



NEW YORK STATE SENATOR

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O'Mara: It's been one year since March 26th warning from America's long-term care experts that NY's March 25th directive to nursing homes was dangerous

THOMAS F. O'MARA March 26, 2021

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### Statement on the March 25, 2020 New York State Department of Health Advisory: Hospital Discharges and Admissions to Nursing Homes

There is a clear need to balance the issues of patient safety, surge management, and conflicting guidelines and public policy around hospital-SNF transfers. To be sure, the issues are complex. We are in extraordinary times, making highly complex decisions, shrouded in a fog of confusion and chaos.

However, we find the New York State Advisory to be over-reaching, not consistent with science, unenforceable, and beyond all, not in the least consistent with patient safety principles.

As an organization, AMDA-The Society for Post-Acute and Long-Term Care Medicine cannot endorse or abide by this policy directive.

It is absolutely essential to consider the health, welfare and safety of frail individuals residing in our nation's PALTC facilities where we know the attack rate and case-fatality rates (CFR) from COVID-19 are staggering.

The preliminary results from Kirkland show a hospitalization rate of 57% for residents and CFR rates of 36% and 7% for residents AND visitors respectively. And these are only preliminary

It has been one year since March 26, 2020 when public health experts on the front lines of long-term care in America denounced Governor Cuomo's March 25th directive to nursing homes to accept COVID-positive patients.

**Albany, N.Y., March 26**—At the State Capitol yesterday, State Senator Tom O'Mara (R,C,I-Big Flats) and members of the Senate Republican Conference joined members of families who

lost loved ones to COVID-19 in nursing homes for a “We Care Remembrance Day” ceremony.

The morning ceremony marked one year since Governor Andrew Cuomo issued a March 25, 2020 directive requiring New York State nursing homes to accept COVID-positive patients from hospitals into the homes. Last year’s March 25th directive would end up sending more than 9,000 COVID-positive patients into hundreds of nursing homes statewide, according to reporting from the *Associated Press* earlier this year, and likely contributed to thousands of deaths. Over 6,000 of those were new admissions to nursing homes, not readmissions as the Cuomo administration has tried to lead the public to believe.

O’Mara, Ranking Member on the Senate Investigations Committee, is highlighting today that it has been one year since, on March 26, 2020, a prominent, national group of long-term care professionals denounced Cuomo’s March 25th directive and warned against it.

O’Mara said, “If Governor Cuomo and Health Commissioner Howard Zucker had heeded the warning from the experts on the front lines of nursing home care in America, thousands of nursing home residents would have at least been better protected and many lives could have been saved. The question remains unanswered about why Governor Cuomo and his inner circle ignored the warning from public health experts that their March 25th mandate to nursing homes to accept COVID-positive patients was over-reaching, and not consistent with science or patient safety principles. It is just one of many unanswered questions that still demand to be pursued regarding the Cuomo administration’s nursing homes cover-up.”

The day after New York State issued the March 25th directive to nursing homes, which wasn’t rescinded until early May 2020, **on March 26th the prominent, national medical professionals group American Medical Directors Association (AMDA)-The Society for Post-Acute Care and Long-Term Care (PALTC) Medicine warned against it.** In fact they stated the order was “over-reaching, not consistent with science...and beyond all, not in the least consistent

with patient safety principles.” The group’s statement went on, “Rather than bullying nursing facilities and medical providers to make unsafe decisions, the State of New York would be wise to direct its energies at ensuring adequate personal protective equipment is available to all healthcare providers...developing a long-neglected healthcare workforce, and identifying and standing up alternative care sites.” [See attached copy above]

Three days later, **on March 29, AMDA-PALTC was joined in another statement by the American Health Care Association (AHCA) and the National Center for Assisted Living (NCAL).** The groups stated, “As organizations dedicated to preserving the safety of patients and residents in post-acute and long-term care settings including assisted living, we strongly object to this policy directive and approach...This is a short-term and short-sighted solution that will only add to the surge in COVID-19 patients...We understand the need for public health and elected officials to weigh the risks and benefits of their decisions...However, a blanket order for every nursing home in the state to accept all admissions from hospitals is not sound policy.”

During a joint Senate-Assembly hearing on the nursing homes crisis on August 3, 2020, O’Mara directly asked Zucker if he had received and read the March 26th and March 29th statements. Zucker denied knowledge of them.

“I didn’t believe Commissioner Zucker on that day and I still don’t believe it. It is simply unbelievable that New York’s top health official would not have been informed on statements from leading medical professionals expressing their alarm at one of New York State’s key directives and its potential and alarming risk to the elderly and these residential facilities overall,” said O’Mara.

Since that time, O’Mara has repeatedly called for Senate investigations and other actions to obtain email, phone and other records from Cuomo and his inner circle to further examine and determine the full extent of the nursing homes cover-up.

He renewed that call today as new questions have arisen over the use of state employees to administer special COVID-19 testing to members of the governor's family, as well as friends and other associates.

"For too long the Cuomo stonewalling and cover-ups on this nursing homes tragedy and many aspects of New York's COVID-19 response have been unacceptable, and it continues," said O'Mara, highlighting news reports over the past few days that the governor ordered special and expedited COVID-19 testing early last year, at a time when testing was still scarce for most New Yorkers, for members of his family and other friends and associates. The reports from the *Albany Times Union*, *Washington Post*, *New York Times* and others also reveal that the State Police and top state Health Department officials were used to help administer and carry out the preferential treatment, in a possible criminal violation of state law.

Since last May, O'Mara and his GOP colleagues in the Senate and Assembly called for a legislative investigation into New York's COVID-19 response. According to O'Mara, joint, bipartisan Senate-Assembly hearings have failed to satisfy most state lawmakers that top Cuomo administration officials are fully answering questions on the crisis.

The Senate Investigations Committee, under the control of the Senate Democrat Majority, continue to reject O'Mara's repeated calls for the launch of a formal investigation utilizing the committee's subpoena power to obtain records and compel testimony from the Cuomo inner circle.

O'Mara said, "The Democrats on the Senate Investigations Committee remain complicit with Governor Cuomo by refusing to launch an aggressive, full-fledged investigation. Governor Cuomo has tried to conceal the truth on the devastation of this crisis in our nursing homes and in other places, and it has caused great harm. Reports keep forcefully exposing the lies, cover-ups, and crimes. Every available action needs to be taken to compel the governor and his inner circle to tell the truth and be held accountable. New Yorkers, in particular families

who lost loved ones in nursing homes due to Cuomo's fateful order, deserve nothing less. It is long past time for the Democrat supermajorities to stop looking the other way and protecting this administration.”