

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

JOINT PUBLIC HEARING

OF THE

LABOR AND INDUSTRY COMMITTEE  
AND  
HEALTH COMMITTEE

STATE CAPITOL  
HARRISBURG, PA

MAIN CAPITOL BUILDING  
140 MAJORITY CAUCUS ROOM

THURSDAY, OCTOBER 1, 2020  
9:30 A.M.

PRESENTATION ON THE  
IMPACT OF PA DEPARTMENT OF HEALTH'S  
PANDEMIC MITIGATION EFFORTS  
ON BUSINESSES AND EMPLOYMENT

BEFORE:

HONORABLE JIM COX, MAJORITY CHAIRMAN,  
LABOR AND INDUSTRY COMMITTEE  
HONORABLE CRIS DUSH  
HONORABLE TORREN C. ECKER  
HONORABLE BARBARA GLEIM  
HONORABLE JIM GREGORY  
HONORABLE DAWN W. KEEFER  
HONORABLE KATE A. KLUNK  
HONORABLE RYAN E. MACKENZIE  
HONORABLE DAVID M. MALONEY, SR.  
HONORABLE LORI A. MIZGORSKI  
HONORABLE ERIC R. NELSON

\* \* \* \* \*

*Debra B. Miller*

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## BEFORE (continued):

HONORABLE PATRICK J. HARKINS, DEMOCRATIC CHAIRMAN,  
LABOR AND INDUSTRY COMMITTEE

HONORABLE MORGAN CEPHAS  
HONORABLE MARIA P. DONATUCCI  
HONORABLE LEANNE KRUEGER  
HONORABLE JEANNE McNEILL  
HONORABLE GERALD J. MULLERY  
HONORABLE ED NEILSON  
HONORABLE ADAM RAVENSTAHL  
HONORABLE PAM SNYDER

HONORABLE KATHY L. RAPP, MAJORITY CHAIRMAN,  
HEALTH COMMITTEE

HONORABLE TIMOTHY R. BONNER  
HONORABLE JIM COX  
HONORABLE VALERIE S. GAYDOS  
HONORABLE JOHNATHAN D. HERSHEY  
HONORABLE DAWN W. KEEFER  
HONORABLE KATE A. KLUNK  
HONORABLE JERRY KNOWLES  
HONORABLE CLINT OWLETT  
HONORABLE BRAD ROAE  
HONORABLE DAVID H. ZIMMERMAN  
HONORABLE DAN FRANKEL, DEMOCRATIC CHAIRMAN,  
HEALTH COMMITTEE  
HONORABLE MARY JO DALEY  
HONORABLE PAMELA A. DeLISSIO  
HONORABLE ELIZABETH FIEDLER  
HONORABLE SARA INNAMORATO  
HONORABLE WENDY ULLMAN

## COMMITTEE STAFF PRESENT:

JOHN SCARPATO  
MAJORITY EXECUTIVE DIRECTOR,  
LABOR AND INDUSTRY COMMITTEE  
JONAS RICCI  
MAJORITY RESEARCH ANALYST,  
LABOR AND INDUSTRY COMMITTEE  
JENNIFER DODGE  
MAJORITY LEGISLATIVE ADMINISTRATIVE ASSISTANT II,  
LABOR AND INDUSTRY COMMITTEE  
McCLAIN FULTZ  
MAJORITY RESEARCH ANALYST,  
LABOR AND INDUSTRY COMMITTEE

## COMMITTEE STAFF PRESENT (continued):

HALEY SALERA

DEMOCRATIC EXECUTIVE DIRECTOR,  
LABOR AND INDUSTRY COMMITTEE

WHITNEY METZLER

MAJORITY EXECUTIVE DIRECTOR, HEALTH COMMITTEE

LORI CLARK

MAJORITY LEGISLATIVE ADMINISTRATIVE ASSISTANT,  
HEALTH COMMITTEE

ERIKA FRICKE

DEMOCRATIC EXECUTIVE DIRECTOR, HEALTH COMMITTEE

I N D E X

TESTIFIERS

\* \* \*

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SUBMITTED WRITTEN TESTIMONY

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See submitted written testimony and handouts online under "Show:" at:

[https://www.legis.State.pa.us/cfdocs/Legis/TR/Public/tr\\_finder\\_public\\_action.cfm?tr doc typ=T&billBody=&billTyp=&billNbr=&hearing month=&hearing day=&hearing year=&NewCommittee=Labor+and+Industry&subcommittee=&subject=&bill=&new title=&new salutation=&new first name=&new middle name=&new last name=&new suffix=&hearing loc=](https://www.legis.State.pa.us/cfdocs/Legis/TR/Public/tr_finder_public_action.cfm?tr doc typ=T&billBody=&billTyp=&billNbr=&hearing month=&hearing day=&hearing year=&NewCommittee=Labor+and+Industry&subcommittee=&subject=&bill=&new title=&new salutation=&new first name=&new middle name=&new last name=&new suffix=&hearing loc=)

## P R O C E E D I N G S

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2  
3 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: At  
4 this time, I would like to ask all who are able to stand  
5 and join me in saying the Pledge of Allegiance.

