

**A HEARING WITH FORMER  
NEW YORK GOVERNOR ANDREW CUOMO**

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**HEARING**

BEFORE THE  
SELECT SUBCOMMITTEE ON THE CORONAVIRUS  
PANDEMIC  
OF THE

COMMITTEE ON OVERSIGHT AND  
ACCOUNTABILITY

U.S. HOUSE OF REPRESENTATIVES

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C O N T E N T S

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Hearing held on September 10, 2024 ..... Page 1

WITNESSES

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The Honorable Andrew Cuomo, Former Governor, New York  
Oral Statement ..... 7

*Written opening statements and the written statements of the witnesses are available on the U.S. House of Representatives Document Repository at: docs.house.gov.*

INDEX OF DOCUMENTS

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- \* Report, U.S. Department of Health and Human Service’s Office of the Inspector General, “Certain For-Profit Nursing Homes May Not Have Complied with Federal Requirements”; submitted by Rep. Ross.
  - \* Letter, September 9, 2024, Brown University School of Public Health; submitted by Rep. Ruiz.
  - \* Sun and Hu Indictment, August 26, 2024; submitted by Rep. Greene.
  - \* Statement for the Record; submitted by Rep. Nick LaLota.
  - \* Statement for the Record; submitted by Rep. Claudia Tenney.
  - \* Statement for the Record; submitted by Rep. Marc Molinaro.
  - \* Questions for the Record: to Hon. Cuomo; submitted by Rep. Malliotakis.
  - \* Questions for the record: to Hon. Cuomo; submitted by Rep. Miller-Meeks.
- Documents are available at: docs.house.gov.*



## **A HEARING WITH FORMER NEW YORK GOVERNOR ANDREW CUOMO**

**Tuesday, September 10, 2024**

U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY  
SELECT SUBCOMMITTEE ON THE CORONAVIRUS PANDEMIC  
*Washington, D.C.*

The Subcommittee met, pursuant to notice, at 2:20 p.m., in room 2154, Rayburn House Office Building, Hon. Brad R. Wenstrup (Chairman of the Subcommittee) presiding.

Present: Representatives Wenstrup, Comer (ex-officio) Malliotakis, Miller-Meeks, Lesko, Joyce, Greene, Jackson of Texas, Ruiz, Raskin (ex-officio), Dingell, Mfume, Ross, Robert Garcia, and Bera.

Also present: Representatives Stefanik and Jordan.

Dr. WENSTRUP. The Select Subcommittee on the Coronavirus Pandemic will come to order. I want to welcome everyone.

Without objection, the Chair may declare a recess at any time.

Before we start, I ask for unanimous consent for Ms. Stefanik, Mr. Jordan, Mr. Langworthy, and Mr. Moskowitz to participate in this hearing for the purposes of questions.

I now recognize myself for the purpose of making an opening statement.

Mr. Cuomo, welcome. I want to thank you for your willingness to participate in today's hearing and for testifying in front of the Select Subcommittee more than 2 months ago.

It took issuing a subpoena to get you to then agree to testify previously. So, I appreciate you coming in voluntarily today.

Before we get into the substance we are here to examine, I want to tell you that this Subcommittee has been threatened twice this Congress, once by the Chinese Communist Party through its embassy for examining the origins of COVID-19; and the second time, by you, through your counsel, for examining the handling of COVID-19 in nursing homes.

I can tell you, we have not and we will not bow to these threats. I certainly hope you do not approve of these tactics, or perhaps you aren't aware of them, Governor Cuomo, which seems to be a consistent pattern.

Nonetheless, the Select Subcommittee is holding this hearing today to examine your administration's handling of the COVID-19 pandemic in New York.

Specifically, we want to focus on the issuance of a directive that resulted in the admittance and readmittance, according to the AP, of more than 9,000 potentially COVID positive individuals to nursing homes.

The Select Subcommittee has been authorized to investigate the COVID-19 pandemic and to explore lessons learned, positive or negative, to better prepare for future pandemics.

Since the beginning of this Congress, we've been committed to conducting a thorough investigation, free from influence and unafraid to follow the facts wherever they may lead. We've acted in a transparent fashion, cognizant that Americans deserve to see our work and review all available information so they can draw their own conclusions.

We're examining actions taken by Congress, including measures I voted for, but might want to do differently or better the next time, so that when the next shocking pandemic occurs, we have looked back, found what worked and what didn't, and establish a workable system so that we may endure.

This is an after-action review in hopes of being able to predict, prepare, protect, and perhaps even prevent the next pandemic.

In search for best pandemic practices, today's hearing is focused on New York and the March 25, 2020, directive from the New York State Department of Health issued under Governor Andrew Cuomo's leadership.

In this investigation, we have reviewed more than half a million documents, and we've conducted ten transcribed interviews with members of your Administration, including you. Our findings are based on the evidence and testimonies that we have received.

This is a comprehensive and painstaking endeavor to find out what happened in New York nursing homes, with more than 2,000 pages of testimony publicly released to support our conclusions.

Simply put, America cannot move forward without first looking back. And that includes examining your directive, Governor.

Mr. Cuomo, I think that you'll agree that New York State became "ground zero" for much of the pandemic in the United States.

In the earliest stage of the pandemic, COVID-19 was a novel virus, and there was little information and a lot of unknowns.

But it quickly became clear that COVID-19 was particularly dangerous for the elderly. We all saw the deadly consequences of COVID-19 in nursing homes in Washington State, the earlier epicenter of the pandemic.

There was a thousandfold higher risk of poor outcomes, specifically hospitalization and death, for older people relative to younger populations. Therefore, it was critically important that the public health response prioritize protecting high-risk populations.

This is an important lesson learned.

This was understood by the U.S. Centers for Medicaid and Medicare Services and the U.S. Centers for Disease Control and Prevention, the CDC.

On March 13, 2020, CMS issued guidance—I want to stress the word "guidance"—that specifically directed nursing homes to not accept COVID-19 positive patients if they were unable to do so safely, and to only accept individuals if the nursing home could follow CDC transmission-based guidance.

Again, this guidance was a nonbinding, federally issued guidance. That's reflected by its language.

The CMS guidance used terms such as "can" and "should"—consistent with the tone of guidance.

"A nursing home can accept a resident"—this is a quote—"A nursing home can accept a resident diagnosed with COVID-19 and still under Transmission-Based Precautions for COVID-19 as long as the facility can follow CDC guidance for Transmission-Based Precautions."

"Nursing homes should admit any individual"—"should admit any individual that they would normally admit to their facility, including individuals from hospitals where a case of COVID-19 was or is present."

This was not the case with the directive issued by your administration on March 25, 2020.

While I know you like to play semantics and refer to it as an "advisory, it's clear that it's anything but. Merriam-Webster defines an "advisory" as "containing or giving advice."

Your "advisory" refers to itself in the language as a "directive" in the very first paragraph, with your name at the top, Governor Cuomo. And it says, "This directive is being issued to clarify expectations for nursing homes receiving residents returning from hospitalization and for nursing homes accepting new admissions."

Merriam-Webster defines a "directive" as "an authoritative order or instrument issued by a high-level body or official." That's what that was on March 25, 2020.

In your case, that carries the weight of all.

Your directive uses words like "shall," "must," and "prohibit." It directs that "all Nursing homes must comply with the expedient receipt of residents returning from hospitals to a Nursing home."

It directs, "No resident shall be denied readmission or admission to the Nursing home solely based on a confirmed or suspected diagnosis of COVID-19."

An authoritative directive from the state of New York with the authority of law. "No resident shall be denied readmission or admission to the Nursing home solely based on a confirmed or suspected diagnosis of COVID-19."

It directs that "nursing homes are prohibited"—prohibited—"from requiring a hospitalized resident who is determined medically stable to be tested for COVID-19 prior to admission or readmission."

See here's the problem. Medically stable can still mean highly contagious.

The language in this directive is not advisory, and it's not non-binding. The CMS guidance was and still is advisory and non-binding.

"Directive" with the authority of law supersedes "guidance." "Prohibited" means not allowed. And prohibiting testing for COVID-19 is nowhere in the CDC guidance.

Because of this language, the March 25 directive was dubbed a "must admit" order by the public and press, and rightfully so. Those words are not in there, but that's how it became known in the common vernacular in the public and press.

But your directive was not consistent with Federal guidance, nor consistent with medical doctrine. You do not put highly contagious patients in with vulnerable patients subject to infection, and in this case death.

Your former commissioner of the Department of Health told us that you received the phone call from the Greater New York Hospital Association asking you to do something about nursing home residents that the hospitals wanted to be able to discharge. He testified that you were told that these patients needed to “go home.”

And while you testified that you were not aware of the directive until April 20, 2020, you decided to keep it after learning about it. It remained in effect for almost 3 weeks after you knew about it.

Governor, you own this. It’s your name on the letterhead. This is your directive, whether you knew about it or not. You’re the leader. The buck stops with you, or at least it should.

It’s important to look at your Administration’s record.

Two weeks after you learned about the order, your office changed the methodology of how nursing home fatalities were categorized. You removed out-of-facility deaths that occurred at the hospital, altering the full accounting of nursing home deaths.

During your transcribed interview, when describing why you chose not to disclose the number of nursing home residents who died at hospitals, you remarked, “Who cares?”

I’ll tell you who cares about this. Doctors and nurses trying to save lives care about this. People dying and their families, they care about this.

If someone contracted COVID–19 in the nursing home and died at the hospital, it matters. It is scientifically significant to know where, how, and why someone contracted COVID–19 and died if we’re going to prevent this in the future. That is important data.

In July 2020, you released a report under the auspices of the New York State Department of Health that blamed nursing home employees rather than your directive for the deaths that occurred in nursing homes. Your spokesperson, Rich Azzopardi, described this report as “peer reviewed.” I’m not sure if Mr. Azzopardi understands the peer-review process.

An effective response to the pandemic required a willingness to adapt to evolving data, to new information. It will be required for the next pandemic as well.

It’s important to review the data—actual data—to recognize the dangerous and disastrous consequences of your directive—a directive that goes against medical protocols and is considered by many medical professionals to be malpractice.

You wrote in your book that it wasn’t your, quote, “place to filter or edit the truth,” end quote. But it’s clear that it seemed to be someone’s place.

You said, “Who cares?” But we do care about the truth because it’s obvious that you don’t, like the out-of-facility nursing home deaths. It’s a truth that matters.

And that’s why we’re here today: to ask why you made the decisions that you or your executive team made; to try and account for your actions and responses without naming and blaming others, as you have repeatedly done, because we need to help America be prepared for the next pandemic and to protect American lives.



And because infectious diseases like respiratory viruses don't recognize borders, we want to protect lives beyond our borders as well. I look forward to a strong, on-topic discussion today.

And I would now like to recognize Ranking Member Ruiz for the purpose of making an opening statement.

Dr. RUIZ. Thank you, Mr. Chairman.

Let me begin by taking a moment to acknowledge the seniors that our Nation has lost to COVID-19, as well as the grief of the families who lost parents and grandparents during the pandemic. Each and every life taken by the virus is a tragedy, and I am sorry for your loss.

With 4 years having passed since the height of the COVID-19 pandemic, many of us have become numb to the grave uncertainty that we faced in 2020. That spring, as a novel virus took hold across our Nation, hospitals overflowed with patients as hundreds—and eventually thousands—of Americans died each day.

Frontline healthcare workers were forced to wear garbage bags as gowns and life as we knew it had come to a total halt. Things were in absolute chaos.

And in the midst of that chaos, public officials at every level of government were left to make challenging decisions in real time with constantly evolving information and extremely limited resources.

Now, with the darkest days of the pandemic behind us thanks to the Biden-Harris Administration's historic work getting vaccines in arms, safely reopening schools and businesses, and jump-starting our economy, we have the opportunity to look back on those decisions and learn from them. And in doing so, we can acknowledge that in future public health crises, we would make certain decisions differently.

One such case is policies that arguably required the readmission of COVID-19 patients back into nursing homes without infection prevention and control in an early effort to relieve hospital strain.

In hindsight, knowing now what we do about how COVID-19 spreads, including through aerosolized droplets and by asymptomatic carriers, these policies were a misstep, and they are something we can learn from as we look to better prepare for future pandemics.

However, we must be comprehensive in our examination of where things went right and where things went wrong in responding to COVID-19. And we would be doing our Nation's seniors and nursing home residents a disservice by not taking a hard and honest look at the data that has emerged from that period.

And this data shows us that the driving force behind the infections and fatalities that occurred in our Nation's nursing homes was broader community spread, which led to dedicated staff inadvertently bringing the virus into these vulnerable settings.

And as we look back on policy missteps that put our Nation's seniors at risk, I would be remiss if I did not mention that the issue of community spread, the driving factor is one that was severely exacerbated by the severe shortages of PPE and tests that our Nation experienced at the hand of former President Trump and his Administration's early blunders.

