

Exclusive — Seema Verma: Cuomo, Other Democrat Governors' Coronavirus Nursing Home Policies Contradicted Federal Guidance

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Seema Verma, the administrator for the Centers for Medicare and Medicaid Services (CMS), told Breitbart News exclusively that New York's Democrat Gov. Andrew Cuomo and other Democrat governors originally issued guidance that contradicted federal guidelines for nursing homes battling the coronavirus pandemic.

"I just want to make it very clear that our guidance was absolutely crystal clear," Verma said in an exclusive interview late last week. "It was clear and unmistakable. Any insinuation to the contrary is woefully mistaken at best and dishonest at worst. We put out our guidance on March 13. It's very clear when it says that, I'm actually going to read this to you, it says that: 'When should a nursing home accept a resident who is diagnosed with COVID-19?' It says: 'A nursing home can accept a resident diagnosed with COVID-19 and still under transmission-based precautions,' which means if this person is infectious you have to take precautions. It says 'as long as the facility can follow CDC guidance for transmission-based precautions.' It says: 'If a nursing home cannot, it must wait until these precautions are discontinued,' meaning if you are not able to care for this patient—somebody is still positive and you're not equipped to care for the patient, then you shouldn't accept the patient into your care. That's really important because longstanding discharge—when you're discharging a patient from the hospital, longstanding guidelines require when you transfer them somewhere you transfer them to a place that can take care of their needs whether they're going home or they're going to a nursing home or some other facility."

Verma added later that it is "disingenuous" for Democrats such as Cuomo to claim they were following federal guidelines when they were not.

"I think the most important thing though is I think it's disingenuous to try to undermine the federal guidelines," Verma said. "They were absolutely clear and nursing homes across the country adhered to those and that's why we've seen at the vast majority of nursing homes. I just don't think we should ever put a nursing home in a situation or a patient where we force them to take a patient they are not prepared to care for. That not only jeopardizes the patient but it jeopardizes the health and safety of every single resident in that nursing home."

Cuomo's guidance, issued in late March and later rescinded in early May, directly contradicted federal guidance. Other Democrat governors had similarly flawed policies that they have since rescinded, such as Pennsylvania's Tom Wolf, New Jersey's Phil Murphy, Michigan's Gretchen Whitmer, California's Gavin Newsom, and others. The plans these Democrat governors and more put forward in the early days of the pandemic here in the United States forced nursing homes to take COVID-19 positive patients rather than keeping them at a hospital or somewhere else, which seems to have accelerated and amplified the spread and severity of the disease.

"The guidelines they put out, or the policy they put out, is in sharp contrast to exactly what we were saying," Verma told Breitbart News. "Many of the nursing homes—we're seeing this in the data—many of the nursing homes were ill-equipped to address some of the requirements around infectious disease control. They were struggling in terms of isolating patients. If you have a nursing home that has several floors, maybe you can isolate patients easily. Maybe they develop a COVID-positive wing. Those were some of the things we were recommending to ensure isolation. But some facilities, they're smaller and maybe they've got two people sharing a room who are sharing a bathroom with two other people. Obviously, isolation in those types of situations is going to be way more difficult. That's why you've got to ensure that the patients' needs can be taken care of. In New York, what they put out is in direct conflict with the federal guidelines."

In recent days, Cuomo in particular has come under serious fire in his state for the policies he had originally issued and later rescinded. The Associated Press last week published a piece quoting among others Sen. Bob Casey (D-PA) as trying to shift the blame away from his Democrat governor and other Democrat governors to the Trump administration. "We need action," Casey said in that story. "We need a plan from CMS and we need resources to stop the spread of COVID-19 in nursing homes."

Then ProPublica published an in-depth investigation into a privately-run nursing home in Troy, New York, which followed Cuomo's guidance and contrasted that with a county-run nursing home in the same area that shunned the state Democrat governor's guidelines, instead following federal guidance. The contrast was clear: The nursing home that listened to Cuomo was ravaged by coronavirus and the one that followed federal guidance and ignored Cuomo performed well and had barely any serious problems.

