

# MEMO

**TO: Dana Nessel, Attorney General; Sunita Doddamani, Assistant Attorney General**

**From: Lisa Peacock, Health Officer, Health Department of Northwest Michigan and Benzie-Leelanau District Health Department**

**Date: October 4, 2021**

**Subject: Health Department of Northwest Michigan Illegal Acts**

I would like to file a complaint against the Board of Health of the Health Department of Northwest Michigan for committing an illegal act by, among other things, endangering the safety and welfare of myself (their employee), my staff, members of the public, and acting with the intention of intimidating and bullying me into rescinding the Public Health Order I had issued on 8/27/21 requiring universal indoor masking in K-12 school settings. The acts at issue here are ultra vires acts that were not lawfully part of any duty of any Board member.

On 8/30/21, Dr. Meyerson and I received a letter via email from Commissioner Robert Pallarito (Otsego County) signed by himself and three other members of the Board of Health (Commissioner Scott Hankins - Charlevoix, Commissioner Jarris Rubingh - Antrim, and Commissioner David Bachelor - Emmet) demanding that we rescind the 8/27/21 order immediately and present it to the Board of Health for consideration at the meeting on 9/7/21. The body of the email stated “please read the attached statement from the Board of Health” indicating that it was of and from the entire Board. I immediately forwarded the correspondence to the Board of Health Chairperson who had not been copied on the correspondence I received from Commissioner Pallarito. The Chair later indicated to me that she followed up with phone calls to the other board members who also had not been copied and noted that at least one additional member had been made aware of the letter by Commissioner Pallarito indicating additional discussion had taken place with a fifth board member instituting a quorum. Notably, this action is in violation of all rules of order governing the Board as well as the Open Meetings Act, in that a quorum of the Board clearly deliberated on an action without appropriate steps or public transparency. Ironically, this ultra vires letter in blatant violation of state law and the rules governing the Board was immediately posted publicly on Facebook by Commissioner Pallarito with the caption, “the democratic process has been hijacked and decisions made without consulting elected officials and disregarding the will of the people”. Additional public posts by Commissioner Pallarito encouraged the public to “stand up to” me because of my order, which was described (although lawful and enforceable) as “overreaching.”

This directly encouraged aggressive, threatening behavior to be directed at me through phone, social media, and email correspondence as well as in person at a subsequent Board of Health meeting at the Charlevoix library on September 7, 2021. This raises

direct concern for me as these are my employers who I should be able to count on to ensure my safety.

The meeting on 9/7/21 immediately took on the tone of an aggressive “mob mentality” as the public began to gather. Before and during the meeting they resisted appropriate direction, ignoring the attempts of staff to assist them in finding a seat in the main room or overflow area, including yelling “come in the main room there is plenty of standing room, you don’t have to listen to them!” and “welcome to Obama’s birthday party.” They refused to put on masks or comply with instructions for distancing and quickly overwhelmed the health department staff who were trying to maintain order and peace. Members of the public approached me expressing that they were there to express their views in support of the mask mandate but weren’t sure they could stay because they were afraid of the crowd aggressively forming around them.

My best estimate is that the crowd was allowed to breach the fire marshal’s safety requirements (I do not have an exact count) as well as ignoring directions on masking and distancing, exposing every person in that room to risk. Unchecked, members of the public physically intimidated our staff, standing behind them and refusing to move when asked, making intimidating gestures to us including staring us down, aggressively following our movements, extending the middle finger to us, and making physically aggressive motions such as kicking and moving closer toward us.

Per my earlier request to the Police Chief, there were three law enforcement officers from the Charlevoix City Police Department in the room. The crowd was immediately aggressively and loudly defying the instructions of our staff. Because of this, I requested the assistance of the law enforcement officers before the meeting even started, in keeping peace and order in the room by supporting our staff in filling chairs in the main room as well as the overflow area (where there was a monitor and speaker set up) so that we could monitor the number of people entering. The Deputy Chief of Police responded by turning to the Chief and saying (as though threatening me with an accusation) “I think she is asking me to remove people from an open meeting,” and I responded explaining that I was simply asking for them to assist my staff in keeping the room safe. Needless to say, no effort was made to direct the public to follow the plan for everyone to see and hear the meeting from seating set up in advance. In fact, although the Chief indicated they would assist, there was no intervention observed during the entire day to maintain order and safety, and the Deputy Chief could be seen talking and laughing with some of the main hecklers in the room throughout the day, including heckling, jeering, screaming and other disruptive behavior which made it difficult to hear or function.