These failures hampered our efforts to get a handle on the outbreak of COVID-19 and left states to fend for themselves when it came to obtaining critically needed supplies to protect our most vulnerable.

As Ranking Member, I have championed objectivity and called for the Select Subcommittee to put people over politics.

And in that vein, I want to make something abundantly clear. Any public official who sought to obscure transparency or mislead the American people during the COVID-19 pandemic should answer to the American public regardless of political party.

And that is why the former Governor and members of his Administration faced serious questions from both sides of the aisle about allegations that they misrepresented nursing home fatality data to evade public scrutiny during the closed-door transcribed interviews that led up to this hearing.

It is also why I have been so forceful in my condemnation of the former President and his reckless efforts to downplay the threat of COVID-19 in the early days of the pandemic.

The American people deserve honesty, transparency, and integrity from their public officials, full stop.

At the same time, I continue to believe that the greatest thing we can do for the American people is contribute to forward-looking work of preventing and preparing for future pandemics.

That is why today I am leading Select Subcommittee Democrats in announcing new legislation to strengthen infection control and prevention efforts in our Nation's nursing homes.

The SAFER Nursing Homes Act is forward-looking legislation that makes new, robust investments in the Centers for Medicare and Medicare Services survey and certification efforts which uncover incidents of poor or substandard care to be available for these crucial oversight activities. Our new legislation builds on the Biden-Harris Administration's legacy of protecting and advancing the health of our Nation's seniors.

Earlier this year, the Administration finalized its long-term care staffing rule which establishes new Federal standards to ensure that our parents and grandparents in nursing homes receive the highest quality care.

And in 2022, President Biden and Vice President Harris took on Big Pharma and signed into law the historic Inflation Reduction Act which kept the monthly cost of insulin at \$35 for seniors a month and finally allowed Medicare to negotiate for lower prescription drug prices.

One thing is certain: There is still more we can and must do to protect and advance the health of our Nation's seniors.

As we look to strengthen our Nation's preparedness for future pandemics and public health threats, it is my hope that the Select Subcommittee can play a meaningful role in this work.

And in service of every senior who we lost too soon at the hands of the pandemic, it is my hope that we can work together, every member of the Select Subcommittee, to make progress on this critically important mission so that we can save future lives.

With that, I yield back.

Dr. WENSTRUP. Thank you, Dr. Ruiz.

Before we proceed with the witness statement, I want to announce a subpoena to the Governor of New York for documents related to Mr. Cuomo and his March 25 directive.

The subpoena is vitally important as this inquiry continues, and because the current Governor is improperly withholding documents from Mr. Cuomo's time that are responsive to our requests.

We hope that Governor Hochul lives up to her promise of transparency and proceeds without further delay.

Our witness today is Mr. Andrew Cuomo. Mr. Cuomo was Governor of the state of New York from 2011 to 2021.

Pursuant to Committee on Oversight and Accountability rule 9(g), the witness will please stand and raise his right hand. Do solemnly swear or affirm that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Mr. CUOMO. I do.

Dr. WENSTRUP. Thank you.

Let the record show that the witness answered in the affirmative.

The Select Subcommittee certainly appreciates you for being here today, Governor Cuomo, and we look forward to your testimony.

Let me remind the witness that we have read as much as we could of your written statement, and it will appear in full in the hearing record as requested. Please limit your oral statement to 6 minutes as we agreed upon.

As a reminder, please press the button on the microphone in front of you so that it is on and the members can hear you.

When you begin to speak, the light in front of you will turn green. After 5 minutes, the light will turn yellow. When the red light comes on, your 6 minutes has expired, and we would ask that you please wrap up.

I now recognize Mr. Cuomo to give an opening statement.

**STATEMENT OF THE HONORABLE ANDREW CUOMO  
FORMER GOVERNOR  
STATE OF NEW YORK**

Mr. CUOMO. Thank you.

First, to the families of the victims here today and across the country, I am sorry for your loss, and I believe you are owed an apology because this country should have done better. There is no reason why we lost 1.2 million people, more than any country on the globe, when we have the most sophisticated medical system.

This committee must deliver real answers so it never happens again, and I am here today to help in that mission.

As you know, New York was hit first and worst by COVID through no fault of its own. I did daily briefings, and millions listened in because they wanted—no, because they needed—information and guidance.

And, yes, I often vehemently disagreed with President Trump, because from day one he willfully deceived the American people, denying COVID's very real threat. Telling us that it was like the flu. It would go away by Easter. It was a Democratic hoax. Use Clorox. And his lies and denials delayed our response, let the virus spread, and this country never caught up.

Trump literally said, I take no responsibility, and he fabricated political attacks, blaming Democratic Governors, including saying that New York issued a health order on March 25 having COVID-positive people enter nursing homes from hospitals, which recklessly and needlessly caused thousands of deaths.

And then Trump weaponized the Department of Justice, starting investigations against New York and three other Democratic states.

Trump's shocking allegations, all false, were designed to shift blame from him to Democrats, and they did. They also created great pain, confusion, and fear for families.

And this Subcommittee, run by Republicans, repeats the Trump lies and deceptions, and it inherently makes two powerful admissions.

First, the report does not deny—contrary to what New York Republicans said for 4 years—it does not deny that it was actually the Trump Administration, the CMS and CDC, that first said in early March that COVID-positive people could go from hospitals to nursing homes even if they were still infectious. That was your ruling.

The committee attempts to argue that the New York advisory didn't follow the CMS guidance and overrode safety laws. But that has already been investigated by the New York Attorney General who said you're wrong and who confirmed the March 25 advisory was in total compliance with Federal guidelines and that all New York's nursing home laws remained in effect, period.

In addition, the report provides no evidence to support Trump's main allegation, repeated for 3 years, that New York's guidance killed thousands in nursing homes. In fact, the report finds no causality whatsoever. Not one death. All hype.

Why? Because it never happened. All credible studies now say that COVID came into nursing homes through community spread and infected staff, not hospital admissions or readmissions.

Numbers don't lie. Thirty-five states had a higher death rate in nursing homes than New York, including Ohio. Most Republican states actually had a higher death rate in nursing homes than New York in 2020. And that fact damns them and reveals their hypocrisy.

But these are all diversions to blame New York and other states for the culpability of the Federal response, which was malpractice. There was no preparation, no PPE, no testing, no masks, no science, no leadership.

As one Republican Governor said about Trump, the General was missing in action, leaving 50 states bidding against each other for scarce medical supplies. It was the COVID "Hunger Games." The Federal Government was nowhere to be found.

New Yorkers remember well those traumatic days when the only sound that echoed through the empty streets were the constant sirens from ambulances; when mass graves were being dug on Hart Island; when bodies were being stored in refrigerated trucks. Our hospital system nearly collapsed. And Trump was threatening to send Federal troops to blockade New York so no one could leave. That was the Federal response.

And, yes, New Yorkers were scared. But they were New York tough, and they showed that when—showed that they responded to government leadership when they believed it was based on facts.

In that moment in New York, there were no Democrats and Republicans, there were just New Yorkers, helping and relying on each other. They were guided by their better angels. They followed science, took vaccines, wore masks, and acted responsibly, one for another. New Yorkers' heroic actions brought us back from the brink and saved many, many lives.

When COVID-19 started in 2020, we had the highest death rate in the country. But at the end of 2021, remarkably, New York had a lower death rate than 30 states. But even with all New Yorkers did, we lost far too many, and I am sorry for every life lost.

In closing, I know this is a political year, and I have testified before many, many congressional committees, but this issue really matters. There will be another pandemic, and they will pull out your report for guidance. I hope it has real answers. God forbid 1.2 million people died in vain.

Thank you.

Dr. WENSTRUP. Thank you.

I now recognize myself for as much time as I may consume for questions, with equal time being afforded to the Ranking Member of the committee.

You know, the question is asked, did the Federal Government require that the state of New York mandate that its nursing homes admit or readmit residents? The answer is no.

Did the Federal Government mandate that your state issue a directive that prohibited a nursing home from testing an admitted or readmitted resident for COVID-19? The answer is no.

In fact, I don't believe I'm aware of any other state besides yours that expressly prohibited a nursing home from testing returning or newly admitted residents. Only in New York. The other states that have been alleged issued similar orders; none were in place as long as New York's.

So many states reversed course. And I've surmised, because it doesn't take a doctor to realize that it was a dangerous, misguided plan.

Nevertheless, Governor, you've maintained and testified to us since the pandemic that your directive was based on and consistent with CMS and CDC guidelines.

You're a lawyer, so you know the difference between permissive versus prescriptive language, I assume. And the words "shall" and "must," are they permissive or prescriptive? Governor? Are the words "shall" and "must" permissive or prescriptive?

Mr. CUOMO. It depends on the context.

Dr. WENSTRUP. Well, those words are right in the directive. This was not advisory or guidance.

You have also claimed that the directive followed CMS and CDC guidance. Did you ever speak with anyone at CMS or CDC about the directive beforehand?

Mr. CUOMO. You'd have to ask—the Department of Health had those conversations.

Dr. WENSTRUP. So, what you're saying is you did not ever speak with anyone at CMS or CDC about the directive beforehand?

Mr. CUOMO. I——

Dr. WENSTRUP. I'm asking you. I can ask them later, but I'm asking you.

Mr. CUOMO. I spoke to the CMS and CDC about a number of matters. I don't believe I——

Dr. WENSTRUP. Did you speak to them about the directive beforehand, your directive?

Mr. CUOMO. I did not speak to them about this directive, to the best of my recollection.

Dr. WENSTRUP. OK. Not even after? After the directive, did you speak with them?

Mr. CUOMO. To the best of my recollection, no.

Dr. WENSTRUP. OK.

Mr. CUOMO. Nor did they speak with me.

Dr. WENSTRUP. Not even to ensure that what you——

Mr. CUOMO. No, they never called.

Dr. WENSTRUP. OK. In fact, no one we interviewed said they consulted with them to ensure the applicable science was being followed.

Former White House Coronavirus Coordinator Dr. Deborah Birx, she was in charge of all Federal guidance in 2020. She testified that your order absolutely violated CMS guidance.

Is it your position that Dr. Birx lied?

Mr. CUOMO. My position is you deceived Dr. Birx. You suggested to Dr. Birx that we did not have transmission-based precautions in place. And that was not true. As you know, the Attorney General conducted this investigation. This is not new news. These charges were made 4 years ago.

You then had three Department of Justice investigations that reviewed them. You then had an Attorney General's investigation that reviewed them.

The Attorney General of New York, who governs the New York law and interprets the New York law, found exactly contrary to what you are saying, and said it repeatedly, and you know she said it repeatedly.

She said, quote, "The March 25 advisory did not require admission of COVID-19 patients into nursing homes," but rather said the admissions could not be denied solely. Solely. Merriam-Webster says that means only on the basis of the COVID diagnosis.

The Attorney General said while some commentators—and these were Republican commentators she was referring to—suggested the Department of Health March 25 guidance was a directive that nursing homes accept COVID-19 patients even if they could not care for them, such an interpretation would violate statutes and regulations that place obligations on nursing homes to care for residents.

The March 25 guidance was consistent with the CMS guidance. The March 25 guidance was consistent with the CMS guidance if nursing homes have the ability to adhere to infection prevention and control recommendations.

It was also consistent with CDC-published transmission-based precautions. That's the attorney general's position and opinion, and that's the law of the state of New York.

And when you spoke to Dr. Birx, you posed the question suggesting we did not have infection protections in place, and that was not true.

Dr. WENSTRUP. Mr. Cuomo, you're a lawyer, so you know the difference between permissive versus prescriptive language, I assume.

Mr. CUOMO. In a context, I will interpret it for you, as the attorney general did here.

Dr. WENSTRUP. Are the words "shall" —

Mr. CUOMO. As the Attorney General did here.

Dr. WENSTRUP. Are the words "shall" and "must" permissive or prescriptive?

Mr. CUOMO. It depends on the context. In this context, the nursing homes were not directed to accept anyone. It was up to the discretion of the nursing home. That was made abundantly clear.

All the laws of the state of New York remained in effect. As a matter of fact, the law of the state of New York says they can only accept people who they can care for.

The law of the state of New York says they have to do a full diagnosis before a person comes in. If they have a communicable disease, they have to have a written letter saying the person is not infectious or an infection plan in place.

So, every law in the state of New York governing nursing homes was in effect, sir.

Dr. WENSTRUP. Well, Governor, there might be a lot of lawyers who disagree with you.

Using the words—using the—

Mr. CUOMO. The Attorney General—

Dr. WENSTRUP. It's my—excuse me. Using the words "shall" and "must," these words are right here in the directive. This was not advisory or guidance. It wasn't.

You have also claimed that the directive followed CMS and CDC guidance. Did you ever speak with anyone at CMS or CDC about the directive beforehand?

Mr. CUOMO. The Attorney General said it follows CMS guidance and is consistent with CMS guidance.

When you talk about attorneys, yes, I'm an attorney. Yes, I'm the former Attorney General of New York. But the law is interpreted by the current Attorney General.

