



## OPINION

# Michiganders can unite to fight the pandemic. We've done it before.

Dr. Howard Markel and Dr. J. Alex Navarro Published 7:01 a.m. ET Nov. 12, 2020



Motor Corps and Canteen volunteers from the Detroit chapter of the American Red Cross, taking a break from delivering supplies to influenza victims. (Photo: National Archives)

Last month, the [Michigan Supreme Court struck down Democratic Gov. Gretchen Whitmer's authority](https://www.freep.com/story/news/local/michigan/2020/10/12/gretchen-whitmer-emergency-orders-struck-down/5970811002/) to declare or extend states of emergency in response to the COVID-19 pandemic without the consent of the predominantly Republican Legislature, based upon the so-called non-delegation doctrine. In these charged times, where public health has become too politicized for our own good, the ruling was hailed as a major victory by some and by others as a defeat. Despite recent good news about a [potentially effective vaccine](https://www.freep.com/videos/news/health/2020/11/09/covid-19-pfizers-vaccine-candidate-shown-90-effective/6220493002/), as historical epidemiologists, we feel obliged to tell all Michiganders to settle down and [pay attention to the clear and present danger](https://www.freep.com/story/news/local/michigan/2020/11/11/michigan-reports-6-008-new-coronavirus-cases-42-deaths/6253785002/).

To many Michiganders, Whitmer's orders were seen as overreaching and unjustified. They were not, however, without historical precedent. More than a century ago, in the fall of 1918, the nation found itself in the midst of an influenza pandemic, the deadliest contagious crisis in human history. Then, as now, there was much debate on how best to halt the spread of the pandemic, or whether the disease could be controlled at all. Hesitant to take statewide action, Albert Sleeper, Michigan's Republican Governor, and Richard Olin, M.D., the State Board of Health's executive officer, initially left the public health response to local authorities. Many communities leapt into action, quickly issuing gathering bans and closure orders. Other cities, including Detroit, Flint, and Grand Rapids were slower to respond.

**More:** [Coronavirus Watch: Where cases are increasing](https://www.freep.com/story/nletter/coronavirus-watch/2020/10/31/covid-coronavirus-newsletter-detroit/6102570002/)

**More:** ['COVID-19 is surging across our state': Spectrum Health nears capacity, CEO says](https://www.freep.com/story/news/health/2020/11/11/michigan-spectrum-health-hospitals-nearing-capacity/62529289002/)

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The lack of consistent action allowed the pandemic to accelerate like an out of control forest fire. On October 18, 1918, Sleeper called a special meeting of mayors and local and state health officers. The debate was contentious to say the least. Detroit health officials argued that closure orders and gathering bans were useless unless absolute, and if absolute would cripple the state's economy. The Grand Rapids health officer incorrectly assumed that influenza was not much worse than the common cold, and argued that closure orders were unnecessary. Other health officers disagreed. The Flint health officer, for example, lamented that he had not acted sooner: "We can reduce the chances for infection by reducing the opportunities of the people to congregate."



**Dr. Howard Markel is the director of the University of Michigan's Center for the History of Medicine. He is co-editor of "The 1918-1919 American Influenza Pandemic: A Digital Encyclopedia and Archive." (Photo: Dr. Howard Markel)**

The next morning, Sleeper issued a sweeping statewide order, "by virtue of the authority vested in [him] as governor of the state," closing places of public amusement and prohibiting all public gatherings and instructing local health officers to enforce the order.

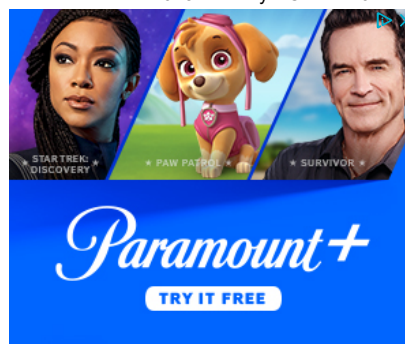
Naturally, there were grumblings over the order especially among the business community. Despite these objections, local officials across Michigan worked quickly to put the governor's order into effect. In Detroit, Mayor Oscar Marx and health officer James Inches informed residents that the governor's order would be strictly enforced. Several weeks later, when Detroit's epidemic appeared to be waning, Inches asked Sleeper to lift the closure order. The governor refused because the epidemic was still raging across the state. Inches acquiesced and told Detroiters, "We have no right to demand favors that might cause trouble in other communities."

His proclamation to the contrary notwithstanding, Sleeper's orders rested on shaky legal ground. Michigan law did not yet grant either the governor or the state health officer the authority to enact such sweeping public health measures.



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To rectify this omission, the following year the Michigan Legislature passed Public Act 146 of 1919, explicitly granting the director of the Department of Health the authority to declare an epidemic and to issue closure orders and gathering bans. Some six decades later, the Legislature again revised the state's public health laws, passing the Public Health Code, Act 368 of 1978. Like its predecessor, this act grants sweeping authority to the director of the Michigan Department of Health and Human Services (MDHHS) to enact and enforce epidemic control measures. Moreover, it also grants such powers to local and county health departments. And remember, these measures are only used when combatting an easily spread and deadly microbial enemy like the influenza of 1918 or today's CoVID-19.



These statutes grant the state broad powers to protect the public's health. Indeed, the Michigan Supreme Court's recent decision specifically cites the 1919 law. In the aftermath of that decision, the director of MDHHS has used this authority to issue numerous COVID-19 control measures. Such public health orders rest on overwhelming scientific evidence as well as the solid ground of over a century of legal authority.

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To be sure, living under such orders is difficult. They are socially and economically restrictive. Masks are uncomfortable to wear. Seven months into this pandemic, we are eager to return to our normal routines. This is especially so as the holiday season is upon us. From the rising number of cases in Michigan, it looks to be a very lonely Thanksgiving and Christmas.

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Still, these measures are not an unconstitutional infringement on our civil liberties, as some would have us believe. Rather, they are legally valid codifications of our collective obligation to our fellow Michiganders. We should not view them as burdensome orders, but rather as reminders that we must all do our part to better control the pandemic.

As we look down the barrel of COVID-19's third surge, we must continue our social distancing measures to prevent disease and save lives until a vaccine is safe and widely distributed. Michigan's proud history tells us that we can rise to the occasion by making these necessary sacrifices, just as our forebears did a century ago.

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