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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

AGING AND OLDER ADULT SERVICES COMMITTEE

NEW HOPE EAGLE FIRE COMPANY
46 SUGAN ROAD
NEW HOPE, PA 18938

FRIDAY, FEBRUARY 21, 2020
11:04 A.M.

PUBLIC HEARING - HB 397, HB 398, HB 399, HB 400
REGARDING ELDER ABUSE

BEFORE: HONORABLE GARY DAY, MAJORITY CHAIRMAN
HONORABLE FRANCIS X. RYAN
HONORABLE DAVID H. ROWE
HONORABLE MEGHAN SCHROEDER
HONORABLE WENDI THOMAS
HONORABLE STEVE SAMUELSON, MINORITY CHAIRMAN
HONORABLE PAMELA A. DELISSIO
HONORABLE STEPHEN MCCARTER

COMMITTEE STAFF PRESENT:
SHANNON L. WALKER
EXECUTIVE DIRECTOR, AGING AND OLDER ADULT
SERVICES COMMITTEE
CHARLES MILLER
DEMOCRATIC STAFF FOR REPRESENTATIVE SAMUELSON

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CHAIRMAN DAY: We call this meeting to order, this hearing of the House Aging and Older Adult Services Committee.

First, I'd like to ask you all to rise for the pledge.

PLEDGE OF ALLEGIANCE RECITED

CHAIRMAN DAY: Thank you all.

Just a quick - few quick notes for members, guests. Take a moment, you know, to silence your cell phones just for the testimony that we're going to have today, the question and answers. So if you could silence any of your cell phones and electronic devices, I would appreciate that.

Also, the audio today, usually we have a speaker that - my microphone is on right now. Testifiers, your microphones will be on all the time, so careful what you're whispering to each other.

But our microphones will be off and we push to put on. Usually we have a speaker. So right now when you hear my voice, people here cannot hear, you know, any amplification or anything like that. But we still need your microphones on here at this table for the audio recording that our fine gentleman over here are doing as well. So, just so everyone's aware. Turn on and off your microphone as you need it.

So I called this hearing today to discuss the

1 important issue of elder abuse in the Commonwealth. I'd like
2 to just take a quick moment to thank New Hope Eagle Fire
3 Company for their hospitality in welcoming our committee here
4 today. Please join me in thanking them.

5 I'd also like to thank you, host, State
6 Representative Wendi Thomas. Wendi, thank you for hosting this
7 committee here in your district. It's important that we have
8 active interested members. And Wendi was among a lot of
9 members that have stepped forward, since I became chair at the
10 beginning of the year, and offered their time and expertise and
11 services. I want to thank you, Wendi, for hosting this event
12 here in the district.

13 Of course, I support and appreciate all of our
14 members who have made the travel to be here today. This is a
15 very important issue here in the Commonwealth, and it's
16 imperative that we take every step possible to protect, you
17 know, really a group of our most vulnerable citizens, the
18 people who, you know, took care of us and got us to this point
19 are now our seniors, and hopefully living their golden years.
20 And their protection is upmost important on my mind.

21 There's been much headway over the past several
22 years with my friend and colleague and Democratic Chair, Steve
23 Samuelson. The Democrats and the Republicans have worked
24 together through the years that have seen to help and address
25 this issue. But there's still much that we need to do from a

1 legislative standpoint.

2 So today, we want to provide an overview of pending
3 legislation in our committee and hold a panel discussion of
4 these stakeholders that have come here today to discuss the
5 issue and the bills before our committee.

6 So with that, I just would like to introduce our
7 executive director for the committee, Shannon Walker. She's
8 right here to my right. And she'll provide a brief summary of
9 the bills in two of the bills - well, probably more of the
10 bills.

11 Right?

12 MS. WALKER: I'm not sure -.

13 CHAIRMAN DAY: Yeah. There's one of mine as well.
14 But she's going to give a brief summary of the bills that we're
15 going to be working on.

16 Shannon?

17 Why don't we - thank you, Chairman. We should have
18 everyone, all the members, introduce themselves, your name,
19 your district, and maybe the time you served on this committee
20 or whatever else is of interest to you.

21 Go ahead.

22 REPRESENTATIVE ROWE: Representative David Rowe from
23 the parts of Union and Centre Counties up in central
24 Pennsylvania. I am the highest scoring member of the House,
25 number 203 out of 203.

1 REPRESENTATIVE MCCARTER: Steve McCarter, House
2 District 154, Eastern Montgomery County. And I think I've been
3 on this committee since Steve Samuelson was about a
4 four-year-old boy.

5 REPRESENTATIVE DELISSIO: Pam DeLissio. I represent
6 parts of Montgomery and Philadelphia County. It's been my
7 privilege to serve on this committee for the entire time I've
8 been in the House, since 2011, and I come out of the long-term
9 care. And I can comment that my colleague, Rep. Rowe, is?

10 MR. MILLER: Chuck Miller. I'm Democratic staff for
11 Chair Steve Samuelson.

12 CHAIRMAN SAMUELSON: Steve Samuelson from Bethlehem,
13 Democratic Chair of the committee. I've been on this committee
14 during my entire time in the legislature.

15 CHAIRMAN DAY: I'll say I'm Chairman Gary Day. I
16 represent portions of Lehigh and Berks Counties.

17 REPRESENTATIVE THOMAS: Welcome to my district. I'm
18 Wendi Thomas, 178. And I want to say that probably you've just
19 gotten into my district. You all came through Representative
20 Schroeder's district probably to get here, but welcome. I've
21 been on this committee my entire time in legislature, which is
22 a year, a little over a year. And thank you all for coming
23 out.

24 REPRESENTATIVE SCHROEDER: Hi, everyone. Thanks for
25 coming today. I'm the 29th Legislative District, Meghan

1 Schroeder. That covers Buckingham, Warrick, Warminster, and
2 Ivyland Borough. And I'm really excited to be here to hear
3 about this really important issue that's come up a lot this
4 year. And I too am a freshman and this is my first year, but
5 the entire has been spent on this committee. So I look forward
6 to hearing testimony today.

7 REPRESENTATIVE RYAN: And I'm State Representative
8 Frank Ryan, 101st District, which represents my age. And my
9 grandchildren are sitting here to my left. I've been in the
10 legislature for three years.

11 But I was talking about this area when we only had
12 13 stars on the flag. So thanks for coming.

13 MS. WALKER: All right.

14 So I'll get right into it.

15 CHAIRMAN DAY: Okay.

16 Shannon Walker is our executive director for the
17 committee.

18 MS. WALKER: Yes. I've been with Chair Leader since
19 beginning of chairmanship, two months ago. So we're getting
20 through this together.

21 Today we're going to talk about four bills in front
22 of us. They are in this package. House Bill 397, 398, 399,
23 and 400.

24 Representative Masser, Schlegel-Culver,
25 Representative Klunk and Chairman Day have been working on this

1 elder abuse package for the past two sessions. It's derived
2 out of an elder abuse case that actually started back in 2011,
3 and there's been kind of a rolling momentum of tweaking this
4 language over the past few years.

5 So the four bills themselves, House Bill 397 covers
6 electronic monitoring devices in long-term care nursing
7 facilities. House Bill 398 amends the Older Adult Protective
8 Services Act to create a private right of action for financial
9 crimes against seniors, and it creates a trust fund to help
10 seniors who have been financially exploited.

11 House Bill 399 by Representative Schlegel-Culver
12 provides concurrent jurisdiction for the Attorney General's
13 Office and the district attorneys to investigate these crimes.

14 And House Bill 400, sponsored by Representative
15 Klunk, amends Title 18 of the Crimes Code to expand the
16 criteria for abuse of a care-dependent person to include
17 posting on social media any types of derogatory photos.

18 CHAIRMAN DAY: So one of the things that we are
19 trying to set up is I'm trying to work with our Democratic
20 Chair, the Minority Chair, on laying out what this committee is
21 going to work through. And we had a great meeting where we
22 talked about a lot of issues that are important to him and his
23 caucus, and also our caucus.

24 And this package is something that - I had a bill in
25 the package so I was wondering - there it is and I thought it

1 was important. That's why I had a bill in the packet. You
2 know, my particular bill amends and establishes, you know, a
3 right of private action for people that are in the situation of
4 financial abuse.

5 And it's something that I just met with former Judge
6 Emil Giordano yesterday, and he, you know, just really laid out
7 the underlying. He said to me, you know, it's really, really
8 important. There's a lot going on. A lot of things that he
9 saw as a judge, testimony that he heard. He was a statewide
10 candidate, went all over the state. And he just really
11 reassured me that this was a great thing for us to be working
12 on.

13 Most of our stakeholders here, you know, know that
14 already, so the people in the front row here know that for
15 sure. And I'm glad that you guys are here because the purpose
16 of the hearing, which our Minority Chair has told me a lot of
17 times, that it's important to have a hearing to bring in
18 information about these bills and vet them and learn more about
19 the people who are out there trying to fight some of these
20 problems that we're talking about, so that we get this right
21 with the legislation that we have.

22 Now, before we go to the stakeholder panel,
23 Chairman, is there anything that you'd like to add or talk
24 about before we go to the panel?

25 CHAIRMAN SAMUELSON: I thank Gary Day, our Chair,

1 for scheduling this hearing. It is very important. Some of
2 our other committees don't seem to have a lot of hearings, but
3 I appreciate that the Aging and Older Adult Services Committee
4 has a long record of making sure that we discuss and analyze
5 all the issues.

6 We've had a lot of dramatic testimony over the years
7 about elder abuse in Pennsylvania and financial elder abuse.
8 And I look forward to this discussion today about these
9 legislative - legislative proposals.

10 Thank you, Representative Day.

11 CHAIRMAN DAY: Thank you, Chairman. I appreciate
12 your comments and look forward to working with you in
13 leadership in this committee so that we can address these
14 issues.

15 Now we're going to hear from our stakeholder panel.
16 We have extended the invitation to testify at today's hearing
17 to AARP and the Attorney General's Office, as well. Of course,
18 they were unable to join us. But the Attorney General's Office
19 has submitted comments, and we anticipate AARP will be
20 submitting remarks for the record as well, that will help us in
21 deliberating and coming to the proper, you know, legislative
22 solutions that we vote on in this committee.

23 With us today, we have Denise Getgen, Director - oh
24 man, I should let everybody introduce themselves. I'm terrible
25 with that. Director of Protective Services for the

1 Pennsylvania Department of Aging. We have J.R. Reed,
2 Executive Director and Chair of the P4A's Protective Services
3 and Guardianship Committee. We're going to be working on a lot
4 of different things with guardianship later in the year, I'm
5 sure.

6 Greg Rowe, Director of Legislation and Policy for
7 the PA District Attorneys Association. Thanks, Greg, for being
8 here. And joining Mr. Rowe are two deputy district attorneys
9 for Bucks County, Kate Kohler and A.J. -

10 ATTORNEY GARABEDIAN: Garabedian.

11 CHAIRMAN DAY: - hold on, hold on. Garabedian.

12 ATTORNEY GARABEDIAN: Garabedian (corrects
13 pronunciation).

14 CHAIRMAN DAY: Garabedian. Okay. There.

15 Also today, this is - that's kind of one. Right?
16 Okay.

17 So with no further ado, I'd like to start - you can
18 pretty much decide. I think you guys know each other and were
19 probably talking to each other about how you'd like to proceed.
20 So the floor's yours.

21 MS. GETGEN: Thank you.

22 Good morning. The Pennsylvania Department of Aging
23 would like to thank Chairman Day, Minority Chairman Samuelson,
24 members of the committee, and staff for the opportunity to
25 provide testimony regarding a package of legislation aimed at

1 addressing the growing issue of elder abuse, Representative
2 Masser's bill, House Bill 397, Chairman Day's House Bill 398,
3 Representative Culver's House Bill 399, and Representative
4 Klunk's House Bill 400.

5 Representative Masser's House Bill 397 amends the
6 Health Care Facilities Act to allow residents or a
7 representative of a resident to place electronic monitoring
8 devices in a room with appropriate notices and consent of a
9 facility - of the facility and other residents.

10 A monitoring device is defined in this legislation
11 as a video surveillance instrument installed in the common
12 areas or resident's room of a facility under the provisions of
13 this chapter that broadcasts, photographs, or records activity
14 occurring in the facility.

15 Several conditions need to be met prior to the
16 installation of a monitoring device. The Department has
17 several concerns in consent - several concerns of privacy and
18 consent with House Bill 397.

19 The bill requires the consent of the older adult or
20 a representative of the older adult, which has the possibility
21 of taking away an older adult's right to deny the viewing of
22 any video. This legislation does not include a provision
23 providing for an individual who lacks capacity to properly
24 provide consent.

25 It also does not - it is also not clear on consent

1 issues surrounding the recording instances of abuse versus
2 recording private conversations.

3 The Department would like to work with the bill's
4 sponsor and committee to address our concerns if House Bill 397
5 plans to be considered at a future House Aging and Older Adult
6 Services Committee meeting.

7 Chairman Day's House Bill 398 amends the Older Adult
8 Protective Services Act to add a definition of financial
9 exploitation and establish a right of private action - a
10 private right of action for certain financial crimes.

11 Additionally, this legislation adds a \$100 fee for
12 those proceedings to create an Older Adult Financial
13 Exploitation Trust at the Department of Treasury.

14 Updating the Older Adults Protective Service Act is
15 a legislative priority for the Department, including adding the
16 definition of financial exploitation. Years of work and input
17 from legislators, stakeholders, and the Department have gone
18 into updating OAPSA.

19 We recommend the terms financial institution and
20 financial exploitation mirror the definitions provided in
21 either Representative Hennessy's House Bill 1930 or Senator
22 Mencha's Senate Bill 819.

23 If financial exploitation is added to OAPSA,
24 training and reporting guidelines for financial institutions
25 should be included, which are also provided in House Bill 1930

1 or Senate Bill 819.

2 If the legislature is interested in amending OAPSA,
3 it should be - it should also be an opportunity to update
4 terminology and address outdated practices.

5 The Department is not opposed to House Bill 398,
6 creating an Older Adult Exploitation Trust Fund, but it is
7 unclear how the fund would assist victims of financial
8 exploitation. We look forward to working with Chairman Day and
9 the committee on receiving more clarification on the Older
10 Adult Exploitation Trust Fund.

11 Representative Culver's House Bill 399 amends Title
12 19 to create the offense of financial exploitation of elderly
13 or care-dependent persons and provides for concurrent
14 jurisdiction to the Attorney General.

15 The Department is supportive of this legislation as
16 assessing penalties on criminal actions against older adults
17 will create accountability and elevate the seriousness of such
18 crimes. Again, we recommend the definition of financial
19 exploitation mirror the definition included in House Bill 1930
20 or Senate Bill 819.

21 Additionally, the term elderly should be replaced
22 with older adult throughout the bill.

23 Representative Klunk's House Bill 400 amends
24 Sections 2713.1 and Title 18 to include a misdemeanor offense
25 for abuse of a care-dependent individual via social media.

1 The Department supports this legislation, but
2 requests that the legislation be amended to encapsulate all
3 forms of media, including broadcasts, print, social, or
4 digital. Considering how much technology has evolved since the
5 initial inclusion of abuse of a care-dependent person as a
6 criminal offense, the Department supports the initiative to
7 update this definition to include all forms of media,
8 especially social.

9 The Department appreciates the interest of this
10 committee and legislatures in addressing elder abuse as a
11 growing epidemic. We look forward to working with the General
12 Assembly on protecting and better protecting Pennsylvania's
13 older adults.

14 Thank you.

15 CHAIRMAN DAY: Thank you.

16 We're going to take the entire panel before we take
17 questions, so J.R. if you want to go next?

18 MR. REED: Okay. Thank you.

19 I want to thank Chairman Day and Chairman Samuelson
20 for inviting me and the rest of the panel or the rest of the
21 committee today, for having us.