That is how she interpreted the law. That is the law that was in place. That was the law that was in place during the pandemic. She has sued nursing homes for misconduct during the pandemic based on that law.

Dr. WENSTRUP. Thank you, Governor.

My question was, did you ever speak with anyone—you, Governor Cuomo—did you ever speak with anyone at CMS or at CDC about the directive beforehand—you, Governor Cuomo?

Mr. CUOMO. I—you asked that question, and I answered the question, and I said no.

Dr. WENSTRUP. Did you or not?

Mr. CUOMO. I said no. I answered the question no.

Dr. WENSTRUP. OK. Thank you.

Not even after, correct?

Mr. CUOMO. I said—yes, and they never called me after. You would think if they had a problem with the directive they would have called. If it was so outrageous—

Dr. WENSTRUP. You didn't—you didn't even call to—

Mr. CUOMO [continuing]. They would have called.

Dr. WENSTRUP. You didn't even call to ensure that you were—what you were declaring was accurate. Yes or no?

Mr. CUOMO. I don't know if the Department of Health issued—

Dr. WENSTRUP. Did you, Governor Cuomo—right now I'm talking to you, Governor Cuomo.

Mr. CUOMO. Yes.

Dr. WENSTRUP. Did you even attempt to ensure that what you were declaring was accurate? I'm asking you.

Mr. CUOMO. Yes, I understand.

Dr. WENSTRUP. I don't want to hear about anyone else.

Mr. CUOMO. OK. Department of Health issued 400 advisories, several per day. I did not speak—

Dr. WENSTRUP. Thank you.

Mr. CUOMO [continuing]. To CMS about 400 advisories.

Dr. WENSTRUP. Thank you.

In fact, no one we interviewed said they consulted with them to ensure the applicable science was being followed.

Former White House Coronavirus Coordinator Dr. Deborah Birx, she was in charge of all Federal guidance in 2020, she testified that your order absolutely violated CMS guidance.

Is it your position that Dr. Birx lied.

Mr. CUOMO. You misrepresented the facts to Dr. Birx.

Dr. WENSTRUP. I'm asking you the question. I'm stating what she said. I'm not misrepresenting anything. Because this is what she said, and I just want you—I'm asking you if Dr. Birx lied. That's my question.

Mr. CUOMO. Dr. Birx said that the March 25 advisory, which you read to her in your words, didn't have appropriate infection control procedures. That was by your representation.

The Attorney General's representation is the law of the state of New York was in effect, which has an infection control plan, mandates they only accept people who they can handle, mandates that if the person has a communicable disease that it's treated before they accept a person or they don't.

So, the infection-based control precautions were in place. The question to Dr. Birx was: Would you allow admission if there were no transmission-based precautions? And she said no. And I would agree. But they were in place.

Dr. WENSTRUP. So many states reversed course. And I surmise, because it doesn't take a doctor to realize that this is a dangerous, misguided plan taking place in New York.

Nevertheless, Governor, you maintain, testified to us since the pandemic, that your directive was based on and consistent with CMS and CDC guidelines. And you're a lawyer, so you know the difference between permissive versus prescriptive language, I assume. Are the words "shall" and "must" permissive or prescriptive?

Mr. CUOMO. It's not my lawyer. It's the Attorney General of the state of New York who interprets the law. That's how the law works, sir.



Dr. WENSTRUP. I now recognize the ranking member, Dr. Ruiz from California, for 5 minutes of questions.

Dr. RUIZ. Thank you, Mr. Chairman.

Something I believe every member of the Select Subcommittee would agree on is the obligation that every public official has to be transparent with the American people, especially during a public health crisis.

Transparency, including with public health data, is necessary for public trust, and it's expected of those who hold elected office.

What's more, accurate and comprehensive data is critical to develop forward-looking policies to prevent and prepare for future pandemics.

As an emergency physician, I know firsthand that when dealing with a new and evolving public health crisis, every piece of data can help build a better picture of what we are facing and inform better decisions.

Governor Cuomo, I appreciate your voluntary participation in today's hearing, as well as your cooperation with the Select Subcommittee in recent months.

After reviewing nearly 200,000 pages of documents and conducting ten closed-door interviews, questions still remain regarding the extent of which your administration was transparent in reporting nursing home fatality data, both with respect to the daily numbers and the numbers included in the July 6, 2020, New York State Department of Health report.

As an initial matter, let's talk generally about your administration's public reporting of COVID-19-related deaths.

So, Governor Cuomo, your administration publicly reported COVID-related deaths with a fatality tracker available on a public website, correct?

Mr. CUOMO. Yes, sir.

Dr. RUIZ. OK. The New York State Department of Health also posted a daily report specific to nursing home deaths on a publicly available web page, right?

Mr. CUOMO. I don't know specifically what the Department of Health had separately.

Dr. RUIZ. OK. Initially, the nursing home fatality data included deaths both in facility and out of facility, meaning in the nursing homes or nursing home patients who were moved out of the facility to a hospital, for instance.

However, in early May 2020, this reporting changed to only in-facility deaths. Was this change your decision?

Mr. CUOMO. No, sir.

Dr. RUIZ. Whose decision was it?

Mr. CUOMO. I don't know.

Dr. RUIZ. This change obviously made the reported number of nursing home-related deaths lower.

Do you know if that was the reason for changing the reporting?

Mr. CUOMO. No. If I may, Doctor, every day I personally did a daily briefing and reported the number of deaths. The surest place with the most certainty. The most certainty was this is the place where they died.

Every night we got a census from the hospitals. Every night we got a census from the nursing homes. Total nursing home deaths. Total hospital deaths. I had confidence in those numbers.

As the Republicans started this nursing home scandal theory, there were more requests for more subcategories. At-home deaths. Probable deaths. Presumed deaths. In-facility. Out-of-facility.

And dealing with those subcategories, the numbers were less than certain. And they were highly problematic, because you were calling up a nursing home and basically asking them to do a forensic audit in the middle of a pandemic. Please track this patient. They went from the nursing home to home and what happened? They went from the nursing home to the hospital; can you find out what happened?

The confidence level in the out-of-facility deaths or presumed deaths was very weak and very low. It was very important to me that whatever I said I knew was accurate.

They asked for out-of-facility deaths. They asked for presumed deaths. I said when we have accurate numbers I will release them, but I'm not going to release numbers that I don't believe and we have reason to believe were false. And there was a lot of double counting and a lot of mistakes in those numbers.

And, Doctor, my briefings attracted people because they got the truth. And whereas President Trump would say a different thing every day, I only said what I knew to be a fact. And I was not going to put out a number unless I knew it was true. I said I was not putting out the out-of-facility deaths until I knew they were true.

But the total number was unchanged. In other words, the out-of-facility deaths would have just reallocated deaths from hospitals to nursing homes and reduce the hospital number. But the total death number was exactly the same.

Dr. RUIZ. So, the daily reporting was not the only way the New York State Department of Health shared nursing home fatality deaths with this public. There was a report released on July 6, 2020, that purported to be an in-depth analysis of nursing home data.

During the past several months of transcribed interviews, Select Subcommittee staff heard from multiple witnesses that this report started off as a data-driven scholarly article with work from several Department of Health employees.

But prior to its release, decisions were made by members of your Executive Chamber, who were not public health experts, to change the numbers in this report. Again, the changes made lowered the number of nursing home-related fatalities included in the report.

So, were you aware of the fact that there were seemingly two versions of what was released as the July 6, 2020, New York State Department of Health report?

Mr. CUOMO. There were—the purpose of the July 6 report was not to do a scholarly article for a medical journal. We're in the middle of a pandemic. And there may have been people who wanted to do a scholarly article for a medical journal. But this had a much more practical purpose. We're in the middle of a pandemic. How was COVID getting into the nursing homes? That was the ques-

tion. How was COVID getting into the nursing homes? And that was the purpose of the report.

There were multiple sets of numbers, because the numbers kept changing, because the nursing homes were under tremendous pressure, and this was a tremendous accounting task that we were asking them to do.

The report used the verified numbers. And I said—because this was a question every day, Doctor, this was not like surreptitious—I said when we have the out-of-facility numbers that we believe are accurate, we will release them. They were not in the July 6 report.

The health commissioner said he had the verified numbers. There were unverified numbers. They both backed the same conclusion in the report. So, he decided to use the verified numbers. And we said when we audit the unverified numbers, we will release them.

So, it was always—everyone was always clear. Here’s the total deaths. Here are the subcategories that we feel confident about. Here is what we don’t feel confident about.

Also, this was very political at the time. President Trump was accusing me of overcounting the number. He said I was inflating the number to make him look bad, that there were actually fewer deaths, and I was inflating the number.

So, it’s ironic that now the accusation is, “Oh, no, you were undercounting the number,” right? You have to pick it at one point.

Dr. RUIZ. So let me just ask you directly. And let me remind that you are under oath, Governor.

Did you direct your staff to make the number of nursing home-related fatalities lower than they actually were?

Mr. CUOMO. No. We said these are the numbers without the out-of-facility death numbers, which we will add when they’re accurate, which will reduce the hospital count number, but the total death number stays exactly the same.

It was an allocation question. Do you allocate the death to the nursing home or do you allocate to it to the hospital? But the total death number was the same.

And the only reason the Republicans were asking these questions about nursing home deaths was to further their conspiracy theory that there were massive deaths in nursing homes, which in my opinion was a pure diversion from the Federal malpractice that was going on. Because everybody knows that COVID did not get into nursing homes from admissions or readmissions, it came in from community spread.

And the reason why you had so many infected staff workers going to work was because the Federal Government had no PPE, no masks, no equipment, no warning, no preparation. We had a President who lied to us from day one.

Dr. RUIZ. As ranking member of the Select Subcommittee, I am committed to following the facts for an objective analysis of how COVID-19 impacted our communities across the country, all with the goal of putting us on stronger footing to prevent and prepare for future pandemics.

As I said, accurate and complete data is vital to ensuring that we as a country are as prepared as possible to handle the next pandemic better than the last.

And with that, I yield back.

Dr. WENSTRUP. I now recognize the Chairman of the full committee, Mr. Comer from Kentucky, for 5 minutes of questions.

Mr. COMER. Thank you.

Governor Cuomo, do you stand by the March 25, 2020, directive?

Mr. CUOMO. The March 25 directive was based on the CDC/CMS guidance.

Mr. COMER. Do you stand by it?

Mr. CUOMO. They both do the same thing. Both CMS and CDC—

Mr. COMER. You had said that—excuse me. You had said that the directive followed CDC and CMS guidance.

Are you aware of anyone in your office that asked CDC or CMS about the policies in the directive?

Mr. CUOMO. The Attorney General opined legally they were the same and said the March 25 order was consistent with the Federal guidance, and that's how it was enforced.

Mr. COMER. OK. So, you stand by it. And you say it followed Federal guidance.

Then why did it need to be superseded by executive order? Was this because you were getting—

Mr. CUOMO. It was superseded later on—I'm sorry. I didn't mean to interrupt you.

It was superseded later on because we then got to a position in May, I believe, where we had enough testing capacity, and we mandated testing for nursing home staff.

Mr. COMER. So, it had nothing to do with public relations or—

Mr. CUOMO. And also, the—this political—this was all politics, all the time.

Mr. COMER. OK.

Mr. CUOMO. And it bothered and scared people because they didn't know who to believe.

Mr. COMER. OK. OK.

On June 7, 2020, your executive assistant sent this email, writing, and I quote:

“This is going to be the great debacle in the history books. The longer it lasts, the harder to correct. We have a better argument than we made. Get a report on the facts because this legacy will overwhelm any positive accomplishment.

“Also, how many COVID people were returned to the nursing homes in that period? How many nursing homes? Don't you see how bad this is? Or do we admit error and give up.”

Ms. Benton is your executive assistant. I believe she's sitting behind you. Did she write this email on your behalf?

Mr. CUOMO. Yes.

Mr. COMER. Governor, did you have an email account while you were Governor?

Mr. CUOMO. No. Well, I may have had one, but I didn't use it.

Mr. COMER. OK. Is there a reason?

Mr. CUOMO. I haven't used it in years.

Mr. COMER. Did you communicate in other ways with your staff, text messages or BlackBerry messages?

Mr. CUOMO. Yes.

Mr. COMER. You did.

You just said that you stood by the directive, but this email asks if it was time to admit error and give up.

Was the March 25 directive an error?

Mr. CUOMO. No. This was tongue—that—the last line, sir, was tongue in cheek. This was an ongoing, raging political debate where the Republicans were saying March 25 caused deaths. So, I said—

Mr. COMER. I understand.

Governor, you testified that you were not aware of the directive until April 20, 2020, almost a month after it had been issued.

When you were asked about it at a press conference, after you learned of the order, did you have any concerns about the directive?

Mr. CUOMO. When I was asked about it at the press conference, I was not aware of it. If I had been aware of it, my answer would have been very simple. I would have said: It follows—Ask Donald Trump. It follows—

Mr. COMER. Did you ask questions after you learned about the directive?

