



NEW YORK STATE SENATOR

James Tedisco

## Tedisco to DOH: “Lack of Transparency Abounds”

SENATOR JIM TEDISCO September 29, 2020

| ISSUE: **NURSING HOMES**



Senator Jim Tedisco today continued his advocacy on behalf of the thousands of families who lost loved ones to COVID-19 in state-regulated nursing homes, by joining the [Empire Center for Public Policy's lawsuit](#) against the New York State Department of Health (DOH) to obtain COVID-19 nursing home data.

Tedisco has filed in state Supreme Court in Albany a new amicus curiae brief to the Empire Center's lawsuit against the DOH for its refusal to release records showing the full count of coronavirus deaths among nursing home residents, including those that occurred after

patients were transferred to hospitals.

The amicus brief (attached) and [lawsuit](#) seek the release of 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.

“History has shown that the cover-up is often worse than what’s being covered-up. Sadly, a lack of transparency has been a hallmark of this Administration. Unfortunately, the DOH continues to be anything but transparent in its accounting of the total number of lives lost and the Legislative Majorities seem to be too concerned about embarrassing the Administration to subpoena for the data. Enough stalling. Enough obfuscation. Some things rise above politics and this is one of them. Both parties are asking the questions and want the numbers and now it’s really time to get the answers. That’s why today, I’m filing an amicus brief in state Supreme Court to support the Empire Center’s lawsuit to get the facts so we can provide a measure of closure for the families who lost their loved ones and help prepare for a second wave of the virus or a future pandemic,” said Senator Tedisco, who filed the amicus brief at the request of the Empire Center.

“Thank you to Senator Tedisco for helping to uphold the public’s right to know, which in this case is also a life-and-death matter. New York can’t properly defend itself against the next deadly virus unless it learns the lessons of the past six months, and that depends on facts that the Health Department is holding back. The Empire Center should not have been forced to sue for records that are clearly public under the Freedom of Information Law – and also crucial to the future well-being of all New Yorkers,” said Bill Hammond, Senior Fellow for Health Policy, the Empire Center.

**PREVIOUSLY:**

The Legislature held two joint hearings on this issue on August 3<sup>rd</sup> and 10<sup>th</sup> where legislators repeatedly asked DOH Commissioner Dr. Howard Zucker what the real numbers were. That hearing was followed up by an August 20<sup>th</sup> letter to Commissioner Zucker from Senate Majority Health Chair Gustavo Rivera, Senate Investigations Chair James Skoufis, Senate Aging Chair Rachel May and Senate Regulatory Review Commission member Simcha Felder 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. The Senators gave Zucker a three-week deadline to respond. It's been over a month since the deadline passed and the DOH has yet to issue a response.

Also in August, the Empire Center filed a Freedom of Information Law (FOIL) request for data collected daily by DOH from nursing home operators.

Senator Tedisco has joined with Majority Democratic Assemblyman Ron Kim and members from both sides of the aisle to author legislation ([S.8756/A.10857](#)) for an independent, bi-partisan state commission with subpoena power to fully investigate these nursing home deaths. Tedisco also has launched a [statewide online petition drive](#) to urge the Legislative Majorities to get the real numbers.

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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?