



MICHAEL RYAN

Did Kansas try to coerce nursing homes into admitting coronavirus patients?

BY MICHAEL RYAN

JUNE 08, 2020 12:01 PM



ORDER REPRINT →



Tina's Place, a Pinole CA restaurant closed since mid-March, reduced the number of seats in its dining area by over 40 percent in order to comply with potential coronavirus guidelines, but they're ready to reopen when given the green light. BY TINA'S PLACE VIA STORYFUL | [DAVID CARACCIO](#) ✉



Listen to this article now

05:07 Powered by [Trinity Audio](#)

What would you think if the government [mandated you to do something dangerous](#), but pretty much said you do so at your own risk?

That's the dilemma the state of Kansas has handed its already beleaguered nursing homes and their patients — your family members and neighbors.

A May 13 “guidance” memo from the Kansas Department of Health and Environment sure appears to order nursing homes to admit patients regardless of their COVID-19 status. That alone is dicey enough, considering that the homes have already accounted for 117 of the state’s 222 [COVID-19-related deaths, according to a count released this past week](#).

TOP ARTICLES



KCK mayor announces task force to help improve relations between community and police

And then there’s the disaster in New York, [where Gov. Andrew Cuomo issued a similar order](#). Some 6,000 nursing home residents there have died.

“You have the most vulnerable population in the world living in nursing homes. It’s a high-risk population and setting,” said Debra Harmon Zehr, [president and CEO of LeadingAge Kansas](#), an association of not-for-profit aging services providers.

To add insult to potential injury, the recent legislative deal insisted on by Gov. Laura Kelly’s administration oddly excludes nursing homes from the enhanced liability protection the state has extended to other health care facilities. The bill goes out of its way to leave nursing homes less protected.

Zehr noted that Kansas is the only state out of a couple dozen with high-threshold liability protection that has excluded nursing homes.

They're the only entities in the entire state — businesses or health care providers — that are not going to have adequate protection against COVID-related civil suits," Zehr said. "There's going to be a rush. It's going to put the long-term care system itself at risk."

Facilities that have seen major outbreaks will be the first targets, she said, but the state has left them all vulnerable — not just to lawsuits, but perhaps to the virus itself.

"The trial lawyers are just standing at the border waiting to come across the line on this," Zehr said. "What about the truly exemplary nursing homes? They are at as much risk for frivolous lawsuits — with the negative consequences."

MUST NURSING HOMES ADMIT CORONAVIRUS OR NOT?

A KDHE spokesperson describes the May 13 memo as "guidance given to all types of health care facilities in Kansas."

But it's more than guidance, if read literally: "Health care facilities in Kansas cannot and should not turn away new residents or refuse to readmit previous residents for fear of COVID-19." Cannot sounds pretty clear cut — and certainly if read in a legal sense.

The good news for nursing homes is that their association representatives view the memo as unenforceable, especially since KDHE doesn't regulate nursing homes, as the U.S. Centers for Medicare and Medicaid Services and Kansas Department for Aging and Disability Services do. But the intent seems to have been to present at least an impression that the order to admit patients without regard to COVID-19 status is mandatory.

That would mean that even if a new admission's status is unknown — nursing homes are short on tests, Zehr said, and there's no requirement that those dismissed from hospitals be tested — all new residents would have to be presumed positive. That means 14 days of isolation, and the use of precious personal protective equipment, which Zehr said nursing facilities are short of as well.

"Hospitals now have the impression that, yes indeed, nursing homes are being required to take their patients," Zehr said, calling that dangerous and untrue.

It's uncertain how many of the state's 330-some nursing homes [are equipped to handle coronavirus](#). But even if the isolation space and protocols are in place, Zehr said, PPE and testing are inadequate.

Both Zehr and Linda MowBray, [vice president of the Kansas Health Care Association](#) representing other senior care facilities, actually laud KDHE and the Kansas Department for Aging and Disability Services for their stretched-thin efforts in unprecedented times. But the KDHE memo caused confusion and even threats to some nursing homes of losing preferred provider status if they didn't comply. And it's certainly time for everyone to get on the same page.

"Our nursing homes are feeling pressure to take admissions," MowBray said, while adding, "it would be irresponsible to take someone into your care that you can't provide the care for. To request or require a home to do something that they are not prepared to do, that is the wrong course of action — and really would be negligent on the part of the state."

THE ONLY DISCRIMINATION THAT WE ALL SUFFER FROM

The memo stating, or at least insinuating, that nursing homes can be forced to take in COVID-19 patients is “appalling,” said state Sen. Molly Baumgardner, a Republican from Louisburg, who took issue with KDHE Secretary Lee Norman’s assertion Thursday that the state is “flush with supplies.” Moreover, she said, only 44% of the state’s nursing homes [have had state infection-control surveys](#).

“I believe that is gross negligence,” Baumgardner said. “Or, another phrase that is a medical phrase: managed neglect.”

