will now become over grown."

8. How do these executive orders affect my needs to make repairs to my property?

Someone recently asked "in one of our latest storms, a tree fell onto our garage. Am I allowed to repair that?" As explained in sections 7 and 11, you are allowed to do some of that work on your own, but many of the needed materials are currently deemed "non-essential" by Governor Whitmer, and thus illegal to purchase. Additionally, contractors are not permitted to work on projects, except to do the bare minimum to weatherize a project, subject to criminal penalties, civil penalties, and licensing consequences.

Another person asked "with stores prohibited from selling many home improvement items, does that mean all rules, laws and ordinances regarding blight and other property upkeep are set aside for now?" No. Most cities and townships in Michigan have ordinances regarding property maintenance. Additionally, most homeowners associations and condominium associations have requirements for property maintenance. Nothing has been put into law or these executive orders that negates a homeowner's legal obligations to keep residential properties in good repair. This is despite the fact that stores are prohibited from selling many necessary home improvement items under the broad language of Executive Order 2020-42, and all "non-emergency maintenance or improvements to residences are not permitted." (According to the Frequently Asked Questions portion of the Michigan.gov website, which now carries the full force of law under penalty of fines, criminal sanctions, and licensing consequences, according to both MDHHS Emergency Orders dated April 2, 2020.) [Back to Top](#)

9. In the Governor's press conferences, she's been referencing the FAQs section on the Michigan.gov/Coronavirus website. Do these FAQs have the force and effect of law?

Ordinarily, a FAQ section on a government website does not have the force of law. But something quite unusual has happened here with the Emergency Orders issued by the MDHHS Director. On April 2, 2020, he issued two Emergency Orders. In the first one, he ordered that "Every person . . . must comply with the procedures and restrictions outlined in EO 2020-11, EO 2020-20, and EO 2020-21 and their **accompanying FAQs.**" He further ordered "Chiefs of police, sheriffs, and other local law enforcement leaders are specifically authorized to investigate potential violations of EO 2020-11, EO 2020-20, and EO 2020-21. . . . Law enforcement is specifically authorized to bar access to businesses and operations that fail to comply with the procedures and restrictions outlined in EO 2020-11, EO 2020-20, EO 2020-21 and its **accompanying FAQs.** County prosecutors are likewise specifically authorized to enforce this Order to control the epidemic and protect the public health in coordination with the appropriate local law enforcement authority and, as necessary, the local health department." Later the same day, he issued another Emergency Order making a violation of the first Emergency Order "subject to a penalty of up to \$1,000 for each violation or day that a violation continues," adding that violations of the order by individuals or businesses regulated by a licensing agency "must also be referred to the relevant licensing agencies for additional enforcement action," and that these are in addition to the criminal penalties already identified in the Executive Orders. At 3:08pm on April 2, 2020, Governor Whitmer signed her concurrence with this Emergency Order, citing Section 48(l) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.248(l).

So, in the most round about way possible, the Governor has put the power of legal enforcement behind the FAQs in addition to the Executive Orders of the Governor and Emergency Orders of MDHHS. In other words, this is a bunch of government garbage that doesn't make sense. Governor Whitmer issued several *Executive Orders* (by my last count, 51 of them since January!) that say violating them is punishable by criminal misdemeanor charges, then the MDHHS Director issued two *Emergency Orders* adding civil penalties and licensing penalties for violating the governor's *Executive Orders*. But the *Emergency Orders* also say you'll get civil penalties and licensing penalties for violating the Coronavirus FAQs. Who's even heard of there being punishments for "violating" FAQs? [Back to Top](#)

10. The stay at home order allows us to go exercise and buy necessities, so officers are only stopping people gathering in large groups or otherwise endangering others, right?

That would make sense, but no. Attorney General Dana Nessel is encouraging aggressive "enforcement of the Governor's Executive Orders during this unprecedented public health crisis." She tells law enforcement officers, "[y]our actions will help slow the spread of COVID-19, saving lives in your communities." In addition to the tickets that police are handing out to some stores and shoppers "they *feel* were not abiding by the [executive orders]" (See, [www.ClickOnDetroit.com](http://www.ClickOnDetroit.com), *Metro Detroit Store Concerns: Nonessential items for sale*, published April 6, 2020, last accessed April 13, 2020), officers have also been ticketing people out for walks or simply driving.

Brianna shared "THREE Macomb county sheriffs out on quads patrolling the Macomb orchard trail this morning." Melissa has seen officers "pulling people over, checking receipts!" In Alpena, Bobbie tells us "[t]hey are pulling people over asking where they are going, where they are coming from, [and] they are [even] stopping families that live together that have more than 3 people walking down the street! I live in a

house of 6 and am worried about taking my kids for a walk with my in-laws because we could be stopped!" Laura writes that "my neighbors were stopped by Macomb police yesterday while on a walk and told they needed to go home." Because of these executive orders, there are police and sheriff's deputies in certain jurisdictions within Michigan sitting outside of stores like Walmart or Menards who stop customers upon them leaving the store. Officers have then been looking through the items the customers have bought, or demanding to see the receipts. If the officer feels like the customer has bought something of a "non-essential" nature, a citation is written for them. Further, Brittany shares that "I live by Port Huron near the boat ramps. There [are] so many DNR officers patrolling and blocking the boat ramps now. They are questioning all the fishermen out there as well." In addition, the media has been sharing that individuals are strongly encouraged to report others they feel have been buying non-essential items or violating the stay-at-home order. We do not live in a police state and these kinds of actions are completely unacceptable!

The Attorney General's office explains to law enforcement officers, in their "Guidance on Traffic Stops," that they can pull people over as long as they reasonably believe the person is violating the stay at home order. Let's think about that for a minute. The stay at home order allows people to leave their homes to care for family members, get groceries, seek care for pets, get gas, get medicine, go out for physical activity, perform jobs as critical infrastructure workers, conduct minimum basic operations for their businesses, perform necessary government activities, seek medical or dental care for themselves or others, perform tasks necessary for their health or safety or the health or safety of their family, buy cleaning supplies or laundry soap, pick up take out food, care for the elderly or persons with disabilities, visit someone in a residential facility, attend legal proceedings, volunteer in providing necessities to those in need, attend a funeral, pick up children pursuant to a custody agreement, etc. Even assuming these stay-at-home orders are legally enforceable under the state and federal constitutions, with so many reasons a person might be legitimately out of their home, it would be virtually impossible for an officer to have a "reasonable belief" that a person was violating the stay at home order.

But the Attorney General's office takes it a few steps further. They then direct officers to ask drivers about their "destination, travel plans, the purpose and itinerary for the trip, in order to see what violations have taken place, and whether to issue a warning, a citation, or to make an arrest." They then tell officers that "roadside questioning of a motorist detained pursuant to a routine traffic stop does not constitute custodial interrogation for purposes of Miranda," suggesting to officers that they should routinely question motorists about their travel and activities, and when they do so, they do not need to advise motorists of their right to remain silent, their right to an attorney, etc.

Of course, with the two MDHHS *Emergency Orders* (discussed above), law enforcement officers "are specifically authorized to investigate potential violations" of the governor's executive orders, including the stay-at-home order. "Law enforcement is [also] specifically authorized to bar access to businesses and operations that fail to comply with the [governor's executive orders and] accompanying FAQs." Keep in mind, that "[i]n addition to criminal prosecution for violating the Governor's Executive Orders," the Director of MDHHS determined "that civil penalties [and licensing consequences] would be an effective supplementary method of deterring violations of [the Governor's Executive Orders]." Or, in other words, although the MCL 10.33 and MCL 30.405 only allow for criminal prosecution for violations of the executive orders (which includes up to 90 days in jail and up to a \$500 fine), they have decided to add additional civil fines of \$1,000 per violation, and licensing consequences to be determined.

The good news is that there are a few law enforcement agencies in Michigan willing to take a stand to do the right thing. In an April 15, 2020 Press Release, Leelanau County Sheriff Mike Borkovich, Benzie County Sheriff Ted Schendel, Manistee County Sheriff Ken Falk, and Mason County Sheriff Kim Cole expressed their concern over Governor Whitmer's executive orders "overstepping her executive authority." They explain that "we will not have strict enforcement of these orders. We will deal with every case as an individual situation and apply common sense in assessing the apparent violation. Each of us took an oath to uphold and defend the Michigan Constitution, as well as the US Constitution, and to ensure that your God given rights are not violated. We believe that we are the last line of defense in protecting your civil liberties." [Back to Top](#)

11. Governor Whitmer said in her April 13, 2020 press conference that she's not prohibiting the sale of any essential items and those allegations are just "politically motivated falsehoods being disseminated on social media." Is that true?

No, that is not true. Her executive orders are absolutely prohibiting the sale of essential items, whether she considers them essential or not. For example, Governor Whitmer made it a point to say in her press conference on April 13, 2020 that you can still buy child car seats, bug spray and American Flags, and those saying otherwise are just "disseminating falsehoods on social media." However, it is undeniable that many retail stores, like Walmart, Meijer, Home Depot, Menards, etc., were required under Executive Order 2020-42 to "close areas of the store [and] remov[e] goods from shelves . . . [including] carpet or flooring, furniture, garden centers and plant nurseries, [and] paint." In addition to these overbroad terms, they received direct threats from the Michigan Attorney General's office and were put on notice of the triple penalties of MDHHS Director's Emergency Order of April 2, 2020. Specifically, this MDHHS Order declares that "a violation . . . is subject to a penalty of up to \$1,000 **for each violation or day** that a violation continues," that violations of the order by individuals or businesses regulated by a licensing agency "must also be referred to the relevant licensing agencies for additional enforcement action," and that these are in addition to the criminal penalties already identified in the Executive Orders. So, it seems that these stores, in response to these overbroad terms and overwhelming penalties, mischaracterized items as "non-essential." But I don't blame the stores here; do you?

Thus, despite Governor Whitmer's proclamation that car seats, bug spray, and American Flags are still available for purchase, countless pictures surfaced on social media showing the roped off areas and signs indicating that these very items were no longer legal for purchase, as they were deemed non-essential by the Executive Order. Unfortunately, that meant parents have been turned away from stores, not being allowed to purchase car seats. One reached out to me because her prior car seat had been in a car accident, and was no longer safe *or legal* to continue using, yet she was not allowed to buy a new one. Likewise, many people posted pictures on social media, furious with the signs showing that bug spray was now prohibited for purchase. With lawn maintenance companies deemed non-essential, and lawn maintenance equipment (most often located within "garden centers") specifically prohibited from sale, many people worry how they will have a chance at combating EEE, WNV and other mosquito borne illnesses. (See my section on lawn maintenance which explains EEE and WNV facts in more detail.) After all, [www.Michigan.gov/WestNile](http://www.Michigan.gov/WestNile) and [www.Michigan.gov/EEE](http://www.Michigan.gov/EEE) both explain that in order for Michigan residents to reduce their risk of EEE or WNV, they should "keep grass cut short and shrubbery trimmed," "clean clogged roof gutters," and use "insect repellents that contain the active ingredient DEET." These information sheets also tell Michigan residents to "use screens on windows and doors, repair[ing] holes in screens to keep mosquitoes outside," "wear long-sleeved shirts and long pants when outdoors," and "use nets and/or fans over outdoor eating areas." However, in response to the overbroad terms of the Executive

Order and the overwhelming related penalties, many stores have understood clothing, home improvement materials like window screening, and fans to be deemed illegal to sell.

As mentioned above, Governor Whitmer's Executive Order 2020-42 requires stores to "close areas of the store" like "garden centers and plant nurseries." However, many people have shared concerns like "I usually plant my own garden and produce a majority of our own food . . . how can I do that without plants or seeds?" Another said "we just rototilled a new vegetable garden on our property so we could be less reliant on grocery store trips given the situation. But I needed seeds and some new tools to finish the garden and now it is deemed unlawful to shop for gardening items, so I can't finish the garden!" Yet another said "I can't buy garden seeds or plants and we are homesteaders. I have a huge garden and nothing to plant in it nor do I have access to soil amendments. We rely on this for food production." Others point out that many children with disabilities or adults with mental health issues do gardening as a method of coping, so they, too, see gardening as a necessity.

