



MARJORIE L. BYRNES
Assemblywoman 133rd District

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

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Children & Families Committee

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April 28, 2020

Hon. Andrew M. Cuomo
Governor of New York State
Albany, New York 12224

Hon. Letitia James
New York State Attorney General
The Capitol
Albany, New York 12224-0341

Hon. Howard Zucker, M.D. Commissioner
New York State Department of Health
Corning Tower
Empire State Plaza
Albany, New York 12237

Re: Hurlbut's Avon Nursing and Rehabilitation, Avon, NY

Dear Governor Cuomo, Attorney General James and Dr. Zucker,

As you know, the COVID-19 virus is ravaging our communities. In rural areas, while our numbers are smaller, so is our population density. Even a few deaths in our communities are devastating.

We have nothing but praise for all of the health care workers who are putting their lives at risk to help us all. But, we have identified a Hurlbut nursing facility where we believe management decisions are putting those health care workers and many residents at unnecessary risk. We are calling upon the Attorney General's Office and the State Department of Health to immediately intervene in and investigate Avon Nursing and Rehabilitation in Avon, N.Y.

Avon Nursing and Rehabilitation is a small 40 bed facility. Thirteen residents are COVID-19 positive and two have died. Some staff are positive. Employees are being threatened with loss of their jobs if they talk about the conditions inside the facility. Livingston County officials offered universal testing of residents and staff over two weeks ago to determine the extent of the health problem, however Hurlbut was uncooperative. Thereafter, we were assured by the State Department of Health that Hurlbut had agreed to universal testing. Last week, after a two week delay, testing was performed on residents and additional positive cases were found. Since that testing, even more positive cases have been found. However, to date, Hurlbut has not allowed testing of staff, despite promising the State Department of Health that they would do so. It



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appears Hurlbut is intentionally delaying the testing of staff at a time when the number of positive residents is increasing.

Hurlbut's lack of full cooperation during this health crisis and employee gag order demonstrate an utter lack of concern for the health and well-being of every person in this facility. Hurlbut's conduct endangers our entire community.

Clearly, Hurlbut knows the dangers of failing to universally test. Hurlbut also owns Hornell Gardens, a small 65 bed facility, in Hornell, N.Y. At Hornell Gardens, dozens of residents and staff members contracted the virus. This facility suffered over a dozen deaths and continues to be the focal point of Hornell's outbreak.

At a time when many believed the outbreak at Hornell Gardens could have been contained and whistle blowers warned of the dire conditions within the facility, Hurlbut was also uncooperative with universal testing. Finally, Hurlbut, after the intervention of Steuben County officials, the State Department of Health, and many elected officials, allowed universal testing. The results, as outlined above, were tragic.

The failure to universally test in a timely manner at the Avon facility, especially on the heels of the ongoing crisis at Hornell Gardens, compounded by the announcement that the State will investigate Hurlbut's Brighton, N.Y. facility, compels us to demand that the Attorney General and the State Department of Health immediately intercede in and investigate Avon Nursing and Rehabilitation. The safety of our residents is of the utmost importance. The State cannot risk Avon Nursing and Rehabilitation becoming another Hornell Gardens.

Thank you for your prompt attention to this urgent matter.

Hon. Marjorie L. Byrnes
New York State Assembly, 133rd AD

Hon. Patrick M. Gallivan
New York State Senate, 59th Senate District