It’s not that nursing homes are wholly unprepared, Zehr said, arguing that, instead, “They are living through a reality where they are under-resourced and made to be unprepared to care for COVID.”

Why should you care? No. 1: because it’s society’s sacred obligation to care for the most vulnerable. And No. 2: Neglect of nursing home residents, and the people who care for them, is rank ageism.

“It’s pervasive. It’s an insidious thing that’s kind of woven into our fabric of society,” Zehr said. “Ageism is the only form of discrimination that will catch up with every single one of us.”

If COVID-19 doesn’t get us first.

RELATED STORIES FROM KANSAS CITY STAR

MICHAEL-RYAN

They’re the good guys: KC-area police are facing down destructive rioters in the Plaza

JUNE 02, 2020 5:00 AM

MICHAEL-RYAN

‘Stupidity’: Ozarks COVID-19 recklessness should anger anti-shutdown conservatives

MAY 26, 2020 3:13 PM

MICHAEL-RYAN

Mike Pompeo State Department dinners a scandal? Right, and Democrats are pure as snow

MAY 22, 2020 5:00 AM

MICHAEL-RYAN

‘I want to be that kind of nurse’: KC hero charged into the eye of the COVID-19 storm

MAY 29, 2020 5:00 AM





KCK mayor discusses new police task force

VIEW MORE VIDEO →

TRENDING STORIES

Triple digit increase in new COVID-19 cases reported in Kansas City metro area Saturday

UPDATED 4 HOURS 46 MINUTES AGO

Secret document lists locations of Kansas coronavirus outbreaks. Here's what it says

UPDATED 5 HOURS 26 MINUTES AGO

Are they safe? We visit 50 Kansas City area restaurants in 5 counties amid COVID-19

JUNE 07, 2020 5:00 AM

On day 9, heat doesn't stop hundreds from joining Black Lives Matter protests in KC

UPDATED JUNE 06, 2020 09:20 PM

SPONSORED CONTENT

Up to \$600 when you invest 



BY MERRILL EDGE

Man fatally shot during robbery Sunday outside Troost Avenue apartment, police say

UPDATED JUNE 07, 2020 11:48 AM

READ NEXT



MICHAEL RYAN

They're the good guys: KC-area police are facing down destructive rioters in the Plaza

BY MICHAEL RYAN



JUNE 02, 2020 05:00 AM

It may not be fashionable to stand up for police now after George Floyd's death. But Kansas City-area police officers are all that stands between us, the Plaza and the anarchy of rioters. They're the good guys.

KEEP READING →

Local news has never been more important

#ReadLocal

Subscribe for unlimited digital access to the news that matters to your community.

#READLOCAL

MORE MICHAEL RYAN



MICHAEL RYAN

'I want to be that kind of nurse': KC hero charged into the eye of the COVID-19 storm

MAY 29, 2020 5:00 AM



MICHAEL RYAN

'Stupidity': Ozarks COVID-19 recklessness should anger anti-shutdown conservatives

UPDATED MAY 26, 2020 03:35 PM



MICHAEL RYAN

Mike Pompeo State Department dinners a scandal? Right, and Democrats are pure as snow

MAY 22, 2020 5:00 AM



MICHAEL RYAN

Kansas lawmakers could let needed abortion amendment die. Where are the conservatives?

MAY 20, 2020 5:00 AM



MICHAEL RYAN

Is it too soon to dine in? KC restaurants try to

WARNING: This product contains nicotine. Nicotine is an addictive chemical.

UNDERAGE SALE PROHIBITED

vuse
Alto

NEW LOWER PRICE

Alto Flavor Pods now \$9.99!

SHOP NOW

WEBSITE AND OFFERS RESTRICTED TO AGE 21+

set the table for a safe reopen

MAY 17, 2020 5:00 AM

Take Us With You

Real-time updates and all local stories you want right in the palm of your hand.

SUBSCRIPTIONS

- [Start a Subscription](#)
- [Customer Service](#)
- [eEdition](#)
- [Vacation Hold](#)
- [Pay Your Bill](#)

LEARN MORE

- [About Us](#)
- [Contact Us](#)
- [Newsletters](#)
- [News in Education](#)
- [Archives](#)

ADVERTISING

- [Advertising information](#)
- [Digital](#)
- [Place a Classified](#)

[COPYRIGHT](#)

[COMMENTING POLICY](#)

[PRIVACY POLICY](#)

[TERMS OF SERVICE](#)



It's uncertain how many of the state's 330-some nursing homes are equipped to handle coronavirus.

YAKOV STAVCHANSKY TNS



MICHAEL RYAN



816-234-4340

The Star's Michael Ryan, a Kansas City native, is an award-winning editorial writer and columnist and a veteran reporter, having covered law enforcement, courts, politics and more. His opinion writing has led him to conclude that freedom, civics, civility and individual responsibility are the most important issues of the day.

COMMENTS ▾



Michael Ryan tries out an Officer Involved Shooting police simulation