Mr. CUOMO. After I learned about it, yes, I asked questions.

Mr. COMER. Give me some examples.

Mr. CUOMO. I was debriefed by the commissioner of health who said this is the theory of CMS and CDC and DOH, that these people are no longer infectious.

Mr. COMER. Did you ever discuss terminating or amending the directive after you learned of it?

Mr. CUOMO. When it was described to me that CDC, CMS, and DOH all thought this was a good idea, and they had a medical theory behind it, that these were noninfectious people, et cetera.

Mr. COMER. So, for time's sake, Governor, to return to the email, why did you direct your staff to get a report on the facts?

Mr. CUOMO. Well, just to counter the newspaper story.

Mr. COMER. So, on July 6, 2020, the Department of Health issued the report you requested.

Was this report peer reviewed?

Mr. CUOMO. I don't know.

Mr. COMER. It was not.

Was this report in a medical journal?

Mr. CUOMO. It was not. It was a government report.

Mr. COMER. It was not.

Was the—

Mr. CUOMO. It was not from a medical journal.

Mr. COMER. Was the Executive Chamber involved in the drafting and editing of the report?

Mr. CUOMO. I'm sure the Executive Chamber was involved.

Mr. COMER. It was.

So, you requested a report on the facts, and you got a report that was not peer reviewed, not in a medical journal, and drafted and edited by the very body accused of wrongdoing.

So, Governor, do you stand by the July 6 report?

Mr. CUOMO. So, this is in real time we're acting. An agency is taking an action. You ask the agency for a report on the action.

Mr. COMER. Governor, my time has expired.

Mr. Chairman, what's clear is the Governor was desperate to change the narrative to dispel of the notion that his Administration failed nursing home residents, that he failed to ask any questions.

And, Governor, I believe you failed to follow the facts. And it's now clear that you should have done what your assistant suggested in the email, and that was admitted error and given up.

Mr. CUOMO. If you believe the CMS and CDC were wrong, then that would be your position.

Dr. WENSTRUP. I now recognize the Ranking Member of the full committee, Mr. Raskin from Maryland, for 5 minutes.

Mr. RASKIN. Mr. Chairman, thank you very much.

And, Dr. Ruiz, thank you.

Thank you for your testimony, Governor Cuomo.

The allegations that have been brought against you today are obviously serious. And because we on the Oversight Committee believe in accountability for all public officials, I appreciate your willingness to participate voluntarily in today's hearing and to answer every question coming at you and to address what the majority is saying.

[Chart.]

Mr. RASKIN. But I confess, Mr. Chairman, that I'm appalled by the majority's decision to evade and bypass the central events of the epidemic for totally political reasons.

The broader and authentic context for this hearing is, of course, the spectacular failure of Donald Trump's reckless and incompetent pandemic response, a failure which led to the unnecessary deaths of tens or hundreds of thousands of American citizens, according to Trump's own officials.

In fact, Donald Trump's knowing and willful lies cost America at least tens of thousands of deaths, according to his own White House Coronavirus Response Coordinator Dr. Deborah Birx, who the Chairman just cited as a decisive professional and medical authority. And she told the Select Subcommittee that more than 130,000 lives would have been saved during the Trump Administration if basic and proven public health measures had been implemented instead of disregarded.

On January 22, 2020, when America identified its first case of COVID-19, Trump stated, quote, "We have it totally under control." He goes on to say, "One day, it's like a miracle. It will disappear. It is going away."

He then proceeded to abdicate any responsibility for our pandemic response and said, quote, "I don't take any responsibility at all."

When he systemically failed to supply the states with critical medical equipment and PPE he set off an interstate death match for medical supplies, telling Governors simply to, quote, "Try getting it yourselves."

Donald Trump said about the virus, "I always wanted to play it down." Despite privately acknowledging that COVID-19 was deadly stuff, he deceived America, assuring everyone the virus was, quote, "just a little like the regular flu."

And he embraced the herd immunity theory that some of his advisers were promoting, which was again a dangerous and destructive thing to do.

After watching the bodies pile up outside hospitals and morgues, Trump then announced he had magical cures. He gave quack advice that hydroxychloroquine or disinfectant might be effective treatments for COVID. And he predicted the virus would, quote, “like a miracle, disappear by Easter.”

Despite advice from Dr. Fauci, Trump touted hydroxychloroquine and azithromycin as, quote, “game changers” to be put in use “immediately.”

This is the context within which we are discussing a very serious and yet nonetheless state-based detail of one policy that’s being controverted.

And I appreciate the fact that Governor Cuomo has appeared voluntarily to answer the questions. Where is Donald Trump to answer the questions about his horrific negligence as identified by his own COVID-19 adviser?

Mr. RASKIN. Governor Cuomo, New York was one of the states hit first and hit hardest by the pandemic. And I’m sure you have some regrets about the decisions that were made in the Federal Government, at the state level including in New York, at the local level.

But do you have any doubt that Donald Trump’s lies about the virus and his deliberate failure to develop a national policy to help the states made it more difficult for New York and other states to manage their pandemic response?

Mr. CUOMO. Congressman, I lived this like few others. I have little doubt that the problem here was what happened with the Federal Government.

They want to blame the states. They want to focus on New York. I understand why; it’s a blue state, et cetera. New York was the 29th lowest in nursing home deaths. Most Republican states had many more deaths. It—

Mr. RASKIN. Is that per capita or hard numbers you’re talking about?

Mr. CUOMO. That is pro rata, so per 1,000 nursing home deaths. So, the state of New York, for example, had 70 deaths per 1,000 in nursing homes in 2020. Ohio, for example, had 97 deaths. You don’t see Ohio here today, or any of the other Republican states. It’s just a diversion.

What happened here and the number that matters is 1.2 million died, more than any country on the globe. How do you explain that the United States lost more people than China that has four times the population?

And we know why we lost—why this happened: because the President denied it for months, the CDC had no tests, there was no PPE. And we lost 3 months before the President woke up and realized that there was a virus, and it was too late because the infection had spread and you’re not going to catch up.

Mr. RASKIN. Well, did you have a problem with then-President Trump repeatedly praising President Xi for the pandemic response in China and saying that he was doing a marvelous job?

Mr. CUOMO. The President’s response was horrific and the major cause the—the major cause why the virus spread and why it became out of control. And that’s why—

Dr. WENSTRUP. The gentleman’s time has expired.

So, I now recognize Ms. Stefanik from New York for 5 minutes of questions.

Ms. STEFANIK. Thank you, Chairman Wenstrup.

Today is long overdue. And just as a reminder for the public tuning in, we are here today on behalf of the over 15,000 vulnerable seniors in nursing homes who died because of Governor Cuomo's fatal executive order on March 25 damning them to this horrible fate, including constituents in my district and every congressional district in New York State.

I also want to recognize the families and advocates who have been working tirelessly on behalf of their loved ones amidst this grief, who have been smeared, attacked, and denigrated by Governor Cuomo and his most senior aides.

Let me begin, first, after months of inquiry and investigation, we now know irrefutably what New Yorkers have known for years: that Governor Cuomo himself and his most senior aides ordered, directed, and executed this deadly executive order counter to CMS and CDC guidance.

Our investigation also reveals—a bipartisan investigation—that the disgraced former Governor and his top aides were caught covering up their culpability and guilt to selfishly save their shredded reputations.

I want to start with the March 25 directive. Isn't it correct, former Governor, that Dr. Zucker served as your commissioner of health during the COVID crisis?

Mr. CUOMO. Yes.

Ms. STEFANIK. And you have stated and shared that you have great respect for Dr. Zucker's work and professionalism. You have said that in the past. Is that correct?

Mr. CUOMO. I don't know if I've used those words, but I'll take your word for it.

Ms. STEFANIK. Do you have respect for Dr. Zucker and his professionalism?

Mr. CUOMO. Yes.

Ms. STEFANIK. Are you aware that Dr. Zucker testified that the March directive was prompted by a direct request to you, former Governor Cuomo, from the Greater New York Hospital Association? Are you aware of that fact?

Mr. CUOMO. I'm not aware of his testimony, no.

Ms. STEFANIK. Well, that was what he testified to this committee.

Dr. Zucker also went on to say, quote, "Greater New York Hospital Association called the Governor and the team. We were all there in a conversation," end quote.

I also want to add, are you aware that another staffer at the Department of Health testified that the March 25 order did receive signoff from the Executive Chamber? Are you aware of that fact?

Mr. CUOMO. No. I'm aware of the testimony to the exact opposite that you received.

Ms. STEFANIK. That is incorrect. He said, "Yes, absolutely."

Mr. CUOMO. That's not the testimony that I have before me.

Ms. STEFANIK. The testimony I have before me, when he was asked whether the March 25 order was signed off by the Executive Chamber, the answer was, "Yes, absolutely."



And on top of that, Dr. Zucker testified that, quote, “everything goes through the Governor’s office.”

And, by the way, Governor, you and I both know that under your terrible leadership in New York everything does go through the Governor’s office.

My followup is, it wasn’t just the directive itself, Governor; it was the cover-up. This investigation found that you, former Governor, and your most senior aides made a deliberate decision to exclude certain COVID-19-related nursing home deaths to hide and undercount the actual mortality rate in nursing homes.

And for the public, Governor Cuomo changed the methodology of counting nursing home fatalities to exclude out-of-facility deaths, to undercount those.

I want to ask you, what period of time were you negotiating for your book deal?

Mr. CUOMO. Congresswoman, if there was a fact in what you said—

Ms. STEFANIK. No, I’m asking you a question. I’m asking you a question. What dates—

Mr. CUOMO. Well—

Ms. STEFANIK [continuing]. Did you negotiate for your book deal? That is the question before you today.

Mr. CUOMO. I’m answering the question that you asked.

Ms. STEFANIK. No, no, no. The question that I asked—

Mr. CUOMO. My testimony says, “During that time, did you have any discussions with the Executive Chamber regarding the need for guidance?”

Ms. STEFANIK. That’s not the testimony I’m referring to.

Mr. CUOMO. “Not that I recall.”

Ms. STEFANIK. “Absolutely” was the answer.

Mr. CUOMO. “Not that I recall.”

Ms. STEFANIK. Governor, “Absolutely”—you’re throwing your staff—

Mr. CUOMO. Also—

Ms. STEFANIK [continuing]. Under the bus. You are culpable for this. My question to you is—

Mr. CUOMO. Also—

Ms. STEFANIK [continuing]. When were you negotiating for your multimillion-dollar advance deals for your book as seniors were dying in nursing homes?

Mr. CUOMO. Also—

Ms. STEFANIK. That is the question in front of you.

Mr. CUOMO [continuing]. You can’t make up facts, Congresswoman.

Ms. STEFANIK. You’re the one making up facts.

Mr. CUOMO. I’m—

Ms. STEFANIK. You’re the one who undercounted nursing—

Mr. CUOMO. The attorney general—

Ms. STEFANIK [continuing]. Home deaths. You’re the one who I want to ask right now—

Mr. CUOMO. The attorney general said the exact opposite.

Ms. STEFANIK [continuing]. You apologized today, but there are families sitting here. I want you to turn around, look them in the eye, and apologize—

Mr. CUOMO. This is not—

Ms. STEFANIK [continuing]. Which you have failed to do.

Mr. CUOMO. Congresswoman—

Ms. STEFANIK. Will you do it?

Mr. CUOMO [continuing]. This is not about political theater; it's about—

Ms. STEFANIK. No, this is about accountability.

Mr. CUOMO [continuing]. Giving answers. Why did 1.2 million Americans die? Why did more—

Ms. STEFANIK. Why are you—

Mr. CUOMO [continuing]. Americans die than any—

Ms. STEFANIK. No, no, no, no, no.

Mr. CUOMO [continuing]. Country on the globe?

Ms. STEFANIK. You're the former Governor—

Mr. CUOMO. Why did you let the President—

Ms. STEFANIK [continuing]. Disgraced, under oath—

Mr. CUOMO [continuing]. Lie—

Ms. STEFANIK. This executive order—

Mr. CUOMO [continuing]. To the people of the United States?

Ms. STEFANIK [continuing]. Was under your name. It was counter to CDC and CMS—

Mr. CUOMO. Why did you let President Trump lie?

Ms. STEFANIK. This is about those seniors, Governor. They—

Mr. CUOMO. I understand you were running for Vice President—

Ms. STEFANIK [continuing]. Deserve to hear from you, in the eye—

Mr. CUOMO [continuing]. But you should've stood up for the constituents first.

Ms. STEFANIK [continuing]. That you apologize that you were negotiating for a multimillion-dollar book deal.

It is a disgrace. There is a reason why you are the former Governor of New York State, and you will never hold elected office again.

I yield back.

[Applause.]

Dr. WENSTRUP. I now recognize Mrs. Dingell from Michigan, 5 minutes.

Mr. MFUME. Mr. Chairman, I have a point of order.