Jerry, another frustrated citizen, writes "I can't use my boat. I can't go and buy seeds or lawn stuff or paint. But you can still go to the liquor store and buy alcohol, cigarettes and lottery tickets and stop for a bag of weed on the way home. Oh wait, those last 4 things have a big tax on them. Now it makes sense." He points out a few issues here. First, is that if anything is going to be deemed non-essential, it would be things like alcohol, cigarettes, lottery tickets and marijuana, as they are not required to maintain life. Despite the fact that "non-essential" items like seeds are *actually* used to grow real food, Michigan Attorney General Nessel said that liquor stores *are allowed* to stay open because they "might" sell protein bars or other snacks. But this same Michigan Attorney General posts on her website that, for example, a comic book store is not necessary to sustain and protect life, and "the de minimis presence of food for sale does not alter the . . . analysis." There is no rationalizing how she allows liquor stores to stay open for *possibly* selling protein bars and snacks, while comic book stores selling the same snacks are not deemed essential, and thus forced to close. She also noted that a random nurse on social media had posted that some people have a physical dependency on alcohol and this "stressful time might not be ideal for cutting off their" alcohol. (Detroit Free Press article originally published March 24, 2020, last accessed April 12, 2020) I'm so glad we're going to make sure we don't take alcohol away from alcoholics, but we're required to postpone joint replacements, orthodontic procedures, and mental health services. Might be worth noting that of all of these executive order prohibitions, the "sale, transportation, and use of alcoholic beverages and liquors" is the *only* thing MCL 10.31 - or any other law on point - allows the governor to control in the purview of retail sales.

Melissa shared with me that she was concerned about not being able to "pick up the balusters [my husband] ordered for our deck. We have a 1-year-old and it's an essential thing . . . Not having a proper railing on the deck isn't okay. And we won't put the balusters up till they're painted as it makes WAY more sense to paint them all first." Pattie pointed out that even smaller stores that almost exclusively sell items essential for sanitation were forced to close. "Bath & Body Works was forced to close and they sell soap and hand sanitizer. With all the emphasis on keeping our hands clean, one would think those items would be essential." Pattie also wondered if our governor is next going to "decide what food items are 'essential' and available to be sold and which are not." And let's not forget to point out another obvious one . . . furniture. Our governor may not need furniture to live confined in her home, but everyone else I've spoken with seems to view furniture as essential. It's not like you can go to a thrift store to buy any right now, and you would think she would rather have you buy brand new furniture than to go to someone's home to pick up furniture off Facebook marketplace.

Laura shared concerns with a different perspective of items of necessity. "I have an ASD child. . . . ALL of our services have been stopped. OT, PT, speech, feeding therapy, vision therapy, ABA - all of it. No respite care, no helpers, no breaks, NOTHING. To take an ASD kid out of a normal routine is difficult on a good day, much less stopping for weeks. Many are backsliding. Many are ticking, having regressive/aggressive behavior, having anxiety, depression, anger, rages, etc. . . . What is deemed 'ESSENTIAL' for ASD families is very different from someone just deciding they want to do something for the hell of it. . . . Our essential is building a garden that our son has asked for to keep him busy. . . . Our essential is trying to build things together, get art supplies, and do what we can to 'normalize' their day while trying to build in our own vestibular and proprioceptive input, fine motor and gross motor work, deep muscle work, and auditory and visual processing work. And it is . . . hard to do when NOW suddenly municipalities seem to think it is OK to give tickets for everything THEY deem 'non-essential'. And by the way, just because we need to do things differently doesn't mean we are doing it with groups of people or breathing on everyone or ignoring safety for goodness sake."

The bottom line is that Governor Whitmer's executive orders certainly make necessary items and services illegal. It doesn't help matters that the Michigan Attorney General has come after several stores, threatening them for having sales, selling "non-essential" items, and other alleged violations. So, whether it was the actual language of one of the executive orders, or the threats of the Attorney General in relation to those orders, stores have roped off and marked many needed items as "non-essential." Even Michigan law enforcement agencies see the problem here. In an April 15, 2020 Press Release, Leelanau County Sheriff Mike Borkovich, Benzie County Sheriff Ted Schendel, Manistee County Sheriff Ken Falk, and Mason County Sheriff Kim Cole expressed their concern over Governor Whitmer's executive orders "overstepping her executive authority." They explain that "[s]he has created a vague framework of emergency laws that only confuse Michigan citizens. As a result, we will not have strict enforcement of these orders. We will deal with every case as an individual situation and apply common sense in assessing the apparent violation. Each of us took an oath to uphold and defend the Michigan Constitution, as well as the US Constitution, and to ensure that your God given rights are not violated. We believe that we are the last line of defense in protecting your civil liberties." [Back to Top](#)

## 12. The Governor's current executive orders follow federal guidelines for COVID19, right?

No, Governor Whitmer has made it very clear that she will continue picking and choosing which federal guidelines she plans to follow. Despite numerous presidential press conferences describing the benefits of drugs like Hydroxychloroquine and detailing the results of using it on patients on the East Coast, or the fact that it is a well-known drug with a very favorable safety profile, Governor Whitmer refused to acknowledge it as a remedy worth pursuing. In fact, she came down on Michigan physicians and began threatening their licenses if they prescribed Hydroxychloroquine. State Representative Karen Whitsett, Democrat from Detroit, tested positive for COVID19. As she has explained on several recent radio appearances, she was familiar with "the wonders" of hydroxychloroquine from an earlier bout with Lyme disease, but would not have thought to ask for it had it not been for President Trump's press conferences discussing it as a possible treatment for COVID19. Even with the presidential press conferences discussing the benefits of hydroxychloroquine, Whitsett was not offered it by medical providers, and in fact was denied a prescription for it. Whitsett has been expressing anger over the fact that it took her using her position as State Representative to get the medical providers to finally allow her to start taking hydroxychloroquine. Once she was given it, though, "it was less than two hours" before she started to feel relief from her shortness of breath, swollen lymph nodes and symptoms of a sinus infection. As reported by The Detroit News,

Whitsett said that hydroxychloroquine literally saved her life. Despite her testimonial, Governor Whitmer has still refused to urge medical providers in Michigan to start using hydroxychloroquine to treat those with serious infections of COVID19.

Even US Representative Paul Mitchell issued a public statement that Governor Whitmer "should issue a public health order that aligns with the Centers for Disease Control guidance to mitigate the transmission of the virus, rather than her current more restrictive and arbitrary executive order. The CDC guidelines lay out very specific steps to protect public health that were developed by the experts." He continues "[b]usinesses can ensure people remain six feet apart, properly sanitize, set up sneeze guards and protective barriers, promote proper handwashing and cleaning techniques for their employees, while also protecting customers with similar guidelines. People can buy gardening supplies to plan their spring gardens or buy a can of paint for touch up work in compliance with CDC guidance to prevent the spread of COVID-19." (The Detroit News, *Look at CDC Guidelines*, U.S. Rep. Paul Mitchell, published April 12, 2020, last accessed April 14, 2020.)

In her Executive Order 2020-42, which is receiving national criticism for its overbroad language and unnecessary restraints upon fundamental liberties, Governor Whitmer specifies that she is following some of the guidance offered by the Director of the U.S. Cybersecurity and Infrastructure Security Agency (CISA) on March 19, 2020, but that her "order does *not* adopt any subsequent guidance document released by this same agency." Just as Governor Whitmer deemed it necessary to issue Executive Order 2020-4 (Declaration of State of Emergency) as quickly as possible, following up with clarifications in Executive Order 2020-33 (Expanded emergency and disaster declaration) as new information was presented, likewise CISA issued initial COVID19 guidance on March 19, 2020, following up with clarifications and corrections on March 28, 2020. (See, [cisa.gov/publication/guidance-essential-critical-infrastructure-workforce](https://cisa.gov/publication/guidance-essential-critical-infrastructure-workforce), last accessed on April 14, 2020.) However, Governor Whitmer has unreasonably refused to acknowledge these updates and corrections. At best, these are overbroad restrictions on our essential workforce; at worst, they are purposeful exclusions motivated by political gain.

For example, Governor Whitmer prohibits the following professions from working, despite being deemed essential by CISA: physicians in the course of normal medical practice, dentists, psychologists, physical and occupational therapists and assistants, social workers, optometrists, speech pathologists, and diagnostic and therapeutic technicians and technologists, some hospital personnel (including accounting, administrative, food service, housekeeping, medical records, nutritionists, etc.), community mental health, comprehensive outpatient rehabilitation, health departments, home health care, firearm workers (firearm or ammunition product manufacturers, retailers, importers, distributors, and shooting ranges), agriculture production (those producing, transporting, selling seeds, pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids), plumbers, electricians, exterminators, builders, contractors, HVAC Technicians, landscapers, residential and commercial real estate services, workers providing personal and household goods repair and maintenance, etc. [Back to Top](#)

13. These executive orders simply follow common sense guidelines to keep us safe, right?

One would think that if a governor was going to issue so many executive orders that infringe upon our fundamental rights, they would at least be following notions of common sense. However, that is not the case. As discussed in detail above, seeds and other gardening supplies are illegal under the current executive orders, but you can buy fast food. Comic book stores that sell snacks cannot stay open, but

liquor stores that "might" sell snacks can. (See discussion in section 11.) Furniture and home improvement items are illegal under these orders, but pawn shops are allowed to remain open for business. (See Executive Order 2020-42, and WILX *Michigan cracking down on non-essential business*, quoting Ryan Jarvi, spokesman for the Michigan Attorney General's Office, dated April 6, 2020, last accessed April 11, 2020.) Marijuana is still available for purchase, while joint replacements, orthodontic procedures, and mental health services have been deemed non-essential. You cannot go get a tooth extracted from your mouth, but if you want to abort your baby, you can go get a living human being extracted from your vagina. You can't have an appliance repairman come to fix your washing machine, but you can go to a laundromat. You can use public transportation, but you can't travel alone between your own properties. You can bring your kids to daycare, but not to school. You can buy lottery tickets, but bug spray has been marked as non-essential. "[C]ritical infrastructure workers" are allowed to maintain "public parks," but you can't have your lawn mowed. Individuals can gather for the distribution of food from food trucks, but not for a memorial service (with more than 10 people) for someone who has passed away.

Many "non-essential" jobs can be done without endangering others. Many jobs can be, and are usually, done alone by the worker, while many others can be done using social distancing and/or wearing masks and gloves, if appropriate. As Amber writes, "I'm a Realtor and I can't even install a sign or take one out of a front yard. Install or remove a lockbox. I cannot drive to photograph the exterior of a house either. I can't even leave papers on the porch for my clients to sign if they cannot sign electronically." Samantha sent a picture of a large tree that fell on top of a garage and fence. Authorities have informed them that her husband may only do minor repairs, and that if a contractor comes out to fix it, he will be ticketed. Under federal guidelines, "workers such as plumbers, electricians, exterminators, builders, contractors, HVAC Technicians, landscapers, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, businesses and buildings such as hospitals, senior living facilities . . ." (Cisa.gov) are considered essential workers, but Governor Whitmer's Executive Order 2020-42 unreasonably excludes many of these professions from those allowed to continue working.

It also doesn't follow basic notions of common sense that regarding those incarcerated, Governor Whitmer ordered early release of "older people, people who have chronic conditions . . . people who are pregnant, and people nearing their release date," along with those who are "incarcerated for a traffic violation," (Executive Order 2020-29) but makes buying gardening supplies and paint a misdemeanor punishable by up to 90 days in jail. Although she warns against releasing individuals who "pose a public safety risk," that term is not defined in the order, nor is it clear who is making those decisions. The public, through their senators and representatives, enacted laws identifying which actions constituted crimes, and the sentence necessary in each situation to ensure public safety is not at risk. So, as far as the people are concerned, public safety is best served by having convicted criminals serve their remaining sentences. Moreover, if we're releasing those convicted of traffic violations, does that include those who have committed multiple drunk driving offenses or who have injured or killed someone while driving under the influence? Does this early release apply to an "older" man convicted of raping a child? If we're releasing scores of people, where are they going to live and how are they going to support themselves? Are we setting them up for success without the availability for a job, counseling, AA, NA, GED programs, parenting classes, anger management classes, etc.?