One of my staff members overheard people talking about a planned internet attack that would be coming later in the day to disrupt the public’s access to the meeting, and in fact that did occur. The premeditated interruption included racial slurs and pornography. The organizers were heard discussing this before it happened, indicating that it was expected; this was a part of a carefully planned disruption. A member of the public reached out to our Information Technology staff following the meeting asking questions

about how she might obtain information from the Zoom recording because she felt she had been verbally attacked during the Zoom by racial slurs made about her child and indicated she would be following up with the Sheriff's department to file a complaint.

When we began conducting the business of the meeting, Commissioner Hankins requested that the discussion of the public health order be moved up on the agenda because "that's what all of these people are here for". His request was denied by the Board Chair and her decision was overruled by a motion proposed by Commissioner Rubingh and supported by the other members. I was asked to give a brief explanation of the public health order by the Chair which was quickly interrupted by Commissioner Rubingh stating he wanted to make a motion to rescind the public health order I had issued on 8/27/21. I was also interrupted multiple times by the public calling for my resignation and recission of the order. The health department attorney quickly advised the Board that this would be an unlawful action as the Board of Health does not have the authority to rescind the order issued by the Health Officer. They responded by discussing that they still wanted to go on record as officially being opposed to it. During discussion they asked me if I would voluntarily rescind the order to which I said "no, not until it was safe to do so based on data and risk trends". They continued to discuss while the attorney explained that this was an illegal action punishable by a misdemeanor and reminded them they were acting with willful and wanton misconduct. Commissioner Hankins described his law enforcement background (former Charlevoix City Police) and said "I've taken a lot of people to jail over the years but never for anything like this. Don't worry guys we aren't going to jail for this". The attorney reminded them several times of their sworn oath as elected officials to uphold the laws of the state of Michigan. The attorney continued to remind them that attempting to interfere with a public health official carrying out their duties was illegal and was not in the best interest of the health department. They blatantly ignored her advice and proceeded with the motion as described below. (Notably, since then they have indicated through communications to the Board Chair that they would like to put her job out for RFP).

Under the banner of consideration of an unlawful and ultra vires vote to override my masking order, public comment went on for over 4 hours and was dominated by hateful vitriol mainly directed at me. The mob influence grew with cheering for those speakers who opposed the mask mandate and shameful heckling, booing, laughter and cell phones prompting sheep noises repeatedly drowning out those who attempted to speak out in support of the mask mandate and the health department. So hostile was the environment, that health department staff had to escort the disfavored speakers out of the building for their safety, and they were heckled and harassed as they exited. The public demanded that I rescind the order and called for my resignation several times and an "indictment" was also presented by a citizen stating I was a "criminal against humanity" and I was threatened that they would be coming to arrest me for violations of the Nuremberg code.

Although the Board Chair and the health department attorney attempted to admonish the crowd several times to give each speaker respect and to direct their comments to

the Board, the disruption, threats and hostility continued unchecked. My staff described what they referred to as vile “hate speech” in the audience throughout the day. They and I were not safe and felt that the situation was seconds away from a riot.

The health department attorney later commented that the conduct amounted to a “breach of peace” several times throughout the day, but she also felt that without law enforcement support (which was visibly being withheld), stopping the meeting may have resulted in physical violence.

The actions taken by some commissioners to publicly discredit me prior to the meeting and follow up conversations I had with most of them by phone after the meeting have convinced me that this was a planned ambush intended to bully and intimidate me into rescinding the order.

During the meeting on 9/7/21, I did not feel safe using the public restroom during the only short break we had - my medical director had to escort me across the building to find another one. At the end of the day my staff moved my car and escorted me out of an alternative exit, fearing for my life, as people were visibly waiting to assault me in the parking lot. By that time, the police and most of the commissioners had left. As I was packing up my computer, one of the women who had been staring me down and following my movements with her phone camera trained on me all day assaulted me (she approached within an inch of my face), and made a derogatory comment about my weight.

One Commissioner commented to me that he was physically blocked from using the restroom by a member of the public during the meeting. He and others have advised that I should not go out in public due to safety concerns.

During all of their discussion the crowd continued to cheer them on and yell for my rescission of the order as well as my resignation. The discussion by the Board of Health focused on characterizing my action as overreach. A member of the audience continually approached Commissioners Rubingh and Pallarito at their seats throughout the meeting handing them cards that they would read off of. This person identified himself during public comment as a retired transportation director from Gaylord which allowed me to identify him as the sender of a harassing/threatening email the day before of which the entire text was bolded and underlined. The question was called by Commissioner Pallarito and Commissioner Rubingh read the motion from the card which appeared to have been handed to him by the same member of the public “I make a motion to rescind the public health order issued August 27, 2021 and allow parents and schools a choice in whether kids wear masks at school”. 2nd by Pallarito and motion passed 6-1 (only nay was Board of Health chair Commissioner Bargy and Commissioner Shirley Roloff who was absent having had to leave for a prior obligation). It was very clear from the discussion at the meeting and the alignment of the letter sent to Dr. Meyerson and myself after the order was issued that there was a great deal of discussion between some board members outside of the open meeting to bring this surprise action item to the meeting on 9/7/21 for a vote.