I believe the rules of decorum prohibit applause and boos and other expressions during a hearing.

Dr. WENSTRUP. The audience will please refrain from applause or other voices of concern from the audience.

I now recognize Mrs. Dingell from Michigan for 5 minutes of questioning.

Mrs. DINGELL. Thank you, Mr. Chairman.

Governor Cuomo, thank you for appearing before the Select Subcommittee today.

As you are hearing and you are aware, your Administration has faced allegations that it did not transparently report nursing home deaths. I want to give you the opportunity to respond to those allegations in a calm way.

On July 6, 2020, the New York State Department of Health released a report related to nursing home COVID-19 deaths. That

report has since been criticized, and we've been discussing, for undercounting deaths by excluding those deaths that occurred outside of the facility—for example, at the hospital.

How do you respond to that criticism, shortly—briefly?

Mr. CUOMO. Congresswoman, we were reporting total deaths every day—the number in hospitals, the number in nursing homes.

This political dispute started, how many deaths in nursing homes; let's go count those that were in hospitals, what they call "out-of-facility." Those numbers, in my opinion, were very sketchy, and they—depending on the day, they moved around a lot.

I was not going to report inaccurate information, so we specifically said, here is the nursing home number without the out-of-facility number, and when we have it, we will provide it.

But it didn't change the conclusion of the report. It specifically said, we do not now have the out-of-facility number; we will provide it to you once we audit it.

We did audit it. It was wrong, over 20 percent, and then it was corrected.

Mrs. DINGELL. OK—

Mr. CUOMO. But the total number of—which was 35,739 total deaths—that is what never changed.

Congresswoman, I lived this every day—

Mrs. DINGELL. OK. I have some more questions for you. Thank you.

Mr. CUOMO. OK.

Mrs. DINGELL. At your transcribed interview, you told us that Dr. Howard Zucker, the head of your Department of Health, decided what numbers to put in the July 6 report. But for his part, Dr. Zucker testified that he does not know how that decision was made.

A member of your COVID-19 task force told us that Melissa DeRosa made the decision to remove the out-of-facility deaths from the July 6 report. Other members of your COVID-19 task force testified similarly.

In your transcribed interview—and you've heard it referred to here—you said, "Let's say there's a 3,000 differential, 2,500. Who cares? What difference does it make in any dimension to anyone about anything?"

I want to say, Governor Cuomo, I care. Every member of this committee cares. And, more importantly, every family member who lost a family member cared. So, let's be very clear about that.

With that said, can you help us reconcile the contradiction between your testimony and the testimony offered by individuals you handpicked for your COVID-19 task force?

Mr. CUOMO. Congresswoman, there were a number of subcategories: in-facility, out-of-facility, presumed, hospital, at-home deaths. And those categories, yes, as data points, are going to be important.

In the middle of the pandemic, in the middle of the frenzy, when nursing homes are shorthanded and they're working to save lives, to ask them to go through an accounting process wasn't the best use of time.

The total number never changed, and that's what was most important. And we said, when we do an audit of the individual categories, we will release the individual category numbers.

So that was always clear, that the total death number was right, but we had to do the allocation within the categories.

Mrs. DINGELL. So, we've heard there were concerns about data errors, particularly during the spring and summer of 2020, leading your Administration not to publish the out-of-facility deaths. But it wasn't until February 2021 that your Administration decided that its nursing home report should include those deaths.

Why did it take so long for your Administration to include those out-of-facility deaths in the nursing home reports?

Mr. CUOMO. That's a good question, Congresswoman. Because we were doing the audits of the numbers. President Trump started a Department of Justice investigation against New York and several other Democratic states on nursing home data. It was a political investigation; that was clear. But the easiest indictment is if a false number was created. So those numbers—

Dr. WENSTRUP. I now recognize Ms. Malliotakis from New York—

Mr. CUOMO [continuing]. Needed to be double-checked and triple-checked.

Dr. WENSTRUP [continuing]. For 5 minutes of questioning.

Your time has expired, gentleman.

Ms. MALLIOTAKIS. Thank you, Mr. Chairman.

Governor Cuomo, I had planned a series of questions, but after reading your opinion piece in this Sunday's Daily News and hearing your testimony here today, I'll use my time to correct the half-truths and lies that insult New Yorkers.

You cite CMS data to claim New York had the 12th-lowest death rate at the end of 2020. However, CMS began collecting data in mid-May, so the deaths when your deadly directive was in full force were not included. Your Administration reported 6,000 deaths. The true toll was 11,400, nearly double.

You assert your March 25 directive never mandated nursing homes to admit COVID-positive patients. This is false. Your directive very clearly says no resident shall be denied, and it prohibited COVID testing before admission.

In your op-ed and again today, you claim that the directive mirrored CDC guidelines. This is also false. 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, former White House Dr. Deborah Birx, both testified that your action violated those guidelines. CDC and CMS would never recommend prohibiting testing, yet your directive did—all while you were sending tests to the Hamptons for your family.

And you also falsely claimed this directive was the standard across the country, even trying to hide behind Minnesota Governor Tim Walz's directive, when Minnesota's guidance actually included caveats, precautions, it didn't prevent nursing homes from testing patients like your directive did.

You claimed that the March 25 directive was to protect hospital capacity. But you had the U.S. Navy Comfort ship and the Javits Center deployed and—and it remained underutilized.

You said that nursing homes could still have denied entry to those they could not safely care for under existing law. But you suspended that very regulation in a March 7, 2020, executive order stripping nursing homes of that ability to deny admission.

And on top of all of that, you say New York didn't undercount nursing home deaths. Yet your chief of staff directed that the deaths of nursing home residents outside the facility not be counted.

And, later, exactly 1 month after the New York Attorney General exposed that you underreported the nursing home deaths by 50 percent, your chief told Democrat lawmakers in New York that—she admitted that the true toll was withheld to avoid attracting prosecutors. That, Governor Cuomo, is a cover-up.

You've tried to blame everyone, including the CDC, the CMS, nursing home operators, nursing home staff, an unidentified low-level DOH staffer that supposedly sent out this directive, and of course President Trump. But the buck stops with you.

You testified that you don't know who signed off on this March 25 directive, and your DOH commissioner did not either, you say, despite both of your names—both of your names—being at the top of the letterhead.

In the closed-door testimony, both you and your chief of staff told the committee it was some mid-level staffer at the Department of Health. But the commissioner and the deputy commissioner of the Department of Health said it was your Executive Chamber that approved it.

You did not have a name on June 11. Do you have one today? Who signed off on this directive?

Mr. CUOMO. Well—

Ms. MALLIOTAKIS. Was it you?

Mr. CUOMO [continuing]. Let me try to—

Ms. MALLIOTAKIS. Was it the Lieutenant Governor, Kathy Hochul? Was it your—

Mr. CUOMO. Yes, let me—

Ms. MALLIOTAKIS [continuing]. Chief of staff, Melissa—no, it's a “yes” or “no.” I mean, was it you? Was it Kathy Hochul? Was it your chief of staff, Melissa DeRosa? Or maybe it was that communist spy. Maybe it was that communist Chinese spy, Linda Sun, who worked in your administration.

Mr. CUOMO. Well, maybe—

Ms. MALLIOTAKIS. Let me just please finish, and I'll let you answer at the end.

Because I find it hard to believe, Governor, that the Governor of the state of New York—you're known to be a micromanager, right?—who did a briefing every day for 111 straight days. We find it hard to believe that you did not know that this directive, with such consequences, went out with your name at the top and that you didn't get to the bottom—right? Don't you want to get to the bottom of who did issue this, after all the media attention, the public scrutiny, the deaths that resulted?

You've shown—I'm sorry, but you've shown no empathy, you've shown no remorse, you show no responsibility for the actions of your Administration. And that's simply—that's just not leadership.

Mr. CUOMO. Yes—

Ms. MALLIOTAKIS. And I will say also that Lieutenant—your lieutenant and successor, Governor Kathy Hochul, is just as determined to hide the truth from New Yorkers as you were.

In her very first speech as Governor, she promised transparency, including the release of documents related to nursing homes in the pandemic, and to this day she has not fulfilled that promise. And I'm glad that we've issued a subpoena to get those documents.

So, who issued this executive order, this deadly directive?

Mr. CUOMO. Congresswoman—

Ms. MALLIOTAKIS. And why didn't you reverse the directive when you had alternative facilities like the Javits and South Beach Psychiatric Center on Staten Island?

Mr. CUOMO. Yes. Congresswoman, quickly, the numbers I cited are published on the NIH website. It's a study that corrects for the numbers not received in May.

The—Dr. Birx and Dr. Seema were not presented an honest account of what the New York law says. It's the attorney general who said and interprets New York laws. And you were in the legislature, and you know that the—

Dr. WENSTRUP. The time has expired.

Mr. CUOMO [continuing]. Attorney general's interpretation—

Dr. WENSTRUP. Governor, the time has expired.

Ms. MALLIOTAKIS. Can he answer—

Mr. CUOMO. Sorry—

Dr. WENSTRUP. I now recognize—yes, maybe for the record you can answer the question that she actually asked.

Dr. WENSTRUP. I now recognize Mr. Mfume from Maryland for 5 minutes of questions.

Mr. MFUME. Mr. Chairman, thank you. I want to thank both you and Ranking Member Ruiz for calling us together again in this Select Subcommittee.

I've often, as you know, Mr. Chairman, gone on the record to vocalize my support for our work on this committee on the pandemic and the aftermath, because, at its very core, if we do it correctly, it will better prepare all of us for whatever comes next. And what comes next just could very well be another pandemic.

So, my definition of the right way is to kind of leave the theatrical politics aside and to act in a bipartisan, solution-oriented manner. It doesn't mean that we agree, doesn't mean that we're going to disagree. But at the end of the day, we've got to be driven, I think, by a real effort to peel off the theatrics and to try to get to where we, in fact, want to go.

I'm glad that on several occasions today both you, Mr. Chair, and the Governor have expressed your heartfelt condolences for these families that are left behind with empty tables to continue, 4 years later, dealing with the aftermath of this.

I didn't really, coming on this committee, feel that there was a personal connection except when I first heard the testimony of our colleague from California, Mr. Garcia, and how he lost both his

mother and his father—not in New York, but across the Nation, these sort of stories still haunt all of us.

And so that's why I think that this committee's work is almost sacred in that regard. We've got to find a way to do all that we can to get information, to build a roadmap, and to try to limit any further damage.

Governor Cuomo, thank you for appearing here voluntarily today. A couple of quick questions.

Is it your testimony, sir, that the nursing home deaths were not caused by CMS, CDC, or DOH policies but, rather, as you state—that that was, in fact, not the case, but you have more to say about it. And I want you to take this moment to say that, if you would.

Mr. CUOMO. Thank you, Congressman.

This is a red herring. I understand it's sensational and it's been great politics for 4 years and it's a diversion from Federal responsibility, which is the main goal of this committee's majority.

But every study says that COVID got into the nursing homes from infected staff—community spread, infected staff. Neighborhoods that had higher COVID infection rates had higher COVID infection rates in their nursing homes. It literally was walked in by the staff.

Why? Because January, February, March, April, you had no ability to test nursing home staff, because, between the World Health Organization and CDC, they never created enough tests for the nursing home staff.

Mr. MFUME. Uh-huh.

Mr. CUOMO. So good people went home, went out to a restaurant, got the bug, they brought it to work the next day.

Every study says that. And that has nothing to do with hospital admissions or readmissions.

Mr. MFUME. And, Governor, is it your testimony that you told your team only to release information that had been verified?

Mr. CUOMO. I was not going to release inaccurate information. I leave that to President Trump.

Mr. MFUME. Is it also your testimony that an error in judgment was made by you because of an assumption that the CDC and CMS and other Federal agencies were actually providing official guidance, only to be counteracted by the GAO, which made a finding that contradicted that?

Mr. CUOMO. One hundred percent. If there was a mistake, it's that DOH was relying on CMS and CDC, and that was before we found out that there was political interference by the President and mass confusion in the management.

Mr. MFUME. And, Governor, you have taken a moment to express condolences; to offer, also, the fact that you were not perfect in these decisions; that, I assume, if you had a chance to do it all over again, there would be some different approaches to this.

What do you want this committee to take from your testimony today, as we juxtapose this against this history that has gone on now for 4 years?

Mr. CUOMO. Congressman, I think, forget the politics of the 4 years and the rhetoric of the 4 years—because that's all it was. Look at the facts. How did the virus spread? This is science. This is medicine.

We know what happened. We know what happens when you have no testing and no PPE and no vials. We know the science and why this country did worse than every other country on the globe.

Dr. WENSTRUP. Thank you.

Mr. MFUME. Thank you, Mr. Chairman. I yield back.

Dr. WENSTRUP. I now recognize Dr. Miller-Meeks from Iowa for 5 minutes of questions.

Dr. MILLER-MEEKS. Well, thank you, Mr. Chairman.

And thank you, Governor Cuomo, for testifying before the Select Subcommittee today.