But the lack of common sense continues. Those with a strong immune system obviously have a much better chance to resist or survive COVID19. A strong immune system is created by bolstering the totality of

a human's health. This means consuming fresh fruits and vegetables, lean proteins, lots of water, essential vitamins and minerals and natural supplements (zinc, elderberry, vitamins C & D3, probiotics, etc.), and fiber. Getting enough sleep, fresh air and exercise are vital for a healthy immune system, too. But we must not forget that mental health is a key component, as well. Our mental health is directly impacted by our sense of purpose and ability to provide for our families, our spiritual well-being and ability to participate in fellowship, and our ability to connect with other human beings in general. But with all the restrictions the Governor has placed on us under the guise of keeping us safe and healthy, she has not emphasized any of these critical points of a strong immune system. In fact, all "[g]ymnasiums, fitness centers, recreation centers, indoor sports facilities, indoor exercise facilities, exercise studios," etc. have been closed, and personal training, fitness classes, medical massage, nutritional coaching, counseling, group therapy, support groups (for NA, AA, postpartum depression, breastfeeding, coping with death of loved ones, etc.), parenting classes, marriage classes, physical therapy, occupational therapy, and many more have been cancelled. We are told that we cannot gather to worship, to celebrate baptisms or marriages, for Bible studies, for church youth groups, for small church groups, etc. We are stripped of the ability to provide for our families, to properly care for our homes, to provide for our children to receive education outside of the home, or to physically connect with other humans through sports, entertainment, or other common interests. It's undeniable that these excessive government measures have negatively impacted our mental health, our spiritual well-being, and our physical health. Our immune systems do not thrive in such circumstances.

As stated by the Association of American Physicians and Surgeons, "[T]here is no substitute for face-to-face interactions with patients. A little common sense could go a long way: patients with cough, fever, bronchitis could be treated over the phone. High risk patients should be isolated if they are doing well and their routine health appointments should be rescheduled. Those who are otherwise healthy but need physical therapy, routine evaluations, follow-ups, orthopedic surgery, etc., should get them if possible. You don't need to stop seeing a 12 year old for her acne if she has no other medical problems and the doctor is low risk." After all, "[h]ow many influenza deaths, heart attacks, pneumonias, fractures, etc., will be missed because the medical community is afraid to go to work? How many suicides and drug overdoses will result from our current policies?" Or as William Bennett and Seth Leibsohn point out, the director of a major addiction institute recently said "I'm hard-pressed to think of a bigger relapse trigger than what we're going through right now as a country." (William J. Bennett and Seth Leibsohn, *An Advantaged Disease, Indeed*, published April 6, 2020, last accessed April 13, 2020.)

Our current policies of containment and mitigation also don't make sense. The Association of American Physicians and Surgeons states "[u]nfortunately, our so-called public health experts have pushed for containment and mitigation. . . . Mitigation is the concept that if you slow the spread of the virus, it will blunt the surge of cases and prevent us from overwhelming hospitals with seriously ill patients. Mitigation efforts have included ordering people to stay in their homes, closing non-essential businesses, and restricting where people can go to locally. This has had no impact on the virus, nor should it, as these mitigation efforts are incomplete. For example, in Michigan, people are told to stay home except to go shopping, to go to essential work, and to exercise outdoors. . . . [But], containment and mitigation are abject failures." As the medical publication continues to explain, "[o]ur population needs to eat and get medicines and health care. . . . Unless we want to become a totalitarian state, we can't [literally build a wall around each community, like they did in Wuhan]. If we can learn anything from this epidemic [it] is that mitigation efforts that destroy our economy were some of the biggest boondoggles ever foisted on the American people. Even worse, they aren't necessary. We have better ways to combat this virus."

Immunologist Martin Dubravec, MD clearly tells us what can be done to end this epidemic. "The answer is herd immunity. Let those who will not die or become seriously ill from the disease get infected and immune to the disease." He explains that "significant amounts of the population will have exposure to the virus and become immune to it. They are no longer able to spread the virus as their immune systems kill the virus before it has a chance to grow and multiply. That individual then becomes not a source of viral spread but a source of killing the virus. The virus has nowhere to go and it disappears." So, he says, "[d]on't close schools - open them up! Don't close universities - reopen them! Let those under the age of 65 with no significant health problems go to work. Their risk of death is very close to zero. They become the wall that stops the virus. Our current strategy of isolating these healthy people from the virus: a. is not working - the virus is still spreading, and b. for those who theoretically may be shielded from the virus, they will get exposed later. Our current strategy is actually leading to a prolonged COVID-19 season! Herd immunity [as explained herein] works and despite our current efforts to mess it up, herd immunity will be the ultimate reason the virus dies down. We should promote the concept, not try to stop it. . . . Media pundits falsely railed against college students spending spring break on the beaches of Florida. Wild behavior aside, these partiers represent the most effective approach to stopping the spread of the virus, i.e., sunlight and herd immunity of the young and healthy."

Dr. Dubravec explains that bad science has led "[p]ublic health leaders [to focus] on trying in vain to prevent the spread of the virus." As their efforts and attention has been misguided, "[t]hey have not looked at the ramifications of suicide rates when people are forced to be sequestered for this length of time. . . . No country can adequately fight an enemy like an infectious disease without a working economy." Unfortunately, "[b]ad government policies are leading to economic destruction, possibly on a scale not ever seen in our country. . . . State governors seem almost in a race to see who can cause the most dramatic removal of basic constitutional liberties." Common sense requires us to ask these important questions: "What will happen with the next epidemic? Will we do this for the next outbreak of flu? Or Strep? Or drug overdoses? What type of precedent will this set?" [Back to Top](#)

#### 14. COVID19 is worse and far more deadly than anything else we've ever seen, isn't it?

Actually, no. As Immunologist Martin Dubravec, MD explains, "Coronaviruses have been known in the United States since their discovery over 50 years ago. Certain strains of these viruses infect humans, while some tend to infect animals. It has been shown that these viruses have the ability to jump from animals to humans and vice versa. These viruses rarely cause death in humans; they are often cited as the cause of common colds. COVID-19 is for the most part acting in the same way but with a notable exception – it can be deadly in elderly and the immunocompromised. It hits these populations fast and hard. Nonetheless, even in Italy, where the virus has killed thousands, most of those (78.3%) over the age of 90 recovered." (Association of American Physicians and Surgeons, Martin Dubravec, MD, *Coronavirus COVID-19: Public Health Apocalypse or Panic and Anti-American?*, posted March 30, 2020, updated April 5, 2020, last accessed April 15, 2020.)

Dr. Dubravec cautions that "[t]here is mass confusion with regard to the statistics and the media has utilized this to bring fear and panic to the population. Statistics on who has been exposed, who has it, who is seriously ill with it and what are projected numbers of deaths have been incredibly wrong. In Great Britain, the apocalypse warning of over 200,000 deaths by some experts has recently been downgraded to 20,000. Much of the public health modelling is based on Chinese data which is completely unreliable – communist governments consistently lie about their situations." As William Bennett and Seth Leibsohn

point out, "[o]ur officials and media have warned us of 2 million deaths in the United States. Then 200,000 deaths. Then 100,000 to 240,000. This needs to stop. There have been a total of 68,000 coronavirus deaths worldwide. And we are told we will see, just in America, three to four times that number. Does that even pass the plausibility test?" (William J. Bennett and Seth Leibsohn, *An Advantaged Disease, Indeed*, published April 6, 2020, last accessed April 13, 2020.) So, Bennett and Leibsohn continue, "do you know the odds of any American getting the virus? One would think that number is easily known or available. It's not. A lot of digging into various municipal data portals reveals, based on the population tested, that rates can vary from, at most, eight-tenths of a percent [or 0.8%] in New York City to two-one-hundredths [or 0.02%] of a percent in Phoenix."

Bennett and Leibsohn also point out that "there are models showing 50% of the population may have already had it, never knew they had it, and recovered[.] Again, one would think this data would be widely available and reported. It isn't." In fact, a "phlebotomist working at a Chicago hospital said Thursday that 30 to 50 percent of those tested for coronavirus have antibodies, and 10 to 20 percent of those tested are actual carriers of the virus. Sumaya Owaynat, a phlebotomy technician for Rosewood Community Hospital, has had extensive experience with coronavirus testing over the last few weeks, as she has been testing around 400 to 600 people per day in the hospital's parking lot. Owaynat also stated that there is a far greater number of those that have come through her line and have already recovered from the virus compared to those who currently have the disease. 'A lot of people have high antibodies, which means they had the coronavirus but they don't have it anymore and their bodies built the antibodies,' Owaynat told Chicago City Wire. . . . Antibodies in the bloodstream reveal that a person has already had the coronavirus and may be immune to contracting the virus again. If accurate, this means the spread of the virus may have been underway in the Roseland community – and the state and country as a whole – prior to the issuance of stay at home orders and widespread business closures in mid-March which have crippled the national economy. In addition, those who show signs of already having had the illness should be able to re-enter society — albeit with some modified social distancing measures in place — rather than sheltering at home . . . ." Kyle Morris, *Chicago Phlebotomist: Coronavirus Antibodies Found In Many Tested*, <https://www.breitbart.com/health/2020/04/10/chicago-phlebotomist-coronavirus-antibodies-found-in-30-50-tested-for-covid-19/>, published April 10, 2020, last accessed April 15, 2020. The high percentage of people testing positive for COVID19 **antibodies** (30-50%), a percentage much higher than those currently carrying the virus (10-20%), combined with the "lack of testing kits" in prior weeks, means "the total number of those who have contracted COVID-19 is much higher, as most COVID-19 infections are mild or not even felt by patients," Dr. Dubravec says. Moreover, "[a]ntibody tests are considered a potential game-changer in the battle to contain infections and offers the chance to get the economy back on track by identifying people who may have immunity to the virus and could return to their jobs." (Isabel Van Brugen, *FDA Authorizes 2 More COVID-19 Antibody Tests*, [https://m.theepochtimes.com/fda-authorizes-2-more-covid-19-antibody-tests%E2%80%A8\\_3314276.html](https://m.theepochtimes.com/fda-authorizes-2-more-covid-19-antibody-tests%E2%80%A8_3314276.html), published April 16, 2020, last accessed April 16, 2020.)

Let's put that information into context. Testing of "those who most likely would get COVID-19 due to exposure to confirmed COVID-19 patients or travel from high risk areas[] reveal[s] that 90% of patients are testing negative, i.e., they have no[] evidence of disease," according to Dr. Dubravec at the Association of American Physicians and Surgeons. He continues, "these patients have pre-existing immunity to the virus *from previous exposure to COVID-19* or due to a cross-reactive immunity from being infected by related Coronaviruses. [In fact,] many people have stated that they suffered symptoms of Coronavirus earlier this year. Due to lack of testing, many people most likely have had exposure to the virus; they have developed

immunity to it. This is why the concept of herd immunity is so important. With herd immunity, significant amounts of the population will have exposure to the virus and become immune to it. They are no longer able to spread the virus as their immune systems kill the virus before it has a chance to grow and multiply. That individual then becomes not a source of viral spread but a source of killing the virus. The virus has nowhere to go and it disappears."

The media has vastly distorted the facts and figures around COVID19 death statistics. Dr. Dubravec, William Bennett and Seth Leibsohn, and the World Health Organization have reminded us that 98% of people who get COVID-19 fully recover. Even when you consider the fact that millions of people throughout the world already contracted COVID19 *before* we started mass testing for it (which means they are *not* accounted for in current death rates), 96% of those with a confirmed case of COVID19 in the U.S. fully recover. So, when you take into account the 30-50% of people who already have COVID19 *antibodies*, that means that the true COVID19 survival rate is much higher than our current calculations. But to put this in perspective, you must take into account the death rates of MERS is 34% and the death rate for SARS is 10%. ([https://www.worldometers.info/coronavirus/?utm\\_campaign=homeAdUOA?](https://www.worldometers.info/coronavirus/?utm_campaign=homeAdUOA?), last accessed on April 15, 2020.)