6  
7 (The Pledge of Allegiance was recited.)

8  
9 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: All  
10 right. I would like to welcome everyone to this joint  
11 hearing of the House Labor and Industry Committee and the  
12 House Health Committee.

13 I would like to announce, first off, that the  
14 meeting is being recorded, so I would ask that all Members  
15 and guests to please silence their cell phones and any  
16 other electronic devices.

17 I asked Chairman Rapp to hold this hearing with  
18 me today to take a look at the impact of the Department of  
19 Health's pandemic mitigation efforts on businesses and  
20 employment. We have heard a number of complaints and  
21 stories from constituents who have been harmed by the  
22 Department's actions and the mitigation efforts.

23 With 4.1 million unemployment claims, both UC and  
24 PUA combined, the Pandemic Unemployment Assistance, since  
25 the beginning of the pandemic here in Pennsylvania, there

1 must be some sort of a balance.

2           There's a human toll that comes with chronic  
3 unemployment and economic devastation. Today, we're going  
4 to hear from some of those stakeholders and from the  
5 Department of Health. Hopefully, we can get to a place  
6 where the pandemic mitigation efforts are carried out in a  
7 manner that makes sense instead of putting the burdens  
8 we're going to hear about today on employers and employees  
9 alike.

10           At this time, I would like to ask if Chairman  
11 Rapp has comments, and then if the Democratic Chairmen  
12 Harkins and Frankel would like to offer comments as well, I  
13 will take a few moments for those.

14           MAJORITY HEALTH CHAIRMAN RAPP: Thank you,  
15 Chairman Cox, and thank you for inviting the  
16 Health Committee to this very important hearing for our  
17 small businesses.

18           And we all know in our legislative offices the  
19 impact of unemployment, as our legislative office has been  
20 working hours. Most of our legislative offices never  
21 closed. None of our staff stayed home. They were all in  
22 our office every day. And one of the most important things  
23 besides, but it's all COVID-related obviously, was the  
24 issues regarding unemployment, and we're still taking those  
25 phone calls.

1           But also, we know there's a huge impact from the  
2 immediate shutdown because of the waiver list and working  
3 with employers, trying to get employers to reopen,  
4 especially employers who had government contracts. And  
5 obviously it's very sad to see what is happening to a lot  
6 of our restaurants and other small businesses.

7           We are very happy that our children, you know,  
8 are back in school in many of our districts. And certainly  
9 we all agree, I don't think there's a person here that  
10 would not agree that this virus is real, that we need to  
11 take precautions, and I think we have seen that the public  
12 is very willing to do that.

13           And when I go into a small business, I'm always  
14 amazed at the steps that the small businesses will take to  
15 protect the public and also to protect their business. But  
16 they don't want to take the risk of putting the public at  
17 risk for being exposed to COVID. They have done amazing  
18 work trying to ensure that public entities, especially  
19 restaurants, are safe for the public.

20           So just like a lot of other issues, they overflow  
21 from one committee to the other, so I'm very interested in  
22 hearing what everyone has to say. And the Chairman, you  
23 know, worked frequently on -- we even serve, Representative  
24 Cox serves on the Health Committee. So I'm very pleased to  
25 be here.

1           Thank you, Chairman Cox, again, and I will turn  
2 the mic back over to you, sir.

3           MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
4 you, Chairman Rapp.

5           At this time, I would like to recognize my  
6 Democratic counterpart in the House Labor Committee,  
7 Chairman Harkins.

8           MINORITY LABOR AND INDUSTRY CHAIRMAN HARKINS:  
9 Thank you, Chairman Cox.

10           I want to thank everyone for being here today and  
11 sharing your experiences with us, the ones dealing with the  
12 COVID pandemic and its economic impacts on all of us.

13           To the business community, we hear you. We  
14 recognize the challenges you are experiencing, and we  
15 appreciate all of the efforts you have taken to adhere to  
16 the safety guidelines, which we know keep evolving, and we  
17 are as frustrated as you are.

18           I, too, have some concerns about the Wolf  
19 Administration's COVID policies, but I would also like to  
20 applaud Secretary Levine, Governor Wolf, and everyone else  
21 working to keep our families safe. The Administration was  
22 forced to make a lot of tough calls in complete absence of  
23 Federal leadership. According to the CDC data,  
24 Pennsylvania has the lowest per capita infection rate of  
25 any large State. Unfortunately, that does not mean we are



1 able to return to business as usual.

2 I just recently saw this morning on a news  
3 report, there probably will never be another normal,  
4 whatever normal was. Look at what's happening right now in  
5 Green Bay, Wisconsin, where a spike in COVID cases is  
6 overwhelming hospitals and ICUs. That could easily happen  
7 here if we are not careful. This crisis is not over, and  
8 these issues are deserving of our attention and our time.

