



NEW YORK STATE SENATOR

James Tedisco

## Senator Tedisco & Senator Serino Issue New Call for Senate Majority Chairs to Subpoena DOH on COVID Nursing Home Deaths

SENATOR JIM TEDISCO September 23, 2020

Dear Senators:

We are following up on the letter that you sent to NYS Department of Health (DOH) Commissioner Dr. Howard Zucker on August 20<sup>th</sup> with a series of 17 questions from lawmakers from both sides of the aisle regarding nursing home deaths and care provided to New Yorkers with COVID-19 in state-regulated nursing homes.

In the letter to Commissioner Zucker, you gave a three-week deadline for the DOH to respond to your questions. It's now been 13 days – nearly two weeks – since that deadline passed, have you received any response from the DOH? If so, we ask that you make the department's answers public. The lack of transparency on the part of the DOH in response to your inquiry is very troubling and indicative of a potential cover-up. History has shown that the cover-up is often worse than what's being covered-up.

If you have not received direct responses to your questions, we respectfully ask that you now use your authority as Committee Chairs to subpoena the Commissioner and DOH to finally provide these answers, in particular, for a full breakdown of how many people died from COVID-19 within our nursing homes and how many contracted the virus in nursing homes but were transferred to hospitals where they later lost their lives, i.e. the Health Emergency Response Data System (HERDS) data that is regularly submitted to DOH by facilities across the state. This HERDS data is collected by DOH on a daily basis regarding confirmed and presumed COVID deaths that take place inside and outside nursing homes and assisted care facilities. We also ask that you subpoena for a timetable of when this loss took place via the Governor's executive orders.

"Enough stonewalling on nursing home deaths...the Governor and Commissioner Zucker need to show us the numbers!"

That's what Senator Jim Tedisco (R,C,I-Glenville) and Senator Sue Serino (R,C,I-Hyde Park) are today urging the three Senate Majority Chairs of the Health, Investigations, and Aging

Committees to say to the state Department of Health (DOH) Commissioner in the form of a subpoena to get the Cuomo Administration to stop hiding data and start revealing the real number of COVID-19 nursing homes deaths and what happened that caused this terrible tragedy.

On August 20<sup>th</sup>, Senate Majority Health Chair Gustavo Rivera, Senate Investigations Chair James Skoufis, Senate Aging Chair Rachel May and Senate Regulatory Review Commission member Simcha Felder wrote to Commissioner Zucker with a list of 17 questions provided by lawmakers from both sides of the aisle regarding nursing home deaths and care provided to New Yorkers with COVID-19 in state-regulated nursing homes (see attached). The Senators gave Zucker a three-week deadline to respond. It's now been 13 days since the deadline passed and the DOH seemingly has yet to issue a response.

Senate Tedisco and Senator Serino have written a letter (see attached) to Senators Rivera, Skoufis, May and Felder urging them to use their authority as Committee Chairs to subpoena the Commissioner and DOH for a full breakdown of how many people died from COVID-19 within state-regulated nursing homes and how many contracted the virus in nursing homes but were transferred to hospitals where they later lost their lives, as well as a timetable of when this loss took place via the Governor's executive orders.

Specifically, Tedisco and Serino request the Senate Majority subpoena for the Health Emergency Response Data System (HERDS) data regularly submitted to DOH by facilities throughout the state. DOH through HERDS collects daily numbers of confirmed and presumed COVID deaths that take place inside and outside nursing homes and assisted care facilities.

Tedisco and Serino also requested the Majority Chairs support bringing to the Floor their bipartisan legislation with Assemblyman Ron Kim ([S.8756/A.10857](#)) that would establish an

independent investigation with subpoena power to perform a top-to-bottom review of what happened in the state's nursing homes to get answers and provide a measure of closure for the families of those who lost their lives and help prepare for a second wave of the pandemic.

“The continued lack of transparency on the part of the DOH in response to inquiries by legislators from both sides of the aisle and both houses of the legislature is very troubling and indicative of a potential cover-up. History has shown that the cover-up is often worse than what's being covered-up,” said Senator Jim Tedisco. “The DOH and the Administration have been given plenty of time to respond to our polite requests for information about the deaths of thousands of New Yorkers in state-regulated nursing homes. Enough stonewalling. Our constituents demand answers and we need to prepare for a second wave of the virus. We urge the Senate Majority Chairs to use their authority and subpoena Commissioner Zucker and the DOH to start giving us facts and data so we can provide answers to the loved ones of those who lost their lives in nursing homes and prevent something like this from happening again.”

“Through their inaction, the Legislature proves time and again that they are not making this issue the priority it should be. The Chairs set the timeline for DOH to respond to a set of basic questions that were posed publicly at the hearings. Here we are weeks after the deadline they established, without answers, and they remain radio silent. The victims of New York's failed nursing home policies deserve better, their loved ones deserve answers, and most importantly, they deserve a better path forward. We will not stop fighting to protect vulnerable New Yorkers and support those who care for them. We need an independent investigation and we need it now,” said Senator Sue Serino, Ranking Member of the Senate's Aging Committee.

Last week, Senator Tedisco and his colleagues launched a [new statewide online petition drive](#) to get the real numbers of New Yorkers who died from COVID-19 in state-regulated nursing homes.

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#### RELATED LEGISLATION

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### 2019-S8756

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- Introduced
  
- - In Committee Assembly
  - In Committee Senate
  
- - On Floor Calendar Assembly
  - On Floor Calendar Senate
  
- - Passed Assembly
  - Passed Senate
  
- Delivered to Governor
  
- Signed By Governor
  
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[Establishes a temporary state commission to study and investigate the effects of the COVID-19 pandemic response on deaths in nursing homes; and providing for the repeal of such provisions upon expiration thereof](#)

July 14, 2020

In Senate Committee [Rules](#)

Sponsored by [James Tedisco](#)

Do you support this bill?