Yes, we must still consider the 2% of us who don't fully recover. But we need to look at the numbers as compared to other leading causes of death in the U.S. Bennett and Leibsohn point out that every year, 648,000 Americans die from heart disease; 600,000 from cancer; 168,000 from asthma, bronchitis, and emphysema; 144,000 from stroke; 120,000 from Alzheimer's; 84,000 from diabetes; and 67,200 from drug overdoses. Also, according to the CDC, 49,000 people die each year from pneumonia and 32,850 people die each year from vehicle accidents. Compare that to COVID19. This year, 26,061 Americans have died from COVID19 (as of 10am on April 15, 2020). **While the death rate from COVID19 is far lower than heart disease, cancer, asthma, bronchitis, emphysema, stroke, Alzheimer's, diabetes, pneumonia, car accidents and drug overdoses, it is also far less than the number of people who have died in the US from the flu this year, which the CDC estimates to be as high as 62,000 people as of April 4, 2020.** (CDC, 2019-2020 U.S. Flu Season: Preliminary Burden Estimates, [www.cdc.gov/flu/about/burden/preliminary-in-season-estimates.htm](http://www.cdc.gov/flu/about/burden/preliminary-in-season-estimates.htm), last accessed April 13, 2020.) This leads Bennett and Leibsohn to ask "[w]here is the sympathy for the victims and families of those other causes of death? The daily mortality count? The blaring headlines? The upending of the country? We hear almost nothing about them. Those [other causes] give us over [157,767 deaths per month, or 1,893,200 deaths per year]. Given all that is being done about one cause of death, COVID-19, it turns out this is a very advantaged disease, indeed."

As Michigan.gov/Coronavirus and CDC.gov have repeatedly told us, nearly all people experiencing serious complications or death from COVID19 are adults over age 65 or individuals with "serious underlying medical conditions." Dr. Dubravec points out that "[t]his is different from the influenza epidemics in 1918 or 2010; those epidemics involved all ages." Also, it is important to note that pneumonia and the flu have seen deaths of epidemic proportions in 2 out of the last 3 flu seasons (2016/2017 and 2017/2018). ([www.CDC.gov/flu/weekly/index.htm](http://www.CDC.gov/flu/weekly/index.htm), last accessed April 12, 2020). Pediatric mortality (deaths of those under 18 years of age) for the common flu is 83 times greater than pediatric mortality for COVID19. While we've only seen 2 COVID19-related pediatric deaths, 166 children have died in the U.S. so far this flu season, with 144 children having died in the 2018-2019 flu season and 188 in the 2017-2018 flu season, according to the CDC.

Our current policies of containment and mitigation don't make sense from a medical perspective. The Association of American Physicians and Surgeons states "[u]nfortunately, our so-called public health experts have pushed for containment and mitigation. . . . Mitigation is the concept that if you slow the spread of the virus, it will blunt the surge of cases and prevent us from overwhelming hospitals with seriously ill patients. Mitigation efforts have included ordering people to stay in their homes, closing non-essential businesses, and restricting where people can go to locally. This has had no impact on the virus, nor should it, as these mitigations efforts are incomplete. For example, in Michigan, people are told to stay home except to go shopping, to go to essential work, and to exercise outdoors. . . . [But], containment and mitigation are abject failures." As the medical publication continues to explain, "[o]ur population needs to eat and get medicines and health care. . . . Unless we want to become a totalitarian state, we can't [literally build a wall around each community, like they did in Wuhan]. If we can learn anything from this epidemic [it] is that mitigation efforts that destroy our economy were some of the biggest boondoggles ever foisted on the American people. Even worse, they aren't necessary. We have better ways to combat this virus."

Immunologist Martin Dubravec, MD clearly tells us what can be done to end this epidemic. "The answer is herd immunity. Let those who will not die or become seriously ill from the disease get infected and immune to the disease." He explains that "significant amounts of the population will have exposure to the virus and become immune to it. They are no longer able to spread the virus as their immune systems kill the virus before it has a chance to grow and multiply. That individual then becomes not a source of viral spread but a source of killing the virus. The virus has nowhere to go and it disappears." So, he says, "[d]on't close schools - open them up! Don't close universities - reopen them! Let those under the age of 65 with no significant health problems go to work. Their risk of death is very close to zero. They become the wall that stops the virus. Our current strategy of isolating these healthy people from the virus: a. is not working - the virus is still spreading, and b. for those who theoretically may be shielded from the virus, they will get exposed later. Our current strategy is actually leading to a prolonged COVID-19 season! Herd immunity [as explained herein] works and despite our current efforts to mess it up, herd immunity will be the ultimate reason the virus dies down. We should promote the concept, not try to stop it. . . . Media pundits falsely railed against college students spending spring break on the beaches of Florida. Wild behavior aside, these partiers represent the most effective approach to stopping the spread of the virus, i.e., sunlight and herd immunity of the young and healthy." Dr. Dubravec also explains that "[u]ltraviolet light can be a significant treatment for the virus as UV light damages viral DNA and RNA and therefore kill it."

William Bennett and Seth Leibsohn explain that experts have actually been saying this all along. "Sequestering those who are elderly with underlying conditions, those who test positive, and those who are symptomatic 'while basically treating the rest of society the way we have always dealt with familiar threats like the flu' is how Thomas Friedman put it early on. He and Dr. David L. Katz of Yale called this a vertical strategy. The horizontal strategy of 'restricting the movement and commerce of the entire population, without consideration of varying risks for severe infection,' is too blunt, too paralyzing - and too malefic."

As the Association of American Physicians and Surgeons directed doctors, "there is no substitute for face-to-face interactions with patients. A little common sense could go a long way: patients with cough, fever, bronchitis could be treated over the phone. High risk patients should be isolated if they are doing well and their routine health appointments should be rescheduled. Those who are otherwise healthy but need physical therapy, routine evaluations, follow-ups, orthopedic surgery, etc., should get them if possible. You don't need to stop seeing a 12 year old for her acne if she has no other medical problems and the

doctor is low risk." In other words, Dr. Dubravec tells us, "[t]he only way to effectively combat the disease from a practical standpoint (other than herd immunity) is to shield those at high risk until the virus has run its course through the country. Patients with significant underlying health conditions (cancer, lung disease, immune deficiency disorders) and those over the age of 65 should isolate themselves to the best of their abilities."

Hydroxychloroquine and Z-Pak should also be utilized. In Kathy's Hoekstra's March 26, 2020 article entitled *Michigan's doctors fight coronavirus, and governor's office*, published in the Detroit News, she writes "[t]hese well-known drugs have very favorable safety profiles. Several small studies have shown significant reduction in viral loads and symptom improvement when combining these medications in COVID-19 patients. Though these studies are small and do not prove efficacy, the results were so promising that the authors of the most famous study concluded: 'We therefore recommend that COVID-19 patients be treated with hydroxychloroquine and azithromycin to cure their infection and to limit the transmission of the virus to other people in order to curb the spread of COVID-19 in the world.'

[*International Journal of Antimicrobial Agent* (2020), *Hydroxychloroquine and azithromycin as a treatment of COVID-19: results of an open-label non-randomized clinical trial*, Philippe Gautret, et. al., found at <https://doi.org/10.1016/j.ijantimicag.2020.105949>, last accessed April 15, 2020.]" She points out that "physicians are using these medications 'off-label,' that is, without the costly and time-consuming process of Food and Drug Administration approval. . . . [The] lack of FDA approval does not mean lack of efficacy. It means lack of governmental confirmation of efficacy. 'Off-label' use of medications is legal and common.

[Here, Hoekstra had an embedded link to

<https://www.webmd.com/a-to-z-guides/features/off-label-drug-use-what-you-need-to-know#1>.] It may even account for as many as 1 in 5 prescriptions in the United States. This practice is even accepted by the FDA. [Here, Hoekstra had an embedded link to

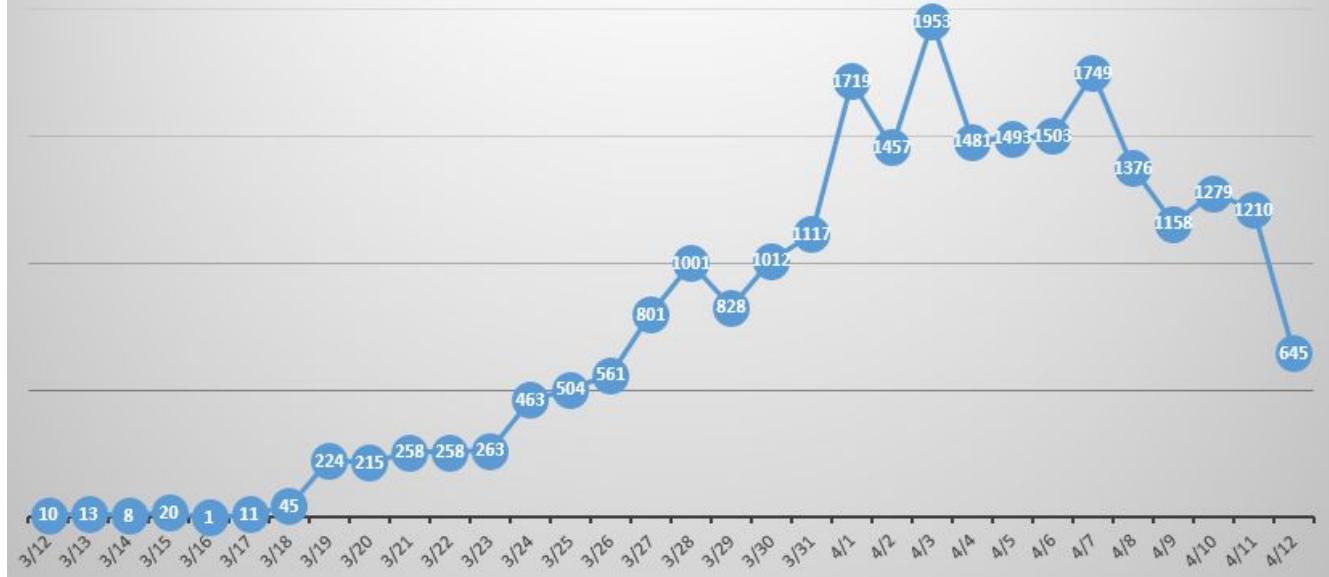
<https://www.fda.gov/patients/learn-about-expanded-access-and-other-treatment-options/understanding-unapproved-use-approved-drugs-label>." Hoekstra explains that New York, with the blessing of President Trump and the FDA, has already started clinical trials, which include 70,000 doses of hydroxychloroquine, 10,000 doses of Zithromax and 750,000 doses of chloroquine. State Representative Karen Whitsett from Detroit, after testing positive for COVID19, was prescribed hydroxychloroquine. "It was less than two hours" before she started to feel relief, and she credits it with literally saving her life, as reported by The Detroit News.

So, no, COVID19 is *not* worse or more deadly than anything we've ever seen. Heart disease, cancer, asthma, bronchitis, emphysema, stroke, Alzheimer's, diabetes, pneumonia, car accidents and drug overdoses, are all *far* more deadly than COVID19. Even the common flu will claim over 2.5 times as many lives this year as COVID19 has. When the final death toll is taken of "stay-at-home" suicides, drug overdoses, alcohol-related deaths, domestic violence murders, child abuse or neglect deaths, and deaths due to postponed treatment or missed diagnoses, many experts and laymen agree that the loss of life from this COVID19 "preventative measure" will far outweigh the lives saved from COVID19. [Back to Top](#)

## 15. Is the "stay-at-home" order working?

No, as the Association of American Physicians and Surgeons (AAPS) shares, "state lockdowns aren't having an impact in COVID-19 death." Here in Michigan, the numbers paint a pretty clear picture.