9 With all that said, we are here to discuss public  
10 health and the economy; yet, no workers were invited to  
11 testify today. This crisis hit low-income workers  
12 especially hard, and I'm disappointed that they will not  
13 have a voice at this hearing. Nonetheless, I am hopeful  
14 that we can have a productive conversation on how we can  
15 help Pennsylvania's economy rebound while keeping  
16 Pennsylvania workers safe.

17 With that, I'll turn it back to my friend and  
18 colleague, Jim Cox. Chairman.

19 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
20 you, Chairman Harkins.

21 At this time, I would like to recognize the  
22 Minority Chairman of the Health Committee, Representative  
23 Frankel.

24 MINORITY HEALTH CHAIRMAN FRANKEL: Thank you,  
25 Chairman Cox, and I thank my Chair, Representative Rapp,

1 and Chairman Harkins as well.

2 I certainly am interested in hearing about the  
3 experiences of our local businesses, and I have, as we all  
4 have within our districts, heard from our businesses and  
5 the hardships that they are enduring. This disease, this  
6 epidemic, is something that has been evolving, and what we  
7 have learned in the last 6 months, it's very different than  
8 what our first reactions were to it.

9 And I want to, while I share the concerns of  
10 businesses, I also want to commend the Department of Health  
11 and the Governor for the efforts on mitigation, which the  
12 results are hard to dispute. Our health-care system was  
13 never overwhelmed. The level of infections compared to  
14 States, neighboring States in the mortality rates, are very  
15 low compared to the States that surround us.

16 So we have had success. The priority clearly has  
17 been public health and public safety in dealing with this.  
18 But at the same time, as we have learned from our  
19 experience from the science and the medical evidence, we  
20 have changed the response. The Department has been  
21 responsive to some of the changing environments. There  
22 have been mistakes made, clearly, but I think that is  
23 something that we have seen in every State and certainly  
24 from our national government.

25 The failure of the Administration in Washington

1 to address the needs of our communities to give us the  
2 resources that we need to provide public safety has been  
3 dismal. And I look forward to, you know, hearing from our  
4 businesses about their experiences and how they think we  
5 ought to maybe amend the mitigation efforts and the  
6 responses of the Department of Health as well.

7 But ultimately, and I think it is indisputable  
8 that Pennsylvania's response, which has prioritized public  
9 safety and public health, has been a success story in a  
10 very difficult environment.

11 So I am looking forward to hearing the testimony,  
12 and thank you, Mr. Chairman.

13 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
14 you, Representative Frankel.

15 Today, we have asked a number of individuals to  
16 join us. So for the hearing today, we have Trudy Ivory,  
17 Chair of the Pittsburgh Penguins Rink Managers Group;  
18 John Longstreet, President and CEO of the Pennsylvania  
19 Restaurant & Lodging Association; Rebecca Oyler, who is  
20 the PA State Legislative Director for the NFIB. We also  
21 have the Secretary of Health, Dr. Rachel Levine. Joining  
22 Dr. Levine, we have Dr. Wendy Braund, the COVID-19  
23 Response Director; Dr. Sharon Watkins, the State  
24 Epidemiologist; and Sarah Boateng, the Executive Deputy  
25 Secretary.

1           We have asked each of the testifiers, and for the  
2 Department, the Department counts as one testifier, if you  
3 will. So we'll have a total of 20 minutes. Each  
4 testifier/organization will have 5 minutes to offer their  
5 comments. At the conclusion of the comments of all the  
6 testifiers, we will have questions and you'll be able to  
7 answer as a panel.

8           I would like to encourage each of you to reach  
9 out in the middle of a question. If you're wanting to join  
10 in and say, wait a minute, I have a different perspective  
11 on that, whether it's the person sitting next to you or  
12 whether it's somebody speaking virtually, I would encourage  
13 you to get my attention somehow. I'll be watching the  
14 screen as well, and so ideally, we'll be able to engage in  
15 a panel discussion of sorts and allow for questions to get  
16 very robust and comprehensive answers.

17           So at this point, we're going to start with  
18 Ms. Ivory. When you're ready.

19           MS. IVORY: Thank you.

20           MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: If you  
21 could pull the microphone closer.

22           MS. IVORY: Thank you for allowing me to speak to  
23 you today. I really appreciate the opportunity.

24           I am a 30-year employee of the City of Greensburg  
25 as the Recreation Facilities Manager. I also serve as the

1 Chair of the Pittsburgh Penguins Ice Rink Managers Group  
2 that is comprised of 31 ice facilities made up of  
3 7,553 hockey players, ages 5 to 18, from southwestern PA,  
4 northern West Virginia, and eastern Ohio. Those numbers  
5 play for an amateur and an interscholastic league, which is  
6 the PAHL, P-A-H-L, and PIHL. Both of those organizations  
7 are active in our Managers Group and attend our quarterly  
8 meetings. We have a solid working relationship with their  
9 directors.

10 Our buildings contain complex equipment  
11 consisting of air handling exchange units, desiccant  
12 dehumidifiers, and 7 miles of under-ice piping, which keeps  
13 our ice at a consistent 18 to 22 degrees. We consist of  
14 seasonal and year-round facilities that are owned by  
15 private companies, universities, and municipalities. Our  
16 ice rinks range from 40,000 square feet to 100,000 square  
17 feet, with occupancy limits of 500 to 800 bodies.