22 My name's J.R. Reed. I'm the executive director of
23 Lehigh County Office of Aging and Adult Services. I also serve
24 as the chair for Pennsylvania Association of Area Agencies on
25 Aging for the Protective Services and Guardianship Committee.

1 Thank you for this opportunity to come today and
2 provide comments and answer questions about elder abuse and
3 pending legislation.

4 The Older Adult Protective Service Act was
5 implemented in 1988. All the Area Agencies on Aging have had
6 the responsibility to receive reports and investigate potential
7 acts of abuse, neglect, financial exploitation, and abandonment
8 of individuals 60 and older since its inception. So the intent
9 of the Act has always been a last resort when providing
10 services to older adults in the Commonwealth.

11 It has been the role of Area Agencies on Aging to
12 take reports, conduct investigations, and provide services to
13 older adults in the least restrictive means. The older adults'
14 right to self-determination and maintaining their dignity is a
15 core value when providing these protective services.

16 So with respect to House Bill 397, allowing families
17 to have electronic monitoring in long-term care facilities,
18 this is a concept that is - a concept that is utilized by the
19 long-term care ombudsmen, is one that is of having a highly
20 visible presence in facilities. So this is another program
21 that is operated by the AAAs. It is important that families
22 make sure that a visit and advocate for loved ones occurs when
23 doing so.

24 So when people live in long-term care, it's really
25 important that they visit, they show up, they have a presence

1 there. Our ombudsmen programs do that. I really believe this
2 language in this bill would maybe have another means to
3 possibly do that.

4 I do agree though with the Department in that a
5 little bit of the concerns I had when I looked at the language
6 had to do with when somebody's incapacitated, who's allowed to
7 represent on behalf of them. It wasn't very clear to me.

8 Should it be a power of attorney? Should it be
9 somebody that's the guardian? I think there needs to be some
10 clarity on that, because there can be some problems in
11 administering this bill if there wasn't very clear language and
12 the older adult can't make those kind of decisions.

13 Over the past several decades, things have changed
14 in respect to financial exploitation towards older adults with
15 online transactions and much more accessibility to individual's
16 assets has brought an enormous increase in the amount of funds
17 that are being taken through scams, power of attorneys, and
18 other secret ways.

19 In looking at the impact that financial exploitation
20 has had on our society, national studies estimate anywhere from
21 \$2.9 billion on the lower end to \$36.5 billion on the high end
22 is exploited from older adults every year.

23 In 2016, studies conducted by New York Office of
24 Children and Family Studies said that - the study concluded
25 that between \$352 million to \$1.5 billion was exploited in each

1 New York State district.

2 So with those statistics, I don't know that we even
3 understand fully how much impact happens on older adults that
4 are being scammed across the entire Commonwealth and the United
5 States at this point in time. It is vital that legislation be
6 updated to assist with protecting, recovering, and prosecuting
7 individuals that commit these types of acts. We need to have
8 the tools and the resources to combat financial exploitation.

9 House Bill 398 adds a chapter to OAPSA and gives
10 immunity to financial institutions or advisors who are
11 reporting financial exploitation. This will encourage more
12 reporting of exploitation, which will result in protecting more
13 older adults.

14 I would also suggest wording that would require
15 these reporters to provide records as quickly as possible.
16 This will expedite investigations. It will provide timely
17 protection of older adults' resources. The addition of civil
18 remedies to recover funds for older adult - the older adult of
19 their family - and their family is important.

20 Another roadblock is when the older adult no longer
21 has any assets or funds to be represented civilly before the
22 Commonwealth Courts to gain restitution.

23 I am hopeful that the Older Adult Financial
24 Exploitation Trust Fund will assist some with this roadblock.
25 The details to the trust fund will be vital, and who it serves

1 and how it is administered.

2 I would suggest that maybe a scale fee be applied,
3 according to the amount of assets that are taken, similar to
4 House Bill 399, where it scales on what the felony accounts are
5 for how much money is exploited from the older adult. And I
6 would suggest starting at the low end of \$100 and going up.
7 From \$100, maybe \$500, and maybe \$1,000 for the next, just
8 because of the amount of money that's taken from older adults.

9 House Bill 399 provides concurrent jurisdiction to
10 the Attorney General to assist with financial exploitation
11 cases. This will assist with resources to investigate these
12 types of crimes.

13 Two difficult challenges with processing these -
14 yeah, processing these cases are the cost to local law
15 enforcement for forensic accounting and the older adult having
16 a cognitive impairment preventing them from being a good
17 witness in those cases.

18 So adding the Attorney General as an option may
19 assist local entities by combining resources. They may be able
20 to leverage those resources and get that accounting, forensic
21 accounting, done for the older adult. But oftentimes, there's
22 just not enough money. It costs thousands of dollars sometimes
23 to do the forensic accounting that's necessary.

24 So I support the idea of stricter criminal charge
25 classification for these types of crimes.

1 Also, I've seen in my career where individuals
2 oftentimes - we can recognize that there's hundreds of
3 thousands of dollars that are taken, but the local law
4 enforcement can maybe get - like I remember one case where it
5 was \$18,000, and there was well over \$100,000 taken from that
6 individual. So I really think that sometimes what happens is
7 people fly under the radar. It's very difficult for the older
8 adult to testify. It's difficult for the DA's Offices to
9 prosecute these. And as much as we can administer making sure
10 that people are held accountable for the kinds of crimes that
11 are being committed is very, very important.

12 House Bill 400 addresses unauthorized derogatory
13 postings on social media by staff of facilities against neglect
14 of care-dependent individuals. I strongly support making this
15 kind of crime a misdemeanor.

16 One of the core values of the AAA network is the
17 dignity of the older adult. This is a part of the Older
18 Americans Act. This behavior by staff goes against our core
19 values by publicly stripping older adults who cannot defend
20 themselves of their dignity.

21 We had a recent case in Lehigh County where an
22 individual - where an individual posted a video showing
23 demeaning behaviors towards residents at a personal care home.
24 This individual was charged with crimes that were less than
25 misdemeanors for these actions.

1 In my opinion, someone that demeans older adults in
2 this way shouldn't be allowed to work in this industry.

3 This bill will aid with the prevention of these
4 types of crimes because the criminal background checks
5 currently in hopes to help identify perpetrators of certain
6 types of crimes and ensure they won't be able to work in
7 long-term care settings any longer.

8 There have been dramatic increases in the number of
9 reports of elder abuse and investigations over the past several
10 years. This is due to the overwhelming number of
11 Pennsylvanians reaching 60 and having longer life spans. One
12 of the fastest growing populations are those 85 and older. And
13 statistically, 50 percent of that population has some type of
14 dementia.

15 I was watching a local news station in Lehigh Valley
16 where I live. And one of the stories reported recently, maybe
17 a week or two ago, is that every three seconds across
18 worldwide, somebody's diagnosed with dementia.

19 Pennsylvania Department of Aging annual report on
20 protective services for fiscal year '17-'18, shows an over
21 12-percent growth in elder abuse reports received by AAAs. The
22 previous fiscal year, on the same annual report, showed a
23 17-percent growth of elder abuse reports.

24 In Lehigh County, we had a 20-percent growth from
25 calendar year 2018 to 2019, in received reports of elder abuse.

1 These increases can primarily be attributed to the population
2 increase occurring with those 60 and older in the Commonwealth.

3 It also points out the necessity to have funding to
4 address these growing population's needs, especially to the
5 most vulnerable of them that are served through protective
6 services by other systems and that are abused and neglected and
7 exploited.

8 I want to thank you for taking on the challenge of
9 updating legislation, addressing some of the issues with older
10 adults. I support all these smaller pieces of legislation.

11 I also want to encourage that full OAPSA
12 legislation continues to need to be updated. These pieces are
13 a start, but they don't address the comprehensive changes
14 included in the full legislation. So much work has been done
15 over the past several years, and it needs to be completed.

16 Passage on these smaller pieces of legislation
17 cannot delay the passage of comprehensive OAPSA changes
18 identified in House Bill 1930 or in Senate Bill 819. These
19 will benefit many older adults that live in the Commonwealth.

20 Again, I want to thank everybody for allowing me to
21 come here and allowing us to testify in behalf of the AAAs.

22 CHAIRMAN DAY: Thank you.

23 I will have comments about that.

24 ATTORNEY ROWE: And good morning and thank you
25 again.

1 I'm Greg Rowe, the legislative director and policy
2 director for the District Attorneys Association. I've got Kate
3 and A.J. beside of me who are from the Bucks County DA's
4 Office and handle elder abuse cases, both financial and
5 physical abuse that occurs.

6 We really want to sort of do two things. Number one,
7 in a minute I'm going to turn it over to Kate and A.J., who are
8 going to talk about some cases that they've handled and the
9 perspective that they see. And from those examples, provide
10 some policy recommendations, some of which go a little bit
11 beyond the bills that are here, but hopefully that may provide
12 a roadmap for this committee and perhaps the Judiciary
13 Committee together, of some ways of preventing further abuse of
14 older adults.

15 And then number two, I'll close it up for us by
16 offering some comments on a couple of the bills that we
17 support. And these are all great bills, by the way. But a
18 couple we want to offer some refinements to further amplify
19 their potential to have a great impact.

20 I just want to make an overall comment to thank all
21 of you for this hearing for these bills. This is clearly the
22 logical next step in terms of what the House and Senate,
23 particularly the House, has done as of late with regard to
24 public safety. And there's been a bipartisan emphasis on
25 dealing with legislation that helps the most vulnerable

1 victims.

2 And we saw it this past - earlier this year with the
3 Human Trafficking Legislation. If there was a negative vote on
4 any of them, I'd be surprised. And they passed with just
5 wonderful bipartisan support, and Representative Thomas and
6 Schroeder are here. They had bills in that package. Now it's
7 in the Senate and hopefully they'll deal with it.

8 Last year, we had bills that passed virtually
9 unanimously that helped the most vulnerable victims,
10 particularly kids, those who are victims of sexual abuse, and
11 those who suffer from intellectual disabilities to better allow
12 them to testify in court and confront their accusers.

13 So this is really the next logical step in where -
14 if I didn't say how much we appreciate this hearing and this
15 emphasis, I would be totally remiss because it is - it is
16 important. And, again, we're greatly appreciative.

17 I'm going to turn over to Kate and then A.J., who
18 are going to talk about some of their cases, and then we'll
19 comment on a couple of the bills.

20 ATTORNEY KOHLER: Thank you, Greg.

21 Good morning, everyone. Thank you again for having
22 us here. My name is Mary Kate Kohler, and I am a district
23 attorney for Bucks County. I've been a district attorney for
24 seven years. I'm a part of the special victims unit, and A.J.
25 and I are literally the elder abuse task force in Bucks County.

1 He handles the financial exploitation, and I handle the
2 physical and sexual abuse, as well as the neglect cases.

3 Obviously - well, unfortunately, physical and sexual
4 abuse are prevalent in this country and still in this county.
5 And it's unacceptable.

6 Our vulnerable - our most vulnerable population is
7 the elderly population because they are most at risk, and
8 they're easy prey for abusers. Most of the abuse occurs at the
9 hands of someone - excuse me. Most of the abuse against the
10 elderly occurs by people who that person knows. Usually, a
11 caretaker, and in particular in the nursing home settings,
12 those people who work in the nursing home or volunteer around
13 them.

14 There are 70 percent of reported abuse that occurs
15 in nursing homes, and only 30 percent of victims of elder
16 sexual abuse are reported to authorities. Elderly women are
17 six times more likely than men to be sexually abused, although
18 we do know that men are abused as well.

19 Given the facts that most of the abuse occurs at the
20 hands of the caretaker, one of the most logical and commonsense
21 ways to prevent it, or at least deter it, attempt to deter it,
22 is to amp up - ramp up the monitoring efforts, which, I
23 believe, House Bill 397 attempts to do. And I am in support of
24 that bill.

25 I do believe that it's one significant way of

1 minimizing the risk of abuse is increasing the monitoring
2 efforts. And it will also allow prosecutors, such as myself,
3 to more easily hold people accountable when it is - you know,
4 it's very good evidence when it's on video, obviously. That's
5 the dream. Never happens, by the way.

6 But just having a camera in the room, I think, is a
7 huge deterrent because it takes away the opportunity that a lot
8 of people so often have because a lot of times, they're one on
9 one with these patients. And a lot of the patients are dementia
10 patients or they have significant mental delays and they can't
11 - they either don't recognize it's abuse or they don't remember
12 to report it. So it's happening all the time.

13 And I do - I know most of these bills are not
14 directed against physical and sexual abuse, but I did want to
15 take the opportunity here today to highlight two cases that
16 I've had to deal with that highlights two additional loopholes,
17 I guess, in the law that should be closed.

18 One is the Commonwealth versus Shimer. These both
19 cases are particularly gruesome, unfortunately, but here, the
20 victim was a 96-year-old, physically disabled woman with
21 dementia. She was living in her daughter's home with her
22 son-in-law as well, and essentially depended on them for
23 everything. Her food, her transportation, her medication,
24 everything.

25 And one day, the victim's daughter walked in on her

1 husband standing over her mother with his pants down and his
2 penis out and telling her to perform oral sex on him. He fled
3 the house when his wife walked in on that occurring, and
4 subsequently, she recorded a conversation with him on the phone
5 where he essentially confessed to having actually put his penis
6 in her mouth on numerous occasions, multiple times. And he
7 claimed that he regretted what he had done.

8 Obviously, we were investigating that and we were
9 the ones who recorded that conversation and charged him with
10 involuntary, deviate sexual intercourse. At trial, he sought
11 to prevent the introduction of that recorded conversation in
12 trial. And because of the applicable spousal privilege, that's
13 on the books. And as a matter of law, he was correct. We were
14 not allowed to introduce that crucial piece of evidence that
15 actually was the only evidence that we had that there was
16 penetration in this case.

17 So we believe that consideration should be given to
18 providing narrow exceptions to the spousal privilege in cases
19 where the victim is elderly, care-dependent, or otherwise
20 vulnerable and the underlying crime involves physical, sexual,
21 or even financial abuse. But definitely physical or sexual
22 abuse.

23 And that is one situation that occurred in a home
24 and, again, at the hands of a caretaker, which happened to be a
25 family member.

1 Another case that occurred in a nursing home is
2 Commonwealth versus Frederici. And here, the victim was
3 actually 93. I made a typo. Sorry. She was a 93-year-old
4 resident at the nursing home who, again, relied on her
5 caretakers for her basic needs.

6 Her daughter would come visit her from time to time,
7 was very involved and active in her mother's care and life.
8 However, her mother was in and out of a state of lucidness.
9 She suffered from dementia. Some days she was with it, some
10 days she was not.

11 One day another worker at the nursing home walked in
12 on a caretaker standing over this woman who was laying on her
13 bed, and his penis was in her mouth, and her diaper was off.
14 That worker, thankfully, did report that abuse and did actually
15 view what had occurred. However, the defense in this case was
16 that the resident consented to the oral sex.

17 Now, we would not, given the fact that this woman
18 was in and out of a state of lucidness, we could not, as a
19 matter of law, say that she could never consent. So consent
20 was the defense and it was a valid, legal defense, no matter
21 how ridiculous that sounds. So it was a great impediment to
22 this case and it was very troubling that that was something
23 that the defendant was able to rely on.

24 However, we believe, based on that circumstance,
25 that consideration should be given to expanding the crime of

1 institutional sexual assault to include in-home care workers
2 and nursing home facility employees and volunteers. Such a
3 change would eliminate consent as a defense in these cases,
4 which is extremely important.