## Daily New Coronavirus Cases in Michigan



Within the first few days of Governor Whitmer closing schools across the state, we saw our first spike in new COVID19 cases. The day she issued the first stay-at-home order, we saw our next spike in new COVID19 cases. The day she issued the Expanded Emergency & Disaster Declaration, we saw our next spike in new COVID19 cases. The numbers did not level off upon her instituting these harsh restrictions upon our liberties, they increased. In issuing her newest "stay-at-home" order, Governor Whitmer claimed that "[t]he measures put in place by Executive Order 2020-21 [the first stay-at-home order] have been effective, but this virus is both aggressive and persistent." But there is *no* data to support her claim of effectiveness, and the most aggressive and persistent thing in this whole situation has been her noose around our fundamental liberties.

Dr. Dubravec of the AAPS explains that "[m]any states have instituted massive lockdowns ("stay at home" order) of their populations to address the COVID-19 pandemic. Some states have chosen not to do so. The goals of these lockdowns have included the proposition that they would slow the spread of the Coronavirus Sars-Cov-2 virus which causes COVID-19 and thus prevent death. Is this helping? One way to look at this would be to compare the COVID-19 deaths in states that do and do not have stay-at-home orders in place. . . . As an example, let's compare Michigan with states that do not have a stay-at-home order." When adjusted for population, here is the breakdown of COVID-19 deaths per population of the state as of April 15th:

Source: [https://www.worldometers.info/coronavirus/?utm\\_campaign=homeAdUOA](https://www.worldometers.info/coronavirus/?utm_campaign=homeAdUOA)? Accessed: April 15, 2020

State	Lockdown Order	Total COVID19 Deaths	COVID19 Deaths per 1 million Residents
Michigan	Yes	1768	178
Alabama	No	116	24
Arkansas	No	32	11
Iowa	No	49	16
Nebraska	No	20	11
North Dakota	No	9	12
South Dakota	No	6	7
Utah	No	19	6

Now, let's compare states that have a lockdown order compared with a neighboring state that does not:

Source: [https://www.worldometers.info/coronavirus/?utm\\_campaign=homeAdUOA](https://www.worldometers.info/coronavirus/?utm_campaign=homeAdUOA)? Accessed: April 15, 2020

State	Lockdown Order	Total COVID19 Deaths	COVID19 Deaths per 1 million Residents
Mississippi	Yes	122	41
Alabama	No	116	24
Missouri	Yes	142	23
Arkansas	No	32	11
Illinois	Yes	868	68
Iowa	No	49	16
Colorado	Yes	329	59
Nebraska	No	20	11
Minnesota	Yes	79	14
North Dakota	No	9	12
South Dakota	No	6	7
Idaho	Yes	39	23
Utah	No	19	6

"Not only does the above data show that lockdowns are having no impact, but continued restrictions of residents raises the risk of increased suicide, drug abuse, domestic violence, and civil unrest, among other issues," Dr. Dubravec concludes. Indeed, he says, "[t]he COVID-19 pandemic is a serious crisis not to be taken lightly. Our response to it should not make it worse."

So, let's examine why our current policies of containment and mitigation don't make sense from a medical perspective. The Association of American Physicians and Surgeons states "[u]nfortunately, our so-called

public health experts have pushed for containment and mitigation. . . . Mitigation is the concept that if you slow the spread of the virus, it will blunt the surge of cases and prevent us from overwhelming hospitals with seriously ill patients. Mitigation efforts have included ordering people to stay in their homes, closing non-essential businesses, and restricting where people can go locally. This has had no impact on the virus, nor should it, as these mitigation efforts are incomplete. For example, in Michigan, people are told to stay home except to go shopping, to go to essential work, and to exercise outdoors. . . . [But], containment and mitigation are abject failures." As the medical publication continues to explain, "[o]ur population needs to eat and get medicines and health care. . . . Unless we want to become a totalitarian state, we can't [literally build a wall around each community, like they did in Wuhan]. If we can learn anything from this epidemic is that mitigation efforts that destroy our economy were some of the biggest boondoggles ever foisted on the American people. Even worse, they aren't necessary. We have better ways to combat this virus."

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its course through the country. Patients with significant underlying health conditions (cancer, lung disease, immune deficiency disorders) and those over the age of 65 should isolate themselves to the best of their abilities."

After all, "[h]ow many influenza deaths, heart attacks, pneumonias, fractures, etc., will be missed because the medical community is afraid to go to work? How many suicides and drug overdoses will result from our current policies?" Or as William Bennett and Seth Leibsohn point out, the director of a major addiction institute recently said "I'm hard-pressed to think of a bigger relapse trigger [for alcoholics and drug addicts] than what we're going through right now as a country."

As mentioned earlier, we lose 67,200 Americans to drug overdoses EVERY YEAR. That means *each year* we lose 2.6 times as many people to drug overdoses than we have lost so far to COVID19. In our decades-long "war on drugs," have we ever contemplated curbing the constitutional freedoms of nearly 300 million Americans? Has the media been doing nonstop daily death toll stories about those lost to drug overdoses? Has our governor been holding regular press conferences to explain how serious the overdosing problem is, and why we must aggressively infringe upon our fundamental freedoms because what we've been doing so far in this drug war hasn't made enough of a difference? As William Bennett and Seth Leibsohn ponder, "Did we ever suggest shelter-in-place orders to clean the streets of illegal drug activity or shut down industries causing unemployment to skyrocket and retirement savings accounts to plunge? Of course not, though its high body count and cost affects a great many *more* families and businesses, and kills the young more than the old. Fighting this problem, the country was able to keep its wits, even as we who tried to do something about it were denounced for taking draconian measures to save lives. Turns out we had no idea what draconian was. When the president linked that problem to the coronavirus, as he did this past week, the media turned away and criticized him. Only one cause of death matters to them, the one that invaded us on his watch."

Dr. Dubravec explains that bad science has led "[p]ublic health leaders [to focus] on trying in vain to prevent the spread of the virus." As their efforts and attention has been misguided, "[t]hey have not looked at the ramifications of suicide rates when people are forced to be sequestered for this length of time. . . . No country can adequately fight an enemy like an infectious disease without a working economy." Unfortunately, "[b]ad government policies are leading to economic destruction, possibly on a scale not ever seen in our country. . . . State governors seem almost in a race to see who can cause the most dramatic removal of basic constitutional liberties. Some states have police officers pulling people over to quiz them where they are going. Some businesses have printed papers that their employees carry to show they are going to work in an essential business. All of this is reminiscent of Nazi and communist state control of people. It seems to be working; with their willing accomplices in the media, Americans at this time are seemingly eager to exchange their freedom for what they believe to be security and safety. What they don't realize is if this is allowed to continue, they will lose their security, safety and their freedom." Thus, we must WAKE UP and ask: "What will happen with the next epidemic? Will we do this for the next outbreak of flu? Or Strep? Or drug overdoses? What type of precedent will this set?" [Back to Top](#)

16. Since COVID19 may seriously harm "older adults and those with underlying medical conditions," shouldn't we all just suck it up and stay home to protect them?

Of course we all care about the elderly and those with underlying medical conditions. We don't want anyone we know to suffer from COVID19. But as it was pointed out to me earlier this week, "economic and social science literature [is] replete with studies that document the harm to people from recessions and

economic hardship, including higher rates of suicide, opioid abuse, alcoholism and domestic violence." So, it's not just those most susceptible to COVID19 who we must consider.

For many, "just staying at home" is a lot easier said than done. As mentioned in many other sections of this analysis, this type of quarantine for this long is itself causing a lot of damage. For example, as several news anchors have recently reported, and many Michigan legislators have shared on social media, instances of domestic violence skyrocket during times like these, and local law enforcement agencies have seen a drastic increase in domestic violence incidents. Consider Deidra's statements: "We've been exploring the woods in state parks and going to trails almost everyday that we can to get away from an abusive home situation since that person is now always there. We sometimes have to drive to empty school or church parking lots to run around."

Like I discuss in Section 19, this statewide shutdown is having heavy economic consequences for families all across the state. Even when it "works," unemployment is simply not enough to fill the gaps. In addition, common grocery items are often out of stock these days. This results in many families across the state struggling to feed their children. Yes, many school districts are offering food distribution times, but many of those are during the work day. Also, while a family receiving free or reduced breakfast and lunch was able to get that food right from their child's school, school districts have now had to combine food distribution sites meaning a lot of families would have to travel to a different building. That might seem simple to you, but for many families struggling with food, reliable transportation is also an issue.

Thousands, if not millions, of Michiganders struggle with depression and anxiety - on a good day. When you take away their job, sports, church activities, counseling, support groups, family gatherings, community supports, and human contact in general, those with depression and anxiety are likely to see their condition worsen. Even individuals who have never had depression or anxiety are likely to start experiencing symptoms of those conditions when our entire lives are changing so much, so quickly. Elizabeth shared that "[m]ental health is being stomped all over!!! I have a family member who is struggling with a mental health issue and we were told that unless she's actually trying to kill herself right then, we have to wait until this is over for her to have help." One parent writes "I, myself, am watching my older son slide into a deep depression. It is ugly. It is painful." While depression and anxiety are not as easy to see as a broken leg, they are just as real.

I've worked with children, and in the child protection system for 19 years. I've served as both a guardian ad litem and attorney for children in abuse and neglect cases, an attorney for juveniles charged with offenses, a lawyer-guardian ad litem for children in "ugly" custody cases, a divorce attorney, an attorney for parents in abuse and neglect cases, a foster care mentor, a special education mediator, an IEP facilitator, a restorative justice facilitator in an elementary school, a restorative justice facilitator in a juvenile court diversion program, a child protection mediator, a divorce & custody mediator, a presenter for programs like Cradles of Grace, and a mentor for single moms. As much as my fingers got tired of typing all that, I share that experience with you so you know of my first-hand knowledge in the area. With that being said, I can say without a doubt that when parents lose their jobs, suffer economic hardship (like many are now), struggle to feed their children, get torn apart from their support systems, etc., instances of drug abuse, alcohol abuse, and mental health issues increase drastically. And when you add drugs, alcohol, and mental health issues to the underlying stressors, parents often "snap," and that is when child abuse or neglect occurs. But can child abuse or neglect kill a child like a scary illness can? Absolutely! And for the children who survive, the effects are devastating and lasting. Many of you will understand this, but for

those who don't quite get it yet, think about the following. As a lawyer-guardian ad litem, the youngest client I ever had was 4 weeks old, yes, 4 WEEKS old. She had numerous broken bones and crushed organs. You can imagine the kind of lasting effects she had from her abuse. But older children, and those abused in ways that don't leave broken bones, suffer lasting mental, physical, and emotional effects, too.

Do you know a child with disabilities? Consider what their world looks like now. After seeing two of her friends ticketed \$500 for buying "non-essentials," and seeing the stay-at-home provisions get more strict, Laura explained how such policies impact her family. "I have an ASD child. . . . ALL of our services have been stopped. OT, PT, speech, feeding therapy, vision therapy, ABA - all of it. No respite care, no helpers, no breaks, NOTHING. To take an ASD kid out of a normal routine is difficult on a good day, much less stopping for weeks. Many are backsliding. Many are ticking, having regressive/aggressive behavior, having anxiety, depression, anger, rages, etc. . . . I have talked to parents who live in apartments who are getting threats from their neighbors about their children screaming, banging, jumping, because their lifelines have been cut off suddenly and completely. Believe me, using Zoom for a tiny bit of online 'therapy' DOES NOT HELP. . . . What is deemed 'ESSENTIAL' for ASD families is very different from someone just deciding they want to do something for the hell of it. Our essential is walking and looking for bugs, finding worms, taking binoculars and looking for birds. Our essential is building a garden that our son has asked for to keep him busy. Our essential is driving around playing Pokemon Go and doing scavenger hunts from the car. Our essential is finding new games, toys, random things to keep busy. Our essential is trying to build things together, get art supplies, and do what we can to 'normalize' their day while trying to build in our own vestibular and proprioceptive input, fine motor and gross motor work, deep muscle work, and auditory and visual processing work. And it is . . . hard to do when NOW suddenly municipalities seem to think it is OK to give tickets for everything THEY deem 'non-essential'. And by the way, just because we need to do things differently doesn't mean we are doing it with groups of people or breathing on everyone or ignoring safety for goodness sake. Our kids don't even LIKE groups of people or talking to strangers much less getting close to them. . . . I am happy for those of you who have the ability to stay in and read and relax and do nothing. I am glad YOU have the ability to sit at your computer and scream 'STAY THE F\*CK HOME.' Good for you. But there are those of us who do NOT have that luxury. We have to suffer the screaming, headbutting, scratching, silent depression, hearing our kids say they want to die, crying, regressing, and everything else that people are suddenly blind to because others don't think about how damn hard it is for a lot of ASD members of society to understand. Please stand up and help us. HELP US."