18 Eight-foot-high Plexiglas surrounds our 200 by  
19 85 foot playing surface. The inside temperature of our  
20 rinks vary from 45 to 55 degrees. Our member facilities  
21 are diligently enforcing the CDC guidelines, including  
22 wearing a mask, physical distancing, providing hand  
23 sanitizer in several locations, checking patron  
24 temperatures, and disinfecting the entire facility several  
25 times a day in an effort to provide a safe environment for

1 our players.

2 We limit the number of players allowed in each  
3 locker room to keep a distance, and all players must wear a  
4 mask. We have posted signs from the front to the back of  
5 the building stating "keep a 6 ft. distance," "wear a  
6 mask," "wash your hands," "use hand sanitizer," "stay home  
7 if you have a fever or feel ill," and our leagues also help  
8 us to enforce the rules related to COVID-19.

9 The 25-indoor-person limit is impossible to  
10 adhere to in a game situation, considering a team is made  
11 up of 14 to 18 players and a minimum of 2 coaches. Our  
12 players are covered head to toe in protective equipment,  
13 and our coaches are required to wear a mask when coaching  
14 from the bench. We have anywhere from 6 to 30 full-time  
15 and part-time employees in our buildings that are doing  
16 their best to keep everyone healthy.

17 Speaking just for my recreation department, we  
18 have experienced a significant loss of revenue,  
19 approximately \$150,000 since March, due to cancelled  
20 recreation programs such as our ice hockey, baseball,  
21 football, summer camps, and our outdoor pool, all due to  
22 the virus.

23 I'm here today to plead for a minimum of a 25- to  
24 50-percent occupancy limit in order to move forward with a  
25 playing season for our hockey families. It is unimaginable

1 to expect a parent to not attend a game for their 6- or  
2 7-year-old who requires help with dressing and basic  
3 equipment.

4 I am well aware that when the CDC put together  
5 their COVID-19 guidelines, it was not possible to consider  
6 every activity and/or sport and that ice hockey serves a  
7 smaller percentage of youth. I hope I have been able to  
8 shed some light on what our sport entails and what our  
9 buildings are capable of and determined to, which is  
10 keeping our players and families safe.

11 I realize the final decision on increasing  
12 attendance numbers does not lie exclusively with you, but  
13 please help us in being able to start to create a safe  
14 season for our players by increasing our indoor attendance  
15 numbers. Our facilities employ hundreds of full- and  
16 part-time employees who depend on us as their sole source  
17 of income.

18 Once again, thank you all for inviting us here  
19 today, and I wish you all good health.

20 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
21 you, Ms. Ivory.

22 Next we'll hear from John Longstreet.

23 MR. LONGSTREET: Thank you to the Chairmen of  
24 both the Labor and Industry Committee and the Health  
25 Committee and all of the Members for holding this hearing

1 today and for inviting me to testify. I appreciate the  
2 opportunity to be here.

3           The Pennsylvania Restaurant & Lodging Association  
4 represents hotels, restaurants, and travel and tourism in  
5 Pennsylvania, one of only six States where we have the  
6 entirety of the industry covered with one industry, or with  
7 one association.

8           About March 15<sup>th</sup>, our Board of Directors made the  
9 decision to suspend the collection of dues from all of our  
10 members, understanding the need that they were going to  
11 have for cash flow in order to survive. We also reached  
12 out to do everything we could to help employees that were  
13 going to be displaced because of this. So consequently,  
14 we now represent all 26,000 restaurants, 1500 hotels,  
15 50 destination marketing organizations, and about  
16 150 attractions around the State.

17           In addition, we very quickly, through some very  
18 generous donations from corporate sponsors, raised  
19 \$250,000, a quarter of a million dollars, and have  
20 distributed that to displaced hospitality workers through  
21 our 501(c)(3). So we definitely care about the workers,  
22 the 580,000 workers in our industry, that have been  
23 affected by this.

24           On July 15<sup>th</sup>, Governor Wolf ordered that  
25 restaurants reduce indoor capacity from 50 percent of



1 Fire Code rating to 25 percent. With proper social  
2 distancing and face masking, the arbitrary number of  
3 25 percent has no basis in science as we can ascertain. We  
4 have also been able to get no evidence from the  
5 Administration to support this since that time as well.

6 As the Governor likes to say, the virus will  
7 determine our actions, and I agree with those that have  
8 said that Pennsylvania has a good record on this, but it  
9 has been shown that the virus respects social distancing  
10 and face masking, standards that were already in place and  
11 being followed by restaurants. The only significance of  
12 the 25-percent number is that it will, and frankly, already  
13 has, put restaurants out of business and employees on the  
14 streets permanently.

