

Saturday, August 1, 2020 4:58:16 PM

Subject: My Written testimony for Nursing Home hearings

Dear members of the Joint Senate and Assembly Hearings,

Thank you for convening to discuss this important matter regarding the devastation that has occurred in New York nursing homes. I am not sure whether you will be able to read my testimony, but I have provided written testimony below describing our experience with my mother's nursing home.

My sister and I are NYPD Detectives. Detective Haydee Pabey and Detective Aida Pabey. We worked at Ground Zero on 9/11 and, currently, during this COVID-19 crisis. My brother Sammy Pabey is a NYC Corrections Officer. Even with our combined 48 plus years of experience and in dealing with different types of tragedies, we could not help save our mother, Elba Pabey, from falling victim to this pandemic, from suffering of nursing home negligence, or from becoming a casualty of Governor Cuomo's March 25 order.

My mother Elba Pabey was 72 years old when she died. Although she suffered from early signs of dementia, she was generally healthy and did not have the underlying risks associated with COVID-19. She had many more years to live. Mom was filled with warmth and tenderness; she was a benevolent person who loved to sing for the residents and staff at her nursing home. She is an angel, and her tenderness lives on in those she has touched. You see, when it became difficult for my sister and I to care for our mom, we placed her in a nursing home that we trusted and believed would provide the best care for her, the Isabella Geriatric Center in New York City. For five years after that, we visited and called our mother frequently: four to five times a week. Then coronavirus struck New York City. March 11, 2020 was the last opportunity we were given to visit our mother. The nursing home prohibited all future visits but promised to schedule video chats with mom. Said video chats were spotty at best and soon cancelled altogether on March 27, as the staff did not want to enter the residents' rooms and get infected. Left with no other form of communication, we called the nurse's station frequently, several times a week, to get updates on my mom's health and her emotional and mental wellbeing. Every time we called, the response was some variation of a generic affirmative answer: "Your mother is good" and "Elba is good, she's fine". My response was always, "Please tell her that I love her and miss her and that I'll see her soon".

On the afternoon of April 5, 2020, my sister Aida called the nurse's station to inquire about mom. The nurse responded, "Your father is fine". My sister, understandably upset by the inconsiderate error, corrected her and said, "I am calling about my mother, she is a female". The nurse became upset and stated, "We are all stressed over here," and ended the conversation by saying, "Your mother is good and her breathing is good". Barely 24 hours later, on Monday, April 6, 2020, my sister Aida received a call from the doctor who said, "Your mother is not looking good, her respiration is low and she's not going to make it. My distressed

sister questioned how this could happen... she had called yesterday and the nurse had said she was fine. HOW DID THIS HAPPEN?!

With a heavy heart, I rushed to see my dying mother one last time at Isabella Geriatric Center, but was denied entry to the building. Over the phone, the Doctor and nurse pushed us to decide -in the midst of our doleful rush to see our mother- if we should send her to a hospital or keep her comfortable in the home. Initially we thought that she should be transported to a hospital, but later decided to keep her comfortable in the home. We put our full trust in Isabella staff to do everything in their power to keep our mom alive and make her well again. I was denied entry into the building but managed to make my way in with ambulance personnel to the fifth floor. I was wearing protective gear. I entered my mother's room, room 507. She was unconscious, with labored breathing and without a mask. She laid upright in her bed, dressed in a hospital gown and not her regular clothes. I held her frail, limp hand and told her that we loved her so much and that she was the best mother in the whole world. With her eyes shut and her mouth stuck open, her closed eyes twitched when I told her that we loved her so much. Her long black hair was placed in an odd bun and looked like it has not been brushed in days. She was equipped with an oxygen tube: something that we were at no point asked or notified about and had no previous knowledge of being administered to her. Shortly thereafter, I was told to leave the building and was escorted out by the social worker and security. Meanwhile, my sister Aida and brother, Sammy, were downstairs in the lobby, waiting to see my mother one last time. They were denied entry and were left unable to say goodbye to our mother. We received a call saying that my mother had died 6 hours later.

We could not have a proper, dignified funeral or burial and were not allowed to see her, even dead in her coffin. A week after my mother passed away, we found out that the Centers for Medicare and Medicaid services published a guidance on March 13, 2020 that instructed nursing homes to allow family members to say goodbye to their actively dying family member in an end of life compassionate situation. I wish we knew this on April 6 and I wish Isabella Geriatric had followed the guidance instructions. We would have demanded that they let us in. My sister, Aida, and my brother are scarred and tormented that they were not allowed to say goodbye to my dying mother. We are haunted by the thought that we were outright refused a lawful visit to our declining mother, and it cost my siblings their peace of mind.