When Governor Whitmer shut down "non-essential" medical services, it didn't just postpone nose jobs and tummy tucks. Ginger shares that her "husband has a cracked tooth and needs a crown. Has been delayed indefinitely." Those who have ever had a cracked tooth know the terrible pain that can cause. Just yesterday, I heard of another individual who had an abscess in his mouth but was told for a couple weeks that it was not urgent enough to get care for it. By the time he finally convinced others of its serious nature, the abscess had grown so much that it took over 3 hours to clean it all out. Adrienne explains that "my father requires medical care for a growing heart aneurysm that he cannot get an appointment for to go over his options. This condition was discovered before his assisted living was shut down on March 14. He doesn't even know it is an issue yet as my sister and I could not tell him about it in person. He cannot understand anything over the phone. He thinks we are punishing him [by] not visiting."

What about what this is doing to the very people we are trying to protect? Charlotte started seeking help on social media when she didn't know where else to turn. "I am 84 years old. Last year I moved into a retirement home. Some people here require medical care but many are independent, we have apartments.

We were asked to remain in the facility for 2 weeks at the beginning. We all did that. Now, since April 1, we are ordered to stay in our rooms. We cannot talk to other prisoners, we cannot go to do our laundry, we cannot go to get or mail our mail. Our relatives must shop for our groceries and bring them to us. Although we cannot receive them at the reception area, we must wait for others to bring them to us. To add to this abuse, we have been told that an employee will come to our room twice a day to take our temperature. I have made arrangements (before this all happened) to move to a senior facility where there are no assisted living people. This facility has told me I cannot bring in a moving company. So what has happened here is, once people have been given a little power over your lives they get greedy for more power and they keep increasing their power until you put a stop to it. But I am 84 what can I do?" COVID19 or not, Charlotte, and those like her, deserve their dignity!

Our country has known economic hardship, wide-spread disease, and other terrible scenarios. What's different this time is our response. Does *your* response adequately consider all that the aforementioned people are suffering? [Back to Top](#)

17. It's not like these executive orders and rules are discriminating against anyone, right?

Many individuals and businesses across the state are experiencing discrimination in the administration of these executive orders. For example, those who work at home can use their own labor to perform maintenance and structure improvements. However, those who own a separate building for their businesses are not allowed to use their own labor to perform maintenance or structure improvements. Bobbie from the Alpena area writes "2 people were inside a CLOSED bar redoing the floor and . . . the cops showed up with a cease and desist order and said they would close them permanently if they didn't leave!" Bobbie also expressed frustration over seeing police officers "stopping families that live together that have more than 3 people walking down the street." Why should a large family be presumed to be violating the executive orders while smaller families are not?

Many things we take for granted or see as unnecessary don't apply the same way to families with ASD children. After seeing two of her friends ticketed \$500 for buying "non-essentials," Laura explained how such policies discriminate against her family. "I have an ASD child. . . . ALL of our services have been stopped. OT, PT, speech, feeding therapy, vision therapy, ABA - all of it. No respite care, no helpers, no breaks, NOTHING. To take an ASD kid out of a normal routine is difficult on a good day, much less stopping for weeks. Many are backsliding. Many are ticking, having regressive/aggressive behavior, having anxiety, depression, anger, rages, etc. . . . What is deemed 'ESSENTIAL' for ASD families is very different from someone just deciding they want to do something for the hell of it. . . . Our essential is building a garden that our son has asked for to keep him busy. . . . Our essential is trying to build things together, get art supplies, and do what we can to 'normalize' their day while trying to build in our own vestibular and proprioceptive input, fine motor and gross motor work, deep muscle work, and auditory and visual processing work. And it is . . . hard to do when NOW suddenly municipalities seem to think it is OK to give tickets for everything THEY deem 'non-essential'. And by the way, just because we need to do things differently doesn't mean we are doing it with groups of people or breathing on everyone or ignoring safety for goodness sake."

As described in sections 6, 8 and 11 above, elderly, disabled and night shift workers rely on lawn maintenance companies to mow their lawns, etc. These individuals would not be able to abide by lawn maintenance ordinances or homeowners association requirements without the services of lawn mowing companies. Similarly, these populations commonly rely on contractors and other professionals to perform

maintenance and repairs to their homes, but Governor Whitmer has outlawed all "non-emergency maintenance or improvements to residences" by contractors. Nothing has been put into law or these executive orders that negates a homeowner's legal obligations to keep residential properties in good repair, thus they are more at risk for blight citations, etc.

As discussed in detail in sections above, seeds and other gardening supplies are illegal under the current executive orders, but you can buy fast food. Many people have shared concerns like "I usually plant my own garden and produce a majority of our own food . . . how can I do that without plants or seeds?" Another said "we just rototilled a new vegetable garden on our property so we could be less reliant on grocery store trips given the situation. But I needed seeds and some new tools to finish the garden and now it is deemed unlawful to shop for gardening items, so I can't finish the garden!" Yet another said "I can't buy garden seeds or plants and we are homesteaders. I have a huge garden and nothing to plant in it nor do I have access to soil amendments. We rely on this for food production." So, for no legitimate purpose whatsoever, the Governor is discriminating against those who grow their own food.

Blatant discrimination occurs amongst businesses. Comic book stores that sell snacks cannot stay open, but liquor stores that "might" sell snacks can. (See discussion in section 11.) Furniture and home improvement items are illegal under these orders, but pawn shops are allowed to remain open for business. (See Executive Order 2020-42, and WILX *Michigan cracking down on non-essential business*, quoting Ryan Jarvi, spokesman for the Michigan Attorney General's Office, dated April 6, 2020, last accessed April 11, 2020.)

Discrimination happens in the medical world, too. Marijuana is still available for purchase, while joint replacements, orthodontic procedures, and mental health services have been deemed non-essential. You cannot go get a tooth extracted from your mouth, but if you want to abort your baby, you can go get a living human being extracted from your vagina.

Discrimination also exists for disabled Michiganders trying to get some fresh air. One of the exceptions to the Governor's Executive Order 2020-42 (stay-at-home order) is for individuals who leave their homes to "engage in outdoor physical activity, consistent with remaining at least six feet from people from outside the individual's household. Outdoor physical activity includes walking, hiking, running, cycling, kayaking, canoeing, or other similar physical activity, as well as any comparable activity for those with limited mobility." This provision is clarified in a FAQ entitled "Can I still go boating?" which is posted on Michigan.gov/Coronavirus, and states that only non-motorized boating is allowed. Individuals with certain disabilities are, therefore, precluded from being able to go boating or fishing, as some disabilities make it impossible for the individual to propel a boat through water on their own. [Back to Top](#)

## 18. So your kids are out of school and spending more time at home with you, what's the big deal?

I, personally, have a home office and plenty of homeschool materials. I've homeschooled my kids for several years, so jumping back into it isn't too hard. I struggle to direct homeschooling while trying to participate in Zoom meetings or write briefs, but we are making it work. And all day long, I'm getting hugs, kisses, and 'I love you,' which make any stressful day better.

For many, though, "just staying at home" is a lot easier said than done. As mentioned in many other sections of this analysis, this type of quarantine for this long is itself causing a lot of damage. For example, as several news anchors have recently reported, and many Michigan legislators have shared on social

media, instances of domestic violence skyrocket during times like these, and local law enforcement agencies have seen a drastic increase in domestic violence incidents. Consider Deidra's statements: "We've been exploring the woods in state parks and going to trails almost everyday that we can to get away from an abusive home situation since that person is now always there. We sometimes have to drive to empty school or church parking lots to run around."

Like I discuss in Section 19, this statewide shutdown is having heavy economic consequences for families all across the state. Even when it "works," unemployment is simply not enough to fill the gaps. In addition, common grocery items are often out of stock these days. This results in many families across the state struggling to feed their children. Yes, many school districts are offering food distribution times, but many of those are during the work day. Also, while a family receiving free or reduced breakfast and lunch was able to get that food right from their child's school, school districts have now had to combine food distribution sites meaning a lot of families would have to travel to a different building. That might seem simple to you, but for many families struggling with food, reliable transportation is also an issue.

Thousands, if not millions, of Michiganders struggle with depression and anxiety - on a good day. When you take away their job, sports, church activities, counseling, support groups, family gatherings, community supports, and human contact in general, those with depression and anxiety are likely to see their condition worsen. Even individuals who have never had depression or anxiety are likely to start experiencing symptoms of those conditions when our entire lives are changing so much, so quickly. Elizabeth shared that "[m]ental health is being stomped all over!!! I have a family member who is struggling with a mental health issue and we were told that unless she's actually trying to kill herself right then, we have to wait until this is over for her to have help." One parent writes "I, myself, am watching my older son slide into a deep depression. It is ugly. It is painful." While depression and anxiety are not as easy to see as a broken leg, they are just as real.

I've worked with children, and in the child protection system for 19 years. I've served as both a guardian ad litem and attorney for children in abuse and neglect cases, an attorney for juveniles charged with offenses, a lawyer-guardian ad litem for children in "ugly" custody cases, a divorce attorney, an attorney for parents in abuse and neglect cases, a foster care mentor, a special education mediator, an IEP facilitator, a restorative justice facilitator in an elementary school, a restorative justice facilitator in a juvenile court diversion program, a child protection mediator, a divorce & custody mediator, a presenter for programs like Cradles of Grace, and a mentor for single moms. As much as my fingers got tired of typing all that, I share that experience with you so you know of my first-hand knowledge in the area. With that being said, I can say without a doubt that when parents lose their jobs, suffer economic hardship (like many are now), struggle to feed their children, get torn apart from their support systems, etc., instances of drug abuse, alcohol abuse, and mental health issues increase drastically. And when you add drugs, alcohol, and mental health issues to the underlying stressors, parents often "snap," and that is when child abuse or neglect occurs. But can child abuse or neglect kill a child like a scary illness can? Absolutely! And for the children who survive, the effects are devastating and lasting. Many of you will understand this, but for those who don't quite get it yet, think about the following. As a lawyer-guardian ad litem, the youngest client I ever had was 4 weeks old, yes, 4 WEEKS old. She had numerous broken bones and crushed organs. You can imagine the kind of lasting effects she had from her abuse. But older children, and those abused in ways that don't leave broken bones, suffer lasting mental, physical, and emotional effects, too. I'll also note that as I was putting finishing touches on this analysis, I saw that on April 14, 2020 at 7:00pm,

the Michigan Supreme Court official facebook page posted "Child abuse prevention advocates warn of an uptick in cases due to COVID-19."