15 While we understand the need and urgency in  
16 taking steps to mitigate the spread of COVID-19, we are  
17 disappointed and frustrated by the course of action taken  
18 by Governor Wolf and Secretary Levine in focusing on the  
19 restaurant industry, an industry first closed and one of  
20 the hardest hit by the pandemic. Also, the restaurant  
21 industry is the second largest private employer in the  
22 country, with, as I have already stated, over half a  
23 million employees just in Pennsylvania.

24 By his own words, Governor Wolf is targeting the  
25 restaurant industry, although there is scant real evidence

1 that the entire restaurant industry is either the problem  
2 or the solution. Even the highly quoted September 10<sup>th</sup>  
3 CDC study, which implied a linkage between COVID-19 and the  
4 restaurant industry, has been criticized as containing  
5 numerous flaws, and further, the lack of direct correlation  
6 should be evidence that when restaurants demonstrate  
7 effective mitigation efforts, the risk is low when dining  
8 outside or inside.

9           Specifically, the study tells us that people who  
10 were diagnosed with COVID-19 had also dined out. There is  
11 no clear evidence that the virus was contracted at a  
12 restaurant versus any other community location. Also, the  
13 study limited the number of participants and came from  
14 10 States with greatly varying restrictions on restaurants  
15 during the potential period of potential exposure. It  
16 should be noted that not a single restaurant in  
17 Pennsylvania was included in this study -- not a single  
18 restaurant in Pennsylvania.

19           Even the CDC recognized the limitation of their  
20 own study within its report, but, of course, that did not  
21 make the headlines. It is irresponsible to pin the spread  
22 of COVID-19 on a single industry. Restaurants have  
23 historically operated with highly regulated safety  
24 protocols based on the FDA's Food Code and have taken  
25 additional steps to meet the safe operating guidelines

1 required by the CDC, the FDA, OSHA, Federal, State, and  
2 local officials.

3           Of all retail operations, restaurant operations  
4 already comply with numerous licensing and certification  
5 requirements, including oversight by the Department of  
6 Health and the Department of Agriculture, and a requirement  
7 that every food service operation have managers who are  
8 ServSafe certified. And yet, restaurants have now been  
9 asked to undergo yet another form of certification just so  
10 that they can bring their indoor dining back to 50 percent  
11 of Fire Code, a level that will barely allow most  
12 restaurants to survive.

13           The Governor has highlighted a few bad actors  
14 when in fact most restaurants are doing the right thing,  
15 and many have invested significantly in equipment to ensure  
16 the safety of their guests and employees.

17           Reduction to 25 percent capacity on July 15<sup>th</sup> was  
18 essentially the same as eliminating indoor dining entirely,  
19 and there is no scenario that restaurants can survive at  
20 that level of occupancy. The solution should be  
21 enforcement and shutting down those bars and restaurants  
22 not complying with the guidelines rather than punishing  
23 those who have been doing it right all along.

24           It is disappointing that the Governor, despite  
25 his commitment to work with the Pennsylvania Restaurant &

1 Lodging Association in crafting operating standards,  
2 elected not to do so in the critical July 15<sup>th</sup> decision.  
3 We were grateful that our work with the Governor's team led  
4 to the addition of outdoor dining in the yellow phase and  
5 safe, balanced reopening standards in the green phase.

6           Ironically, in one of the very first meetings  
7 with the Wolf team, we were asked about capacities and  
8 pointed out that 25 percent was unsustainable. We knew  
9 that, because many States had tried to open at 25 percent  
10 and found that as many as 70 percent of the restaurants did  
11 not open because of that. How the 25-percent number  
12 resurfaced 2 months later is still baffling.

13           On Monday, September 21<sup>st</sup>, the Governor's most  
14 recent order took effect, which allowed restaurants to  
15 return to 50 percent Fire Code capacity with some strings  
16 attached. Self-certification is required, bar seating is  
17 prohibited, a meal must be purchased to get a drink, a  
18 glass of wine, or a beer, and an 11 p.m. curfew on  
19 alcoholic beverages is imposed. The order continues to  
20 enforce the nonsensical 25-person capacity limit on indoor  
21 private events such as weddings.

22           Last Tuesday, the Senate passed with broad  
23 bipartisan support PRLA-endorsed House Bill 2513, and we  
24 thank you for that, sending it back to the House for a  
25 concurrence vote. The Governor quickly announced that he

1 would veto 2513. In his Thursday press conference, he  
2 accused the Legislature, and I quote, of playing "fast and  
3 loose with the lives of Pennsylvanians," but neglecting to  
4 point out that 2513 brings the industry back to the exact  
5 same carefully developed, science-driven standards that his  
6 team put in place prior to the July 15<sup>th</sup> order. Closing  
7 thousands of restaurants permanently and putting hundreds  
8 of thousands of Pennsylvanians out of work sounds a lot  
9 more like fast and loose than trying to safely reopen  
10 restaurants and save jobs.

11           Lastly, recently, the National Restaurant  
12 Association in conjunction with PRLA surveyed restaurateurs  
13 in Pennsylvania and across the country. In Pennsylvania,  
14 63 percent of the restaurant operators reported that it is  
15 unlikely that their restaurants will still be in business  
16 6 months from now if current business conditions continue  
17 -- 63 percent. The national response was 38 percent,  
18 nearly a 30-percentage-point difference.

