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KEVIN M. BYRNE  
Assemblyman 94<sup>th</sup> District  
Westchester & Putnam Counties

December 15, 2020

Honorable Donald J. Trump  
President of the United States  
1600 Pennsylvania Avenue  
Washington, DC

Dear President Trump:

We write to you as a last-ditch effort for assistance to obtain the long sought after COVID-19 data New York families and good government groups have been seeking for months.

As you are well aware, your home state of New York has been deeply hurt by the novel coronavirus. New Yorkers appreciate the swift response your administration provided to us in our time of greatest need this past spring: the USNS Comfort, the Army Corps of Engineers, millions of units of PPE, thousands of ventilators, and more. Still, despite your administration's best efforts, our state still suffered immensely, especially in our nursing homes. Members of the New York State Legislature have repeatedly asked the State Department of Health (NYS DOH) for a complete and accurate accounting of all COVID-19 deaths, including those who contracted the virus in a nursing home but died elsewhere. To date, I am sad to report our requests have been completely ignored.

Good government groups, as well as families who lost loved ones from COVID-19 in nursing homes, have requested this information exercising the Freedom of Information Law (FOIL). The response from the NYS DOH has been to delay, delay, and delay. Members of the New York State Legislature have already held multiple forums and hearings on this matter.<sup>1,2,3</sup> Months have passed and cases are rising again, yet we have not been given the opportunity to review this information to better prepare for what lies ahead. Some groups have even resorted to litigation to try to obtain the information, but as of yet, to no avail.<sup>4</sup>

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<sup>1</sup>Assembly and Senate GOP. (2020, August 17). Republican Senate and Assembly Roundtable of COVID-19 & Nursing Homes, Assisted Living and Long-Term Facilities. <https://www.facebook.com/nysenaterepubs/videos/615223712716579>

<sup>2</sup>8-3-20 Joint Virtual Public Hearing on Residential Health Care Facilities and COVID-19- New York City, Long Island and Westchester- Part. (2020, August 3). [https://nystateassembly.granicus.com/GeneratedAgendaViewer.php?view\\_id=8&clip\\_id=5632](https://nystateassembly.granicus.com/GeneratedAgendaViewer.php?view_id=8&clip_id=5632)

<sup>3</sup>8-10-20 Part 1 Joint Virtual Public Hearing on Residential Health Care Facilities and COVID-19 – Upstate New York (2020, August 10). [https://nystateassembly.granicus.com/GeneratedAgendaViewer.php?view\\_id=8&clip\\_id=5638](https://nystateassembly.granicus.com/GeneratedAgendaViewer.php?view_id=8&clip_id=5638)

<sup>4</sup>Gilligan, C. (2020, September 18). Empire Center Sues Cuomo Administration for Withholding Nursing Home COVID Data. Empire Center for Public Policy. <https://www.empirecenter.org/publications/empire-center-sues-cuomo-administration/>



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Earlier this fall, I led a group of state legislators in writing to the Director of the Centers for Disease Control & Prevention (CDC), requesting they update their reporting rules to require nursing homes to employ retrospective reporting of resident deaths. New York counts its COVID-19 deaths unlike any other state. Many are concerned that a mandate from the NYS DOH on March 25<sup>th</sup>, which prohibited nursing homes from denying COVID-19 patients and prohibited them from requiring a test, created a deadly environment that further spread this wicked virus to our most vulnerable. To know for sure, and to better prepare for the future, we need to know what the real numbers are.

The response we received back from the CDC was unsatisfactory. It merely echoed the existing rules which were already outlined in the letter we sent. It did not answer our request to update the CDC rules with a mandate requiring retrospective reporting.

For your convenience, enclosed are copies of our correspondence with the CDC.

It is our hope that through your office, you can help us obtain this information. As policy makers, we must have the real numbers so we can support better policies moving forward. Family members who lost loved ones have had their pleas for this information ignored.

Mr. President, you have come to our state's aid in the past. We ask you do so again with your administration's support and ensure this important information is made publicly available.

Thank you for your detailed attention to this pressing matter.

Respectfully,

Kevin M. Byrne  
NY's 94<sup>th</sup> Assembly District

Will Barclay  
NYS Assembly Minority Leader

Jacob Ashby  
NY's 107<sup>th</sup> Assembly District

Karl Brabenec  
NY's 98<sup>th</sup> Assembly District

Keith P. Brown  
NY's 12<sup>th</sup> Assembly District

Marjorie L. Byrnes  
133<sup>rd</sup> Assembly District



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Philip A. Palmesano  
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Christopher Tague  
NY's 102<sup>nd</sup> Assembly District

Mark C. Walczyk  
NY's 116<sup>th</sup> Assembly District

Mary Beth Walsh  
NY's 112<sup>th</sup> Assembly District

Enclosure: Sept 24<sup>th</sup> correspondence to CDC  
Oct 28<sup>th</sup> correspondence from CDC

Cc: U.S. Senate Majority Leader Mitch McConnell  
U.S. House of Representatives Speaker Nancy Pelosi  
Members of New York's Congressional Delegation