The ProPublica article opens describing an April 3 meeting between a nurse at Diamond Hill nursing home in Troy and her bosses, where she was informed that the facility was accepting its first COVID-19 patient back from a local hospital. "The risks to the home's staff and other residents were obvious: The virus was ravaging nursing homes across the country," ProPublica's Joaquin Sapien and Joe Sexton reported. "But the week before, New York Gov. Andrew Cuomo and his health commissioner, Howard Zucker, had all but made such discharges mandatory. If a hospital determined a patient who needed nursing home care was medically stable, the home had to accept them, even if they had been treated for COVID-19. Moreover, the nursing home could not test any such prospective residents — those treated for COVID-19 or those hospitalized for other reasons — to see if

they were newly infected or perhaps still contagious despite their treatment. It was all laid out in a formal order, effective March 25. New York was the only state in the nation that barred testing of those being placed or returning to nursing homes.”

ProPublica’s reporters noted that the consequences of Cuomo’s order forcing nursing homes to take patients with COVID-19 were particularly brutal. “In the weeks that followed the March 25 order, COVID-19 tore through New York state’s nursing facilities, killing more than 6,000 people — about 6% of its more than 100,000 nursing home residents. In all, as many as 4,500 COVID-19 infected patients were sent to nursing homes across the state, according to a count conducted by The Associated Press,” they wrote. At this particular facility profiled by ProPublica—the 120-bed Diamond Hill nursing home in Troy—by June, 18 residents had died from the virus. Fifty-eight had been infected—and at least 50 of 100 staffers there had also been infected. States that followed Cuomo’s lead were similarly ravaged; states that followed the federal guidance, such as Florida, were not. California, which started down the Cuomo path but reversed course early on, fared much better than New York.

“States that issued orders similar to Cuomo’s recorded comparably grim outcomes,” ProPublica’s Sapien and Sexton wrote. “Michigan lost 5% of roughly 38,000 nursing home residents to COVID-19 since the outbreak began. New Jersey lost 12% of its more than 43,000 residents. In Florida, where such transfers were barred, just 1.6% of 73,000 nursing home residents died of the virus. California, after initially moving toward a policy like New York’s, quickly revised it. So far, it has lost 2% of its 103,000 nursing home residents.”

The ProPublica article later compares the ravaged Diamond Hill private nursing home with a county-run one that Rensselaer County executive Steve McLaughlin—a Republican—noted did not listen to Cuomo’s guidance.

“Steve McLaughlin, the county executive where Diamond Hill is located, viewed the state’s directive as madness and chose to defy it, refusing to allow any COVID-19 patients to be returned to, or placed in, the one nursing home run by the county,” Sapien and Sexton wrote. “The 320-bed facility, Van Rensselaer Manor, has not seen a single COVID-19 death.”

Asked about this contrast between the county-run nursing home that defied Cuomo’s guidance and had zero COVID-19 deaths and the private-run nursing home in the same county that followed Cuomo’s now-revoked guidance and saw huge percentages of its population killed by the coronavirus, Verma told Breitbart News the contrast is clear.

“That’s probably the most clear point, as there are a lot of folks trying to point fingers and say ‘oh we didn’t have supplies or we didn’t have testing,’” Verma told Breitbart News. “There’s a lot of finger-pointing. But I think in the same area, in the exact same place, there are nursing homes that didn’t have any COVID cases. In fact, I think about 75 percent of nursing homes across the country didn’t have any cases and didn’t have any deaths. Even in the exact same region where there was significant community spread, that’s exactly what we saw with Florida. One of the things that Gov. DeSantis did was he

actually set up some COVID-positive facilities. He actually created a facility that would take all the COVID-positive nursing home patients, that way they could be assured of that isolation. A lot of other states did those types of things and that early action made a big difference. The other thing I wanted to point out that we did through the pandemic was we allowed hospitals to keep patients in the hospital. We called those swing beds. We said if for whatever reason you can't discharge them, you can't find a nursing home to take them or prepared to take them, you could actually keep them in the hospital and we would pay the hospital to keep them, those kind of swing beds. So there were a lot of alternatives besides just discharging them to a nursing home that couldn't handle their needs."