19           Another glaring disparity between the national  
20 results and Pennsylvania comes to employee layoffs.  
21 Nationally, 19 percent of operators reported they had laid  
22 off more employees in July and August, whereas in  
23 Pennsylvania, 42 percent of restaurants have laid off  
24 employees, which we can only attribute to the Governor's  
25 surprise July 15<sup>th</sup> order that dropped indoor dining to

1 25 percent.

2 In closing, with the bipartisan support and  
3 passage of House Bill 2513, last week was a good week for  
4 restaurants and event venues in Pennsylvania. There was  
5 some light for them where there only seemed to be darkness.  
6 There was hope where there only seemed to be dismay.

7 A key reason why this is the case is that over  
8 200 Legislators heard directly from hospitality employees  
9 and restaurant owners during legislative roundtables  
10 sponsored by PRLA across the State. Legislators on both  
11 sides of the aisle listened to them and recognized that  
12 restaurants can keep guests and employees safe and survive  
13 at the same time. These are not mutually exclusive  
14 concepts.

15 So on behalf of the 26,800 restaurants and food  
16 service operations and over half a million employees in  
17 Pennsylvania, we urge Governor Wolf to swiftly return  
18 restaurants and private event venues to safe standards that  
19 his team meticulously researched and developed prior to  
20 July 15<sup>th</sup> -- the same standards that his team meticulously  
21 researched and developed. The Governor can do this simply  
22 by signing the overwhelmingly bipartisan House Bill 2513  
23 before any more irreparable damage is done to the real  
24 people who work in our great industry.

25 Thank you.

1 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
2 you, Mr. Longstreet.

3 Next we'll hear from Rebecca Oyler. Ms. Oyler.

4 MS. OYLER: Good morning, Chairman and Members of  
5 the Committees.

6 My name is Rebecca Oyler. I am the Legislative  
7 Director for NFIB, the National Federation of Independent  
8 Business, in Pennsylvania. NFIB represents over  
9 13,000 small business members in Pennsylvania and about  
10 300,000 across the country.

11 Small businesses always have and always will make  
12 up an enormous and critically important part of  
13 Pennsylvania's business community. More than 99 percent of  
14 Pennsylvania businesses are small. Generally, they are  
15 responsible for almost half of the private-sector  
16 workforce, and they create two out of every three new jobs.  
17 They also have been disproportionately impacted by  
18 COVID-19, so we are thankful for the opportunity to speak  
19 today.

20 From the early days of the pandemic, small  
21 business owners have been committed to doing their very  
22 best to ensure the health and safety of their customers,  
23 their employees, and their communities during this  
24 challenging time. When a shutdown was ordered to flatten  
25 the curve, "life-sustaining" businesses worked hard to keep

1 providing essential goods and services, and many reoriented  
2 their businesses to provide necessary equipment and  
3 supplies. Still others planned ways to serve their  
4 customers in innovative ways. Entrepreneurs are  
5 problem-solvers, and most of them rose to the challenge.

6           However, as the days turned into weeks and  
7 eventually months and mandates and guidelines changed  
8 suddenly and often, many found it difficult to hold things  
9 together. The uncertainty that has become the new "normal"  
10 has forced many small businesses to close their doors for  
11 good, and we know that more will follow unless something  
12 changes. We need small businesses to succeed.

13           So what can be done to help them survive and  
14 recover? Two of the most important elements of small  
15 business success are predictability in expectations and  
16 flexibility in implementation. Provide them with these two  
17 things and entrepreneurs will find a way to solve almost  
18 any problem. But unfortunately, these two things have been  
19 sorely lacking during this crisis. Until we provide them  
20 with some certainty about the future and the flexibility  
21 they need to manage bumps along the way, our small  
22 businesses will never achieve their potential, and as a  
23 result, our economy will continue to suffer, our tax  
24 revenue will never rebound, and unemployment will remain  
25 high.



1           Though the current pandemic is certainly  
2           unprecedented, and we appreciate that orders were well  
3           intended, often sudden and sometimes inconsistent State  
4           mandates have been the cause of many problems. Many  
5           business owners were caught off guard by the urgency with  
6           which many of the policies took effect, including the mask  
7           mandate. Though employers were perfectly willing to  
8           protect their employees by providing masks, they had very  
9           little time to comply with that particular order. I talked  
10          to several "life-sustaining" business owners who were  
11          unable to find masks on such short notice, which  
12          jeopardized their ability to stay open and provide the  
13          needed goods and services they were producing.

14                 Many business owners also had problems finding  
15          other necessary supplies after the April 5<sup>th</sup> business safety  
16          measures order, which took effect the very next day. The  
17          order forced a near scramble for hand sanitizer, cleaning  
18          wipes, paper towels, and soaps. The same thing happened  
19          again when the April 15<sup>th</sup> worker safety measures order,  
20          which created a rush to find shields, physical barriers,  
21          and other necessary items to rearrange spaces.