5 Presently, as many of you may know, institutional
6 sexual assault applies in settings such as prisons and schools
7 where those in a position of power, such as prison guards and
8 teachers, are not permitted to have sex with prisoners or
9 students respectively because when someone is in a position of
10 power over you, true consent can never really occur.

11 I believe that that is - it's a very similar
12 situation for nursing home facilities. Nursing workers,
13 workers, employees, what have you, anybody who is in the
14 nursing home should not be having sexual relations with any of
15 the residents for any reason whatsoever.

16 And expanding this statute that's already on the
17 books would significantly help us in prosecuting these
18 particular cases and taking away consent as a defense because
19 it's absurd.

20 And that is what I would like to say today. So I'm
21 going to give A.J. the floor.

22 ATTORNEY GARABEDIAN: Once again, I'm A.J.
23 Garabedian. I'm with the Bucks County District Attorney's
24 Office.

25 I handle a lot of the - most of the financial

1 exploitation of the elderly. Generally, what we are seeing are
2 thefts committed by powers of attorney. They're not solely the
3 ones that are committing the thefts, but generally, they seem
4 to be the most prevalent types of cases.

5 And the problem that we face - there's multiple
6 problems that we face in these prosecutions, but ultimately,
7 the problem is that if we are to prosecute, if we are to
8 convict somebody, by the time the cases come to our office, the
9 money's gone and there's very little chance of us getting it
10 back.

11 So one of the - one of the things that I saw in the
12 bills and that I encourage is that it gave financial advisors
13 civil and criminal immunity from reporting these types of
14 crimes to law enforcement. And I think that's a great thing.
15 If we could encourage banks or financial advisors or
16 accountants to come forward when they see something and to let
17 us know, we can get in there and we can stop it before these
18 individuals can do further thefts. So I think that is a great
19 idea.

20 Also, in these prosecutions, the victims are
21 suffering some sort of dementia. That's usually why they're
22 taken advantage of. And I think the powers of - the power of
23 attorney individuals know that and that's why they do it.

24 So in one of the other bills, I think there was a
25 provision that the power of attorney is presumed to understand

1 their duties under, I think, Title 20. I think that is a great
2 idea and that certainly will help us in prosecuting cases where
3 we might be on the fence about whether we're able to prove this
4 or not. I think that will give us the ability to go forward
5 with some cases where, right now, we're currently not able to
6 do it. So I encourage that as well.

7 And, again, the hearsay exception. Many times we're
8 not able to have these individuals testify. Bringing them to a
9 preliminary hearing is just something that is not going to
10 happen. We don't want to bring them out of their care
11 facility. So I think expanding the hearsay exception to
12 preliminary hearings so we don't have to bring these
13 individuals to come testify, I think that is a - that is a
14 great idea.

15 I'm sure many of you have heard the stories of
16 financial abuse throughout your districts. Bucks County is not
17 immune to that. We're talking cases where it's hundreds of
18 thousands of dollars. And it's any type of individuals.

19 Certainly, family members who become powers of
20 attorneys. We see several occasions of the home healthcare
21 workers that go in and take credit cards and start using them.
22 I recently prosecuted a case where we had an accountant who had
23 financial capacity over five individuals where we're talking
24 close to half a million dollars of money. So it's everybody
25 who is committing these crimes.

1 So I'd just ask that you take that into
2 consideration for this legislation.

3 And I'll turn it back over to Greg.

4 ATTORNEY ROWE: I just have a couple quick comments
5 on two of the bills. One is House Bill 399, Representative
6 Culver's bill.

7 We support the bill. We think there are some ways
8 to really amplify the theft prosecution provisions in the bill.
9 You've heard from my colleagues here that a lot of these crimes
10 - typically, these crimes are committed by those who have some
11 - are in some position of trust over the victim, be it the
12 family member, somebody who lives in the household, like a home
13 healthcare worker, somebody who lives in a nursing facility or
14 some sort of healthcare facility.

15 We would recommend that sort of that cohort of
16 individuals, those in a position of power or trust be the
17 potential defendants for whom penalties could be increased. We
18 don't need a change to the law to penalize a person who steals
19 a purse from a 61-year-old person. We do need a change in law,
20 by contrast, for a home healthcare worker or a nursing care
21 worker or a financial analyst or broker who takes advantage of,
22 you know, a 61 or 71-year old or 81-year-old victim. If we can
23 work on language to sort of refine that.

24 We cited to the New Jersey statute, which is similar
25 in terms of what I described. It's only about two years old.

1 They did a really good job of providing some definitions of who
2 the people in positions of power or trust are.

3 That's what our primary recommendation in terms of
4 what should be included in 399 would be.

5 Number two, with regard - much more technical point,
6 I think it's 397, House Bill 397. There is a small provision
7 in there making it a crime to tamper with a video, any videos,
8 that would be in the room. And that's good.

9 But it incorporates a different crime almost by
10 reference. For us, it would be very difficult to prosecute
11 those crimes because if you incorporate it by reference, it
12 might be unintentionally unconstitutional because it's vague.

13 So we would just recommend just putting in the
14 elements in the bill so there's no ambiguity in terms of what
15 the elements are.

16 And finally, same thing, ambiguity. There's a good
17 immunity provision in there about somebody who reports a
18 misused video. That's great. We would only say that the
19 immunity would apply to any conduct covered by the bill, by the
20 section. So that if you're using the video for something
21 completely unrelated to the new provisions there, we wouldn't
22 want immunity. We would only want it in regard to tampering
23 with the evidence.

24 So I think to close out, one of our themes here is
25 so much of the abuse that occurs is committed by those who know

1 the victims. And they are so many times targeted because they
2 are especially vulnerable.

3 So to the extent we can work on language that really
4 hones in on those individuals, I think will have a huge bang
5 for the buck and get the right people and not be overly
6 inclusive at the same time.

7 CHAIRMAN DAY: Thank you. Thank you all for your
8 comments.

9 We're going to move to questions from members up
10 here.

11 Members, if you have questions, let the Chairmen
12 know or Shannon know you maybe have some questions. I wanted
13 to start off and then I'll go to Minority Chair.

14 I wanted to quickly start off with a couple quick
15 questions. First, maybe a comment. You had brought up about
16 OAPSA.

17 MR. REED: Yes.

18 CHAIRMAN DAY: You are - we've talked about this,
19 but just for the record, we are working on the overall thing
20 that we've been working with, with OAPSA. So we're working
21 with the administration.

22 As guidance for this committee, I've talked to many
23 of the stakeholders and our members about trying to do many
24 different forms, almost like project management, three
25 different levels.

1 OAPSA is number one for us. This package of bills
2 is 1-B, you know, that we're going to work simultaneously with
3 both of those through the process. I know the administration
4 has some ideas for at least one piece of legislation, maybe
5 some other ones, that we're working on, all in conjunction.
6 And hopefully, we're going to bring those to fruition in what
7 we would call the first half of this year, and then work on and
8 study things and bring to votes in the fall guardianship issues
9 and the rest of the committee come up with a plan for all those
10 members and their bills.

11 So I just wanted to make a quick comment about that.

12 Ma'am, your comments about asymmetrical power
13 relationships and how we should forbid people in that and
14 include that hits very strongly and hits home for me. It's
15 something that I worked on and researched and realized that
16 when someone's in a position of authority and power over
17 another person, that we can forbid them. And that would take
18 away the ability for anyone to consent in that situation.

19 I recognize that individually. I have to share that
20 with the members and that information, but I appreciate your
21 comments on that.

22 With that, I would appreciate any language,
23 definitions, where that should be in the statute. It probably
24 should be everywhere, defined term. Right?

25 But I wanted to also ask you, the DAs, about the

1 spousal exemption that you're asking for. Could you explain
2 what is the law on spousal exemption, why we have it, because I
3 think it's important. It's a most important foundation that
4 many criminals take advantage of. Right?

5 But there's a reason why we have that there for an
6 expectation of your closest circle, right, to be protected
7 conversations. Explain why we have that protective
8 conversation and then therefore, also explain why you'd be
9 asking us for that exemption.

10 ATTORNEY KOHLER: Yes, of course.

11 You basically hit the nail on the head. The spousal
12 privilege is - it's meant to foster open communications amongst
13 a marital couple. And it's a great privilege and it should be
14 - I'm not asking to get rid of it by any means.

15 There are two different spousal privileges that
16 exist. One is the testimonial spousal privilege, which at this
17 point essentially means that a husband and wife cannot be
18 compelled to testify against each other unless one or the other
19 one waives that privilege. It's waivable by one spouse at this
20 point.

21 However, there's an exception in the testimonial
22 privilege section that if there's - a specifically delineated
23 exception if there is a domestic violent situation or if one of
24 the spouses is charged with involuntary deviate sexual
25 intercourse or rape. Those three instances, the privilege does

1 not exist in terms of the testifying, the testimonial
2 privilege, meaning that even if, let's say, a husband and wife
3 get into a domestic dispute and the wife does not want to
4 testify and she tries to invoke the spousal privilege, that's
5 not - the privilege does not apply to that anymore. So she has
6 to testify when she is the victim. She cannot at least - I
7 shouldn't say she has to testify, but there are - she cannot
8 invoke the spousal privilege to prevent her testimony.

9 However, there is a confidential communication
10 spousal privilege. There's two separate things. And what that
11 is, is basically any conversation that you had with your spouse
12 during the course of a marriage is protected. And both spouses
13 have to waive that in order for one of the spouses to testify
14 against the other about words that were said during the course
15 of the marriage.

16 There is no codified exception in that segment of
17 the spousal privilege.

18 However, there is case law that extends child abuse
19 - the child abuse exception and the testimonial privilege side
20 of things to the confidential communications side. But it does
21 not specifically delineate certain crimes that should be an
22 exception, where it should be waived.

23 And therefore, any communication, and in particular
24 in this case, because the defendant and his wife were having a
25 conversation about what occurred, even though he confessed to

1 her, she was willing to testify and she wanted to. But he
2 prevented her from doing it because he would have to waive that
3 privilege as well because it applied.

4 What we're asking is to carve out an exception for
5 the spousal privilege both in the testimonial and confidential
6 communications privilege that would exclude certain crimes from
7 being covered by that privilege. So essentially, the privilege
8 wouldn't apply in certain situations where, for example,
9 involuntary deviate sexual intercourse or rape or even just
10 sexual abuse in general of an elderly, care-dependent person
11 and a child, if that's the situation.

12 So as it stands now, essentially, children are
13 somewhat protected, and that exclusion has been somewhat,
14 although it could be better, excluded from that privilege.
15 But, you know - and they are, obviously, a very vulnerable
16 subset of society. But I would argue that the elderly are just
17 as if not even more vulnerable in certain situations because
18 they are never going to be able to come back.

19 Children grow up. They will be able to speak out
20 about certain things. Elderly with dementia, you're never
21 going to - that's not going to happen.

22 So I would argue that they are if not as vulnerable,
23 even more vulnerable than children. Right now, children are
24 protected, and they should be. I definitely advocate for that.
25 But I do believe that the elderly should be protected as well.

1 CHAIRMAN DAY: Thank you for your answer.

2 Chairman Samuelson, do you have any questions?

3 CHAIRMAN SAMUELSON: Yes. Just a follow-up that the
4 spousal privilege does not apply in cases of significant
5 others? It has to be - or is case law interpreted that it
6 would also included cases of boyfriend and girlfriend or
7 significant other?

8 ATTORNEY KOHLER: It has to be - you have to be
9 married. It's communications that occur during the course of a
10 marriage amongst the spouses.

11 So if you're no longer married and you communicate
12 about something, even though you were married, it does not
13 apply.

14 But let's say I confessed a crime to you and you and
15 I are married and then we get divorced, you still - I still
16 can't testify to what you told me during the course of our
17 marriage. So it doesn't end upon divorce.

18 CHAIRMAN SAMUELSON: And currently, we have no
19 exceptions to the spousal privilege?

20 ATTORNEY KOHLER: For the confidential
21 communications side of things, the only exception is for child
22 abuse.

23 CHAIRMAN SAMUELSON: Okay.

24 Not murder, terrorism, mass shooting?

25 ATTORNEY KOHLER: Murder is - it's murder, rape and

1 involuntary deviate sexual intercourse for the testimonial
2 privilege and domestic violence.

3 But for communication, confidential communications,
4 I don't believe there is an exception.

5 CHAIRMAN SAMUELSON: So perhaps if we considered
6 this for the situations you're talking about with elderly
7 abuse, we may also want to -?

8 ATTORNEY KOHLER: Yes.

9 CHAIRMAN SAMUELSON: Yes, particularly in the case
10 of the mass shooter in Orlando, Florida, where 49 people died,
11 and apparently the spouse knew quite a bit, but then he was
12 acquitted of all charges.

13 ATTORNEY KOHLER: Right, right. And I can certainly
14 submit some other ideas to you if you would like them. I have
15 a lot of them.

16 CHAIRMAN SAMUELSON: And there is a little
17 precedent. Slightly different situation, but the wiretap law,
18 which was amended on a bipartisan basis seven, eight, nine
19 years ago.

20 We created some exceptions to the rule that both
21 parties have to consent in order to record somebody else, the
22 most serious crimes, limited situations. So we worked on this
23 in getting language. That would actually be the first thing
24 that we would use to try to do as much copying and pasting as
25 possible. We had a very similar sort of analysis and

1 discussion years back on that and had a - it can be very narrow
2 and very precise.

3 CHAIRMAN DAY: Thank you, Chairman. Do you have
4 more?

5 CHAIRMAN SAMUELSON: I have one.

6 CHAIRMAN DAY: Go ahead.

7 CHAIRMAN SAMUELSON: One question. We're talking
8 about forensic accounting and trying to get the evidence where
9 there's financial abuse.

10 In past hearings, we've talked about how Temple
11 University has a unit that is utilized by district attorneys
12 across the state. Is that still the case? Are they able to be
13 available to - are they able to meet the demand for their
14 services?

15 MS. GETGEN: We currently have two people at Temple
16 who do help across - help the Area Agencies on Aging do
17 financial cases. On top of that, we can, on a limited basis,
18 do some purchasing of financial accountant work.

19 Some of the Area Agencies on Aging also have
20 contracts independently with financial accountants, but they're
21 very expensive. So we have, with the money that we just have
22 put out, thank you, been able to purchase someone who's
23 available to help some of the Area Agencies on Aging as well.

24 So we do have some resources. But, again, it's very
25 expensive.

1 CHAIRMAN SAMUELSON: And that's a contract with
2 Pennsylvania Department of Aging and Temple University?

3 MS. GETGEN: Yes.

4 CHAIRMAN SAMUELSON: Okay.

5 Thank you.

6 CHAIRMAN DAY: Thank you, Chairman. Next we'll go to
7 Representative Frank Ryan.

8 REPRESENTATIVE RYAN: First of all, I can't thank
9 you enough for the testimony. It was extremely helpful. I
10 would have an entirely different physical reaction to someone
11 who would do that to a parent of mine, and I applaud you for
12 going through what you've gone through.

13 I don't know any easy way to ask the question so I'm
14 going to ask you. So give me the benefit of the doubt if my
15 question doesn't come across properly. Please ask me to
16 clarify.

17 You can tell I'm in the elderly category despite the
18 fact that I'm a relatively new legislator. I always worry about
19 people my age and about our reaction to people your age telling
20 me that I've got dementia or other issues of ability. And I
21 worry about the impact of the care providers who are attempting
22 to provide assistance to me while I'm easy - and by the way,
23 I'm not going through that right now, although my wife keeps
24 texting me and she says yes, you are.

25 But when we're dealing with an elderly parent, those

1 willingness to give up those rights. If someone were to tell
2 me, as an example, tomorrow you can't drive, I'm probably going
3 to fight that pretty hard. And so my concern is do we create
4 an unintended consequence? And if so, can we get your guidance
5 to avoid it?

