Cuomo Will No Longer Force Nursing Homes to Accept COVID Patients

Last week I wrote about the [troubling policy in New York](#) and many other states that forces nursing homes to admit COVID-19-infected patients.

This week, under mounting scrutiny and political pressure, New York Gov. Andrew Cuomo announced an outright reversal of the policy. [Via the *New York Post*](#):

> *Patients in New York hospitals must now test negative for the coronavirus before they can be discharged to nursing homes, Gov. Andrew Cuomo said Sunday — partially reversing a policy that [forced sickened seniors into facilities](#) housing those most vulnerable.*
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> *"We're just not going to send a person who is positive to a nursing home after a hospital visit," said Cuomo during an Albany press briefing. "Period."*

While Cuomo and his subordinates claim nursing homes were never actually forced to admit COVID-19 infected patients — they could try to dump these residents off on other facilities equipped to take them, they argue — the reversal gives long-term care facilities what they asked for all along: the ability to screen incoming residents for COVID-19.

Nursing homes had been denied the ability to screen by [an order](#) issued by the New York Department of Health, which stated, "No resident shall be denied re-admission or admission to the [nursing home] solely based on a confirmed or suspected diagnosis of COVID-19."

The idea was that it was [discriminatory](#) to treat COVID-19

residents any differently than non-infected residents. But this is madness — the whole purpose of a quarantine is to discriminate the healthy from the sick so we can keep them separated and reduce spread of illness.

A policy that prohibits nursing homes from screening residents for COVID-19 infection is, to be blunt, incredibly foolish and dangerous. But I've [already explained](#) the thinking behind such policies. In light of Cuomo's reversal, a different question needs to be asked: *What prompted the 180?*

One might suggest that Cuomo reversed course when he saw the results of the policy. But this doesn't appear to be the case.

On Sunday, Cuomo was still defending his state's handling of the novel coronavirus, pointing out that a relatively low percentage of New York's 21,478 coronavirus [deaths](#) — 5,300, according to media [reports](#) — occurred in nursing homes.

"Whatever we're doing has worked, on the facts," said Cuomo. "Look at how many residents we have in nursing homes, look at the percentage of our deaths in our nursing homes vis-a-vis other states, we're down by like number 34."

Cuomo is not wrong that New York has a much lower rate of nursing home deaths than most states. In many states, nursing home deaths account for a much higher percentage of COVID-19 fatalities.

My state of Minnesota, for example, [has had](#) 591 COVID-19 deaths, 472 of which were nursing home residents. That's *80 percent*. New Hampshire and Pennsylvania are [not far behind](#) in terms of percentages (72 percent and 70 percent, respectively). In most states, nursing home residents account for [about a third](#) of COVID-19 fatalities.

So Cuomo is correct that, based on the best data we have right now, New York State's nursing home population does not appear to have been hit particularly hard, on a per capita basis.

This doesn't change, of course, the fact that Cuomo's policy was incredibly reckless. Nor does it explain why Cuomo changed his policy if he believed it was prudent and working.

So, again, why did Cuomo change course?

The answer, it would seem, is that Cuomo's order had become politically inexpedient. Once Cuomo's nursing home order became a lightning rod and began to draw headlines [like this](), he decided to jettison the rule he'd defended weeks earlier when he said, "That is the rule, and that is the regulation, and [nursing homes] have to comply with it."

From a purely political perspective, one can give Cuomo credit. He saw his order was unpopular and chose not to die on that proverbial hill. On the other hand, his about-face exposes the problem with empowering politicians and bureaucracies with broad regulatory and police powers. Which brings me back to F.A. Hayek's "[knowledge problem]()," which asserts that the data necessary for rational economic planning lies with individual actors, and thus exists outside the knowledge of a single governing authority.

As the Nobel Prize-winning economist observed, [I noted last week](), the problem with trying to centrally plan economies and other complex social orders is that central planners cannot possibly access, comprehend, and weigh the vast amount of information relevant to their sweeping decisions.

This, alas, does not stop them from trying. When these interventions create problems, however, these problems often are unseen, at least initially. Moreover, the people who actually see and experience the problems first hand have little recourse. Only rarely do these market distortions and abrogations of liberty reach a level where political figures and bureaucracies must react to them.

This is the primary reason governments generally, and bureaucracies specifically, [are inherently inefficient](). As the

great economist Ludwig von Mises showed in the classic work [*Bureaucracy*](), government bureaucracies face none of the same incentives that make private businesses pursue efficiency and productivity.

"It is a widespread illusion that the efficiency of government bureaus could be improved by management engineers and their methods of scientific management," Mises wrote. "What they call deficiencies and faults of the management of administrative agencies are necessary properties. A bureau is not a profit-seeking enterprise; it cannot make use of any economic calculation. . . . It is out of the question to improve its management by reshaping it according to the pattern of private business."

Once one understands that politicians and bureaucracies are severed from the incentives and local knowledge that drive private enterprises to serve and excel or fail, one begins to understand how politicians and bureaucracies can pass policies that appear insane to most of us — like telling nursing homes it's illegal for them to protect at-risk residents by screening for COVID-19.

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