22                 Others quickly needed to procure e-commerce  
23          services to comply with various orders. Finding these  
24          items and services was made all the more difficult by  
25          broken links in supply chains that were caused by other

1 businesses facing the very same issues. It was kind of a  
2 cascading effect.

3 Another concern many small business owners  
4 related to me was a lack of consistency and clarity on  
5 certain policies, especially when they changed  
6 unexpectedly. This has been exacerbated by a lack of  
7 communication, which often causes various parties,  
8 including employers, employees, and even agency staff,  
9 having different information. One restaurant owner was  
10 frustrated when new rules were issued, and not  
11 understanding how they worked with the old rules, he asked  
12 a Liquor Control representative, a Liquor Control Board  
13 representative who happened to be in his business that day,  
14 to explain it. In response, the LCB official told the  
15 owner that he needs to "check the news every day."

16 In many cases, the uncertainty and lack of  
17 specificity have exacerbated pre-existing workforce issues  
18 unnecessarily, especially for "life-sustaining" businesses  
19 that need "all hands on deck" to keep going. Many of these  
20 businesses have difficulty finding qualified workers during  
21 normal times.

22 When workers can't work due to quarantine orders  
23 that may not seem to make sense, it can shut a business  
24 down and cause irreparable harm. Some small business  
25 operations were affected by quarantines of employees who

1 may have had second- or third-hand exposure to possible  
2 COVID cases where there was no clear connection.

3           Small businesses are willing to do whatever it  
4 takes to keep their employees and customers safe, but  
5 confusing and hastily written rules are not helpful. What  
6 they desperately need is clear and consistent guidelines  
7 that are well documented, well communicated, and along with  
8 sufficient time to put them into place.

9           Importantly, though, these guidelines must also  
10 provide enough flexibility to allow small businesses to  
11 implement them in the safest and most effective way for  
12 their individual situations. For example, one restaurant  
13 owner told me that his rural township does not have  
14 occupancy limits. He knows how to space his tables so that  
15 he can maintain proper CDC-recommended social distancing,  
16 but he doesn't know how to comply with the capacity  
17 limitations of the orders. Other small restaurants very  
18 much want and need to increase their capacity to  
19 50 percent, but they can't do it without seating customers  
20 at the bar. If it can be done with social distancing and  
21 physical barriers, why isn't this an option?

22           Many small businesses also question why current  
23 guidelines and mandates are the same for every business  
24 across Pennsylvania when case counts vary so much in  
25 different areas of the State. As it stands, with all

1 counties in green, it's unclear why a small business in  
2 Warren County with only 44 total cases is under the same  
3 restrictions as a small business in Delaware County, which  
4 has over 11,000 total cases and almost 18 times the number  
5 of cases per capita.

6           With no current plans beyond the green phase,  
7 which is unsustainable for too many small businesses, many  
8 are hanging on by a thread because they have no idea what  
9 the future holds, and they worry constantly that things  
10 could change on a dime again. They need some assurance  
11 that there is a path forward and a recognition that a  
12 reasonable balance can be achieved between pandemic  
13 policies and economic sustainability.

14           Recovery will require us to encourage  
15 entrepreneurs to bet on their businesses again, to open  
16 safely, reorient if necessary, bring their employees back,  
17 and invest in their future. We will never be able to  
18 achieve this with so much uncertainty surrounding the  
19 current crisis and future events. Please prioritize  
20 policies that will provide consistency, certainty, and  
21 flexibility with adequate notice to the business community  
22 to lay the foundation for a strong recovery ahead.

23           Thank you. I'll be happy to answer questions.

24           MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
25 you.

1           At this time, we'll hear from Secretary Levine.

2           SECRETARY LEVINE: Good morning.

3           Chairs and Members of both the House Health and  
4 House Labor and Industry Committees, thank you for the  
5 opportunity to speak today.

6           As you know, the challenges presented by COVID-19  
7 are immense. This global pandemic of the novel  
8 coronavirus, COVID-19, has impacted every country, every  
9 State, every industry, and every person, and Pennsylvania  
10 is no different.

11           We here at the Pennsylvania Department of Health,  
12 operating collaboratively in an incident command structure  
13 since February, have worked tirelessly to combat this virus  
14 and protect Pennsylvanians. Working collaboratively with  
15 the Governor's Office and other State agencies, we utilized  
16 swift public health measures to prevent the spread of the  
17 virus. Partnering with PEMA, DCED, and DGS, we distributed  
18 millions of personal protective equipment, including over  
19 5 million N95 masks. As we work to lower the spread of  
20 this virus and learn more about the tactics to combat the  
21 virus, we have adapted our methods. We have evolved from  
22 broad mitigation efforts in the spring to more targeted and  
23 more surgical mitigation efforts.

24           Though one case is too many and one death is too  
25 many, the fact remains that our work has helped to save

1 lives. The University of Pittsburgh released a study  
2 showing that our strong mitigation efforts such as the  
3 stay-at-home orders prevented a death count of nearly  
4 double that has occurred.