6 I'm a co-sponsor on all of these bills, and I
7 wholeheartedly support it. And I want to make sure that we
8 don't inadvertently put seniors in a position where they are
9 denied the care they need because of the litigation risk of
10 something, particularly as it relates to financial obligations.

11 I'm a CPA. And I do extensive fraud and forensic
12 work. That's what my practice is. And my House Bill 985 gives
13 the auditor general fraud and forensic capability and will be
14 designed specifically for this because the cost of dealing with
15 some of these issues can be prohibitive for your offices for
16 someone who did a \$10,000 crime. And so I designed that
17 specifically.

18 And so the question I would ask for you is how do we
19 deal with the potential transition issues of someone from full
20 mental cognitive abilities to less so, while at the same time a
21 reimbursement for extra caregivers of seniors has been
22 negatively affected, particularly under Medicaid, and the
23 ability to get people that are not rotating on such a rapid
24 basis, the provider of the care for the seniors finding
25 themselves in a continual training mode where the turnover

1 rates might be as much as 100 percent to a people who are being
2 inadvertently accused of crime, particularly in the financial
3 end?

4 In my mind, there's no inadvertent crime. Anybody
5 who's doing that - it's - and I support 100 percent, there's no
6 reason somebody in that work should be having any type of
7 sexual relationship with seniors.

8 But I do worry about this transition issue. If a
9 senior says, look, I'm in full cognitive authority, my
10 authority, don't you tell me what I can and can't do. And
11 someone's perception of a crime, example, if someone were to
12 tell an elderly person you need to go to a more stepped-up
13 facility with greater care, I will tell you, I've seen children
14 say this, the facility's doing that merely to get more money
15 from the parent.

16 And if that's now declared to be a felony, you're
17 not going to have any care providers in Pennsylvania.

18 But how do we do this to where we don't make being
19 in the field such an occupational hazard?

20 CHAIRMAN SAMUELSON: Yeah, that's good.

21 CHAIRMAN DAY: Can I just - Frank, there was a lot
22 in there, and I'm really interested in what you just asked.
23 And I just want to frame up the difference between, you know,
24 pecuniary interests and, you know, a medical decision for
25 people. Also, with the CPA things that you mentioned, you

1 know, that a financial person, if they do their job the way you
2 do it, they'll have everything laid out.

3 And what they've been after, I think in the DA's
4 Offices around the Commonwealth is when it's kind of hidden and
5 you can't get the facts. So I think financial - I hope they're
6 going to talk about how financial people who have all their
7 records will never be prosecuted. Right? It's the ones that
8 we can't get the records for.

9 But I hate to - you had great things in there that I
10 want to make sure that they address their responses to as well.

11 MR. REED: So maybe if I start and then they can
12 talk about the prosecution piece of it.

13 So as an Area Agency on Aging, when we receive a
14 report that somebody's being financially exploited and they're
15 60 and older, what happens is we begin an investigation. That
16 investigation entails going out to see the older adult,
17 primarily, number one.

18 So in that, we have investigators that go and talk
19 to them and try to find out cognitively where are they at.
20 Now, our investigators aren't nurses, doctors, medical
21 professionals to say officially what their capacity is to make
22 those kind of decisions. But part of the investigation also is
23 calling the doctor's office.

24 Now, if the older adult tells us from day one I
25 don't need to do this, this, or this, we - it does limit our

1 investigations and, you know, if we're in there and the older
2 adult seems to have - can talk to us, seems to be cognitively
3 intact and tells us I don't want you to go to my doctor or they
4 don't even give us their doctor's name, then we don't proceed
5 from there.

6 Now, if we're in a case and the individual looks
7 like they really are off cognitively, and you can tell those.
8 There's some that you can tell and there's some that are
9 marginal. They're in between. There's this gray area. Then
10 it just depends on the investigation, how it goes.

11 So we always try to side on the rights of the older
12 adult. Part of the Older Americans Act that created Area
13 Agencies on Aging and the Department of Aging insist that we do
14 things from a least restrictive means and we look at the
15 dignity of the older adult. So we always are very careful on
16 how we go about that.

17 And the current OAPSA bill really kind of alludes to
18 that pretty much in the regulations and in the law, that we
19 have to conduct our investigations in that way. We might go
20 out - we might find something happened to an individual and we
21 think that somebody's preying on them, but they don't want to
22 do anything because they're scared that they're going to lose
23 their caregiver and therefore going to have to go into a
24 facility. And if they have the ability to make that decision,
25 we have them sign off on a case and we suggest to them sort of

1 things, and then they tell us no. Then we walk away from that
2 circumstance at that point in time.

3 ATTORNEY ROWE: And Representative, if you make
4 dementia, Alzheimer's, some sort of cognitive disability an
5 affirmative element of the crime, we have to prove it in each
6 and every case beyond a reasonable doubt. That's on us to
7 prove.

8 And you can put a definition in or something. It's
9 on us. If we don't prove it beyond a reasonable doubt,
10 there'll be no conviction.

11 Number two, if you make the - make this an intent
12 crime, in other words, the financial person has to
13 intentionally commit the crime, we have to prove that it was
14 that person's goal and intent to commit this, this fraud, this
15 financial misdoing, not reckless, not sloppy, not was asleep at
16 the wheel. But the stated purpose and goal was to steal money
17 from that individual who we also have to prove, you know, has a
18 disability.

19 So I think in terms of the definitions and the
20 burdens and putting it affirmatively as elements of the crime,
21 those will, I think, address the spot on concerns that you
22 have. And that's some of the stuff we'd like to see
23 incorporated into House Bill 399 a little bit more, to provide
24 those definitions and burdens on us.

25 CHAIRMAN DAY: Any follow-up, Frank? Frank, any

1 follow-up?

2 REPRESENTATIVE RYAN: Just one.

3 Thank you very much. I would welcome you guys on
4 how to tighten that up. I don't want to put someone in a
5 position on we're trying to do really good by people who are
6 all of a sudden, it's a judge effect. I have firm confidence
7 in what you're doing.

8 But if there's another county somewhere else where
9 someone doesn't have the level of diligence, if someone says
10 then, look, I'm just not going to do it, it's the exact
11 opposite of what we want to see happen.

12 Great questions. Thank you so much.

13 CHAIRMAN DAY: Thank you. Thank you.

14 Next we'd like to go to Representative Pam DeLissio.

15 REPRESENTATIVE DELISSIO: Thank you, Chairman.

16 A couple of comments, then a couple of questions.

17 And perhaps this is my own sensitivity.

18 So I'm cautious about somebody assuming older adults
19 are vulnerable just because they're older. That is not the case
20 at all ever. And I hear that, and words matter. So when I
21 hear, you know, repeated use of the word elderly, which
22 connotes feeble and, you know, not able to look out for
23 oneself, I've known my share of nonagenarians and centenarians
24 that are not vulnerable.

25 But I appreciate the sentiment that is offered here

1 today. But I just want to make sure we're not - you know,
2 we're proceeding with that sensitivity.

3 This 60 and older was set by the feds. This is -
4 there's no magic to that number. I mean, what's the difference
5 between a 41-year-old getting ripped off who may have early
6 onset dementia? Aren't we as responsible looking out for them
7 for being vulnerable?

8 So I think we should really work on the definition
9 of what does vulnerable mean and who may fall into that
10 category. We're actually seeing more and more early onset
11 dementia than we have historically.

12 So, you know, if we're just focusing on folks that
13 are 60 and up, it's going to pick up Frank and myself and
14 Steve, this Steve. So, you know, so, you know, none of us are
15 vulnerable.

16 So I just put that out there for that orientation
17 and sensitivity.

18 I too would be curious as to the input of folks like
19 the Institute of Protective Services out of Temple to see that
20 does this legislation, in addition to the prosecutors'
21 challenges, which are a set of challenges that are here, you
22 know, does those legislation meet some of the challenges
23 they've seen out there in doing this.

24 And I've heard those challenges being manpower. It
25 happens so far after the fact that, you know, identifying it,

1 restitution is, you know, a fantasy. All these things are
2 unbelievably unfortunate. But I want to make sure that we have
3 the best legislation to deal with the reality that we're
4 confronted with, not legislation that may not get us to where
5 we actually really truly want to go in the world that we're
6 living, not in the world we wish were.

7 In terms of some of the power of attorney
8 discussion, I've held that for no less than three older, older
9 adults in my world. So folks like 85, 80 and 85. And, you
10 know, so if they withdraw - if I go to the bank on their behalf
11 to withdraw \$10,000 twice a year because they have grandkids or
12 great nieces and nephews that they want to, you know, Merry
13 Christmas or whatever, if that - and the financial advisor, I
14 apologize if I missed the definition for it. It seemed a little
15 broad.

16 So if that person calls your fine office to say hey,
17 two withdrawals have been made, I need or somebody needs to
18 report to you and go through some sort of bureaucratic hoop to
19 say I'm sorry, my Aunt Emma had every right to make that
20 withdrawal, and her purpose for doing that isn't really your
21 concern. And you want to deal with me, not her. Trust me.

22 So I want to make sure that these types of things
23 don't catch up, as what Rep. Ryan was sort of saying, good
24 folks doing normal, family-oriented tasks.

25 None of us like and want to enable the bad actors

1 ever. But we certainly don't want to discourage the good
2 actors in doing this.

3 One case that was particularly egregious in my ten
4 years in office involved an attorney who was not acting in good
5 faith. And, in fact, just the opposite. And do you know I
6 worked with that constituent for months and months and months,
7 and this is still not resolved. Nobody would go after the
8 attorney because it was an attorney. Try to get another lawyer
9 to go after a lawyer.

10 And if you all have suggestions, I'll be happy to
11 hear them after this. It was - it was unbelievably challenging
12 and is yet to be resolved because it's another lawyer.
13 Nobody's going to take the case. Nobody's going to do this.
14 Nobody's going to do that.

15 So I just want to make sure there are no de facto
16 exemptions, or when there's an easier way to also include, you
17 know - very often, people are consulting their attorneys and
18 giving them these powers. And, you know, I'm not sure that
19 power of attorney wouldn't be a discouragement from folks
20 because if they're going to be held liable from A to Z and they
21 feel like they're going to have to go to law school in order to
22 hold that power of attorney, you know, I agree with Rep. Ryan
23 that folks may just step back and say you know what, I don't
24 need this aggravation in my life. I don't have to defend
25 myself for trying to do the right thing.

1 So, again, as we proceed and kind of sort this out
2 and sort it through, these are some of the things that I hope
3 we keep in mind.

4 And I will also point out, and I think it was an
5 Aging Committee meeting, Delaware County's District Attorney's
6 Office has a unit that goes after specifically older adult
7 abuse. They started it quite a while ago, 10, 15, almost 20
8 years ago, and have had some interesting experiences to share.
9 So they may also be a resource. It's very unusual, I think, to
10 have a particular unit that I understand Delaware County has
11 and has operated and try to maybe benefit from some of their
12 situations that they've experienced.

13 And then just last but not least, I know where this
14 focuses on particularly the video thing. And I have my total
15 questions about the video thing. I'm not sure this is at all a
16 good idea. Would you like a video in your bedroom? I don't
17 think there's one person in this room who would volunteer to
18 have a video in what is in essence their bedroom.

19 You can't keep a resident from wandering, even if
20 the roommate agreed to have it in there, from wandering from
21 one side to the other and being caught on this video or
22 recorded on this video.

23 I don't know what situation, you know, was created
24 or whatever to make folks think this video is a good idea, but
25 you think about what you do in the privacy of your home because

1 if this is where an older adult is living, or any person who's
2 living, on a 24/7 basis, would you want those things recorded?

3 I get the protection piece -.

4 CHAIRMAN DAY: Representative DeLissio -

5 REPRESENTATIVE DELISSIO: So thank you. Thank you.

6 CHAIRMAN DAY: - may I interrupt you for a moment?

7 REPRESENTATIVE DELISSIO: Yes, go ahead. I don't
8 mean to go on.

9 CHAIRMAN DAY: No, I appreciate it, and, you know,
10 first and foremost, I want to apologize because I didn't kind
11 of lay this out as a new chairman for this hearing.

12 You know, the way I see this hearing going, I should
13 have probably had a panel there and had you sit on it to
14 comment on this because of your experience and expertise in the
15 field. You have a lot to offer.

16 However, the format for this hearing is I'm trying
17 to be as efficient with everyone's time, our time and their
18 time and the audience and the public. So the whole purpose
19 that I'm trying to go toward is be very respectful and
20 understanding that everything you're talking about has a place
21 to be brought through.

22 I would really appreciate it if we could ask them
23 maybe their opinions on those things and try to gather that
24 here with an interaction with them and then - of course, during
25 committee.

1 We have such a great amount of time. Sometimes I
2 realize that speaking on a bill at a voting meeting, it might
3 feel like it's too late, so I'm always open to take your
4 information, and I'm sure the Minority Chairman is as well, and
5 we're trying to do that.

6 So if you have a question for them about any of
7 these bills, that would -.

8 REPRESENTATIVE DELISSIO: They're welcome to comment
9 on any of that. Thank you, Chairman.

10 CHAIRMAN DAY: Thank you all very much.

11 The other thing I want to say is I have about four
12 or five minutes left, and I have three more members that would
13 like to ask questions.

14 REPRESENTATIVE SCHROEDER: I'll move on.

15 CHAIRMAN DAY: So we're down to two. And we'll
16 definitely put you on the second panel as well.

17 But I wanted to give those two members an
18 opportunity to get their questions out efficiently, and then if
19 you would like to comment on those things.

20 First is Representative Wendi Thomas.

21 REPRESENTATIVE THOMAS: Thank you.

22 I'll try to be quick. Just one thing, since human
23 trafficking was brought up. We had a human trafficking hearing
24 here in this very room a year ago, and we passed it, and I hope
25 we don't take a year to pass this.

1 Good karma. Anyway -.

2 My question's pretty quick and simple. Thank you for
3 your testimony, all of you. I know when I have my senior fair,
4 I think the biggest attended item is the gentleman talking
5 about don't get scammed and he talks about strangers, what I
6 view as strangers calling you or getting scammed, I'll call,
7 from a stranger.

8 And so if you had to say people are getting scammed
9 overall, I'm interested in what percentage happens in this kind
10 of caretaker family category versus mostly what I hear about is
11 somebody calls on the phone, somebody sends you an e-mail,
12 that's mostly what I hear in my office. And I assume because
13 it's a family member, they don't want to talk about it, they
14 don't realize it's happening, something like that.

15 Thank you.

16 Anybody who wants to -.

17 ATTORNEY ROWE: I don't know if anybody has any
18 questions? Okay.

19 So, Representative Thomas, to answer your questions,
20 the dating scams, the lottery scams, those sort of scams,
21 unfortunately they are - they're not getting to our office.
22 They're going to the police and the police are determining,
23 well, these people are overseas, we're never going to identify
24 who they are.

25 So I can't give you really an accurate number of

1 those type of prosecutions. I know they happen. They're
2 frequent.

3 Generally, the cases that we are prosecuting are
4 coming from the caretaker role. But unfortunately, the
5 scammers are good and generally we're not able to locate them,
6 who they are, their identity.

7 So, again, the prosecutions are from that caretaker.

8 REPRESENTATIVE THOMAS: Okay.

9 I was just curious because I hear a lot more about
10 that than I do about family caretakers.

11 ATTORNEY ROWE: I would imagine that it happens
12 probably more than the caretaker thefts. But unfortunately,
13 the prosecutions of those crimes are happening less than that.

14 REPRESENTATIVE THOMAS: Thank you.

15 CHAIRMAN DAY: Thank you. I think that's a good
16 question.

17 Oh, did you have something? Go ahead.

18 MS. GETGEN: Yes.

19 Representative Thomas, I would just say from what we
20 see at the Department, mostly we see, unfortunately, in terms
21 of just straight financial exploitation, family members and
22 caregivers by far, rather than just, you know, outside,
23 somebody you don't know calling you.

