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May 7, 2020

The Honorable Rachel L. Levine, MD
Secretary of Health
PA Department of Health
625 Forster St., 8th Floor
Harrisburg, PA 17120

Dear Secretary Levine,

It has been reported that on May 4, 2020, a representative from Beaver County called on the Attorney General to investigate Brighton Rehabilitation and Wellness Center (Brighton Rehab), a nursing home in my district. I share in his concern for the seniors at the facility, along with the families and staff employed at the center. However, I am looking for understanding as to why there is a need for the Attorney General to investigate a facility that is licensed and overseen by your department. I have repeatedly reached out to both Department of Health staff and the administration for information regarding your oversight.

It is my understanding that the Department of Health is the government agency with the specific responsibility of providing oversight to nursing homes, including this specific facility. As such, the Department of Health has the ability to revoke, cite, inspect, direct, or otherwise shutdown homes. Considering those responsibilities, I do not understand the need for the Attorney General to investigate the actions of the nursing home, which falls under your obligation.

On March 18, 2020 you issued guidance to all nursing homes as they prepared to deal with this pandemic. At that time, you stated, "Nursing care facilities **must** continue to accept new admissions and receive readmissions for current residents who have been discharged from the hospital... This may include stable patients who have had the COVID-19 virus" (emphasis added). As a result of this mandate from your department, the otherwise closed to the public nursing home has been overrun by the novel coronavirus.

On April 7, 2020, the local news reported that Brighton Rehab was operating as though all 800 residents and staff were positive for COVID-19. You specifically were aware of this move and stated in the same article, "if they have mild symptoms there's really no necessity to test them." Again, on April 7, 2020, Beaver County only had 116 COVID-19 positive cases, and yet, you entirely dismissed the presumption of almost eight times that many cases in one facility.

<https://pittsburgh.cbslocal.com/2020/04/07/brighton-rehab-coronavirus/>

During March and April, multiple elected officials and I had reached out to the Department of Health, making repeated inquiries regarding this facility. In response to our requests, the Department of Health had consistently informed us that Brighton Rehab was in compliance with your requests regarding safety protocols. Other elected officials and I had vigorously requested that you “trust but verify” information you received. To my knowledge, at no time has anyone from the Department demonstrated that a review or inspection of the facility had taken place until the end of April. For a facility that has more presumed cases than entire counties have, it is outrageous that no one had taken the time to review or visit the site.

As early as March 31, 2020, I, along with colleagues in Washington County, sent you a letter requesting that a vacant nursing home in Washington County be converted into a COVID-19 home where sick seniors could go to receive proper care in a manner that would not risk other vulnerable senior citizens in order to prevent widespread infection in our nursing homes. I subsequently asked, multiple times, if this request was being considered. To date, I have not received any response. On March 27, 2020, a bipartisan group of federal, state, and county officials sent a letter to the Governor and the Department of Health asking that the vacant Ellwood City Hospital be used as a resource in this pandemic. No response was received, and no known action was taken.

Therefore, in this perilous time, it is absolutely imperative that the Department of Health offer **transparency and accountability** to protect and advocate for our seniors. If that must be done by the Attorney General investigating your department and what appears to be your lack of oversight, then I am supportive of that action. However, in the spirit of transparency and accountability, I respectfully submit the following questions:

Have you inspected Brighton Rehab since the State of Emergency was declared on March 6, 2020?

If so, how many times? What are the results of said inspections?

What was the protocol that you put into place for Brighton Rehab?

Did Brighton Rehab follow these protocols?

How did the Department of Health ensure that Brighton Rehab did in fact follow these protocols?

Are there any reports, inspections, citations, breaches of protocol, or any negative marks against Brighton Rehab from March 6, 2020 until April 28, 2020?

On April 28, 2020, a report was released publicly that the Department of Health is facing a class action lawsuit relating to its oversight function of nursing homes. From April 28, 2020 until May 5, 2020, have there been any reports, inspections, citations, breaches of protocol, or any negative marks against Brighton Rehab?

Why did you not allow Brighton Rehab to transport patients infected with COVID to a separate and empty nursing home to isolate them from other vulnerable seniors?

Are other nursing home facilities in the eastern part of the state able to transport COVID patients to vacant nursing homes or other appropriate facilities to separate and effectively quarantine infected patients?

If the overwhelming majority of cases in Beaver County are in one facility and there is no evidence in the number of cases to suggest there has been any significant spread beyond this facility in the county at large, why is Beaver County being punitively effected due to this facility?

I fear that the Attorney General being asked to investigate this matter undercuts your authority and calls into question the work that you have been doing. But by sitting idle and not answering these questions, one major question will be presented: if we already have a department that investigates, cites, oversees, inspects, fines, and shuts down nursing home facilities, why is the Attorney General's involvement necessary? And if his investigation is necessary, it should most certainly include Brighton Rehab and the government agency that is allegedly providing oversight of nursing homes. Thank you, and I look forward to your prompt response to these vitally important matters.

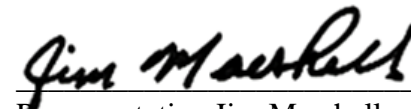
Sincerely,



Representative Joshua D. Kail
15th District



Representative Aaron Bernstine
10th District



Representative Jim Marshall
14th District