

Congress of the United States

House of Representatives

SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC

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Majority (202) 225-5074
Minority (202) 225-5051

December 1, 2023

Ms. Melissa DeRosa
Former Secretary to the Governor
State of New York
[TRANSMITTED VIA EMAIL]

Dear Ms. DeRosa:

The Select Subcommittee on the Coronavirus Pandemic (Select Subcommittee) is investigating how the State of New York implemented federal guidance from both the U.S. Centers for Medicare and Medicaid Services (CMS) and U.S. Centers for Disease Control and Prevention (CDC) regarding protecting residents in nursing homes and other long-term care facilities.

On March 25, 2020, former New York Governor Andrew Cuomo issued guidance that stated, “[n]o resident shall be denied re-admission or admission to the [nursing home] solely based on a confirmed or suspected diagnosis of COVID-19” and “[nursing homes] are prohibited from requiring a hospitalized resident...to be tested for COVID-19 prior to admission or re-admission.”¹ This misguided order was in direct contradiction to CDC and CMS guidance and unjustifiably exposed society’s most vulnerable to COVID-19, causing predictable but disastrous consequences.

Troublingly, the extent of the deaths occurring in nursing homes was hidden from the public. In a report by New York’s Attorney General, COVID-19-related nursing home deaths in New York were undercounted by as much as 50 percent—resulting in thousands of COVID-19 related nursing home deaths not being reported properly during the pandemic.² In fact, you reportedly told New York Senate Democrats that the Cuomo Administration intentionally “froze” the state’s nursing home death toll to conceal the facts out of fear the truth would be “used against [the Cuomo Administration]” by the U.S. Department of Justice.³ Accordingly, you possess information that is vital to the Select Subcommittee’s investigation into the circumstances and policies which led to the deaths of more than 15,000 New York nursing home residents.

¹ Memorandum from the New York State Department of Health to Nursing Home Administrators, et. al., *Advisory: Hospital Discharges and Admissions to Nursing Homes* (Mar. 25, 2020) (on file with Comm. Staff).

² Report of New York Attorney General Letitia James, “Nursing Home Response to COVID-19 Pandemic” (updated Jan. 30, 2021).

³ Shannon Young & Anna Gronewold, *Coverup claims engulf Cuomo as scandal over nursing home deaths grows*, POLITICO (Feb. 12, 2021).

The Select Subcommittee's goal is to ensure accountability and transparency, inform future public health decisions, and provide some semblance of closure to the thousands of families that lost loved ones because of COVID-19 in nursing homes and other long-term care facilities. Therefore, we request your testimony at an in-person transcribed interview on **January 19, 2024**.

In addition to the transcribed interview, we request any of the following documents and information that remain in your custody or control, including any responsive records retained in your personal e-mail(s) or cell phone(s) as soon as possible but no later than December 15, 2023:

1. Pursuant to your book, "What's Left Unsaid: My Life at the Center of Power, Politics, and Crisis," all notes or journal entries you took regarding or relating to the State of New York's response to the COVID-19 pandemic, including but not limited to notes regarding or relating to the March 25, 2020 advisory titled, "Advisory: Hospital Discharges and Admission to Nursing Homes."
2. All documents and communications regarding the advisory issued by the New York State Department of Health on March 25, 2020, titled, "Advisory: Hospital Discharges and Admission to Nursing Homes."
3. All documents and communications related to the number of New York State COVID-19 deaths, specifically occurring in nursing homes, between January 1, 2020 and August 24, 2021, including but not limited to totals used by the Office of the Governor for daily media briefings.
4. All documents and communications regarding the report issued by the New York State Department of Health on July 6, 2020, titled, "Factors Associated with Nursing Home Infections and Fatalities in New York State During the COVID-19 Global Health Crisis."
5. All documents and communications regarding the report issued by the New York Attorney General on January 28, 2021, titled, "Nursing Home Response to COVID-19 Pandemic."
6. All documents and communications regarding the request for information by the U.S. Department of Justice on August 26, 2020, regarding the Civil Rights of Institutionalized Persons Act.

The Select Subcommittee is authorized to investigate "the implementation or effectiveness of any Federal law or regulation applied, enacted, or under consideration to address the coronavirus pandemic and prepare for future pandemics" and under H. Res. 5. To ask any follow-up or related questions, please contact Select Subcommittee staff at (202) 225-5074.

Thank you for your attention to this very important matter.

Ms. Melissa DeRosa
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Sincerely,



Brad Wenstrup, D.P.M.
Chairman
Select Subcommittee on the
Coronavirus Pandemic



Nicole Malliotakis
Member of Congress

cc: The Honorable Raul Ruiz, M.D., Ranking Member
Select Subcommittee on the Coronavirus Pandemic