24 CHAIRMAN DAY: Representative Carter?

25 REPRESENTATIVE MCCARTER: Thank you very much, Mr.

1 Chairman. And, again, I'll be brief as well.

2 The question that keeps rattling my mind, I suppose,
3 I know that Representative Benninghoff and I have been both
4 working on bills dealing with state registry of abusers who
5 seem to be repeat elements, who move from county to county,
6 that we don't have records on whatsoever because they'll get
7 dismissed from jobs. They're never prosecuted. But they are
8 ones that seem to be more likely to be the people who are going
9 to continue the abuse of others.

10 Can you comment on your experiences with that
11 problem in terms of the resident homes? Anything related to a
12 registry that could help you and help other caregivers who are
13 people/patients who need caregiving to be able to know that
14 these people have prior existences of abuses?

15 ATTORNEY ROWE: I can - in terms of a registry, if
16 it's a publicly accessible registry, I get a little bit nervous
17 because the analogous situation is Meghan's Law and sex
18 offenders. And I'll say there are a whole host of cases before
19 our Supreme Court about the validity of Meghan's Law and the
20 scope of Meghan's Law.

21 So the recommendation I have is we may need to see
22 how those cases come out before we can work meaningfully on any
23 sort of registry, at least a public registry.

24 If it's a private -.

25 REPRESENTATIVE MCCARTER: I understand there are

1 problems -

2 ATTORNEY ROWE: Right.

3 REPRESENTATIVE MCCARTER: - the reason we're working
4 through it.

5 But I'm curious if your experiences with the fact
6 that there are repeat offenders who are out there that seem to
7 me that there's prior cases, when you finally do get the chance
8 to prosecute them, that that seems to be the case?

9 ATTORNEY ROWE: I would say I'll turn it over to
10 Kate in a minute, but more information is available, truthfully
11 if it's based on a conviction, that helps. I mean, this is all
12 about perpetrators who target their victims who are shrewd and
13 bright and know how to move from area to area. It's not just
14 in this area, but clearly this is the focus.

15 So if we give folks who are hiring people or in the
16 same house as people the information, that no harm can come
17 from that. Only - only good and prevention and education can
18 ultimately come from that. So I applaud you and Representative
19 Benninghoff's efforts to sort of thread that needle and do that
20 because if somebody doesn't get caught - they're in this to
21 gain money. And if they don't get caught, of course they're
22 going to continue.

23 CHAIRMAN DAY: Thank you.

24 Representative - Representative McCarter, anything
25 else?

1 REPRESENTATIVE MCCARTER: No, that's fine.

2 Thank you.

3 CHAIRMAN DAY: Thank you. Sorry about that.

4 Representative Rowe.

5 REPRESENTATIVE ROWE: Thank you, Mr. Chairman.

6 Like Representative Thomas, we hear a lot about the
7 exploitations through utility scams or dating scams, those
8 sorts of things.

9 But something I hear a lot of, and I don't know if
10 it's something that anybody else deals with, and even as
11 recently as this week, individuals who are concerned about
12 family or friends who are older adults being exploited through
13 power of attorney holders on their behalf.

14 Is there a way that you have to address those
15 concerns that they might be justified, they might just be, as
16 Representative DeLissio pointed out, maybe it's just routine
17 familial care.

18 Is there a way to address the concerns of those
19 people who are worried about someone without adding a layer of
20 bureaucracy in representing those?

21 MR. REED: So currently, if we - if an Area Agency
22 on Aging gets called and there's a power of attorney involved,
23 we'll begin the investigation. We go out and see the older
24 adult.

25 Again, we look at the cognitive ability because -

1 just because you have a power of attorney - depends on what it
2 says, because they are written all different ways and it
3 depends on, you know, the whole conduct because if they're
4 still cognitive and able, they can tell - they can decide what
5 they want to do. The power of attorney can't go against what
6 they're saying.

7 So we look into those things and probably, I'd say,
8 somewhere in the neighborhood of 65 to 70 percent of our cases
9 are unsubstantiated. That means there just wasn't enough
10 evidence to do - to indicate a case or substantiate a case, and
11 that does happen quite frequently.

12 So we look into those claims. And then once we get
13 - if we think something is substantiated and somebody's abusing
14 a power of attorney, we - you know, just depends on how bad it
15 is. It depends on the cognitive status of the older adult of
16 where we go.

17 Did a crime happen? If a crime happened, then we
18 call the local District Attorney's Office and local law
19 enforcement to investigate. It just varies on each case.

20 But Area Agencies on Aging is a good place to start
21 if somebody really suspects some type of financial exploitation
22 with a power of attorney.

23 REPRESENTATIVE ROWE: And in the issue of, like,
24 Kate, you had mentioned about it, somebody is, you know,
25 mentally impaired, they can't have, you know, the consent issue

1 at hand.

2 What then is the path for if you have someone who is
3 perhaps abusing a power of attorney but it's for a person who
4 potentially has that mental impairment? And is there a consent
5 issue there as well or maybe it's impossible to prove one way
6 or the other?

7 ATTORNEY KOHLER: Well, I think it's there is - one
8 of the reasons people have power of attorney is they are not
9 mentally there. So I think that would be a little bit
10 difficult just to blanket say that they weren't - that that
11 person wasn't consenting to certain financial transactions.

12 A lot of times, and, A.J., correct me if I'm wrong,
13 but, you know, circumstantially, we can try to piece things
14 together and go from there. But it is - it is difficult, I
15 will say, because if the victim does not have all the cognitive
16 awareness, it's very difficult because one of the things we
17 have to prove, and it's not necessarily consent, it's
18 non-permission when it comes to financial crimes.

19 So that person did not give the other person
20 permission to use their bank card or their credit card to go
21 buy a car or go, you know, withdraw \$10,000. It's hard to
22 prove that when you have that situation.

23 And I think we're still trying to figure out a way
24 to legislate that. But I don't - we haven't come up with a
25 good resolution at this point.

1 CHAIRMAN DAY: Thank you for your question.

2 Oh, go ahead.

3 MS. GETGEN: I think for us at the Department, we
4 try to work around education, education to adults and older
5 adults and attorneys so that powers of attorney are being
6 written in a way that the person, the older adult, is signing
7 something that they really understand what the powers that
8 they're giving to someone else really are and what they're not
9 because I think there's a lot of misunderstanding around power
10 of attorney for not only the older adults but other
11 professionals as well.

12 So I think it's - you know, we could do a lot around
13 education to help in that way.

14 CHAIRMAN DAY: Thank you. Thank you for those
15 answers.

16 And finally, we have Representative Meghan
17 Schroeder.

18 REPRESENTATIVE SCHROEDER: Thank you. Changed my
19 mind and decided to have a question.

20 And it's because of the power of attorney. So I
21 worked in a district office as a staffer for many years. And
22 something that we continually see in our office is the
23 switching of power of attorneys. And they come in very
24 frustrated and a lot of times it's, like, the family member
25 wants the financial power of attorney and then, like, the

1 accountant is the financial power of attorney. And there is
2 some emotional issues because they feel that that's because,
3 you know, they're saying that they don't want this person to be
4 in charge of their finances. In those specifics, there's a
5 switch.

6 Is there anything like now that a family member
7 would be, like, told to call that they should be, like,
8 alerting, like the facility that they're in, if they're in a,
9 you know, place for home care about that? Is that something
10 that we should maybe try to look at as legislative.

11 Plus two, if there is a change, a switch on the
12 power of attorney to tell where they are staying, because don't
13 they have to get one of those at their office, the
14 administrative office there?

15 MR. REED: Yeah. If you switch power of attorneys,
16 which that can be an issue sometimes with financial
17 exploitation. One family member will take the older adult and
18 take them somewhere and get a financial - get the power of
19 attorney, go to the bank. I've seen those kinds of things
20 happen.

21 Yeah. Whenever you get a power of attorney signed,
22 you need to have copies of that and present that to wherever,
23 the bank, to the facility that the older adult's at, the
24 doctor's office, depending on how the power of attorney's -.

25 Those things really need to be presented so that

1 they're aware that this person is power of attorney.

2 And, again, it depends on the language and it
3 depends on the cognitive status of the older adult and what's
4 said in the power of attorney.

5 REPRESENTATIVE SCHROEDER: And that's, I think, some
6 of the issue too. But also, I think there's a lot of times the
7 trust and the grooming issues that come up that, you know, be
8 sure about in our office. So that's just something to be
9 mindful of as we go forward looking at this too, I think.

10 Thank you.

11 CHAIRMAN DAY: Thank you so much, members, for your
12 questions and our panel for their answers and testimony today.

13 We've heard a lot of great testimony that you guys
14 talked about, but it's all stuff that goes towards things that
15 we should be looking at to get this right.

16 I will be - the committee is going to be considering
17 legislation on these topics before us. Also the OAPSA bill in
18 particular, and then guardianship for sure. I can tell you I
19 promise we're going to do that with the help and work of all of
20 this team up here. And we're open to all the other issues that
21 you brought up as well, and I really appreciate your time.

22 Thank you to panel one.

23 While panel one is leaving, panel two is welcome to
24 come up to the front, the testimony area.

25 ---

1 (WHEREUPON, THERE WAS A PAUSE IN THE RECORD.)

2 ---

3 CHAIRMAN DAY: Our second panel, I'm going to let
4 you introduce yourselves. I think it's important that people
5 are - their names are pronounced the way they want, and also
6 what's important about their job.

7 I mentioned the one testifier's position and didn't
8 even mention that he's from my home county, and I probably
9 should have at that point.

10 So, Zach, would you start off with introducing
11 yourself, the position, and whatever else you want to do as a
12 introduction? We'll go down the panel and then - go ahead.

13 MR. SHAMBERG: Sure.

14 Good afternoon, everyone. Thank you for having us.

15 My name is Zach Shamberg. I am the president and
16 CEO of the Pennsylvania Healthcare Association.

17 MS. HENRY: Anne Henry. I'm the senior
18 vice-president and chief government affairs officer with
19 LeadingAge, PA. We represent not-for-profit long-term care and
20 senior service providers.

21 MS. ZELENAK: Hi. I'm Margie Zelenak.

22 I'm the executive director for the Pennsylvania
23 Assisted Living Association. And we represent personal care
24 homes and assisted living in the state.

25 MS. COOPER: Good morning. I'm Tatia Cooper. I am

1 the president and CEO of Home Care Associates, and we're our
2 own home care company in Philadelphia. Also, a member of the
3 Pennsylvania Home Care Association.

4 CHAIRMAN DAY: Zach, would you like to start off
5 with -?

6 MR. SHAMBERG: Chairman Day, Chairman Samuelson,
7 members of the House Aging Committee, Shannon, Chuck, thank you
8 for the opportunity to participate in today's hearing. And
9 Representative Thomas, thank you for welcoming us to your
10 district today. It is nice to be back in the land of Wawa,
11 just so you know.

12 My name is Zach Shamberg. I don't work on behalf of
13 Wawa. I am the, again, president and CEO of the Pennsylvania
14 Healthcare Association, better known to most of you as PHCA.

15 I am also the father of a three-week-old daughter,
16 who's home. Thank you. I don't want applause. I just want to
17 say that because if you see me yawning, I promise I am not
18 bored.

19 So let me tell you a little bit about our
20 association, PHCA. We advocate on behalf of more than 81,000
21 Pennsylvania seniors in nursing homes, assisted living
22 residences, and personal care homes across the entire state.
23 And we also represent the 40,000 caregivers in those facilities
24 who provide compassionate, high quality care each and every
25 day.

1 But it's important to note that I am speaking to you
2 today not just as an advocate and not just as a representative
3 from the Pennsylvania Healthcare Association, but as a family
4 member of someone who currently resides in a long-term care
5 facility.

6 I think I told the committee this story last year,
7 but about a year ago, my family made the very difficult
8 decision to admit my grandfather into a nursing home. He's now
9 in a dementia unit in an assisted living residence.

10 Five years ago, we learned that he had dementia.
11 And last year, we came to the very hard realization that he
12 could not live at home unsupervised anymore. And we certainly
13 put up a fight against that decision.

14 Now, some members of this committee may have had to
15 make a similar decision at that point, at some point, or you're
16 currently struggling with that decision for a loved one.

17 Representative Ryan, you shared a little bit about
18 your story.

19 So elder abuse is not only an important issue for
20 PHCA and for our membership and for thousands of families
21 across the Commonwealth. It is a very important issue for me
22 and my family. And that's why I'm proud to represent the
23 providers who belong to PHCA because their number one priority
24 is the safety of the residents entrusted to their care.

25 And please know that we have zero tolerance for

1 actions that jeopardize anyone's safety, dignity, or wellbeing.
2 And the results show just that.

3 Over the past several years, we've seen tremendous
4 improvements in the quality care provided to our residents.
5 Even in just the last four years, Pennsylvania has shown
6 improvement in 19 of 23 national quality measures set for this
7 sector. So given those statistics and the improvements in
8 overall care in our state, you may ask yourself, why is
9 combatting elder abuse still such a critical issue, and why are
10 we having this conversation.

11 Because unfortunately, even with every precaution
12 our providers take today, healthcare and long-term care is a
13 human business. And unfortunately, mistakes may happen.

14 Last year, the United States Senate chose to focus
15 on elder abuse in a series of hearings as well. And from those
16 hearings came many new proposals and safeguards.

17 For instance, the special focus facility list was
18 amplified and now reports out to consumers on a monthly basis
19 warning families about facilities on the CMS watch list in
20 every state.

21 The do not proceed icon on a nursing home compare
22 website was born in which a single isolated instance of abuse
23 will spur the introduction of a glaring red icon next to a
24 nursing home on that website.

25 And countless pieces of legislation, obviously, were

1 introduced after those hearings.

2 Now, our national organization, the American
3 Healthcare Association, was asked to participate in those
4 hearings. And I'm going to say now what they said then. Abuse
5 and neglect have no place in the nursing home setting or in any
6 healthcare setting. And even one report of abuse or neglect,
7 though not a sign of systemic failure, is one too many.

8 And that's why we at PHCA and the other stakeholders
9 with me today have made it a priority to work closely with the
10 chairman, with this committee, with the Wolf administration to
11 ensure that those protections are in place. So whether it's
12 this series of bills or whether it's the Older Adult Protective
13 Services Act, we are proud to help lead this fight. And our
14 providers are proud to lead this fight as well.

15 Even in the face of many external challenges, PHCA
16 members are going above and beyond to prevent these instances
17 of abuse.

18 In addition to the countless federal and state
19 regulatory requirements already in place, we have members here
20 in Bucks County even, such as the Wilmac Corporation in
21 Langhorne, Representative Farry's district. They have
22 developed policies and procedures which establish a number of
23 checks and balances that will further safeguard residents to
24 the best of their ability.

25 And we can point to members, I'm sure, in each of

1 your districts across the state who have instituted similar
2 protections.

3 However, again, this is a human business and
4 mistakes will inevitably happen. So legislative packages like
5 this are another avenue to preventing abuse. And for the most
6 part, PHCA supports the legislation being presented today.

7 However, we do have concerns regarding unintended
8 consequences and additional undue burdens and unfunded mandates
9 that will inevitably be placed on providers.

10 For instance, Representative Masser's House Bill
11 397. Currently, our members already have individual policies
12 in place to address the use of video monitoring devices in
13 resident care areas. And they work directly and diligently
14 with families on a case-by-case basis to protect dignity and
15 privacy.

16 Again, we're happy to work with the committee as
17 well as Representative Masser and the other sponsors over the
18 next few weeks and months to make sure that this legislation
19 works for residents, providers, and staff. And we stand united
20 with you in the fight against elder abuse.

