

**Congress of the United States**  
**Washington, DC 20515**

March 5, 2021

Chairman Richard Neal  
Committee on Ways and Means  
1102 Longworth House Office Building  
Washington, DC 20515

Chairwoman Carolyn Maloney  
Committee on Oversight and Government Reform  
2157 Rayburn House Office Building  
Washington, DC 20515

Chairman Frank Pallone  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington, DC 20515

Chairman James Clyburn  
Select Subcommittee on the Coronavirus Crisis  
2157 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairs Neal, Maloney, Pallone and Clyburn,

Given news reports that political aides to New York Governor Andrew Cuomo deliberately interfered with the work of state public health officials in order to mask the true magnitude of COVID-19 nursing home deaths in the state, we write again to request you schedule a joint hearing before the committees on this issue in the next 15 days. Specifically, the *Wall Street Journal* and the *New York Times* reported top aides to Governor Cuomo—none of whom have any health care experience—including Secretary to the Governor Melissa DeRosa, doctored a report on COVID-19 in nursing homes to intentionally conceal the true number of nursing home fatalities in New York and shield themselves, including Governor Cuomo, from any wrongdoing attributable to the March 25, 2020 “must admit” order.<sup>1</sup>

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<sup>1</sup> Joe Palazzolo, et. al., *Cuomo Advisors Altered Report on Covid-19 Nursing-Home Deaths*, WALL ST. J. (Mar. 4, 2021), <https://www.wsj.com/articles/cuomo-advisers-altered-report-on-covid-19-nursing-home-deaths-11614910855>; J. David Godman & Danny Hakim, *Cuomo Aides Rewrote Nursing Home Report to Hide Higher Death Toll*, N.Y. TIMES (Mar. 4, 2021), <https://www.nytimes.com/2021/03/04/nyregion/cuomo-nursing-home-deaths.html>.

Congressional Republican leaders have made several hearing requests without response. Yet, despite the Democrat leaders' abdication of their oversight responsibilities, more facts have emerged from Albany via the national press.

On March 4, 2021, the *Wall Street Journal* reported, "New York Gov. Andrew Cuomo's top advisers successfully pushed state health officials to strip a public report of data showing that more nursing-home residents had died of Covid-19 than the administration had acknowledged, according to people with knowledge of the report's production...."<sup>2</sup>

The *New York Times* likewise reported "[t]he extraordinary intervention, which came just as Mr. Cuomo was starting to write a book on his pandemic achievements, was the earliest act yet known in what critics have called a monthslong effort by the governor and his aides to obscure the full scope of nursing home deaths."<sup>3</sup>

On June 15, 2020, the Republicans on the Select Subcommittee on the Coronavirus Crisis wrote Governor Cuomo requesting all documents and communications relating to the March 25 "must admit" order and nursing home fatalities. The apparent cover-up and data manipulation began shortly thereafter with the issuance of this doctored report.

Given this timeline and publicly available information — which seems to confirm that a politically-driven data cover-up occurred — and the oversight authority entrusted to you as Democrat leaders of the relevant committees, it is unclear what more the majority needs to know in order to deploy all the tools at your disposal, including hearings and subpoenas, to determine if Governor Cuomo's administration deliberately provided false data to the federal government and the public.

A hearing examining what happened in New York is a necessary first step. Concerns surrounding state actions, COVID-19, nursing homes, and data integrity are not limited to New York. The Department of Justice (DOJ) has requested data from the governors of Pennsylvania, New Jersey and Michigan, to determine "...if the state orders requiring admission of COVID-19 patients to nursing homes is responsible for the deaths of nursing home residents.... [T]he department is also investigating the Soldiers' Home in Holyoke, Massachusetts, where COVID-19 has taken the lives of at least 76 residents."<sup>4</sup>

Clearly there is bipartisan interest in making sure nursing home data, particularly related to COVID-19, is accurately reported. For instance, Chairman Neal has repeatedly stated his interest in the safety of those living in nursing homes.<sup>5</sup> We believe there is a congressional

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<sup>2</sup> *Id.*

<sup>3</sup> Godman, *supra* note 1.

<sup>4</sup> Press Release, Department of Justice Requesting Data From Governors of States that Issued COVID-19 Orders that May Have Resulted in Deaths of Elderly Nursing Home Residents, U.S. Dep't of Justice (Aug. 26, 2020), <https://www.justice.gov/opa/pr/departments-justice-requesting-data-governors-states-issued-covid-19-orders-may-have-resulted>.