The discussion then turned to my termination as “the only way we can really get this order to go away”. There was ongoing discussion about my order and why this requires my removal, with comments including “she is over zealous and just needs to be corrected and set straight”.

Immediately after the 9/7/21 meeting concluded, Commissioner Hankins turned to my Deputy Health Officer and stated, “Well Natalie are you ready for a promotion?” Again, this was not during the meeting itself.

In the days following this board meeting, the health department and I continued to receive harassing and threatening phone calls and emails and in fact, they continue today with multiple calls from the public inquiring about the date, time, and location of the next meeting and social media posts such as one indicating that “Peacock is trying some shady stuff and and cancelled the meeting that was supposed to be on October 5<sup>th</sup> so she wouldn’t have to deal with us” and went on to refer to their “hero commissioners” who have requested a special meeting. In response to escalating concerns about potential workplace violence, our buildings needed to be locked down to the public for two days, we were notified by the Michigan State Police that intelligence had picked up on social media information indicating potential threats toward the health department. During those days following the meeting police presence was requested and received on site at the health department building in Otsego County as well as at the Gaylord High School to ensure peace and safety. The Otsego County Sheriff’s Department was very responsive to both my requests and those of the schools with the Undersheriff working in our office during a time that an onsite protest was planned. Following the events before, during and subsequent to the meeting on 9/7/21 I needed to take a two week FMLA leave to address health conditions arising due to the increasing and unbearable stress.

I returned to work after my FMLA leave on Monday, 9/27/21, as planned. I called each of the Board of Health members individually on that day with the goal of discussing my concerns about safety and their interference with the obligations of my statutory role. I received a variety of responses to these calls including one commissioner who didn’t call back, one who conveyed his fears about being able to safely get to his car after the meeting, one who told me “what did you think would happen? You brought this on yourself.” Another who indicated that law enforcement “didn’t get involved because no one got violent.” This attitude makes clear that threats, screaming, disruption of public meetings, internet attacks, personal attacks, slurs, assaultive behavior and other intimidation will be continued and/or tolerated toward me going forward, as will tolerating individual citizens being intimidated, harassed, and talked over when their message is not welcome.

## **Summary**

Beyond the above, I have experienced several instances of more subtle and direct actions by these and some other county officials who have engaged in threats of

reduced funding or limitations on operations, public calls for votes of “no confidence” in me, public calls for “defunding” the health department or “breaking up the health district” as well as delayed or diminished response from law enforcement to safety concerns that I have brought forward. Although there are many county commissioners, other elected officials, and administrative staff who have been extremely supportive of the health department throughout the pandemic, there currently appears to be an active attempt to discredit and disable the work of the health department by a subset of currently seated commissioners. The current climate has created a work environment where significant time and resources are needed to mitigate the constant threats to the well-being of the health department and therefore the public’s health. Individuals named above have engaged in conduct designed to bully and intimidate me into rescinding this public health order.

In the end, I am here to serve the people of northern Michigan according to the laws of the People. I have done so. The purpose of the public health order is to protect the health and safety of children, school staff and our community and it was issued based upon overwhelming medical evidence and my best judgment. During my tenure as Health Officer, I have had a very productive relationship with the Boards of Health who govern the agencies I represent and have earned their trust in my expertise and public health experience. These health departments have a long history of providing the highest quality public health services to the community and it has always been my intention to continue to uphold these high standards and protect the public’s health even when difficult decisions need to be made.

I have never asked for the Board of Health to agree with my statutory obligations or the decision to issue this public health order, but with their active, politicized work to undermine the integrity of the public role of a health officer, they have violated the law, they have acted *ultra vires*, and when counselled about of this ***by their own lawyer*** (entirely consistent with the legal opinion of many other experts, including former AG Mike Cox), they have doubled down and simply set out to find new legal advice, rather than direct their upset to Lansing where our lawmaking resides.

In this memorandum I have made reference to social media posts, email and voicemail correspondence, and recordings of public meetings. This evidence has been retained and is available upon request. Please accept my gratitude for the receipt and review of this complaint and I look forward to working toward a positive resolution.