21 But I would be remiss if I didn't say this. If we
22 want to truly combat issues in long-term care and assure that
23 providers are able to attract the best staff and the most
24 dedicated individuals and root out as best we can every
25 instance of elder abuse, we must address the harsh realities

1 facing the sector over the next few years. And I am begging
2 this committee to do just that.

3 I mentioned external challenges earlier. Inadequate
4 Medicaid reimbursement, a legal climate that leads to millions
5 of Medicaid dollars pouring out of this state each and every
6 day, a regulatory climate that rivals that of nuclear power and
7 the TSA, and a workforce crisis that I guarantee keeps every
8 stakeholder sitting next to me and every provider across the
9 state up every night all night.

10 The perfect storm is not a George Clooney movie
11 about a fishing boat. The perfect storm is what is happening
12 to long-term care right now here in Pennsylvania. And in the
13 third oldest state in terms of population in the entire
14 country, that storm stands to threaten the care for tens of
15 thousands of residents in the years to come because we are
16 roughly three to five years away from the silver tsunami in
17 which the baby boomers will age into the demographic most in
18 need of long-term services and supports.

19 Our fastest growing demographic right now today is
20 85 years of age and older. And here in Pennsylvania, providers
21 are, for the first time, operating at margins that have fallen
22 below zero percent. In fact, the average operating margin for
23 one of Pennsylvania's providers today is negative .28 percent.

24 Our members take very seriously the trust placed in
25 them to care for our loved ones. They take every step possible

1 to ensure their wellbeing. So let's ensure that we return that
2 favor to them.

3 Again, I am very grateful for the opportunity to
4 share this testimony. And we at PHCA stand ready to work with
5 you on any and all long-term care issues before this committee
6 and the legislature.

7 Thank you.

8 MS. HENRY: Good afternoon, Chairman Day, Chairman
9 Samuelson, members of the House Aging and Older Adult
10 Protective - Older Adult Services Committee. Thank you for the
11 work that you do to protect our seniors in Pennsylvania and the
12 opportunity for me to share the great work our LeadingAge PA
13 members do every day to ensure the health, safety, and
14 wellbeing of their residents.

15 As Zach, I am the family member of a person who
16 lives in a nursing home. My mother lives in a nursing home in
17 Tyler for the last approximately four years. So some of my
18 testimony brings about my thoughts about being a family member,
19 but also being in this business for 30-plus years now and some
20 of the experiences that I have lived through.

21 LeadingAge PA is a trade association representing
22 over 350 not-for-profit providers of senior housing,
23 healthcare, and community services across the Commonwealth.
24 Our members serve more than 75,000 older Pennsylvanians and
25 employ over 50,000 dedicated caregivers on a daily basis. Our

1 members offer a full array of long-term care and senior
2 services.

3 First, let me say that LeadingAge PA is supportive
4 of House Bill 400, Printers Number 1698, that would amend Title
5 18 to include postings to social media with the intent to
6 ridicule or demean a care-dependent person. We believe that
7 this behavior is reprehensible and fully believe it should be
8 punishable by law.

9 We're also supportive of including laws that would
10 safeguard care-dependent individuals from financial
11 exploitation, but we may want to discuss some of the details in
12 the language.

13 That said, when we talk about financial
14 exploitations in the nursing facility settings, it's often
15 because assets are transferred during the five-year look back
16 from medical assistance. And you can see detail in my
17 testimony about that. But what's happening is nursing
18 facilities oftentimes are on the hook for tens of thousands or
19 sometimes hundreds of thousands of dollars of free care because
20 of inappropriate transfers of assets.

21 The other thing that often happens in the nursing
22 facility setting is once the resident is on medical assistance,
23 they must turn over at least a portion of whatever monthly
24 income they have from Social Security checks, pension checks,
25 interest on some bank accounts, and those kinds of things.

1 Oftentimes, family members will keep those amounts for
2 themselves. And frankly, when those things happen, the nursing
3 facility has little to no recourse to be able to come either
4 against the resident of their family to collect on those funds.

5 So as Zach was talking about medical assistance
6 funding, he is absolutely right. We have reached a crisis in
7 Pennsylvania on medical assistance nursing home funding. The
8 reimbursement has failed to keep pace with the cost of care.

9 We actually had a study conducted last year by the
10 accounting firm of RKL, LLP, and it shows the gap between cost
11 to provide care and Medicaid reimbursement to be over \$631
12 million a year for nursing facilities. We can't keep it up.
13 It really is the perfect storm.

14 So if we're truly concerned about elder abuse, we
15 must take steps to adequately fund our long-term care safety
16 net to ensure that people in need of nursing home services will
17 be able to find a quality provider.

18 So now I really want to turn to House Bill 397.
19 And, you know, I really appreciate JR Reed's comments about
20 families need to be involved if their loved ones are in need of
21 nursing home care. He is absolutely right.

22 So for a lot of reasons, LeadingAge PA and me
23 personally have grave concerns about House Bill 397. But our
24 first concern relates to the significant workforce crisis that
25 seems to be unending. As I said, I've been working in the

1 industry for about 30-plus years now. We have seen in the past
2 workforce shortages, but they're short lived. This one is
3 going on for years now, and there is absolutely no end in
4 sight.

5 Quality nursing homes can't find staff today. And
6 even though they're providing good wages, good benefit
7 packages, sign-on bonuses, anything else they can think of or
8 afford to do, they have a lot of vacant positions. And we're
9 fearful that House Bill 397 would only serve to make our
10 staffing shortages worse.

11 Good, caring staff are already scrutinized by the
12 Department of Health every time a survey is under way. And
13 sometimes we find those staff leaving because of the scrutiny
14 and basically the atmosphere that surrounds those surveys.
15 Having staff on camera where the care they are providing might
16 be misinterpreted might be the final straw for them to find
17 work outside of long-term care.

18 LeadingAge PA members work very hard to have a
19 culture of trust and mutual support between staff and
20 residents. Electronic monitoring devices would serve to
21 deteriorate the sense of community.

22 Our second concern with House Bill 397 is the intent
23 of the resident's representative for the use of the electronic
24 monitoring. Unfortunately, not all representatives act in the
25 best interest of the resident.

1 When I worked in the building, we actually had a
2 resident who was placed there because her son was sexually
3 abusing her at home. Would we want to actually give him the
4 ability to then ask for an electronic monitoring to see his
5 mom's needs being cared for? We think this is something that
6 needs to be addressed if we're to go forward with this bill.

7 We also need to spend some time thinking about the
8 roommate. Frankly, Sunday, when I was in visiting my mother, I
9 looked at her room and I looked at her roommate's space and I
10 looked at her space and I thought, well, I guess if you hang a
11 camera from the ceiling, perhaps only the roommate would be on
12 camera and not my mother or myself or my family as we're
13 visiting my mother.

14 So I think we need to really think about the
15 roommate if we are intending to go forward with this bill and
16 the protections for those roommates and those visitors.

17 And finally, and Representative DeLissio, I'm right
18 there with you. I mean, we really need to consider the
19 individual prior to that nursing home stay, especially if they
20 can't communicate their own wishes. Would they have wanted to
21 be on camera as they're receiving their bath in the morning or
22 as they're getting ready for bed at night or if they have an
23 episode of incontinence and they need that caregiver to attend
24 to their needs?

25 I think these things should be considered before we

1 grant such rights to our representative of the resident. And I
2 would look to that definition of representative, because it
3 doesn't seem to be inclusive of only legal representatives but
4 could be much broader, which is also very concerning.

5 For the reasons outlined, LeadingAge PA opposes
6 patient care monitoring as outlined in House Bill 397, as it
7 doesn't offer protections for unintended consequences.

8 I thank you for the opportunity to provide these
9 comments today.

10 MS. ZELENAK: Hi. Good morning - or good afternoon,
11 Mr. Chairman and members of the committee.

12 I'm going to take a different approach on my
13 presentation as this is an informational meeting. So we are on
14 the topic of elder abuse. What really is elder abuse? You
15 know, we have no definition for elder abuse in our regulatory
16 departments.

17 Surprisingly, they can be all different from agency
18 to agency. They could be different in the statute. The lack
19 of consistency causes confusion and can ultimately lead to the
20 detriment of Pennsylvania's older adults.

21 According to the Centers for Disease Control
22 Prevention, elder abuse is an intentional act or failure to act
23 by a caregiver or another person in a relationship involving an
24 expectation of trust that causes or creates a risk of harm to
25 an older adult. An older adult is defined as someone aged 60

1 and older.

2 Now, I'm not as old as Frank Ryan, but I am a
3 Medicare-carrying card member.

4 REPRESENTATIVE RYAN: Nobody's as old as I am.

5 MS. ZELENAK: And I don't consider myself to be an
6 elder.

7 I also have a power of attorney, but I am still
8 competent.

9 So some forms of elder abuse from CDC are the
10 physical abuse, sexual abuse. I'm not going to read through
11 all of this. I just wanted to give it to you to have some
12 information because the CDC recommends the importance of
13 consistent, definitions that is needed to monitor abuse and
14 trends.

15 Yet, there is an inconsistency of the definition of
16 abuse in our regulatory environment, and there's no specific
17 definition of elder abuse. This is clear when we take a look
18 at some of the current definitions in several departments in
19 the Commonwealth.

20 So on the next page, I show you personal care and
21 assisted living. These are their definitions for abuse, very
22 similar. But you'll notice the last one says abandonment or
23 desertion by the personal care home or staff. That's
24 considered abuse.

25 On the next page, we're going to nursing homes.

1 Look at their total different definition. And they have a
2 definition for involuntary seclusion. So we're not being
3 consistent as to what's being defined as abuse in personal care
4 and assisted living with what's in nursing homes.

5 And then we go to the next page and the Protective
6 Services has a different definition, and so does the Older
7 Adult Protective Services. The only two that are exactly the
8 same are Protective Services and the Older Adult Protective
9 Services Act.

10 So we need to be more consistent on what the
11 definition of abuse is, and even do we need a definition of
12 elder abuse because we don't have that right now.

13 In the back of my presentation, I did give you a
14 whole printout from the CDC from different associates on what
15 their definition for elder abuse is.

16 The other thing in the back of my presentation is
17 the mandatory reporting form for abuse. Let's just take a quick
18 look at that. In OAPSA, abuse is reported if you're over 60.
19 If you're under 60, abuse, neglect, exploitation, and
20 abandonment is reportable.

21 So we're not even consistent in our form that we're
22 giving to consumers, providers, whoever's reporting abuse.

23 So I think one of the first things we need to do to
24 actually get a hold of what is elder abuse is let's be
25 consistent on what we're calling it in the state. So many of

1 the definitions are similar in intent, but not consistent.

2 You know, I started my presentation with this
3 definition to show that abuse can be interpreted differently by
4 regulatory environments and also by individuals, which can lead
5 to confusion for consumers and mandatory reporting.

6 Abuse in the form of financial exploitation has
7 grown over the years. We don't have a definition of financial
8 exploitation so I'm glad we're looking at that. Seniors have
9 been scammed of their hard-earned money by characters who take
10 advantage of their compassionate demeanor to assist those in
11 need.

12 I'm a former administrator for a personal care and
13 assisted living. That's my background. And as a former
14 administrator, the financial abuse I saw was from family
15 members.

16 Personal care and assisted living in the state is
17 private pay. So it's very important that people have these
18 financial resources to be able to pay for them to continue to
19 live and be cared for in their communities.

20 I'm just going to give you one little example. And
21 this was in the early 2000s. Lovely lady. She was never
22 married, worked all her life at Westinghouse, had finances.
23 But she couldn't take care of her money anymore. So she turned
24 it over to her nephew who refused to pay her bill for six
25 months.

1 And so I called Protective Services and said I want
2 to file an abuse complaint. And they told me just go to the
3 magistrate and try and get your money. And I said no, this man
4 is taking her money and you need to take this report.

5 We did go to the magistrate and filed charges
6 against him. And guess what? They were going to sell all his
7 property. He had bought a boat with her money. And finally,
8 he came up with the money to pay the bill.

9 But you know what? Nobody ever filed charges
10 against him. He moved her out of the community and took her
11 somewhere else.

12 The Area Agency of Aging did take over as a rep
13 payee, but no charges. So there's nothing there for him.

14 The other thing we would hear all the time is oh, my
15 nephew needs this money. He really needs it more than I do.
16 I'm going to give it to him, and then nephew never comes to
17 visit again.

18 Or my daughter has problems. I'm giving her the
19 \$10,000 so she can get rid of her problems. She'll take care
20 of me. She'll come see me. But they never do.

21 So I think our issue is more, as we heard before
22 from the other panels, it is family members that are abusing
23 residents more financially. And we need to put that in check.
24 And I agree with having the legislation move forward on that.

25 I've seen intellectually acute senior residents that

1 receive mail requests. That's one of the issues we saw.
2 Things that come in the mail from the church, from political
3 associations, and they're writing checks out and sending them
4 off to these people, and then they don't have money to pay
5 their bill. That's a big issue because they love getting mail.
6 Somebody's sending me something. They must like me. I'm going
7 to send them some money. That's a big area of exploitation
8 with seniors and personal care and assisted living.

9 You know, we had a former accountant that all his
10 money went to a political committee, and I won't say which one.
11 But he had no money to pay for his bill then. He didn't get
12 along with his son. We had to bring in his son so he could
13 take over his finances. But he was an intellectual person, but
14 they said they need my money and I'm sending it to them. So he
15 had no money to provide for his care.

16 But as I said, as a senior myself, we do have a
17 right to make bad choices. There's a difficult balance between
18 legislation, regulations, and resident rights.

19 In this regard, who would file the charges for
20 prosecution for financial exploitation? As they said before,
21 is the family going to come forward? Is the resident going to
22 come and file charges against their daughter? Is it up to
23 Protective Services file those charges?

24 You know, if it was a family member, the senior's
25 not going to file the charges against them. Remember, we are

1 dealing with adults here and not children. Seniors have
2 provided through their work and dedication benefits for all the
3 seniors of the Commonwealth. Protecting their hard-earned
4 finances is an important right, and PAALA will support,
5 including financial institutions, in the fight to prevent
6 financial exploitations of seniors.

7 It is unfortunate that elder abuse exists in our
8 country. Gone are the days of respect for your elders and
9 their contributions to society in their lifetime. As
10 technology continues to advance, the option of using patient
11 care monitoring devices has increased.

12 There are guidelines in House Bill 397 for the use
13 of monitoring devices. Currently, in personal care and
14 assisted living, we have an interpretation of the resident's
15 right to privacy regarding, as we call them, granny cams. They
16 don't even have to tell us they're installing them.

17 We are in the process of working on different
18 interpretations with our regulatory agency for that because,
19 you know, let's go back to some of those family situations.
20 The brother doesn't get along with the sister. She thinks - he
21 thinks she's stealing jewelry from mom. I'm going to put a
22 camera in.

23 Who is the representative that is permitted to put
24 that camera in? It should be up to the resident to decide to
25 put that camera in.

1 And are you okay with the son in California watching
2 his mother get dressed on her computer - on his computer and
3 all his employees standing around or in Walmart with their
4 smart phone watching his mother get dressed? There's no
5 prohibition for that. It can happen.

6 So we have to look at the resident's rights and
7 what's happening with those videos. Where are they storing
8 them? Can they post those, as we go into the other House bill?
9 You know, it's their property. Are they going to be able to
10 post those anywhere they want to?

11 So we have to be considerate of the resident's
12 right. And it should be their choice, not the representative,
13 unless they've been deemed incompetent. Then it should be the
14 resident's choice to have those cameras.

15 So how many of us have checked our smart phones
16 during this meeting? I'm sure everybody's had them out. It's
17 a way of life. We all panic if we walk out from our house
18 without our phones.