<sup>5</sup> In an August 2020 letter to the then-Administrator of the Centers for Medicare and Medicaid Services, Seema Verma, Chairman Neal wrote "[a]ccess to timely, robust, and reliable data is critical in understanding the magnitude of the COVID-19 crisis in nursing homes and appropriately allocating resources to the hardest hit facilities as well as those at greatest risk for outbreaks." In a July 2020 letter to Administrator Verma,

imperative to investigate a cover-up directed from the highest office of state government and executed to prop up the image of a governor in order to sell books during a pandemic.

We request transcribed interviews or depositions of, at a minimum, the following witnesses in advance of a hearing:

- Dr. Eleanor Adams, the Special Advisor to the Commissioner at New York State
- Dr. Howard Zucker, Commissioner of New York Department of Health
- Ms. Melissa DeRosa, Secretary to the Governor
- Ms. Linda Lacewell, Superintendent of the New York Department of Financial Services
- Dr. Jim Malatras, Chancellor of the State University of New York and a former policy adviser to Governor Cuomo
- Any McKinsey & Company staff who worked on the report, including those who developed the chart comparing New York nursing home deaths with other states

Additionally, we request that you immediately issue a subpoena for the documents repeatedly requested by Select Subcommittee Ranking Member Scalise.<sup>6</sup> These requests are reiterated here for your ready reference:

1. The total number of COVID-19 related nursing home deaths, including deaths that occurred at the nursing home and deaths of a registered nursing home patient at a hospital, by day between January 1, 2020 and present.
2. All State issued guidance, directives, advisories, or executive orders regarding hospital discharges to nursing homes or any and all other types of assisted living facilities, including those previously superseded, in chronological order.
3. All underlying information, documents, and research used by the New York State Department of Health (NYSDOH) to draft the July 6, 2020, report entitled “Factors Associated with Nursing Home Infections and Fatalities in New York State During the COVID-19 Global Health Crisis.”

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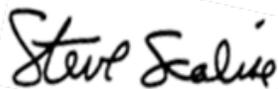
Chairman Neal wrote there was a “...clear congressional imperative for nursing facility surveys and reliable data, as well as the concerns for families and patients around the country about long-term care facilities and COVID-19...” In a February 2021 letter to Acting Administrator Richter, Chairman Neal summarized concerns about data reporting in nursing homes writing, “[d]ata issues must be reconciled to best inform public health officials responding to COVID-19 outbreaks.”

<sup>6</sup> Letter from Steve J. Scalise, et. al., Ranking Member, Select Subcomm. on the Coronavirus Crisis, H. Comm. on Oversight & Reform, to Andre M. Cuomo, Governor, N.Y. (June 15, 2020); Letter from Steve J. Scalise, Ranking Member, Select Subcomm. on the Coronavirus Crisis, H. Comm. on Oversight & Reform, to Andrew M. Cuomo, Governor, N.Y. (July 9, 2020); Letter from Steve J. Scalise, Ranking Member, Select Subcomm. on the Coronavirus Crisis, H. Comm. on Oversight & Reform, to Andrew M. Cuomo, Governor, N.Y. (Jan. 28, 2021); Letter from Steve J. Scalise, Ranking Member, Select Subcomm. on the Coronavirus Crisis, H. Comm. on Oversight & Reform, to Andrew M. Cuomo, Governor, N.Y. (Feb. 19, 2021).

4. All information, documents, and communications between the Office of the Governor and the NYSDOH regarding COVID-19 mitigation in nursing homes and other long-term care facilities, including but not limited to:
  - a. All drafts of the report titled “Factors Associated with Nursing Home Infections and Fatalities in New York State during the COVID-19 Global Health Crisis;” and
  - b. Any and all communications or correspondence between New York state officials discussing any draft or any edits of the report.
  
5. All information, documents, and communications between the NYSDOH and any and all of the State’s Nursing Home Administrators relating to the implementation of any state COVID-19 guidance, particularly the March 25 “must-admit” order, the NYSDOH report, or the methodology for calculating COVID-19 deaths in nursing homes.

Given the urgency of our request, the information emerging day by day through the press, and the continued desire of families to get answers, we ask you confirm the scheduling of a joint committee hearing examining the accuracy of New York’s nursing home COVID-19 deaths data reporting and the subsequent coverup by Tuesday, March 9, 2020. We look forward to a reply.

Sincerely,



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Steve Scalise  
Ranking Member  
Select Subcommittee on the  
Coronavirus Crisis



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Cathy McMorris Rodgers  
Republican Leader  
Committee on Energy and Commerce



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Kevin Brady  
Republican Leader  
Committee on Ways and Means



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James Comer  
Republican Leader  
Committee on Oversight and Reform



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Devin Nunes  
Republican Leader  
Subcommittee on Health  
Committee on Ways and Means



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Brett Guthrie  
Republican Leader  
Subcommittee on Health  
Committee on Energy and Commerce



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Tom Reed  
Committee on Ways and Means