I was hoping that we would see a Governor Cuomo that was less defensive and that was remorseful over what happened in New York, but I see that that person has not shown up today.

The COVID-19 pandemic is long behind us. As a matter of fact, we were already behind it, through it, at the time this Administration came into office. And an overwhelming majority of Americans have some form of immunity, whether from prior infection—which was denied by the current Administration and CDC, both Dr. Fauci at NIH and Dr. Walensky as testifying before this committee. And we know more about the virus than ever before. That is undeniably true.

But because of this Select Subcommittee, we've also had the opportunity to review policies, guidance, and practices from the pandemic to determine what worked and what didn't work.

And let me also say, I'm one of the few members that was on this committee the last term—now my fourth year—as was Representative Raskin, my colleague on the other side of this dais, who could've easily asked you to testify when they were in the majority. However, you were never asked to testify during that 1921-22 period. And they could've also asked a former President to testify. So let me just say that that could've been done.

You know, as a nurse, physician, a veteran, a former Director of Public Health, I really understand that we need to have policies going forward that guide us for the next pandemic.

And there were two aspects of the coronavirus that health officials understood very clearly from the beginning from the Chinese Communist Party. One was how contagious it was, and two, how contagious it was among older people and people that had medical conditions that were at an increased risk of death from the infection.

And in February 2021, the Associated Press published an article outlining how, in New York State, more than 9,000 elderly patients who still had active coronavirus infections were sent back to nursing homes after being discharged from the hospital. Despite this clear lack of medical oversight, that number was 40 percent higher than what the New York Health Department originally reported.

And in the same report your Administration published, the overall number of deaths in long-term-care facilities was underreported by half, regardless of what excuses you present today to us.

The State Health Commissioner tried shifting the blame by claiming most nursing home deaths were from asymptomatic staff who unknowingly transmitted infection. As a former State Public Health Director, I find it completely appalling and disrespectful



that you tried to conscript your own health department in covering up your harmful policies.

You prohibited nursing homes from requiring testing. The CMS guidance allowed you and allowed nursing homes, allowed states, to have the decision on who got admitted if they had proper allocation and proper separation in facilities. However, if you had an infection control program, as you said here today now, that prohibited someone infectious from being admitted to a nursing home, why would you tie the hands of nursing homes by prohibiting testing?

You said, how is COVID getting into nursing homes? How in the hell would you know if you prohibited testing? Testing was available. The CDC made mistakes in their testing; we understand that. But you prohibited nursing homes from testing individuals coming from hospitals who could've easily had COVID-19.

Governor Cuomo, despite you clearly understanding the likelihood of COVID-19 running through nursing homes like fire through dry grass, as you said to Jared Kushner, your Administration still required facilities to accept elderly residents who had active COVID-19 infections and you prohibited testing. It really is shameful. But yet you want to continue to deflect the blame.

So, did you advise Governor Newsom of California or Governor Murphy of New Jersey or Governor Whitmer of Michigan on what they should do with nursing home admissions?

Mr. CUOMO. All Democrats. What a coincidence.

Dr. MILLER-MEEKS. Well, I'm going to ask you, did you talk to Governor Reynolds?

Mr. CUOMO. I was on multiple calls with the Vice President and the Governors Association. CMS—

Dr. MILLER-MEEKS. Thank goodness they didn't adopt your policies.

Mr. CUOMO. CDC—

Dr. MILLER-MEEKS. Did you talk to Governor Reynolds?

Mr. CUOMO. CDC and CMS allows the transfer of infectious—COVID-positive infectious people. And New York nursing homes do have the right—

Dr. MILLER-MEEKS. Sir, they did not—

Mr. CUOMO [continuing]. To deny anyone.

Dr. MILLER-MEEKS. They did not—there was specific guidance. You did not follow the guidance. You did not allow your own public health officials to follow the guidance that was given to them.

And in addition to which, we now know some states didn't adopt 6-foot distancing, nor did they adopt closing schools—i.e., Iowa did not—despite CMS's guidance, which could have been altered or adhered to by the directive of a particular state.

So, I find you complicit in what's occurred. And I find the fact that you don't take any—you know, any remorse or any accountability and responsibility for what happened to be appalling.

Thank you, and I yield back.

Mr. CUOMO. Congresswoman—

Dr. WENSTRUP. I now recognize Ms. Ross from North Carolina—

Mr. CUOMO. Congresswoman, if you—

Dr. WENSTRUP [continuing]. Five minutes for questions.

Mr. CUOMO [continuing]. Believe CDC and CMS were wrong——

Dr. WENSTRUP. Governor Cuomo——

Mr. CUOMO. Yes?

Dr. WENSTRUP [continuing]. Your time has expired. The time has expired.

Mr. CUOMO. But I would like to respond to——

Mr. RASKIN. Mr. Chairman, point of order about this. When a question——

Dr. WENSTRUP. There wasn't a question.

Mr. RASKIN. OK, but in general——

Dr. WENSTRUP. There wasn't a question.

Mr. RASKIN. Well, I've noticed a pattern, Mr. Chairman. When a question is posed to the witness, does he have the opportunity to answer it before he moves on? Because, otherwise——

Dr. WENSTRUP. Mr. Raskin——

Mr. RASKIN. A point of order.

Dr. WENSTRUP. Mr. Raskin, you got an additional, like, minute and a half. Your——

Mr. RASKIN. And the guy before me got 2 minutes.

Dr. WENSTRUP [continuing]. Time expired when you asked the last question. We need to——

Mr. RASKIN. OK. You're changing the subject. I'm asking you a point of order.

Dr. WENSTRUP. We need to keep this——

Mr. RASKIN. I'm asking you a point of order, which is, if someone poses him a question with 4 minutes and 59 seconds expired——

Dr. WENSTRUP. He wasn't asked a question.

Mr. RASKIN [continuing]. He can answer it? Yes?

Dr. WENSTRUP. It's not a valid point of order because it's now Ms. Ross's time.

Mr. RASKIN. So, you're not going to answer the question?

Ms. ROSS. Today's hearing raises important questions about the work the Federal Government must do to protect and advance the health of our Nation's seniors and nursing home residents.

During our prior hearing on this topic in May of last year, we heard about the essential role that COVID-19 vaccines played in turning the tide on the pandemic in nursing homes.

However, the Trump Administration's sluggish and disorganized roll-out of the COVID-19 vaccine in the final weeks of 2020 cost us valuable time, at a period when thousands of Americans were dying every day.

Moreover, families across the country were overwhelmed by feelings of helplessness as they could not visit their loved ones or know how they were doing.

During the early stages of the COVID-19 pandemic, nursing homes were under extreme pressure, and we've heard about that today. They faced severe shortages of PPE, staffing issues, and lacked sufficient infection-control measures. Nursing homes were hotspots for COVID-19 infections due to the vulnerability of elderly residents in close living conditions.

By May 2020, over 28,000 nursing home residents and staff nationwide had died from the virus. By early 2021, my home state of North Carolina reported that about 6 percent of total COVID-19

cases occurred in long-term-care facilities, but these cases accounted for approximately 44 percent of the state's deaths.

Nursing home administrators, such as Amanda Pack from White Oak Manor in Charlotte, described the situation as one of the most terrifying experiences in her decades-long career. Several facilities faced overwhelming outbreaks, with hundreds of residents and staff infected.

This was a nationwide problem, not just a New York problem.

Governor Cuomo, what challenges did your state face in working with the Trump Administration on the COVID-19 vaccine's roll-outs? And what improvements could've been made to the vaccine roll-out process that would've saved lives?

Mr. CUOMO. Congresswoman, thank you very much.

The Congressman quoted me as saying "fire through dry grass." You didn't have to be a genius to understand that this was going to be a problem in nursing homes. The first experience was the Kirkland nursing home in Seattle, Washington, where 30 out of about 100 residents were COVID-positive. So, we knew exactly where it was going, and nothing was done.

The first step is testing. You cannot do anything without testing. And, in this case, the testing—first of all, the CDC insisted on doing testing themselves. They would not allow our state laboratory to do testing. Second of all, the CDC refused to use the WHO, which had already come up with a test that was developed in Germany and—

Ms. ROSS. Governor, I would like you to answer the question about the vaccines, because I have one more thing—

Mr. CUOMO. I'm sorry.

Ms. ROSS [continuing]. To do after you finish.

Mr. CUOMO. The vaccine roll-out was painfully slow. It was constant mismanagement and delay by the Federal Government.

Ms. ROSS. Thank you.

Just last month, the Department of Health and Human Services' Office of the Inspector General released a report highlighting the need for strengthened state survey and oversight activities to ensure that infection-prevention requirements are appropriately followed.

Mr. Chairman, I'd like to seek unanimous consent to enter this HHS OIG report into the hearing record.

Dr. WENSTRUP. So ordered.

Ms. ROSS. I also want to point out that Dr. Ruiz's Safer Nursing Home Act is about the kind of forward-thinking work that this committee needs to do. I hope that it's a bipartisan bill. I hope that we can get it done before the end of this Congress. Because, going forward, sustained investment in these types of activities will help ensure that our Nation's nursing homes are better equipped to respond to future infectious disease threats, and my hope is that this legislation can be a starting point.

Thank you, and I yield back.

Dr. WENSTRUP. I now recognize Mrs. Lesko from Arizona for 5 minutes of questions.

Mrs. LESKO. Thank you, Mr. Chairman.

For the American people, I want to read parts of the directive from March 25, 2020, that you, Governor Cuomo, directed.

It says, quote, “No resident shall be denied readmission or admission to the nursing home solely based on a confirmed or a suspected diagnosis of COVID-19. Nursing homes are prohibited from requiring a hospitalized resident who is determined medically stable to be tested for COVID-19 prior to admission or readmission.”

Today, Governor Cuomo, you claimed that your nursing home directive was just following Federal guidance. I find that hard to believe, sir, and let me tell you why.

There was—on October 13, 2021, Dr. Deborah Birx, in a transcribed interview, was asked this question: “On the bottom of page 4 of the CMS guidance, it gives guidance on how to return a resident diagnosed with COVID-19 back to their nursing home, and it says it should be done if a facility can follow CDC guidance for transmission-based precautions. First, what would those transmission-based precautions have been?”

Her answer: “So that would require isolation and gowning, masking, and ensuring no contact with other residents.”

Then the question was: “Administrator Verma”—the CMS Administrator Verma—“said under no circumstances should a hospital discharge a patient to a nursing home that is not prepared to take care of those patients’ needs. Is that correct?”

Her answer: “Correct.”

Question: “If we turn now to the New York guidance”—meaning your directive—“does that have the same qualifier of ‘able to take CDC precautions’ as the CMS guidance required?”

Her answer: “No.”

Question: “So would the March 25 directive have violated CMS guidance?”

Her answer: “Yes.”

Then, “Do you think”—question: “Do you think admitting potentially positive COVID-19 nursing home residents back into the nursing home without the ability to quarantine or isolate them is dangerous and could lead to unnecessary deaths?”

Her answer: “Yes. I think that’s why the CDC guidance was very clear about precautions needed to protect them. And I think that’s why CMS Administrator Seema Verma was proactively working on an infectious control guidance.”

Well, today, you also said it was up to the discretion of the nursing homes if they admitted COVID sick patients. You said today that the patients weren’t infectious.

So, my question to you, sir: How would the nursing homes know if the patient was infectious or had COVID-19 if your directive explicitly—let me quote: “Nursing homes are prohibited from requiring a hospitalized resident who is determined medically stable to be tested for COVID-19 prior to admission.”

Mr. CUOMO. Congresswoman, I understand the question.

Here’s the basic disconnect: This was an advisory. The Department of Health did 10, 12, 15 advisories a day, 400 in a couple of weeks. They did not substitute for the existing state law. And the state law remains in place.

And the state law says on a nursing home: 415.26, you cannot accept a person who you can’t care for; 415.19 says, you must have an infection control plan in place if the person has to be quarantined; contact the—

Mrs. LESKO. Let me interrupt, because I have 44 seconds left.

Sir, how could your directive even then follow the New York state law if it prohibits—prohibits—it says, nursing homes are prohibited from testing for COVID.

Mr. CUOMO. Yes.

Mrs. LESKO. How could you even follow your own state law, CMS guidance, CDC guidance, if your own directive prohibits the testing?

Mr. CUOMO. Yes. The directive says they have to talk to the doctor, the person—

Mrs. LESKO. No. No.

Mr. CUOMO [continuing]. Has to be medically stable—

Mrs. LESKO. No. The directive does not say that. This is exactly what the directive says: “Nursing homes are prohibited from requiring a hospitalized resident who is determined medically stable to be tested for COVID–19 prior to admission or readmission.”

Sir, I’m sorry, but I find your—

Mr. CUOMO. It says—

Mrs. LESKO [continuing]. Testimony very, very hard to believe.

Mr. CUOMO. If I could, it says—

Dr. WENSTRUP. The gentlelady’s—

Mrs. LESKO. I’m over time, and I yield back.