Cuomo rescinded the policy on May 10 and has faced serious criticism for it. But on Thursday last week, as Verma was conducting this interview with Breitbart News, Cuomo attempted to deflect criticism away from his now-rescinded nursing home policy. During a radio interview, Cuomo claimed those seeking investigation of his failures were conducting "pure politics" and using this as a "shiny object" to distract from the broader issues of the pandemic.

Rep. Elise Stefanik (R-NY), a New York GOP congresswoman who was at President Donald Trump's rally this weekend in Tulsa, Oklahoma, told Breitbart News Saturday on SiriusXM 125 the Patriot Channel she believes that Cuomo's failed pandemic policies when it comes to nursing homes warrant federal investigation.

"There needs to be accountability and transparency," Stefanik said. "I've spoken with constituents who have lost one elderly parent or in some cases base senior parents. We know now that the governor's executive action did not follow CMS guidance. In fact, it required nursing homes to accept positive COVID patients regardless of the nursing home's ability to isolate the patient or have adequate PPE and testing capacity. We need an independent investigation to get answers. These families want answers and most importantly they want to make sure that this never happens again. This is in stark contrast to states like Florida that surged their capacity to make sure their senior citizens, the most vulnerable, were protected at the start of this crisis. I'm deeply disturbed that Gov. Cuomo just yesterday said 'oh no this is just politics. This is a shiny object.' It is not. There are bipartisan voices who have spoken out about how poorly he has managed this and who want that investigation. Again, it's about the families and giving them answers and transparency and accountability."

Verma, in her exclusive interview with Breitbart News, explained that it was not just Cuomo's policies that were in contravention of federal guidelines. Several other Democrat Governors, such as Pennsylvania's Wolf, Michigan's Whitmer, New Jersey's Murphy, and more, also issued guidance that contradicted the CMS federal guidelines from President Donald Trump's administration, and each of those states that did seem to have fared much worse than much of the rest of the country.

"In the states that you mentioned, they have some of the highest nursing home deaths in the nation. I think they're in the top 10—Pennsylvania, New Jersey, New York, Michigan. They're all in the top 10," Verma told Breitbart News. "If there was a policy that required a

nursing home to take a COVID-positive patient that they weren't prepared to take care of, then that is a gross misinterpretation of our policies—of federal policies.”

Asked if policies such as Cuomo's and those modeled after his increased the infection rates and death counts in their respective states—New York has been the epicenter of the pandemic by far—Verma said it is unclear but pointed to states that did follow CMS guidelines on nursing homes such as Florida where GOP Gov. Ron DeSantis has fared much better.

“It's hard to specifically draw a direct line to that, but that being said the states that you're talking about had some of the highest deaths in the nation,” Verma said. “I think some of the other things I would also point out, especially in the case of New York, they had the Javits Center. They had the Comfort. There was an opportunity for them to put patients in other areas. Other states that we've seen that had a better response in their nursing homes, Florida for example with Gov. DeSantis, with Gov. DeSantis he had a strong focus on his nursing homes from the very beginning. We saw that his nursing homes did very well. Across the nation, 80 percent of nursing homes didn't have any cases. I think that sort of speaks to, if you're following the federal guidelines, you could have a definitely better outcome.”

In Georgia, where GOP Gov. Brian Kemp sent the National Guard into nursing homes to help implement the Trump administration guidelines, the state has also fared much better than Democrat-run states in the northeast despite heavy media criticism of Kemp's decision to lift lockdowns aggressively and early.