After my mother died, we also learned that Isabella Geriatric Center had only reported 13 COVID-19 related deaths when in reality they had 98 deaths. A NY1 news report on April 30th exposed the nursing home for not truthfully reporting these deaths to New York State Department of Health and failing to disclose these facts to family members. Because of the numerous deaths, Isabella Geriatric Center had to order a refrigerated tractor trailer to store the increasing number of deceased residents. Then we learned about Governor Cuomo's March 25, 2020 order that required nursing homes to admit patients who were suspected to have or had tested positive for COVID-19. Could this be the reason Isabella Geriatric Center now has over 100 deceased residents? We hope you can find these answers. Then we also learned about the immunity protection lobbied by industry representatives that was tucked into the New York State budget that gives immunity to nursing homes retroactive to March 7, 2020. This includes

immunity and relief “of recordkeeping requirements... to maintain medical records that accurately reflect the evaluation and treatment of patients.” How careless is this to put this provision in the budget? An order like this clearly does not hold the mental or physical well being of the residents as its highest priority. So why should nursing homes even bother with ANY care if they are immune from the consequences of lack of service or care of their residents, not following infection control protocols, lack of P.P.E., staff shortages, and lack of medical recordkeeping. The nursing home has no incentive to maintain a high level of care or sufficient staffing if there is no accountability or enforcement measures. Why would they spend additional money for added staffing or additional PPE if no one is following up their actions? How is a family member supposed to make sense of all this and shed light on why/how their loved ones died?

There is no accountability, no properly documented medical records, and no repercussions for the nursing home: especially the ones who intentionally did not provide 100 % care because they were not required to and no one would check to tell them otherwise. How do I account for the medical care that my mother received, or rather, did not receive, in the weeks before she died when the “Nurses Notes” are incomplete in her medical chart? There are consecutive dates in her chart that are missing. This tells me that the nursing home was not doing their job overseeing over her, not entering my mother’s room in fear of getting infected. During the peak of the pandemic, my mother was likely not medically observed (since there are no medical notes to prove that she was) during the following dates: March 23 to March 26, March 28 to March 30, April 1 to April 4. On April 5, the nurse’s notes state she is alert and responsive. She died the next day, April 6. Isabella Geriatric Center did not do their jobs nor fulfill their duties to properly care for my mother and failed hundreds of now deceased residents in the same way. How are my family and I supposed to make sense of what happened when there are no entries in her ADL (Activities of Daily Living) reports, such as food provided for my mother? There are missing entries for several days where my mother was not fed breakfast or lunch from March 31 to April 4th.. My conclusion is my mother died of lack of medical care and proper nutrition. Isabella Geriatric Center was negligent and it failed our mother and failed family members who put their trust in their hands.

My belief is the following: My mother died because she was starved. My mother died of dehydration. My mother died because of lack of PPE, therefore, the staff never entered her room to provide care or fear of getting infected. My mother died of COVID-19 although she was never tested so precautions were not taken. My mother died of COVID-19 because residents were not properly isolated. My mother died because proper infection-control protocols were not followed. My mother died because the nursing home accepted positive patients from the hospitals as per Governor Cuomo. My mother died alone, isolated from her family and drowning in abject misery. According to Governor Cuomo, coronavirus in a nursing home was like “fire through dry grass” and that the seniors were his top priority. He lied. He let our seniors die. He let my mother die along with 100 of her peers at Isabella. There was no obligation for Isabella Geriatric Center to maintain a high or even standard level of care, to retain proper staffing levels, to retain proper medical records, to provide adequate personal protective equipment, and to keep up with proper infection-control protocols. Immunity given

to the nursing homes by Governor Cuomo resulted in the deaths of thousands of precious lives in New York State.

There needs to be an independent investigation into the disaster in the New York State nursing homes, not one conducted by the NYS Attorney General's Office nor one conducted by the New York State Department of Health. My complaints and inquiries to the NYS Department of Health as well as the NYS Attorney General's Office have been ignored. I feel I cannot trust them any longer. Family members need accountability for the actions of the nursing homes. Nursing homes need to be held liable and family members should have an avenue to request accountability. Repeal the nursing home immunity laws retroactively to the beginning of the pandemic, March 1, 2020. Something has to be done to bring relief and end the agony of thousands of family members who lost loved ones in nursing homes.

I speak on behalf on behalf of my mother, Elba Pabey, who no longer has a voice. My family and I miss her more than words are capable of describing. I have spent countless sleepless nights and dispirited days haunted by the agony and suffering that she may have suffered through during her last few weeks of life. I thank you for your diligence and commitment to our seniors and their families in helping to find answers and shedding light into the tragedy that has wiped out a whole generation.

Respectfully,

Haydee Pabey

Daughter of Elba Pabey, who died April 6, 2020 at Isabella Geriatric Center, NYC.