Dr. WENSTRUP. The gentlelady’s time has expired.

I now recognize Dr. Joyce from Pennsylvania for 5 minutes of questions.

Dr. JOYCE. Thank you, Chairman Wenstrup, for convening this important hearing.

As this Subcommittee has examined the U.S. response to the COVID–19 pandemic, a disturbing trend has emerged: public officials making decisions that were not based on science but, instead, based on public perception and, even worse, political concerns.

This became abundantly clear when Dr. Fauci appeared in front of this committee and testified that the 6-foot social-distancing rule was not based on scientific evidence.

In another example, in my home state of Pennsylvania, Pennsylvania Health Secretary Dr. Rachel Levine directed nursing homes to accept COVID–19 patients even as she moved her own mother out of a personal care home.

These incidents have fractured the trust between the American people and public health officials, which will only hinder our ability to respond to future pandemics.

Governor Cuomo, during the COVID–19 pandemic, you acknowledged the danger, and you reiterated that today, giving your quote, for nursing homes, this could be like a fire through dry grass. This is a very callous and insensitive remark from anyone and especially insensitive from an elected official.

And, despite this, a directive was still issued mandating that COVID–19-positive patients be admitted to nursing homes and that no testing for COVID–19 be conducted before any resident was admitted or readmitted. This was an ill-guided decision, and it led to the death of some of our most vulnerable citizens—those in nursing homes.

You then pushed for and edited a report that blamed nursing home employees for the rate of infections and death. You willfully

directed blame toward the health professional working to care for these individuals. You, sir, you placed that risk.

When reporting deaths from nursing homes, thousands of deaths were unaccounted for due to a change in reporting methodologies, which, according to witness testimony, came from your office. When your decisions contributed to the death of thousands of elderly Americans, the scale of these deaths was underreported by more than 30 percent.

And rather than ignoring prevailing public health guidance and working to hide the human cost of this decision, you could've instead utilized the tremendous Federal help that was offered to New York in order to help alleviate the strain on the hospital system.

Governor Cuomo, rather than sending COVID-19-positive seniors back to nursing homes, why did you not work to have more patients directed to the temporary hospital at the Javits Convention Center?

Mr. CUOMO. Doctor, several quick points.

You'll remember, there were no tests at the time for residents.

No. 2, the directive said, you will speak to the hospital and get discharge instructions. The nursing home could say, if this person is possibly positive, I can't take them. Period. It was totally in their discretion, because—

Dr. JOYCE. But had the Javits Convention Center been utilized for more nursing home patients to remain hospitalized rather than being sent back to nursing homes, in effect ultimately causing those deaths, could you have prevented not only additional nursing home patient deaths but the transfer of COVID to the healthcare professionals who ultimately were responsible for their care?

Mr. CUOMO. Doctor, we had facilities—

Dr. JOYCE. Did you transfer patients? Did you authorize them to be transferred—

Mr. CUOMO. Yes.

Dr. JOYCE [continuing]. To the Javits Convention Center?

Mr. CUOMO. Any—we didn't even have to get there, because any nursing home that said, "I can't take this person," we had alternative COVID hospital-only facilities. We had them all through the state.

So, a nursing home could say, "I can't take this person, they may have COVID, I can't quarantine them," and we had other facilities for those people. That's why it wasn't just total discretion by the nursing home—

Dr. JOYCE. It was lack of leadership from your office.

During a crisis, the American people deserve leaders who are empathetic, utilize science, and are honest with them, who put aside personal and political concerns in order to make sound, evidence-based decisions.

It is clear from your actions and from what this Subcommittee has uncovered and from what we've heard today from you that you have failed to provide that leadership. And because of your ill-guided decisions, some of our most vulnerable citizens, those individuals who were in nursing homes, died.

Mr. CUOMO. Doctor—

Dr. JOYCE. And that is on your watch.

Mr. CUOMO. Yes—

Dr. JOYCE. Thank you, Mr. Chairman, and I yield.

Mr. CUOMO. The Federal Government handcuffed the states, and the President is where the buck stops. Right?

Dr. WENSTRUP. The gentleman yields back.

I now recognize Ms. Greene from Georgia for 5 minutes of questions.

Ms. GREENE. Thank you, Mr. Chairman.

Mr. Cuomo, I'd like to remind you that you're under oath.

You've said a lot today. In your opening statement, you attacked President Trump and his response. I'd also like to remind you of statements that you've said.

On April 13 of 2020, on "The Howard Stern Show," you said, and I quote, "Trump has delivered for New York. He has." And then you talked about Trump sending the ship, the Comfort ship.

Mind you that the Comfort ship was sent to New York on March 30 of 2020. That was just a few days after you signed the directive to put COVID-19 patients into nursing homes on March 25, which led to murdering people's parents, grandparents, and great-grandparents. Yes, murdering them.

Today, you said—and I'll quote you. You said that high deaths in nursing homes is a conspiracy theory.

Would you like to turn to the people here in this room today whose mothers died and their fathers died in these nursing homes and call them conspiracy theorists? Do you—

Mr. CUOMO. I never said that.

Ms. GREENE [continuing]. Have the audacity to do that, Mr. Cuomo?

Mr. CUOMO. I never said that, Congresswoman.

Ms. GREENE. You said that today. You're under—

Mr. CUOMO. I never said that.

Ms. GREENE. You're under oath.

Mr. CUOMO. I never said high deaths—

Ms. GREENE. There is video—

Mr. CUOMO [continuing]. Are a conspiracy theory.

Ms. GREENE. There's video of all of your words today.

Mr. CUOMO. I never said that.

Ms. GREENE. You can be fact-checked. We'll do that when this is over.

Mr. CUOMO. Yes.

Ms. GREENE. You also blamed staff for spreading COVID in nursing homes, not COVID patients. You blamed the staff.

Mr. CUOMO. The staff—

Ms. GREENE. But yet on March 25—I didn't ask you a question. I'm talking to you.

On March 25, you signed a directive to put COVID-19 patients into nursing homes.

On March 30, President Trump sent the Comfort ship, and you did not put COVID patients in the Comfort ship. You didn't send them to the Javits Medical Center that President Trump had built, which was a field hospital. You didn't send them there. You put them in nursing homes, which is murder.

Mr. CUOMO. That's not—

Ms. GREENE. Now, that's murdering people. I'm saying that right now. And I'm also saying what a lot of people believe what your actions did.

Let's also talk about some other things that you've done. Mr. Cuomo, let's talk about a tweet that you made, because there's an indictment out on a woman named Linda Sun—Linda Sun. And I'll read this indictment.

It says, "On April 4"—April 4—"Politician No. 1"—Politician No. 1—"publicly thanked PRC Official No. 1, both in public remarks and in a post on Twitter"—that's this right here—"for helping arrange the donation, which was scheduled to arrive at JFK Airport in Queens, New York, that day."

So, Mr. Cuomo, you were thanking China, the PRC, while you had a woman named Linda Sun working for you, who has now been identified as a Chinese spy.

Now, today, you have come before the American people and our committee, you have insulted many people, including people in this room and people watching this hearing who lost their loved ones because of your March 25 directive. And, at the same time, you were thanking the Chinese Government while you had a Chinese spy working for you.

So, Mr. Cuomo, I've read a lot about you, including the fact that 13 women that work for you accused you of sexually inappropriate behavior—which, thanks to the Democrat DOJ who helped you out of that.

But I'd like to say this, and I'll ask you: Are you either the dumbest tool of the Chinese Government or did you know for a fact that you were being used by the Chinese spy that was working for you?

Mr. CUOMO. I've read about—a lot about you too, Congresswoman.

I think this is a very serious matter, about the Linda Sun matter.

Ms. GREENE. It is serious. That's right.

Mr. CUOMO. She was a junior member in my team. I wouldn't recognize her if she was in this room today. But I think it is a serious matter. I don't think this was just in New York. I think there is an infiltration of Chinese, maybe Russian, operatives—

Ms. GREENE. The Democrat Party's definitely had a problem with Chinese spies, yes, you are right.

I want to remind you, you're under oath.

Mr. CUOMO. Yes. And I think it's a serious issue, and I think the Federal Government and the state government should work together on it. State government doesn't really have the ability to do the international reconnaissance, but the Federal Government does. And I think they should work together to make sure they're doing the best they can to do the vetting.

Dr. WENSTRUP. The gentle—

Ms. GREENE. Mr. Chairman, for the record, I'd like to enter the indictment for the record.

Dr. WENSTRUP. So ordered.

Ms. GREENE. Thank you.

Dr. WENSTRUP. I now recognize Dr. Jackson from Texas for 5 minutes of questions.



Dr. JACKSON. Thank you, Mr. Chairman. Thank you for holding this important hearing today and the opportunity to hold former Governor Cuomo accountable for what I consider his egregious actions taken during the coronavirus pandemic which led to the unnecessary deaths of thousands of American citizens.

Mr. Cuomo, what demographic or group of people are at the greatest risk of death from COVID?

Mr. CUOMO. Immunocompromised, senior citizens, what we saw at Kirkland Hospital—

Dr. JACKSON. That's right.

Mr. CUOMO [continuing]. Seattle, Washington, as the first experience.

Dr. JACKSON. That's right. COVID in particular, it was the elderly and those with comorbidities—the exact population, unfortunately, that occupies every nursing home in this country.

Despite that basic, basic medical reality, your Administration mandated that nursing homes accept COVID-positive patients.

And I've heard you say that they didn't mandate it, but they did. It says, no—it says here—this is the directive. I have it in my hand. It says, no resident shall be denied readmission or admission to the nursing home solely based on confirmed or suspected diagnosis of COVID-19.

So, your assertion that the nursing home had the ability to turn these patients away is absolutely incorrect based on this. They did not have the ability to do that. They could not turn them away.

By doing so—by doing this, you sentenced many of the residents there to death. Because these residents that were in the nursing home that didn't have COVID that were immunocompromised, that had comorbidities, that were elderly were destined to get COVID at that particular point when you're bringing known COVID-positive patients into the hospital.

Even if you prohibited patients prior to admission, which would have been—you didn't allow them to test them. And that would've been key in deciding who was going to get quarantined and who wasn't going to get quarantined.

It says in here that they can't be tested prior to admission. That's crazy. If you're admitting a patient and you can't test them, you don't know what to do with them when you get them. It ignores the fact that they were allowed to go there even if they were known to have COVID.

But I submit to you that your claim that the nursing home staff brought this into the nursing home is completely false. You claim that the nursing home staff was responsible for the deaths, that they brought it into the facilities. Well, perhaps there weren't instances of that. Maybe there were. But I can promise you that if you were directing patients with known COVID to be admitted, you no longer need to be asking the question of how COVID got into the facility. You introduced it at that point. It does not matter if staff were bringing it in or not; if you're allowing and mandating that COVID-positive patients be admitted to the nursing home, that is how it's getting in the nursing home, that's how it's spreading, and that's how it's killing other residents.

Anyone that gave you the advice on this directive should be held accountable right along beside you, anyone that participated in

that. In particular, Dr. Howard Zucker and nurse Sally Dreslin, your DOH commissioner and deputy commissioner, should, in my opinion, have their medical license taken away and never have anything to do with the practice of medicine again based on their advice on this letter to you that the three of you are on the top of this letter having endorsed.

Mr. CUOMO. Doctor, if I may, it said, you cannot solely refuse a person based on the diagnosis, which is the same thing the CMS/CDC says—

Dr. JACKSON. Who cares? If they're diagnosed with COVID, what does it matter?

Mr. CUOMO. Well—

Dr. JACKSON. You're saying, well, maybe—you can't say it's because they have diabetes.

Mr. CUOMO. No—

Dr. JACKSON. It has to be—

Mr. CUOMO. You can say, "I can't take care of them." "I can't take care of them." A nursing home had total discretion. I didn't have—

Dr. JACKSON. So, if they had a patient that was coming from the hospital that was diagnosed as positive for COVID and they had no other medical issues and they were medically stable—which, by the way, has nothing to do with whether they're infectious or not—then the nursing home could turn them away at that particular point?

That's not what the letter says.

Mr. CUOMO. That's what—

Dr. JACKSON. The letter says that they have to take them.

Mr. CUOMO. I know—Doctor, the advisory does not supersede the law. The law is very clear. The Attorney General said the law was in place. A nursing home shall only accept people for whom they can provide adequate care, as determined by the nursing home.

So, if the nursing home says, "I can't quarantine this person who may have COVID," that's it. No other discussion.

Dr. JACKSON. No, but that's not what it says here. It says—it specifically says that if they have COVID and that's all they have, they can't use that as a reason to not admit them; they have to admit them. That's what this letter says.

Mr. CUOMO. No. It says you can't solely not admit them because of COVID-19. But you can say, "I can't take care of them. I don't have the precautions. I don't have the quarantine."

Dr. JACKSON. What's the difference? If you can't take care of them, you can't admit them.

Mr. CUOMO. That's right. And you don't admit them.

