

## **Statement for the Record from Rep. Marc Molinaro**

Governor Cuomo's testimony for the hearing on September 10, 2024 cited countless inaccuracies and blatant lies. The extent of which was glaring and disappointing. I will highlight just a handful of them below:

1. Cuomo cited Centers for Medicare & Medicaid Services (CMS) data to claim that New York had the 12<sup>th</sup> lowest death rate at the end of 2020, however CMS began collecting data in mid-May, so the deaths when his deadly directive was in full force were not included.
2. The Cuomo Administration reported 6,000 deaths, however the true toll was 11,400, nearly double.
3. Cuomo asserted in his testimony that his March 25 directive never mandated nursing homes to admit COVID-positive patients. However, Cuomo's directive clearly stated, "no resident shall be denied", and it prohibited COVID testing before admission. Further, no nursing home, regulated by the State of New York Department of Health, under extreme pressure from the State, believed they had any ability to do so.
4. Cuomo also claimed that the March 25 directive mirrored CDC guidelines. However, both CMS and CDC used permissive language like can and should, not shall and must, and only if facilities could isolate and take precautions. Former CMS Administrator Seema Verma and former White House doctor Deborah Birx both testified that Cuomo's actions violated those guidelines. CDC and CMS would never recommend prohibiting testing, yet the March 25 directive did.
5. Cuomo also falsely claimed that his directive was the standard across the country, even trying to hide behind Minnesota Governor Tim Walz's directive when Minnesota's guidance included caveats and precautions. Walz's directive notably did not prevent nursing homes from testing patients like the Cuomo directive did.
6. Cuomo claimed that the March 25 directive was to protect hospital capacity, yet he had at the state's availability the U.S. Navy comfort ship and the Javits Center deployed, both which remained underutilized. Additionally, county governments prepared "step down" facilities to allow patients to be treated after hospital stays and prior to returning to nursing homes, but the state didn't agree to allow them to be utilized.
7. Cuomo also said that nursing homes could still have denied entry to those they could not safely care for under existing law, but he suspended that very regulation in a March 7, 2020 executive order, stripping nursing homes of that ability to deny admission.
8. Cuomo said New York didn't undercount nursing home deaths, yet his Chief of Staff directed that nursing home resident deaths outside the facility not be counted, and one month after the NY Attorney General exposed that he underreported the nursing home deaths by 50%, his chief of staff told Democrat lawmakers in NY that she admitted that the true toll was withheld to avoid attracting prosecutors. This is evidence of a cover-up.
9. In the committee's closed-door testimony, both Cuomo and his Chief of Staff told the committee it was a mid-level staffer at the Department of Health, but the DOH Commissioner and the Deputy Commissioner said that it was his executive chamber that approved it.

And there is much more. At the end of the day, Cuomo has attempted to redirect responsibility to everyone including the CDC, CMS, nursing home operators, nursing home staff, and even an unidentified

NY Department of Health (DOH) staffer that supposedly sent out this directive. We know this is simply not true. Cuomo testified that he didn't know who signed off on the March 25 directive and his DOH commissioner didn't either - yet, testimony from others have confirmed his office was asked to draft the order and engaged in editing and authorizing the order.

As County Executive of Dutchess County, New York at the time, and then Vice President of the NYS County Executives Association, we worked countless hours with the Governor's office. It is unfathomable that Cuomo did not know this directive went out without his knowledge. Additionally, my colleagues and I were on regular calls with senior staff in Cuomo's office sharing our outrage and alarm about the executive order's issues. All of this occurred after the NY State Legislature surrendered their authority and extended authority for the Governor to craft "law." Cloaked in immense power, Cuomo wrote and rewrote laws, regulations, and orders without any external oversight.

These lies displayed at your hearing were an outright disregard for the public's best interest, and a total lack of leadership. Governor Cuomo should take accountability for his failures and continued lies and apologize to the thousands who lost loved ones under his leadership, or rather, lack thereof.