Do you know a child with disabilities? Consider what their world looks like now. After seeing two of her friends ticketed \$500 for buying "non-essentials," and seeing the stay-at-home provisions get more strict, Laura explained how such policies impact her family. "I have an ASD child. . . . ALL of our services have been stopped. OT, PT, speech, feeding therapy, vision therapy, ABA - all of it. No respite care, no helpers, no breaks, NOTHING. To take an ASD kid out of a normal routine is difficult on a good day, much less stopping for weeks. Many are backsliding. Many are ticking, having regressive/aggressive behavior, having anxiety, depression, anger, rages, etc. . . . I have talked to parents who live in apartments who are getting threats from their neighbors about their children screaming, banging, jumping, because their lifelines have been cut off suddenly and completely. Believe me, using Zoom for a tiny bit of online 'therapy' DOES NOT HELP. . . . What is deemed 'ESSENTIAL' for ASD families is very different from someone just deciding they want to do something for the hell of it. Our essential is walking and looking for bugs, finding worms, taking binoculars and looking for birds. Our essential is building a garden that our son has asked for to keep him busy. Our essential is driving around playing Pokemon Go and doing scavenger hunts from the car. Our essential is finding new games, toys, random things to keep busy. Our essential is trying to build things together, get art supplies, and do what we can to 'normalize' their day while trying to build in our own vestibular and proprioceptive input, fine motor and gross motor work, deep muscle work, and auditory and visual processing work. And it is . . . hard to do when NOW suddenly municipalities seem to think it is OK to give tickets for everything THEY deem 'non-essential'. And by the way, just because we need to do things differently doesn't mean we are doing it with groups of people or breathing on everyone or ignoring safety for goodness sake. Our kids don't even LIKE groups of people or talking to strangers much less getting close to them. . . . I am happy for those of you who have the ability to stay in and read and relax and do nothing. I am glad YOU have the ability to sit at your computer and scream 'STAY THE F\*CK HOME.' Good for you. But there are those of us who do NOT have that luxury. We have to suffer the screaming, headbutting, scratching, silent depression, hearing our kids say they want to die, crying, regressing, and everything else that people are suddenly blind to because others don't think about how damn hard it is for a lot of ASD members of society to understand. Please stand up and help us. HELP US."

So when you catch yourself judging other parents stressing out about their kids being home all the time with them, think of the individuals mentioned here. Think of the parents trying to escape abusive situations, those struggling to feed their kids, those suffering from depression or anxiety, those with *children* suffering with depression, the parents who have had all of their support systems ripped away from them, and the parents of children with disabilities - who are no longer receiving supports and services. [Back to Top](#)

#### 19. The Governor is only prohibiting people from working if their work puts others at risk, right?

No. In her Executive Order 2020-42, which is receiving national criticism for its overbroad language and unnecessary restraints upon fundamental liberties, Governor Whitmer specifies that she is following some of the guidance offered by the Director of the U.S. Cybersecurity and Infrastructure Security Agency on March 19, 2020, but that her "order does *not* adopt any subsequent guidance document released by this same agency." Just as Governor Whitmer deemed it necessary to issue Executive Order 2020-4 (Declaration of State of Emergency) as quickly as possible, following up with clarifications in Executive Order 2020-33 (Expanded emergency and disaster declaration) as new information was presented, likewise CISA issued initial COVID19 guidance on March 19, 2020, following up with clarifications and corrections on March 28, 2020. However, Governor Whitmer has unreasonably refused to acknowledge

these updates and corrections. For example, Governor Whitmer prohibits the following professions from working, despite being deemed essential by CISA: plumbers, electricians, exterminators, builders, contractors, HVAC Technicians, landscapers, residential and commercial real estate services, workers providing personal and household goods repair and maintenance, etc. Many of these individuals can perform their duties at least 6 feet away from other people, if not entirely alone.

Even US Representative Paul Mitchell issued a public statement that Governor Whitmer "should issue a public health order that aligns with the Centers for Disease Control guidance to mitigate the transmission of the virus, rather than her current more restrictive and arbitrary executive order. The CDC guidelines lay out very specific steps to protect public health that were developed by the experts." He continues "[b]usinesses can ensure people remain six feet apart, properly sanitize, set up sneeze guards and protective barriers, promote proper handwashing and cleaning techniques for their employees, while also protecting customers with similar guidelines. People can buy gardening supplies to plan their spring gardens or buy a can of paint for touch up work in compliance with CDC guidance to prevent the spread of COVID-19." (The Detroit News, *Look at CDC Guidelines*, U.S. Rep. Paul Mitchell, published April 12, 2020, last accessed April 14, 2020.)

Even Leelanau County Sheriff Mike Borkovich, Benzie County Sheriff Ted Schendel, Manistee County Sheriff Ken Falk, and Mason County Sheriff Kim Cole stated in their April 15, 2020 Press Release that "[o]ur focus needs to be on reopening our counties and getting people back to work. We also need to be aware that this virus is deadly and that we need to continue to practice social distancing, washing of hands, wearing of masks as well as other medically recommended measures. Allowing those without paychecks back to work is imperative to the economic success and wellbeing of our community. We can do this in stages, especially those that work outside." [Back to Top](#)

## 20. Ordered to stay home, we're at least allowed necessities for our homes, right?

We are ordered to stay at home, with all sports being canceled and people even getting ticketed for walking or biking on trails or boating by themselves. So, we're at least still allowed necessities for our homes, right? No. As described by Joseph B. "my basement flooded. I've been repairing it as it is finished and part of our living space for a family of two kids and my wife and I. The order outlawed my ability to get needed flooring materials, paint, and other supplies necessary to fix my basement." Bill B. shared that "I've had contractors kicked out of my primary residence by Oakland County Sheriff and can't return bc I have no plumbing fixtures."

Stores, in fact, are prohibited from selling many necessary home improvement items under the broad language of Executive Order 2020-42, and all "non-emergency maintenance or improvements to residences are not permitted." (According to the Frequently Asked Questions portion of the Michigan.gov website, which now carries the full force of law under penalty of fines, criminal sanctions, and licensing consequences, according to both MDHHS Emergency Orders dated April 2, 2020.) Further, with regard to lawn care, "cosmetic and non-emergency maintenance and improvements to the outdoor areas of residences and business are not permissible under this order." Additionally, Governor Whitmer has prohibited the sale of necessities like furniture, calling them "non-essential." Also, despite appliance repairmen being included in the federal CISA list of essential workers, Governor Whitmer has prohibited them from doing work in Michigan. Likewise, plumbers, electricians, and contractors (who are all categorized as essential by CISA) have been deemed non-essential by Governor Whitmer. So, your ability

to make house repairs and maintenance, keep up on lawn needs, get household appliances fixed, or replace broken furniture has been severely restricted. [Back to Top](#)

21. Unemployment is enhanced now, so these orders aren't hurting anyone financially, right?

As State Representative Michele Hoitenga explained last week, our state "unemployment website and toll free number [are] not working." As many unemployed Michiganders know all too well, this problem has been going on for weeks. Steve L. reached out and said "I've tried to claim unemployment for 3 weeks now and can't get through. I've called over 400 times. I've called reps congress people and senators as well as the governor. Nothing at all." State Representative Bronna Kahle said in her April 2, 2020 press release "I hear from people who spend all day waiting for the [unemployment] website to load, only to have it freeze or lock them out. When they try to call the phone line, they sit on hold for hours unable to get through. People are desperate for help, and the system is failing them." On April 1, 2020 upon releasing Executive Order 2020-33, Governor Whitmer said that the "economic damage - already severe - will compound with time. . . . [E]conomists at the University of Michigan forecasted that as many as 1 in 10 Michiganders could be unemployed by the fall and that economic sectors that feature substantial social interaction could contract by as much as 50%. As a result, many families in Michigan will struggle to pay their bills or even put food on the table." Indeed, on April 9, 2020, Governor Whitmer reported that between March 15th and April 4th, Michigan had 816,785 total unemployment claims (and those were only the ones who got through!). We have 9,986,857 in Michigan, so forget fall's prediction - in just the last three weeks 8.2% of Michiganders have already filed for unemployment! And, while the governor relaxed some unemployment requirements, the system is not capable of paying out that many people, let alone for 26 weeks. Moreover, unemployment is not designed to fully replace every dollar a worker is missing out on during the time of unemployment; it only covers a portion of the funds the worker would have earned on the job. With most workers across the state prohibited from working right now, and many families who were already living paycheck to paycheck, these circumstances are devastating.

Senator Lana Theis pointed out a few days ago that school revenue fell over \$75 Million in March, with April numbers promising to be worse. She argues "[f]or those who think we shouldn't be trying to get people safely back to work, there are huge implications to public health and safety in increased suicides, increased domestic assault, and not to be ignored, a severe reduction of funding for schools." Indeed, State Representative Luke Meerman posts just today that "we don't live in a vacuum where stopping the economy isn't going to negatively affect all of us going forward. For instance schools could likely see a decreased next budget, this is cutting across all lines."

State Representative Luke Meerman recently stated that he is "so unhappy with the direction our Governor Whitmer is going. We can tackle Covid 19 in a different way. There are many ways we can social distance and go to work. Dale Buist with Countryside Greenhouses said that they're throwing product away every day and risk losing a 38-year-old business. John and Holly Harms who own Hudsonville Grille are hurting. Ray Nadda who owns Wash and Wags, is putting in his personal savings to keep things afloat. Dr. Patricia Roslund, owner of Allendale Eye Care, who has been in business for 30 years, said they are seeing revenues reduced by 95%, while still paying staff and has had to transfer personal savings to save it. They are currently only able to handle emergency eye care by tele-health and can only band aid the other optical problems that patients are having. Unfortunately, after hearing the governor's decision to place more restrictions on businesses and declare a 'stay at home order' until April 30th, it appears she has no plans to get Michigan back to work. She's not listening to business owners and the working people of Michigan who want to go back to work. She continues to use this public health crisis as a political audition for her

aspirations to become Vice President of the United States. I am ashamed and extremely frustrated with the lack of flexibility the governor has shown in allowing businesses, who can operate safely, go back to work. No discussion. No plans."

Even in their April 15, 2020 Press Release, Leelanau County Sheriff Mike Borkovich, Benzie County Sheriff Ted Schendel, Manistee County Sheriff Ken Falk, and Mason County Sheriff Kim Cole recognized that "[a]llowing those without paychecks back to work is imperative to the economic success and wellbeing of our community. We can do this in stages, especially those that work outside." [Back to Top](#)

## 22. Our Governor is only doing what is necessary for our health and safety here in Michigan, right?

No, work can and will be done to combat COVID19 without the drastic, liberty-crushing actions taken by Governor Whitmer. First, a state of emergency declaration, while initially helpful when implemented on March 10, 2020, became unnecessary upon President Trump declaring a State of Emergency for the entire nation just three days later. MCL 30.416 allows the governor to access federal emergency funding through President Trump's declaration of emergency. Furthermore, countless private businesses and organizations have come together to provide food for those in need, PPE for frontline medical workers, free travel and hotel stays for frontline medical workers, etc. Simply put, we don't need a dictator to rule in order to have access to things necessary for us to win the war on COVID19.

It certainly does not protect the health and safety of the people when Governor Whitmer's executive orders make necessary services, items and actions illegal. It doesn't help matters that the Michigan Attorney General has come after several stores, threatening them for having sales, selling "non-essential" items, and other alleged violations. Even Michigan law enforcement agencies see the problem here. In an April 15, 2020 Press Release, Leelanau County Sheriff Mike Borkovich, Benzie County Sheriff Ted Schendel, Manistee County Sheriff Ken Falk, and Mason County Sheriff Kim Cole expressed their concern over Governor Whitmer's executive orders "overstepping her executive authority." They explain that "[s]he has created a vague framework of emergency laws that only confuse Michigan citizens. As a result, we will not have strict enforcement of these orders. We will deal with every case as an individual situation and apply common sense in assessing the apparent violation. Each of us took an oath to uphold and defend the Michigan Constitution, as well as the US Constitution, and to ensure that your God given rights are not violated. We believe that we are the last line of defense in protecting your civil liberties."

Lawn maintenance services are deemed non-essential, while entire garden centers (which contain bug spray, lawn mowers, rakes, etc.) are required to be roped off and marked as unavailable for sale. Yet, lawn maintenance ordinances and homeowner association regulations regarding lawn maintenance remain in full force and effect. To make matters worse, as the weather gets warmer, all of these unnecessary restrictions will prohibit us from protecting ourselves against EEE and West Nile Virus. As discussed in detail above, about a third of patients who develop EEE die, and many of those who survive have mild to severe brain damage. If it's true that we have a shortage of ventilators and other medical equipment needed in treating COVID19, then why increase the risk of people getting EEE, who will then need the same medical equipment?

