

THE SENATE



STATE OF NEW YORK

August 30, 2021

Senator Rachel May
Legislative Office Building, Room 803
Albany, NY 12247

Dear Senator May:

As you are aware, the Hochul Administration last week revealed that New York State had nearly 12,000 more deaths as a result of COVID-19 than the Cuomo Administration had previously released to the public. These additional 12,000 deaths increase New York's total to approximately 55,400 people, bringing the total in line with data submitted to the Centers for Disease Control and Prevention.

In light of this new development, it is imperative that you immediately use your subpoena power, pursuant to Section 62-a of the Legislative Law, to compel Commissioner Howard Zucker to testify under oath. We must understand what the Commissioner knew, when he knew it and whether he was a party to former Governor Cuomo's cover up.

During the 2021 legislative session, as members of the Senate Standing Committee on Aging, we requested you to issue subpoenas to Commissioner Zucker and the Department of Health as early as February 9th. As Chairwoman of the committee, you denied these motions on that day, and additionally on March 16th and May 11th, even stating in one denial that you didn't "see the point" in issuing subpoenas. The events that have unfolded since that time, including the subsequent resignation of the scandal-scarred former Governor, make it clear that there were in fact many reasons to issue these subpoenas.

In the now infamous February 10th virtual meeting with former and current Executive administration officials, you reportedly said, "*the issue for me, the biggest issue of all, is feeling like I needed to defend or at least not attack an administration that was appearing to be covering something up.*" You later called this meeting "*very productive*" in a joint statement with the Chairs for the Senate Health and Investigations Committees—never once mentioning that former Secretary to the Governor Melissa DeRosa admitted during that meeting that the Cuomo administration was hiding data from state lawmakers and the Department of Justice.

You yourself have recently called for Commissioner Zucker to resign saying that the additional number of deaths "*confirms that we cannot have faith*" in the current Commissioner's leadership. Had you issued any of

the subpoenas we brought forward, we could have uncovered this discrepancy—and learned more about the decisions that lead to it—months ago.

When it comes to pandemic response, accurate data matters, as it can point toward more effective solutions that could have empowered us as Legislators to improve policy and better protect nursing home residents during the second wave we experienced in fall and winter, when thousands of additional lives were lost. Instead, your inaction in this regard allowed the Governor to rewrite pandemic history time and again as he publicly painted a much more positive picture of the state's efforts, hampering efforts to truly improve New York's response.

Now is the time for you to act, do the right thing, and issue these subpoenas. The families of the 55,400 people that passed away due to this terrible virus—especially those who did so in our nursing homes, and their loved ones—deserve answers, accountability, and justice, and that includes unveiling any potential cover-up that occurred during the pandemic.

Sincerely,



Senator Sue Serino
41st District



Senator George M. Borrello
57th District