

Congress of the United States
Washington, DC 20515

May 14, 2020

Gary Cantrell, Deputy Inspector General
Office of Investigations
US Department of Health and Human Services
330 Independence Avenue, SW
Washington, DC 20201

Dear Deputy Inspector General Cantrell,

I respectfully request that the HHS Office of Investigations immediately commences an independent investigation into whether the Pennsylvania Department of Health's *Interim Guidance for Nursing Facilities during COVID-19* (March 18, 2020) has contributed to an increase in COVID-19 infections and deaths in Pennsylvania nursing homes, assisted living and elder care. The urgency of this request cannot be understated as Pennsylvania has made clear that the Interim Guidance will remain in place even as other states repeal or revise similar policies in response to the inordinate number of deaths in these facilities. Instead of fairly and impartially assessing the impact of this Guidance on the high number of deaths, the Governor Wolf announced a criminal investigation into the facilities themselves. His breathtaking failure to protect the most vulnerable population in Pennsylvania warrants an independent investigation. I implore you to begin such an investigation immediately.

On March 18, 2020, Pennsylvania Department of Health published the *Interim Guidance*, stating:

Nursing care facilities must continue to accept new admissions and receive readmissions for current residents who have been discharged from the hospital who are stable to alleviate the increasing burden in the acute care setting. This may include stable patients who have had the COVID-19 virus.

The medical community quickly condemned this guidance as dangerous to the residents of these facilities. The American Health Care Association (AHCA) denounced the guidance and correctly stated that it will, "result in more people going to the hospital and more deaths." Unfortunately, AHCA's prediction has come to fruition.

Since April 16, when the Commonwealth began releasing data specific to nursing homes, personal care homes, and assisted living facilities, infections within these facilities increased over three times the rate as those elsewhere – the number of cases rising more than 238%. The tragic loss of more than 2,600 older Pennsylvanians – nearly 70% of all COVID-19 deaths in the Commonwealth – continues unabated. More concerning, this trend appears to be worsening, as in-facility deaths have accounted for 74% of deaths since May 1. While other states repealed similar policies in light of the widespread death, Governor Wolf has allowed the suffering to continue. Attempts to bring transparency to the deteriorating situation in these facilities have been met with overt hostility from his Administration as it continues to keep Pennsylvanians in the dark.

On May 12, the Pennsylvania Attorney General announced a criminal investigation into nursing home facilities in the Commonwealth with regard to the death of residents. This development is particularly concerning due to its potential chilling effect on the willingness of facility operators and employees to speak out about the role of the PA Department of Health's *Interim Guidance* in the spread of COVID-19 infections and deaths. The threat of criminal prosecution alone may be enough to ensure silence about the Commonwealth's role in this tragedy. The blatant attempt to obfuscate the Governor's contribution to these deaths through intimidation is despicable and unjust. These developments warrant an outside investigation.

Without a formal HHS OIG investigation, the true cause of the mass suffering and loss occurring in Pennsylvania's nursing homes will remain hidden. The families and loved ones of the people who have suffered and died deserve justice. Pennsylvanians deserve to know exactly what role their government played in the spread of COVID-19 infections, and the resulting deaths in nursing home, personal care, and assisted living facilities across the

Commonwealth. Most importantly, residents in these facilities across the Commonwealth must be protected from further undue harm as the result of Governor Wolf's policies.

I respectfully request and urge a formal investigation into these matters as quickly as possible. I appreciate your time and attention to this vital matter. If you have any questions or if I may provide additional information, please let me know.

Very Respectfully,

A handwritten signature in black ink, appearing to read 'Scott Perry', written in a cursive style.

SCOTT PERRY
Member of Congress
10th Congressional District