



NEW YORK STATE SENATOR

Thomas F. O'Mara

## O'Mara renews call for state Senate investigation into COVID-19 response in nursing homes: Marks two-year anniversary of fateful state order requiring nursing homes to accept COVID-positive patients

THOMAS F. O'MARA March 25, 2022

| ISSUE: **COMBATING COVID-19 AND PROTECTING NEW YORKERS; PROTECTING NURSING HOME RESIDENTS**



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**Albany, N.Y., March 25**—State Senator Tom O'Mara (R,C,I-Big Flats), Ranking Member of the Senate Investigations and Government Operations Committee, today renewed his call for the committee to launch a full-fledged investigation of New York's COVID-19 response in nursing homes.

In a letter today (see attached copy above) to the chair of the Investigations Committee, Senator James Skoufis (D-HudsonValley), O'Mara wrote, "It is long past time for you and for this Senate Majority to stop turning your backs on your responsibilities to New Yorkers...Over the past two years, and as recently as last November, I have repeatedly called on you to authorize the Senate Investigations and Government Operations Committee to undertake a top-to-bottom investigation of the state's pandemic response in nursing homes. I have called for the issuance of subpoenas to take the testimony of the many upper-level DOH officials who abruptly retired in 2020 during and following the former Cuomo administration's nursing homes cover-up. You have repeatedly failed to act."

O'Mara noted that today marks two years since the state Department of Health (DOH) under former Governor Andrew Cuomo issued a fateful directive on March 25, 2020 requiring New York State nursing homes to accept COVID-positive patients from hospitals into the homes and, additionally, prevented nursing homes from testing incoming residents for COVID-19.

**The day after that March 25 directive to nursing homes, on March 26, 2020**, the prominent, national medical professionals group American Medical Directors Association (AMDA)-The Society for Post-Acute Care and Long-Term Care (PALTC) Medicine warned against it. **The group stated the order was "over-reaching, not consistent with science...and beyond all, not in the least consistent with patient safety principles."**

**Three days later, on March 29, 2020, AMDA-PALTC was joined by the American Health Care Association (AHCA) and the National Center for Assisted Living (NCAL) in another statement that** read, in part, "As organizations dedicated to preserving the safety of patients and residents in

post-acute and long-term care settings including assisted living, we strongly object to this policy directive and approach...This is a short-term and short-sighted solution that will only add to the surge in COVID-19 patients...We understand the need for public health and elected officials to weigh the risks and benefits of their decisions...However, a blanket order for every nursing home in the state to accept all admissions from hospitals is not sound policy.”

According to numerous investigative reports over the past two years, the March 25, 2020 mandate issued by then-Health Commissioner Howard Zucker, which the Cuomo administration, despite the dire warnings from the medical community, left in place for more than 30 days before rescinding it on May 10, 2020, resulted in more than 9,000 COVID-positive patients being sent into nursing homes from hospitals. Over 6,000 of those were new admissions to nursing homes, not readmissions as the Cuomo administration had tried to lead the public to believe. The overall number was more than 40% higher than what the Cuomo administration had been reporting and contributed significantly to the death toll.

O'Mara said that New Yorkers, particularly those whose loved ones died of COVID in a nursing home, deserve answers to many questions including:

- 1.) Why were COVID-positive patients ordered into the residences of those most at-risk?; and
- 2.) Why weren't these COVID-positive hospital patients transferred to the federal field hospitals set up at the Javits Center in New York City and on the Navy hospital ship U.S.N.S Comfort?

**On Tuesday, March 15, state Comptroller Thomas DiNapoli released an audit reiterating that the DOH under Cuomo underreported COVID-19-related deaths by at least 4,100 and by more than 50% at times during the pandemic.**

O'Mara said, “If former Governor Cuomo and Health Commissioner Zucker had heeded the warnings from the experts on the front lines of nursing home care in America, thousands of

nursing home residents would have at least been better protected and many lives could have been saved. The question remains unanswered about why Cuomo and his inner circle ignored the warnings from public health experts that their March 25th mandate to nursing homes to accept COVID-positive patients was overreaching, and not consistent with science or patient safety principles. It is just one of many unanswered questions that still demand to be pursued in order to get to the bottom of the Cuomo administration's nursing homes cover-up."

O'Mara has also raised questions over why the Hochul administration and current Health Commissioner Mary Bassett have shown no interest in reexamining the state's pandemic response. At her confirmation hearing in January, Bassett, when asked, stated that she had never read the March 25, 2020 DOH order and "wasn't going to try and unravel what happened in nursing homes under the previous commissioner." That response, in part, led Senate Republicans to oppose Bassett's confirmation.

Over the past two years, O'Mara has repeatedly called on Skoufis to authorize the Investigations Committee to launch an investigation to examine and determine the full extent of the nursing homes cover-up, including issuing subpoenas to Cuomo's inner circle, including Zucker and other top state health officials, in order to obtain documents, emails, phone records, and all other information that could shed additional light on the state's handling of the coronavirus pandemic in nursing homes and other long-term care facilities where more than 15,000 seniors died.

Despite a mountain of evidence that Cuomo and his staff engaged in a year-long disinformation campaign to bolster the disgraced governor's image and profit off the pandemic, all of O'Mara's motions have been rejected by Skoufis and the Democrat Majority, **who even went as far as muting O'Mara's microphone to cut off further debate during a February 1, 2021 virtual committee meeting.**

In his letter today to Skoufis, O'Mara wrote, "In light of the comptroller's latest audit – and given that today marks the two-year anniversary of the fateful March 25, 2020 DOH order to nursing homes to accept COVID-positive patients -- I once again call on you to fully utilize your authority to immediately commence a full investigation. This investigation must include the issuance of subpoenas to all appropriate former and current employees of the DOH and the Executive Chamber involved in the March 25<sup>th</sup> order, the decisions to not utilize the Javits Center or the U.S.N.S. Comfort for COVID-positive hospital patients discharged from hospitals, and the underreporting of COVID nursing home deaths to testify before the Investigations Committee under oath. Additionally, subpoenas must be issued for the production of documents and other records, including but not limited to all correspondence, memos, emails, text messages and phone records, and any information that would provide transparent data on the number of COVID-19 fatalities of nursing home residents, within or outside of all long-term care facilities in New York, regarding the drafting and implementation of the March 25<sup>th</sup> Order, and why the U.S.N.S. Comfort or Javits Center were not utilized for COVID-positive hospital patients ultimately discharged to nursing homes. New Yorkers deserve accountability and the families who lost loved ones in nursing homes deserve justice. News reports have shown that more than 9,000 COVID-positive hospital patients were discharged from New York hospitals directly into nursing homes, more than 6,000 of whom were new nursing home admissions as opposed to readmissions. Furthermore, we must fully understand how this tragedy unfolded among our most vulnerable population so that we can have the insight and knowledge to try to ensure that it never happens again."

**Earlier this week, on Wednesday, O'Mara joined Senate and Assembly colleagues at the Capitol, along with family members who lost loved ones to COVID-19 in nursing homes, for a "We Care Remembrance Day" ceremony honoring the lives of the more than 15,000 seniors who died.**