19 But it's unfortunate we must have legislation to
20 regulate the use of digital images of care-dependent persons.
21 But I do support that.

22 I mean, when this first came out, I said to some of
23 my former administrators this is a great way to tell those
24 staff members to keep those cell phones in the car and not
25 bring them into the building because it's an issue. People are

1 constantly checking their cell phones, you know.

2 But, again, let's look at some of the definitions
3 that are with this. Who is the caretaker? And in here, I have
4 the definition of a caretaker that goes back to Title 18. It
5 includes a family member.

6 So is the family member that takes a picture of mom
7 in her nice, new pajamas and sends it to her brother and he
8 thinks it's inappropriate? I mean, we have to kind of pull
9 together what is meant by indecent. You know, it's between the
10 sender and the receiver as to what's going to be indecent.

11 Posting on social media should be definitely
12 prohibited by even the family members. The resident should
13 have to comply with that.

14 So, you know, as technology continues to advance,
15 legislation and regulations will need reviewed to adapt to all
16 these changes. I think the bill is good, but we need to look
17 at them a little bit closer.

18 I'd just like to close by reiterating we all have a
19 right to make bad choices. I'm a senior. I have a right to
20 make a bad choice. We are not children. We are adults. I
21 don't consider myself an elder. But there's a fine line
22 between protection and regulation without compromising seniors
23 and the resident's rights.

24 Let's work together on eliminating elder abuse by
25 getting to the source of bad actors, including family members

1 who take advantage of our senior population in the
2 Commonwealth.

3 Thank you.

4 MS. COOPER: Chairman Day, Chairman Samuelson,
5 members of the committee, thank you again for having us and the
6 opportunity to testify before you and discuss all those bills.

7 I have a very sore throat and so forgive me if I -.

8 CHAIRMAN DAY: Do you need water? Do you want a
9 water?

10 MS. COOPER: No, I'm good. Thank you. I apologize.

11 So, again, I'm Tatia Cooper. I'm the CEO of Home
12 Care Associates. Home Care Associates is a work-at-home home
13 care company located in Philadelphia. We provide care and
14 reliable support to individuals in their home. Our aides are
15 trained and certified paraprofessionals.

16 It's a work-at-home cooperative in Philadelphia and
17 Pennsylvania. HCA's home care aides have an important stake in
18 the company and their futures, and take great pride in
19 providing excellent care to each of our clients.

20 Our agency serves about 200 seniors in the five -
21 thank you very much, in the five southeastern PA counties. Our
22 goal is to keep each member active in their communities and in
23 their neighborhoods.

24 I'm also a member of the Pennsylvania Home Care
25 Association, a statewide membership association representing

1 more than 700 organizations that bring medical care, personal
2 care, end-of-life care into thousands of people's homes every
3 day across the Commonwealth.

4 I'll begin today's discussion by providing you with
5 a brief overview of home-based care, what it is, who we serve.
6 And then I'll discuss the issues concerns - and concerns
7 related to elder abuse. Finally, I'll discuss the challenges
8 faced by home care providers in providing care to
9 Pennsylvania's elderly population.

10 As a member of the Pennsylvania Home Care
11 Association, we know that there's no place like home. Most
12 people want to age in the comfort of their homes and
13 communities and receive care and supports at home.
14 Pennsylvania has stated, by the members of the panel,
15 Pennsylvania has one of the fastest growing aging populations
16 in the nation. Many individuals need help to remain active and
17 independent in their communities.

18 People want to stay at home in the neighborhoods
19 where they were raised with the families, where they visit
20 their favorite coffee shops and know their neighbors whenever
21 possible. Our older adults should not be relegated into
22 institutions if they are otherwise able to remain in the
23 community.

24 The Department of Health, which licenses all home
25 care providers, reports that there are 2,799 non-medical home

1 care agencies providing assistance with activities of daily
2 living, 607 home health agencies providing skilled nursing
3 services, and 186 licensed hospices in Pennsylvania. This does
4 not include hospitals and skilled nursing facilities that also
5 provide care to thousands of our seniors.

6 There are two models of home care in the provision
7 of personal assistant services in Pennsylvania. The agency
8 based model, which is Home Care Associates, and the consumer
9 directed model. Under the agency model, a consumer hires an
10 agency, like my own. We hire caregivers, provide training, and
11 manage their care.

12 Under the consumer directed model, the consumer
13 manages his or her own care, hiring an individual caretaker
14 that they often already know.

15 Both models are critical to serving the growing
16 personal care needs of Pennsylvania's seniors. But it's
17 important to understand the differences between the two.

18 Elder abuse remains an important issue in
19 Pennsylvania and nationally, and one we must all take
20 reasonable steps to prevent. In 1987, Pennsylvania's Older
21 Adult Protective Services Act became law. Among other things,
22 OAPSA required background checks for caregivers and prohibited
23 the employment of certain agency caregivers who have been
24 convicted of specified crimes.

25 In 2015, Pennsylvania's Commonwealth Court ruled

1 that a lifetime employment - that the lifetime employment bans
2 in OAPSA were unconstitutional, and that they did not allow for
3 waiver process for someone who had been rehabilitated. The
4 Court focused on the consideration of factors, such as the
5 nature of the crime, acts surrounding the convictions, time
6 elapsed since the conviction, the evidence of an individual's
7 rehabilitation, the nature and requirements of the job and the
8 performance of individualized risk assessments in determining
9 whether someone should be able to provide personal care as an
10 agency caregiver.

11 Since that time, and I'm going to also bills have
12 been introduced in an attempt to respond to the public Court's
13 concerns. And also to expand upon protections for seniors,
14 prevent financial exploitation, and add additional requirements
15 for agency caregivers.

16 It is important to note that many of OAPSA's
17 amendments would not apply to the consumer directed model or
18 consumer directed caregivers despite the fact that they make up
19 a significant percentage of home care providers in
20 Pennsylvania. This would be family care providers typically,
21 the son or daughter.

22 Despite the fact that they make up a significant
23 percentage of home care providers in Pennsylvania, for example,
24 although background checks are required for both agency and
25 consumer directed caregivers, any employment bans being

1 contemplated by OAPSA amendments would apply only to the agency
2 caregivers and do not apply to the consumer directed
3 caregivers.

4 Under the law as it stands today, the Department of
5 Aging is responsible for administering OAPSA and providing
6 protective services through the Area Agency on Aging. A year
7 ago, the Office of the Inspector General released a report that
8 noted there was a 40 percent increase in elder abuse that could
9 get worse as the baby boomer population continues to age. The
10 report also identified four major areas of concern.

11 The importance of conducting timely, in-person
12 interviews of seniors to follow up on reports of alleged abuse,
13 the need for front line AAA staff to quickly and accurately
14 categorize reports of needs to determine appropriate next
15 steps, the necessity of adequate training for those front line
16 intake staff and for those supervisors and others participating
17 in the protective service system, and then the necessity to
18 monitor and review the triage of incoming reports of need for
19 uniformity and accuracy.

20 Today, the committee is receiving testimony
21 regarding a package of bills intended to address elder abuse.
22 PHA appreciates your commitment to protecting the individuals
23 are members serve.

24 The concept of financial exploitation has become
25 more and more prevalent in recent years. We used to hear

1 stories about seniors being targeted of - targets of Social
2 Security and IRS scams on a regular basis. We've read about
3 grandchildren stealing from grandparents and more.

4 PHA strongly supports legislation to strengthen
5 financial exploitation laws and to better protect our seniors.
6 Chairman Day's proposal would create a private right of action
7 against individuals who financially exploit seniors. A similar
8 provision is contemplated in the current OAPSA legislation.

9 Additionally, Chairman Day's legislation creates a
10 senior trust fund that would help senior victims of financial
11 exploitation recover lost income. As this particular bill moves
12 through the process, PHA welcomes the opportunity to act as a
13 resource for this committee.

14 Additionally, Representative Carver has introduced a
15 bill - Culver, excuse me, has introduced a bill that would
16 create the crime of financial exploitation in the Crimes Code
17 grading it as a felony and creating concurrent jurisdiction
18 with the Attorney General's Office. Legal deterrents such as
19 this prioritize our seniors and are intended to keep
20 unscrupulous individuals from preying on our most vulnerable -
21 I hate to use the word vulnerable now that I've heard your
22 testimony, so I'll say on our elder citizens.

23 Although the broader OAPSA bill are not the subject
24 of today's hearing, PHA hopes to be a continued resource of
25 conversations continued - conversations continue regarding

1 OAPSA, excuse me.

2 We have long supported stronger protections for
3 Pennsylvania's seniors and urge this committee, while it's
4 considering OAPSA amendments, to also sure - ensure and protect
5 access to quality care for seniors in need of care across the
6 Commonwealth.

7 It is important for this committee to understand
8 that current OAPSA proposals will significantly change the
9 background check process, determine hiring rules, and employer
10 protections. They also would, for the most part, apply only to
11 agency caregivers and not to the consumer model.

12 I cannot overstate the workforce crisis as mentioned
13 by others in the direct care worker field today. We struggle
14 to recruit, hire, and retain quality caregivers. And it is
15 absolutely critical that any changes to OAPSA do not result in
16 unanticipated, inappropriate obstacles in a way that would
17 negatively affect our ability to provide quality care to our
18 growing senior population.

19 As Pennsylvania continues to age, the demands for
20 home care continue to increase. There simply are not enough
21 qualified care workers to fill the system, meet the demands of
22 today. The needs are only increasing.

23 As we move towards June and the budget, I will also
24 note that part of shoring up our vulnerable populations are
25 safe is responsibly funding the programs that are in place to

1 protect the health and welfare - their health and welfare.
2 Please consider an increase in funding to the Protective
3 Services Program as well as reimbursement under the Medical
4 Assistant Program.

5 At around \$11.50 an hour, the average wage for
6 Pennsylvania's direct care worker, this is not competitive or
7 meet the needs of today's marketplace. We are only as strong as
8 the resources we have.

9 In conclusion, I would like to commend Chairman Day,
10 Representative Culver for their proposals to combat financial
11 exploitation. We need to protect our elderly and ensure that
12 they maintain their dignity throughout the aging process.

13 I thank you again for this opportunity to address
14 the issue of elder abuse today. We need to do our best to
15 protect those who cannot protect themselves and ensure that
16 they are able to maintain their dignity and have access to
17 quality care.

18 CHAIRMAN DAY: Thank you so much. I appreciate all
19 of your comments today and I want to start with you and then I
20 want to just confirm that the amount that you all have
21 participated in what we've been trying to do in the last two
22 months to gather information. I just want to thank you and I'm
23 very appreciative of that.

24 Your comments on 397, I'm going to ask you if you
25 could provide - you said some of your members have policies -

1 MR. SHAMBERG: Sure.

2 CHAIRMAN DAY: - on video surveillance. And if you
3 could find and provide - either provide policies or if the
4 association in a group that you represent wants to kind of
5 bring a couple policies together for a model policy -

6 MR. SHAMBERG: Sure.

7 CHAIRMAN DAY: - it's something that an association
8 might work on anyway as an association.

9 Right?

10 MR. SHAMBERG: Yes.

11 CHAIRMAN DAY: So I'd like to see that. What I'm
12 interested in, as I think the government's role is what are the
13 minimum standards is what we would put into law. So if you
14 boil it all the way down to a minimum policy requirements that
15 all reasonable, rational people providing the services that
16 your members do should have in place, I think that would be
17 great guidance for what we do with 397.

18 Also, and I appreciate your comments. Always so
19 outstanding and bring so much real world and life experience to
20 what we're trying to do. You talked about the same thing and,
21 you know, a lot of objections.

22 If you try to address how you would - how would you
23 address those objections, that can help us move towards and
24 actually present if we did do it, we'd want to prohibit this,
25 prohibit that, you know, or whatever, or require this type of

1 lay of the land.

2 Sometimes people, you know, don't want to do that if
3 they oppose something and just let us work with it and flail
4 around. But sometimes out of that comes bad legislation
5 because members - and I represent a lot of members who have
6 been talking to me about they want to do something in this
7 space. Particularly, Representative Masser.

8 So sometimes by creating something like that, it's
9 illustrative in itself of all the concerns that you have. So I
10 would ask you guys to kind of work together on that and provide
11 that to the committee.

12 MR. SHAMBERG: And, Mr. Chairman, if it would be
13 helpful, since this bill was introduced, we have reached out to
14 our other state affiliates to see what's working in other
15 states. The last time we checked, there were six states across
16 the country that have also developed and implemented video
17 monitoring laws.

18 And so we've reached out to see what has worked,
19 what hasn't. And I can also report back to you on that as
20 well.

21 CHAIRMAN DAY: And, I mean, it's just my kind of a
22 lay position. It's my feeling that we should be able to allow
23 some consumers to - that have families.

24 When we go through the list, Margie, that you talked
25 about respecting, what is the phrase? What is the phrase I

1 learned from you guys about the presumptive - the patient's -
2 how a patient would have decided for themselves if they were
3 competent? What is that phrase? I forget that phrase. Sorry.

4 Nobody else does? But there's an industry standard
5 where caregivers try to, even if someone is deemed
6 incapacitated, try to make the decision that they would have
7 made.

8 Right?

9 MS. ZELENAK: Right.

10 CHAIRMAN DAY: So I want to keep with that.

11 But anyway, the point I was trying to make is that I
12 think - I think there's a place to be, and we can address each
13 one of those concerns. So maybe it's very narrow that we do
14 give the public an opportunity that if you check all these
15 boxes of, you know, the patient, the family, all the
16 caregivers, all the stakeholder's interest in that person, I
17 think there should be, you know, allowed under law that an
18 institution can't just say no, you can't do it.

19 So that's my kind of my thinking on it. And I just
20 want to - that's why I want to ask you for that.

21 Margie, you talked about elder abuse definition. I
22 think that's outstanding testimony to bring to our committee,
23 and we'll have to look at that.

24 And, Ms. Cooper, you mentioned should it apply to
25 consumer directed caregivers. Or actually, that's my question

1 to you is you mentioned it doesn't. And I'd like your input.
2 Maybe later or today, if you want to, whether it should apply
3 to those people to. It seems like it should to me, and I will
4 want to get your reasons and rational behind that.

5 So with that, I'd like to continue to keep the
6 hearing moving along, just give you, you know, some feedback.
7 And I'd like to go to our Minority Chairman, Chairman
8 Samuelson.

9 CHAIRMAN SAMUELSON: Thank you.

10 Just a quick question for Ms. Cooper about that
11 point that Representative Day just mentioned, whether proposed
12 changes should apply to not only the agency-based home care but
13 also the consumer-based home care. I'm trying to get a
14 breakdown of what percentage of all the folks in Pennsylvania
15 who utilize home care, what percentage falls into each
16 category.

17 MS. COOPER: I can't answer - oh, thank you. I
18 can't answer to the specific percentage, but I'm sure we can
19 get you that information from the Home Care Association. So
20 I'd be happy to get you that later.

21 CHAIRMAN SAMUELSON: Do you have a sense? Is it
22 about half and half?

23 MS. COOPER: My sense is that a little bit more
24 receive services at the consumer directed model than the agency
25 model. The agency model - so the employment restrictions don't

1 apply to the consumer directed model.

2 Oftentimes, they are family members, neighbors,
3 relatives. And although there's now a criminal background
4 clearance that is required, one can still choose to use that
5 person whereas in an agency model, they can't. So for us
6 really, the issue is twofold.

7 It is the fact that these rules don't apply to the
8 consumer directed model. And that doesn't make sense at all
9 because, you know, they should be held to the same standards as
10 everyone else, and the rules should be the same across the
11 board, not because we think that because we're having a
12 tantrum, but because of the safety issues related to the person
13 receiving the service.