Dr. JACKSON. But this thing says you can't—you can't not admit them, you have to admit them. You're saying, no, but if we can't take care of them, you don't have to admit them. That's not what it says.

Mr. CUOMO. CMS/CDC says, you can accept a COVID-positive person if you can take care of them.

Dr. JACKSON. That's not what this says.

Mr. CUOMO. This says, you can't—you can't say no just because they have COVID-19, but you can say, I can't take care of them, I have no quarantine.

Dr. JACKSON. So, what if they say—

Mr. CUOMO. It's totally up to the nursing home.

Dr. JACKSON [continuing]. I can't take care of them because they have COVID-19? They can't do that, according to this letter.

Mr. CUOMO. Yes, they can—

Dr. JACKSON. No, they can't.

Mr. CUOMO [continuing]. Totally.

Dr. JACKSON. Look, and I agree with my colleague here, Ms. Greene, that you had a perfect opportunity to put many of these patients into a safe environment on the hospital ship that had a thousand beds that left New York after not being used and being used less than 190 times. They could've been there. You could've put them all there, and you could've saved a lot of lives—

Mr. CUOMO. Yes, except—

Dr. JACKSON [continuing]. But you didn't.

Dr. WENSTRUP. I now recognize—

Mr. CUOMO. Except, of course, the Comfort—

Dr. WENSTRUP. The gentleman's time has expired, and—

Mr. CUOMO [continuing]. Wouldn't accept COVID-positive people.

Dr. WENSTRUP [continuing]. I now recognize Dr. McCormick from Georgia for 5 minutes of questions.

Mr. CUOMO. Well, that's the fact.

Dr. MCCORMICK. Thank you, Mr. Chair. Appreciate this very important COVID hearing and your leadership on this topic.

Mr. Cuomo, as you know, I'm an ER physician. Served during the pandemic, the entire time, seeing patients. I understand the science. I understand the efforts. I don't think anybody maliciously wanted to hurt patients or kill anybody. However, I think we need to learn from our mistakes and admit where we went wrong.

You just now said "solely based on the confirmation or suspected diagnosis of COVID-19." But the very next sentence reads: The nursing homes are prohibited from requiring a hospitalized resident who is determined medically stable to be tested.

So, if you're not tested, how would you know if you, quote, "can't take care of them," if you don't know if they're positive or negative?

Mr. CUOMO. Doctor, I understand exactly what you're saying from the reading of the advisory. But, again, it was just an advisory, and the law is in place. And what the advisory—

Dr. MCCORMICK. OK. I'm not a lawyer, sir, but what I know is, if I admit a patient to the hospital or to observation, I have to have a COVID test in order to know if I can take care of them and if I can quarantine them, if I can use PPE, if I'm going to spread it from one room to another, because I have to know what I'm dealing with.

If you, as you say, prohibit testing of a patient, you do not know what you're dealing with, you do not know if you can take care of them. So, it's a dishonest argument to begin with. And that's not a question; that's a statement, sir.

Mr. CUOMO. Yes.

Dr. MCCORMICK. So what I will say is this: When you say—when you basically force people to take tests in order to travel or to go into restaurants or put a mask on or whatever, the young non-vulnerable population, but you don't allow a test on the most vulnerable population to go mix, where they are going to die—if we can't

at least admit that was a mistake, if we can't—if we can't say in my book that I write about being the Governor of a state that had some questionable results on this COVID pandemic, then we're not going to learn from our lessons.

And I've just got to—I've just got to wonder, where did you make—did you make any mistakes?

Mr. CUOMO. Oh, I made plenty of mistakes.

Dr. MCCORMICK. You don't think this was a mistake?

Mr. CUOMO. Looking back, the CMS, CDC, DOH will still defend this order—

Dr. MCCORMICK. Prohibiting COVID testing before placing them in a nursing home is going to be defended?

Mr. CUOMO. Well, there were not enough tests. There were no tests at this time.

Dr. MCCORMICK. But—wait a minute. I understand that you actually had your family tested. Were those tests not available for the patients going back into COVID? Those very first tests that were tested on your family—young, healthy people, I assume—they weren't available for these people going into the highest-risk patients?

Mr. CUOMO. Just the way virtually every Governor in this state—country—

Dr. MCCORMICK. So basically, what you're saying is, we didn't have enough tests, but we used them for my family instead of the people who went to the high-risk community.

Mr. CUOMO. No—

Dr. MCCORMICK. And I just want to—I just want to basically back up what was just said.

Mr. CUOMO. Doctor, that comment is better—you're better than that comment.

People who I might be in contact with took a test so I didn't get COVID. Just like when I went to see President Trump and they gave me a COVID test before I was allowed to see President Trump or his aides to make sure I didn't infect them. That was the protocol.

Dr. MCCORMICK. Yes. I just find it a little hypocritical, when we don't have enough tests, and we're talking about the highest-risk population not being able to test, knowing that that's going to literally have an outcome, going to be the most succinct vector, going into the most vulnerable population, and we're wasting it on people that literally don't need to be tested, when we're—and we don't test the very people that are the highest-risk.

And I would just like to say, we have family members right here, right now, that lost their relatives because of that decision, which I think was wrong. I think it's OK to admit that it was wrong. I think you should admit that it was wrong.

And I think you would come off a lot better to those families if you'd just turn around and just apologize to those families and say, I'm sorry, it was a bad decision.

Mr. CUOMO. Doctor, again, the law supersedes the advisory. The advisory is saying, you talk to the people in the hospital; if the hospital discharge people say, I think this person might have COVID, the nursing home says, I won't take the person.

Dr. MCCORMICK. You know, I'm just going to say, I'm sorry. I'll say it. I am sorry your families were exposed to COVID because people were put in the nursing homes that weren't tested because there weren't enough testing facilities or enough because we were testing young, healthy people instead of the most vulnerable population getting mixed. I am sorry.

And, with that, I yield.

Dr. WENSTRUP. I would now like to yield to Ranking Member Ruiz for a closing statement if he would like one.

Dr. RUIZ. When the novel coronavirus first reached our shores, it became immediately clear that our Nation's nursing homes and seniors would be devastated absent due care. Still, more than 170,000 nursing home residents have died since the arrival of the virus. Too many families have lost loved ones, and many families are still looking for answers. They deserve those answers.

I understand that we may or may not be satisfied with those provided by Governor Cuomo. I acknowledge that questions remain about his Administration's transparency. In assessing those questions, we must objectively look at the facts.

And when we ask ourselves a question of what we could have done better to protect nursing homes, we must not allow our collective memory of the early pandemic to be clouded by a rush to assign blame.

We must remember that, across the country, public officials at every level of government were scrambling to make the right choices to protect people. At that time, the right choices were difficult to discern. Unfortunately, we could not look to the then-President Trump for an example of what was right.

In the same way that I called for an objective look at the facts of Governor Cuomo's Administration, I urge my Republican colleagues to recognize that we must learn from the failures of the Trump Administration's pandemic response.

We now know that the driving force behind COVID outbreaks and deaths in nursing homes were high rates of transmission in the communities surrounding those facilities.

Dr. Vincent Mor from Brown University shared an article he published in Health Affairs on July 2024 with the Select Subcommittee titled, "Four Years and More Than 200,000 Deaths Later: Lessons Learned from the COVID-19 Pandemic in U.S. Nursing Homes."

Dr. Mor and other experts found that the biggest determinants of nursing home residents' mortality due to COVID-19 was whether the facility was located in an area with a high prevalence of the virus and the size of the facility, which was largely related to the number of staff members entering the facility every day since more staff means more exposure from the local community in which staff lives.

Mr. Chairman, I ask that Dr. Mor's letter and attached article be entered into the record.

Dr. WENSTRUP. Without objection.

Dr. RUIZ. We also know that the Trump Administration oversaw inexcusable shortages of PPE and delays in creating a testing protocol that exacerbated spread within communities and ultimately into nursing homes.

The Biden-Harris Administration lifted our Nation out of the chaos of the previous Administration and has given us the opportunity to look back and learn in preparation for future pandemics.

With that opportunity, I am proud to have announced earlier in today's hearing legislation that would strengthen infection control and prevention efforts in our nursing homes.

And I became the Ranking Member of the Select Subcommittee with the intention to strengthen our Nation's preparedness for future pandemics and save future lives. There is work—more work to do, and if we work together, I believe that we can do it.

With that, I yield back.

Dr. WENSTRUP. In closing, I would like to thank former Governor Cuomo for coming here today to testify.

I have to say, I'm disappointed that before today's hearing even began, you chose to basically flout the rules of this committee and only provided your opening statement just before the start of this proceeding rather than the 24 hours in advance as required and as every other witness has done.

Today's hearing was held to learn about New York's COVID-19 pandemic response and its nursing home policies for the betterment of the future, for the betterment of the country. This whole committee has been dedicated to say, what was—what did we do right, what did we do wrong, how can we be more prepared for the next time.

But it seems that you instead prepared for a trial—this isn't a trial—and declined to participate in discussion of what happened and how we could do better. That's been my goal, and you can see that through all the previous hearings that we've had.

You chose to provide 300 pages basically of excuses just before you walked in the door and blamed the former President for your policy failures.

I have not mentioned political party one time through this entire time with this committee. Not one time. We've talked about actions taken—

Mr. CUOMO. Yes.

Dr. WENSTRUP [continuing]. But we haven't mentioned political party.

It appears there is to be no soul-searching from you, Governor—I'm sorry—no self-critique of what could have been done better and improved upon. Just doubling down, blaming others.

I said in my opening statement that there's things that I thought that didn't ring true. I've admitted to them. It's about looking at those things and how we can get better.

But if your testimony is to be believed, we might have to just suspend reality. It would require the Governor of New York not to be responsible for his own state's health department and for the fault to lie instead with the former President for policies implemented by the Governor and contrary to Federal guidance the President released. It's a stunning story.

I'm more concerned about what I heard today. This hearing was an opportunity to learn about our COVID-19 response and how we can improve future responses. I want you to understand that. That is our goal. There's no convictions here. This is about trying to be better in the future so that some of the people sitting right here

today who lost loved ones in the nursing homes don't have to experience that again. That's what we're after.

What was presented this afternoon was biased information and statements from a Governor who refused to admit he ever did anything wrong, especially as it relates to the COVID response.

Honesty, clarity, and truth make all the difference. This is an opportunity to admit to the mistakes that we may have made, to make sure they don't happen again. You're not on trial here today.

I thought the virus would dissipate in the summer. Why? Because most coronaviruses do. They dissipate, especially in the warmer weather. Experts said that may happen. Afterwards, they said, well, we were wrong. We admitted we were wrong. That's how it's supposed to work.

But, see, former Governor, the buck is supposed to stop with you in your state, and I'm deeply skeptical of the abdication of responsibility onto others that we have witnessed not only here but publicly.

No threats and no intimidation tactics will change the facts. We lost a lot of people in this country. It's not time to play politics.

Your Department of Health released guidance on March 25, 2020, that nursing homes must comply, that no resident shall be denied readmission or admission, and that nursing homes are prohibited from requiring residents to be tested prior to admission.

You had people tested. You had people tested that were in a safe environment. You could've isolated yourself to make sure you don't get COVID. But, instead, you made the most vulnerable people in America, our elderly, take that risk that you yourself would not take to make sure that you got tested.

You knew about all the directives. You chose to leave it in place, even after becoming aware of its existence. And it was only after pressure mounted and public scrutiny increased that you realized you needed to change course and cover your tracks. Much too late. The facts were in. Other people understood it, recognized it, made changes.

You even admitted that the directive was only rescinded in response to public criticism and public relations. Wow. Wow.

So, you come up with the July 6 report, you changed how you counted nursing home deaths, you made a deliberate decision to exclude certain nursing-home-related COVID-19 deaths from mortality rates, and you worked on getting your stories straight, literally. The responsibility was always somebody else's.

When you're Governor, when you become a celebrity because of your advice on this matter, it becomes your responsibility. You were, after all, the "Love Gov."

Mr. Cuomo's spokesperson basically claimed that our select report was cherry-picking testimony and conclusions not supported by evidence or reality. We've released all the transcripts, word for word. We're letting Americans see the facts. I can't say we're getting all the facts out of the New York government. We're letting Americans see the facts as we've gathered them.

And no matter how much you and your team attempt to obfuscate and demean, it does not change the tragic reality of what happened in New York. We shouldn't need subpoenas to obtain information that already belongs to the public.

I want to take a moment to apologize to the friends and family of the victims. Your loved ones will be remembered. And I'm sorry for what they've endured, especially if it was preventable. You are brave for continuing to fight. New Yorkers and America deserve better.

Without objection, all members will have 5 legislative days within which to submit materials and to submit additional written questions for the witnesses, which will be forwarded to the witnesses for their response.

Dr. WENSTRUP. If there's no further business, without objection, the Select Subcommittee stands adjourned.

[Whereupon, at 4:34 p.m., the Subcommittee was adjourned.]