“I think there's plenty of examples across the country where we saw governors take early action to protect their nursing home residents,” Verma said when asked about Kemp's move in Georgia. “The other area I would point out are surveys. One of the things that very early on in early March all of the state inspectors should focus on is nursing homes and specifically focus on infection control surveys. We see a lot of states early on that had high numbers that didn't complete these surveys. We have now doubled down and given a deadline that we want all of these done by the end of July. That was the other component of it because if you're thinking about requiring these nursing homes to take sick patients and you haven't even inspected them to make sure that they could actually, that they had the capacity, that they were high-performing nursing homes that didn't have infection control problems. That's why the surveys were so critical and we see that a lot of governors also dropped the ball in performing these surveys.”

Cuomo's now-rescinded policy actually went further than a lot of the other failed directives from Democrat governors nationwide. Not only did he order nursing homes to take positive COVID-19 patients back into their custody regardless of whether they could handle them—again in contravention of federal guidelines—but he also barred nursing homes from testing new admissions into their facilities for the virus. According to ProPublica, he was the only governor anywhere in America to do that.

“As you know, we had said don’t bring anyone into the nursing homes because potential for asymptomatic spread so if somebody—a resident, a new resident or patient was coming in, yeah, it’s very important to understand what their status is because that’s going to change the type of precautions we take with those patients,” Verma said when asked about that part of Cuomo’s policies.

California, meanwhile, began the pandemic in its early days in March with a policy similar to Cuomo’s with regard to nursing homes, but Newsom—California’s Democrat Governor—quickly reversed course and matched his guidance to federal CMS guidelines. Verma said Newsom’s decision to do that helped California fare much better in the long term.

“That’s exactly, we can look at California’s ranking in terms of the number of deaths that they had, but that’s actually a great example,” Verma said. “Gov. Cuomo had the ability to patients not only in the Javits Center but the Comfort. But Gov. Newsom had the ship, and I want to say he was putting patients who were negative on the ship so essentially ensuring they were safe. So I think that kind of action tells you while Cuomo wants to point to the federal guidelines to say this is why I did it, nobody else was doing that. Governors across the country were not doing that. California has had a much lower death rate in their nursing homes than New York did.”

In response to calls for a federal investigation by lawmakers like several in New York and Pennsylvania and other states, Verma said that the role of CMS is to review what states are doing and help with inspections and guidelines.

“Our authority extends to the nursing homes and the state agencies to be conducting these surveys, so that’s sort of the scope of our authority,” she said. “We are reviewing what states are doing with regard to their responsibilities around inspections. Pennsylvania is an example of they were in the bottom quartile in terms of the number of inspections of nursing homes and they’ve had a higher death rate in their nursing homes and that’s—from the very beginning, we were urging to go into these nursing homes and inspect them. That’s important for a couple reasons. One, you want to assess where the nursing home is. The other thing is if you saw issues you could say you could work with them about how they could improve their practices to ensure they were adhering to those guidelines. So in terms of oversight, we have oversight of the nursing homes and the state agencies but beyond that the scope of our authority would only allow us to address those two areas.”

In preparing for a potential second wave in the fall or winter, Verma said, CMS is working to double down on the Trump administration guidelines that worked and on getting state and local authorities to implement them.

“From the very beginning of this pandemic, we have had a focus on nursing homes and we have taken early action,” she said. “One of the things that we did is restrict visitation into nursing homes, calling on governors to do these inspections. So I think from the very beginning we have understood, the Trump administration has understood that these patients were going to be particularly vulnerable. If you look at all the guidance we put out, we called on governors to take action to focus on their nursing homes and to ensure

they had supplies and ensure they were testing and adhering to federal guidelines. That work hasn't stopped and the data that is coming out now is making it clear to everybody that we need to double down on our efforts to support nursing homes and to protect the most vulnerable.”

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