14 CHAIRMAN SAMUELSON: Am I correct that in both cases
15 agency-directed model or consumer-directed model, public funds
16 could be involved? You might have the agent waiver, you might
17 have the Area Agency on Aging thing -

18 MS. COOPER: Correct.

19 CHAIRMAN SAMUELSON: - so the taxpayers could be
20 involved in the payment?

21 MS. COOPER: Correct, correct. Yes.

22 CHAIRMAN SAMUELSON: Thank you.

23 CHAIRMAN DAY: Great.

24 Next we'll go to Board questions. Representative
25 Wendi Thomas.

1 REPRESENTATIVE THOMAS: I have one question, but I
2 want to follow this because I'm thinking of something else.

3 So consumer model, just to be clear, I need care, I
4 want my child to do it, my daughter's coming in, so I apply -
5 it's really the money, as I understand it. Right?

6 MS. COOPER: Uh-huh (yes).

7 REPRESENTATIVE THOMAS: So in order to get paid by
8 Medicaid, they would have to get a clearance, even though it's
9 my son or daughter, that's what we're talking about?

10 MS. COOPER: Correct.

11 REPRESENTATIVE THOMAS: Okay.

12 MS. COOPER: But the list from the Department of
13 Aging that - the exclusion list, the list of possible crimes,
14 we can't hire certain people who are on that list, whereas if
15 it was a consumer-directed model, it wouldn't matter.

16 REPRESENTATIVE THOMAS: Even though we pay them with
17 state funds?

18 MS. COOPER: Yes. Same funding.

19 REPRESENTATIVE THOMAS: Okay.

20 Thank you for that clarification.

21 The original question I had, I think, Zach, goes to
22 you.

23 MR. SHAMBERG: Okay.

24 REPRESENTATIVE THOMAS: Around the Chairman's
25 beginning - if you would provide us that. And if you would

1 also provide us with any background on what they've done to
2 address privacy issues. So I worked in healthcare and HIPAA is
3 a huge, you know, rule. And besides just common decency,
4 privacy concerns, which I think we all understand, there are
5 also some greater.

6 So while they may not be clearly in the legislation,
7 just having some background on what's been debated and thought
8 through would be helpful so we don't ask those questions.

9 Thank you.

10 MR. SHAMBERG: Of course.

11 CHAIRMAN DAY: Great. Thank you so much.

12 Next we'll go to Representative Pam DeLissio.

13 REPRESENTATIVE DELISSIO: Thank you.

14 Just one question. I've heard both from Margie and
15 I think from Denise as well that the majority of the complaints
16 from abuse are related to family-related caregivers. And we
17 can only deal with what we're told. I understand that.

18 But I actually wonder if that's the difference
19 between, you know - what's the difference between what happens
20 versus what is reported?

21 So, you know, these callers that are much harder to
22 track down who are scamming people via Social Security, Western
23 Union, e-mail, all this other stuff, my guess is that older
24 adult, in those situations, who actually get scammed, and I
25 know of more than a few situations, are very embarrassed when

1 that comes to light, that somebody just got something over on
2 them, and they're not going to volunteer too readily to the
3 kids or to an agency that they just lost \$2,000 or \$3,000 grand
4 because somebody called to say your grandchild is stuck out of
5 the country in the Philippines and come down to Western Union
6 and, you know, send over a wire over \$2,000.

7 So I think those don't get reported. And you may
8 say, well, you know, what can we do about that if they're not
9 reported. And I think it goes back to this real need for some
10 serious education of consumers so when that does happen, give
11 them a comfortable space to feel like they can absolutely
12 report it without feeling kind of silly about it. And also in
13 that education to be telling them that - you know, I know an
14 instance once where somebody got an e-mail, and the e-mail was
15 written in such a way that she firmly believed that the person
16 who was referenced in the e-mail was somebody she knew and, in
17 this case, was in London.

18 And fortunately, in the two instances where this
19 happened in my own family, they called me first to say, you
20 know, I'm concerned or I'm about to do this or something, I'm
21 like no stop, don't. And it was very hard to convince them it
22 was a scam because they're like, well, how did they get my
23 e-mail address, how did they get my information.

24 So I think then I'm not sure that necessarily that
25 the family caregiver are the most complaints. They're the most

1 that we hear about. And those others are still very much out
2 there and I think we would be remiss if we just thought since
3 we're not getting complaints, that's not an issue. I think
4 it's very much an issue. I think it's grossly underreported,
5 and maybe our only opportunity to do that is then education.

6 So I heard those comments twice today and I don't
7 want to forget this other piece.

8 MS. HENRY: Representative, can I just make a
9 comment before you guys -? So in going down to Western Union
10 and that, I think we have to include in that, that I can con
11 somebody in this room right now if I wanted to.

12 REPRESENTATIVE DELISSIO: A new way of doing it.

13 MS. HENRY: But I just wanted to include in your
14 comment that it's becoming easier and easier to transfer
15 financial money. And so if we're going to think about
16 solutions for that, I would suggest that we need to - I'm
17 sorry. I just wanted to tag onto it.

18 MS. ZELENAK: Yeah. And I just wanted to say
19 because personal care and assisted living is private pay, we
20 probably find that out sooner because they don't have the money
21 to pay their bill, where if they're on, you know, Medicaid, you
22 know, I know they do research. That's our first thing.

23 If you're behind two months, then we're sitting down
24 and saying what's going on. And a lot of times they'll open up
25 at that time with us.

1 MS. HENRY: But I think as Margie said, you know,
2 when the family has taken assets or taken income that's
3 supposed to come to the nursing facility, while we try to say
4 hey, this is elder abuse, we're basically told, you know, try
5 to collect it like anybody else would try to collect money, go
6 to the magistrate, try to sue the resident in your building or
7 the family member.

8 It just - it doesn't work. And frankly, at least in
9 those illegal transfer of assets or uses of monthly income that
10 should come to the nursing facilities and then don't, there
11 really is no way for the nursing facility to get those funds
12 back and we're on the hook. And it just makes the problem of
13 lack of Medicaid funding even worse when you're on the hook to
14 provide a lot of private care for no funding.

15 MS. ZELENAK: And the other thing that's out there
16 is the veteran's benefits. You know, there were scammers out
17 there saying I'll help you hide your money so you can qualify
18 for the veteran's benefits. You know, how is that fair if you
19 have the finances?

20 Okay. Let's go give these - you know, and I'm sure
21 you deal with that too. There were - there were scammers out
22 there saying we'll hide your money and now you'll qualify for
23 all the veteran's benefits. That's not fair either.

24 CHAIRMAN DAY: I appreciate your comments, and I did
25 write down here inappropriate transfer of assets was the topic

1 that you talked about. And just for, you know, our viewers and
2 the public here is we have a copy - you know, a compact where
3 we, as policy makers, make a decision that people going into
4 this situation should contribute part of their assets toward
5 this. Right?

6 And then the State will step in or a government
7 agency or even a nonprofit absorbs some costs. And it's part
8 of the contract or the compact for people entering into this.
9 So people actually moving their assets to avoid it, you said,
10 to the tune of \$631 million per year, I think, was that the
11 right figure?

12 MS. HENRY: Yeah, that's different.

13 CHAIRMAN DAY: That was the inadequate funding?

14 MS. HENRY: Correct, yes.

15 CHAIRMAN DAY: So I had those comments written down
16 and I just want to say continue to make those arguments.
17 They're hard for you to make, I think, because sometimes you or
18 maybe members of an association feel like, you know, you're
19 just making an argument to take someone's assets and that's
20 really not what's happening, is that in many cases, I'm sure
21 people can put assets in until they can't and they don't have
22 it. And then they're taken over by the Commonwealth or other
23 agencies. So I appreciate that.

24 Our final question right now will come from
25 Representative Frank Ryan.

1 REPRESENTATIVE RYAN: As you know, we've had a
2 number of these discussions about - well, Zach, you used the
3 comment that in three to five years the financial issues, and
4 you've heard me say, the Commonwealth - in three to five years,
5 the Commonwealth metrics, if not turned around, will be an
6 unmitigated disaster.

7 What I would think would be useful, and to the
8 Chairmen, the Minority and the Majority Chair, I'd encourage us
9 to have a separate hearing on the entire issues related to the
10 viability of the long-term care model. And I want to be very
11 candid. I mean, I think it's incredibly important, the
12 perspective that I, as a senior - and I'm not going to say
13 elder anymore, but as a senior, particularly, someone who
14 walked across the United States when I was in my mid-60s, we
15 all have to accept responsibility as seniors and others about
16 the cost of the system.

17 So, Zach, you used three to five years?

18 MR. SHAMBERG: Uh-huh (yes).

19 REPRESENTATIVE RYAN: I'm going to ask you two very
20 pointed questions. Is the current model of reimbursement in
21 such a way that you can ensure the viability of the industry
22 long term, number one?

23 And number two, the more important issue in my mind
24 is, is the way that we have our tax policies in the
25 Commonwealth established actually causing a graying of the

1 Commonwealth that's more severe that would - technically your
2 three to five year program, that will basically say that it's
3 not three to five years, but it might be two to three?

4 MR. SHAMBERG: I think it's - to answer your first
5 question, no. So it would be the way things are now in terms
6 of Medicaid reimbursement, and I hope that I'm getting to your
7 question, in three to five years, this continuum will no longer
8 be viable.

9 And I don't know that it will even last that long
10 because Anne talked about a workforce crisis. I mentioned
11 Medicaid reimbursement. I talked about the legal climate, the
12 regulatory climate.

13 And, again, with Pennsylvania being the third oldest
14 state in the entire country, that's really frightening to me.
15 As someone with a grandfather in a nursing home, with someone
16 who's mother and three cousins work in long-term care, I'm
17 worried that this system will not be able to sustain itself for
18 the next few years.

19 And, you know, you only have to look at
20 Pennsylvania's long-term care system over the last two or three
21 years where we have seen extreme volatility in the market.
22 We've seen sales. We've seen reorganizations. We've seen
23 changes of ownership.

24 And then you go around the country and you look at
25 states like Connecticut, Massachusetts, Texas, Wisconsin,

1 Oklahoma, South Dakota. You see those things, but you also see
2 closures. In Massachusetts alone last year, 35 nursing homes
3 closed.

4 So I look at a state like Pennsylvania. I don't want
5 that to happen here and I am afraid we are already on that path
6 unless we do something about it.

7 REPRESENTATIVE RYAN: Yeah. I just want to ask
8 about the last issue. We - and I'm now speaking as someone
9 who's over 65. We, in my age group, have to recognize that if
10 we don't reverse the trend that the Independent Fiscal Office
11 indicated, that younger people who are moving out of the
12 Commonwealth, if we don't reverse that trend, your industry is
13 a failed business model.

14 MR. SHAMBERG: Yes.

15 REPRESENTATIVE RYAN: I have worked for decades
16 doing turnarounds of financially troubled companies. This
17 organization - and I was with a health group that got rid of
18 all of our senior care facilities, which we recognize, it's a
19 failed model under the current reimbursements. And it can't be
20 because no matter what happens, those costs are going to be
21 there. And who pays it?

22 Anne, you have some good points.

23 Margie, again, I appreciate your comments. But we -
24 I truly - you do have great comments.

25 But for those of us on this committee, we cannot

1 just sit back and keep putting Band-Aids on this. This
2 requires some incredibly painful, difficult, honest discussions
3 with seniors, caregivers, and providers and hospital groups or
4 this thing is going to fail. And time is no longer on our
5 side.

6 REPRESENTATIVE THOMAS: And, Frank, I'd be remiss if
7 I didn't mention, you know, Frank was ready to come out to one
8 of our communities. In Pennsylvania, personal care had SSI.
9 It's \$37 a day. And I brought him to a community that had over
10 60 people there.

11 You can't provide care for \$37 a day. And that's
12 the only financial money that's available for low income to
13 live in personal care.

14 So I appreciate him coming out and seeing what only
15 \$37 a day can do.

16 MS. COOPER: And, you know, from a long-care
17 perspective, the issue of reimbursement is a big one. We are
18 reimbursed \$19 in Philadelphia, \$19.52 per hour for - per an
19 hour of service.

20 In Philadelphia, there is a fair wage law where the
21 City is promoting the \$15 an hour minimum wage for those who
22 contract with city or those who have more than three locations,
23 which is great. You know, we'd love to be in a position of
24 paying our aides more. We believe that they deserve more, but
25 we just can't.

1 We're competing now with not only the number of, you
2 know, home care agencies that are opening because they think
3 they can make a quick buck and quickly close and realize they
4 can't. But also now McDonald's and Target and other places
5 like that where they see home care - this job is one that is
6 not - that is valuable in terms of the work that they do and
7 the contributions to the community, but one where they cannot
8 take care of their families.

9 And so they have to make a choice as to whether
10 they're going to do this work or not.

11 Fortunately, for Home Care Associates, we've been
12 around for about 25 years, so we're a viable company. But
13 honestly, in the last three years, we have not profited at all.
14 And it continues to get worse with regulation and legislation
15 that's passed requiring more and more of us. In some cases, we
16 agree, and in other cases, we don't.

17 Now that the transfer of services or contacts from
18 Office of Long-Term Living to the managed care organizations,
19 there are even more requirements that now we are burdened with
20 that cost us a lot of money. So we are very concerned about
21 our ability to continue to provide quality service in the State
22 of Pennsylvania. It is a big issue.

23 I don't even know how we're going to survive next
24 year and the year after. And we feel very good about the
25 quality of care that we provide and our contribution to the

1 people in Philadelphia who need those services.

2 That, and can I also say on top of that, I want to
3 share one other story. You know, we have just created a fund.
4 The fund is because - that we created out of pocket in a
5 struggling - you know, in a struggling environment, and it's
6 because we do have seniors who are scammed. We have seniors
7 whose son comes in at the beginning of the month and drains the
8 account. And we have aides who go in every day who cannot just
9 say you get, you know, \$10 or you get, you know, this, but you
10 have no food in your house. The aides are coming out of their
11 pocket, the \$11, \$12 an hour to provide washcloths and food and
12 other things for seniors who are being scammed or whose
13 families are taking advantage of them. And that kills us to
14 know that we have employees who are coming out of their pocket
15 because they care.

16 So as an organization, we've created a front -
17 created a fund to relieve our aides of this obligation that
18 they will do, they will take care of their consumer, because
19 it's not fair. They're already underpaid. The reimbursement
20 is already low, and now we have ongoing continued regulations
21 that cost us even more money. And now we have the issue of
22 people being scammed and the population getting bigger and
23 bigger.

24 And, you know, you bring up the issue of
25 reimbursement. It is worth mentioning that this is not going

1 to get better. And for quality agencies who have no control
2 over these issues, you know, this is something that the
3 committee should really consider. There needs to be some
4 additional support for agencies who are really out there doing
5 good work.

6 CHAIRMAN DAY: You guys have done an outstanding job
7 today. We have a lot of members here today, and on our
8 committee and throughout the House of Representatives who, you
9 know, care deeply about these issues and work with people in
10 your district all the time. I want to remind people as you do
11 see other abuse on a video, just to call this number and report
12 it.

13 And we're going to probably work more in the future
14 on some of the things we talked about. Suggestions by
15 Representative Ryan, I appreciate that. All the questions of
16 all the members up here, and testimony today have been
17 absolutely outstanding.

18 I want to take a quick moment to thank New Hope Fire
19 Company again. We're actually going further, longer, than we
20 told them we would be here, so I want to just thank them again
21 for their indulgence for the length of our hearing.

22 I want to thank our team here that - our audio and
23 visual team here, and also all the people that have attended
24 here today.

25 Chairman, do you have anything you'd like to say to

1 close up the hearing?

2 Thank you all very much for your testimony today,
3 and continue to be engaged with me. Thank you.

4 * * * * *

5 HEARING CONCLUDED AT 1:38 P.M.

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