Similar catch 22 situations now exist for homeowners with regulations against blight and requirements of landlords to keep residential properties in good repair, as many home improvement products are now deemed "non-essential" as are professions like carpenters and appliance repairmen. Indeed, building supplies needed to ensure a child's safety on their family deck, along with the supplies needed to repair the

flooding that ruined essential lower level living space, have all been deemed illegal for purchase by Governor Whitmer.

But other needed things now prohibited include seeds and gardening supplies for those who grow their own food; medical care like joint replacements, orthodontic procedures, and mental health services; and a variety of items for the ASD members of our community, who have lost all their physical therapy, occupational therapy, speech therapy, ABA, feeding therapy, vision therapy, etc.

These executive orders don't even comport with notions of common sense. Alcohol, lottery tickets, cigarettes, fast food and marijuana are still available for purchase, while seeds, gardening supplies, home improvement materials and furniture are now illegal. Stores like Bath and Body Works that specialize in selling soap and hand sanitizer had to close, while pawn shops are allowed to remain open. Jails and prisons were directed to release prisoners early, but upstanding citizens are threatened with jail time for buying some patio furniture or gardening gloves. CDC recommendations identify ways Michiganders can get back to work while protecting themselves and others from COVID19, yet Governor Whitmer ignores them. Governor Whitmer prohibits many professions from working, despite them being deemed essential by the Cybersecurity and Infrastructure Security Agency (CISA). Our carpenters and lawn maintenance services (who can perform a majority of their work alone) are sidelined, but state road construction projects are allowed to continue.

The Governor has also vastly underestimated the crippling economic impacts of her excessive measures. Our unemployment system is extremely overwhelmed in processing claims, and lacks the resources to pay out extended benefits to a million workers. As discussed above, our tax revenue has already seen significant reductions which will result in funding getting cut for important functions, like schools. Loans and grants only go so far - several businesses have closed permanently due to these executive orders. As a man at the rally at the Capitol on April 15th said, "27 years of business was destroyed in the last 27 days."

Her executive orders have been discriminatory on their face, and as applied. Moreover, the populations she's claiming to help with these orders are the very people she's hurting the most! Countless medical and dental procedures are being postponed indefinitely. Severe, and sometimes fatal, conditions are being missed while patients are being kept from their medical providers. The elderly are being held prisoner in their own retirement homes, having their privacy invaded and their every move monitored. Mental health needs are compounding as all group therapy, counseling, anger management, support groups, parenting classes, Bible studies, community supports and human contact in general has been taken away. With mental health issues increasing and financial situations imploding, drug and alcohol abuse is on the rise. Parents are struggling to feed their children. When all of these stressors are combined, instances of domestic violence and child abuse and neglect are increasing in frequency.

The Governor claims to be making all of these orders with solid medical advice in mind, yet she has completely ignored basic medical concepts and recommendations. Those with a strong immune system obviously have a much better chance to resist or survive COVID19. A strong immune system is created with many components: consuming fresh fruits and vegetables, lean proteins, lots of water, essential vitamins and minerals and natural supplements (zinc, elderberry, vitamins C & D3, probiotics, etc.), and fiber; getting enough sleep, fresh air and exercise; and maintaining our mental health. We are stripped of the ability to provide for our families, to properly care for our homes, to provide for our children to receive education outside of the home, or to physically connect with other humans through sports, entertainment,

or other common interests. It's undeniable that these excessive government measures have negatively impacted our mental health, our spiritual well-being, and our physical health. Our immune systems simply do not thrive in such circumstances.

On the one hand, basic medical concepts relating to boosting immune systems, testing for and acknowledging the power of COVID19 antibodies, ensuring functioning water and sewer service for all Michiganders - especially those in the epicenter of Detroit, and utilization of medications like hydroxychloroquine have all been recommended and done in other areas, yet Governor Whitmer is failing to do any of these things for the people of Michigan! Governor Whitmer has continued to play political games at the expense of Michiganders.

Yes, President Trump is a huge fan of hydroxychloroquine, but he's not the only one. Hydroxychloroquine and Z-Pak have widespread recognition as viable remedies to COVID19. In Kathy's Hoekstra's March 26, 2020 article entitled *Michigan's doctors fight coronavirus, and governor's office*, published in the Detroit News, she writes "[t]hese well-known drugs have very favorable safety profiles. . . . [After drug studies, medical professionals now] recommend that COVID-19 patients be treated with hydroxychloroquine and azithromycin to cure their infection and to limit the transmission of the virus to other people in order to curb the spread of COVID-19 in the world.' [International Journal of Antimicrobial Agent (2020), *Hydroxychloroquine and azithromycin as a treatment of COVID-19: results of an open-label non-randomized clinical trial*, Philippe Gautret, et. al., found at <https://doi.org/10.1016/j.ijantimicag.2020.105949>, last accessed April 15, 2020.]" Hoekstra explains that New York, with the blessing of President Trump and the FDA, has already started clinical trials, which include 70,000 doses of hydroxychloroquine, 10,000 doses of Zithromax and 750,000 doses of chloroquine. State Representative Karen Whitsett from Detroit, after testing positive for COVID19, was prescribed hydroxychloroquine. "It was less than two hours" before she started to feel relief, and she credits it with literally saving her life, as reported by The Detroit News.

However, Governor Whitmer refused to acknowledge it as a remedy worth pursuing. Indeed, "Gov. Gretchen Whitmer's Department of Licensing and Regulatory Affairs literally threatened all doctors and pharmacists in the state who prescribe or dispense hydroxychloroquine to treat COVID-19," Hoekstra explains. "Even worse," Hoekstra adds, "the letter indicates health care providers are 'required to report' their fellow physicians who are prescribing these medications. . . . During a time of crisis, in which physicians continue to see patients despite not having enough protective gear, this threatening, authoritarian stance from our governor is counterproductive at best." Hoekstra warns that "[t]he implications of Whitmer and her administration's knee-jerk scare tactics should terrify all Michigan residents. Not only is our state's top leader threatening the selfless health care workers who are on the frontline trying to save lives, but she's denying possible life-saving medications to actual COVID-19 victims." Governor Whitmer still refuses to urge medical providers in Michigan to start using hydroxychloroquine to treat those with serious infections of COVID19.

Likewise, although proper personal hygiene is touted as one of the best ways to avoid COVID19, State Representative Karen Whitsett, Democrat from Detroit, stated on April 13th on the Glenn Beck radio show that many residents in the Detroit area are still without water. Antibody testing has also been put on the backburner by Governor Whitmer. However, there are models showing 50% of the population may have already had COVID19 without knowing it. In fact, a "phlebotomist working at a Chicago hospital said Thursday that 30 to 50 percent of those tested for coronavirus have antibodies, [while only] 10 to 20

percent of those tested are actual carriers of the virus. Sumaya Owaynat, a phlebotomy technician for Rosewood Community Hospital, has had extensive experience with coronavirus testing over the last few weeks, as she has been testing around 400 to 600 people per day in the hospital's parking lot. 'A lot of people have high antibodies, which means they had the coronavirus but they don't have it anymore and their bodies built the antibodies,' Owaynat told Chicago City Wire. . . . Antibodies in the bloodstream reveal that a person has already had the coronavirus and may be immune to contracting the virus again." Kyle Morris, *Chicago Phlebotomist: Coronavirus Antibodies Found In Many Tested*, <https://www.breitbart.com/health/2020/04/10/chicago-phlebotomist-coronavirus-antibodies-found-in-30-50-tested-for-covid-19/>, published April 10, 2020, last accessed April 15, 2020.

On the other hand, containment and mitigation have proven to be ineffective, yet Governor Whitmer doubles down on those strategies every chance she gets. Our society is too large, too interconnected, and too interdependent for containment to work. Mitigation kicks the can down the road with no proven benefits yet a plethora of difficulties. Furthermore, seclusion in the name of containment and mitigation is commonly known, among experts and laymen alike, to cause the aforementioned adverse effects. Also, COVID19 statistics paint a clear picture of the abject failure of stay-at-home orders. Within the first few days of Governor Whitmer closing schools across the state, we saw our first spike in new COVID19 cases. The day she issued the first stay-at-home order, we saw our next spike in new COVID19 cases. The day she issued the Expanded Emergency & Disaster Declaration, we saw our next spike in new COVID19 cases. The numbers did not level off upon her instituting these harsh restrictions upon our liberties, they increased. In issuing her newest stay-at-home order, Governor Whitmer claimed that "[t]he measures put in place by Executive Order 2020-21 [the first stay-at-home order] have been effective, but this virus is both aggressive and persistent." But there is *no* data to support her claim of effectiveness, and the most aggressive and persistent thing in this whole situation has been her noose around our fundamental liberties. Moreover, the charts and graphs above demonstrate Michigan has a much worse death rate as compared to the states with *no* stay-at-home orders. Likewise, when each state *without* a stay-at-home order is compared to a neighboring state *with* a stay-at-home order, the states *with* stay-at-home orders ALL have death rates much worse than the states *without* stay-at-home orders. An expert Immunologist from right here in Michigan says "[o]ur current strategy is actually leading to a prolonged COVID-19 season!"

Additionally, while the death rate from COVID19 is *far* lower than heart disease, cancer, asthma, bronchitis, emphysema, stroke, Alzheimer's, diabetes, pneumonia, car accidents and drug overdoses, it is also far less than the number of people who have died in the US from the flu this year, which the CDC estimates to be as high as 62,000 people as of April 4, 2020. (CDC, *2019-2020 U.S. Flu Season: Preliminary Burden Estimates*, [www.cdc.gov/flu/about/burden/preliminary-in-season-estimates.htm](http://www.cdc.gov/flu/about/burden/preliminary-in-season-estimates.htm), last accessed April 13, 2020.) Indeed, pediatric mortality (deaths of those under 18 years of age) for the common flu is 83 times greater than pediatric mortality for COVID19. In fact, when the final death toll is taken of "stay-at-home" suicides, drug overdoses, alcohol-related deaths, domestic violence murders, child abuse or neglect deaths, and deaths due to postponed treatment or missed diagnoses, many experts and laymen agree that the loss of life from this COVID19 "preventative measure" will far outweigh the lives saved from COVID19.

Our health and safety are certainly not protected when there's significant issues with transparency and truthfulness. As State Representative Michele Hoitenga shared on April 8, 2020, "Michigan has been rated last in the nation in data and transparency for COVID-19 related issues. What is Governor Whitmer basing her decisions on without statistical data to back up her decisions? No one seems to know. I'm a legislator

and I can't even get the answers to these questions, perhaps because the data is not being collected accurately?!" Governor Whitmer based her Expanded Emergency and Disaster Declaration (Executive Order 2020-33) on the "fact" that "Hospitals in Oakland, Macomb, Wayne, and Washtenaw counties are . . . full [and] [v]entilators and personal protective equipment are in short supply and high demand." Yet, Nicole Smith, RN, BSN, CCM, said in her letter to Governor Whitmer "I was able to watch your address today (4/9/2020). I am a nurse case manager. I work in South West Michigan. I am currently doing telephonic covid cases for the city of Detroit so I am very well aware of what is going on over there. I also am very aware of what is going on in South West Michigan. We have empty hospitals that are not over run and we have nurses being laid off because there is no work. . . . I know that Beaumont is functioning at 60% right now and that they have over 300 ventilators available and yet you opened the TFC Center . . . ." Countless other stories like this are shared every day.

Especially given all the facts above, Governor Whitmer should NOT be deciding what is essential for each one of us, and her doing so does more to harm the health and safety of the people of Michigan than it does to protect us. To anyone who thinks Governor Whitmer is in the best position to make all decisions for us regarding COVID19, I ask you to read *each* of these sections carefully. [Back to Top](#)