5 Our work has been praised by Dr. Deborah Birx of  
6 the White House Coronavirus Task Force, telling reporters  
7 in Pennsylvania that we have done a wonderful job and we  
8 get an A-minus for our efforts, and only because she never  
9 gives out A's. All of this comes in spite of the  
10 relentless efforts by the Pennsylvania Legislature to  
11 consistently peel back our mitigation efforts by bill after  
12 bill, seeking to force individual businesses to open,  
13 counter-messaging by elected officials stating that mask  
14 wearing isn't necessary or tantamount to child abuse,  
15 circulating false reopening plans to confuse the public,  
16 and stating that this is not an emergency or a crisis.

17 The Governor and the Administration know the  
18 serious toll that this pandemic has taken on Pennsylvania  
19 businesses, particularly those businesses where people are  
20 accustomed to gathering together in a way that puts them at  
21 increased risk during COVID-19.

22 We strongly support the passage of additional  
23 assistance for these businesses at the Federal level and at  
24 the State level so that business owners and employees can  
25 stay afloat until this threat recedes. However, as

1 Secretary of Health, my mission is to promote health and  
2 keep people safe. Many of the business reopening plans put  
3 forth by the Pennsylvania Legislature, which began  
4 advancing them in April, would have harmed Pennsylvania's  
5 response to this crisis. In fact, some Legislators  
6 suggested reopening by Easter. This year, that fell only  
7 4 days from the day that we had our highest case counts.

8 Removing restrictions during this global pandemic  
9 needs to be done in a very careful and very iterative  
10 manner and with full consideration of the public health  
11 effects associated with them. This was not the case with  
12 these legislative efforts.

13 Let me be clear, this virus is still a threat.  
14 We are still in a global pandemic, and we must continue to  
15 use the tools authorized by prior Legislatures to combat  
16 this virus.

17 Some suggest that because case counts and death  
18 counts are low in their local area that this virus poses no  
19 threat, and that characterization is wrong. One must only  
20 look to Florida and Texas to see what happens when public  
21 health measures are peeled back in a haphazard or careless  
22 manner.

23 Flattening the curve is not a once-and-done  
24 exercise. When we first highlighted the concerning  
25 reopening process of these States, we were criticized

1 because these States had fewer cases and deaths at that  
2 time. However, on June 16<sup>th</sup>, Florida saw 2 days in a row  
3 of over 2,000 cases. Florida waited to act for 10 days  
4 until implementing targeted mitigation on bars and  
5 restaurants.

6 Because the virus was allowed to burn through the  
7 State, it's case counts hit a high point of 15,300 on  
8 July 13<sup>th</sup>. Because it was allowed to burn, the State is  
9 still experiencing over 2,000 reported cases per day. On  
10 the 29<sup>th</sup>, it was 2,073, higher than any of our case counts.  
11 Florida's 14,317 deaths have outpaced Pennsylvania's and  
12 actually is the size of Greensburg, Pennsylvania -- all of  
13 the people in Greensburg, Pennsylvania.

14 Further, in Texas, cases exploded in June,  
15 hitting 1,703 cases. Texas has not experienced a day under  
16 a thousand new cases since. Texas waited for 23 days  
17 before instituting targeted mitigation in bars and  
18 restaurants, and the virus was allowed to burn in that  
19 State as well, hitting a high point of 10,791 cases in a  
20 day.

21 Cases remain high in Texas still, and they  
22 reported 3,812 new cases on the 29<sup>th</sup>. They have had  
23 15,604 deaths, nearly double ours in Pennsylvania. It will  
24 take two weeks of daily cases in Pennsylvania to equal one  
25 day peak-of-cases increases in Florida and Texas.



1           This was not the approach taken in Pennsylvania.  
2 Through the leadership of Governor Wolf, the Administration  
3 acted quickly and decisively to slow the spread of the  
4 virus. These decisions have been very painful, especially  
5 to the businesses, but these actions literally saved lives.  
6 We realized the real hardship that many of these  
7 disruptions have caused Pennsylvanians, including workers  
8 and business owners, but these are protections, not  
9 punishments.

10           We all want to return to normal as soon as  
11 possible. However, as we navigate this, quote, unquote,  
12 "new normal," the best way to keep businesses operating is  
13 by controlling the virus. You cannot reopen the economy  
14 unless the virus is under control.

15           Pennsylvanians, including business owners, who  
16 follow our public health measures help install confidence  
17 in all consumers that they can go to stores or other  
18 businesses safely as community spread eventually lessens.  
19 The more Pennsylvanians wear masks, the more they social  
20 distance, the more they follow other public health measures  
21 that we have put in place to fight the virus, the better  
22 positioned Pennsylvania will be to restore the damage that  
23 this virus has caused.

24           Until then, we are committed to continuing to  
25 combat this virus every single day, as we have done over

1 the last 6, 7 months, and we will continue to work towards  
2 our vision of a healthy Pennsylvania for all.

3 Thank you for your attention, and I am pleased to  
4 answer questions.

5 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
6 you.

7 At this time, we'll move to questions from the  
8 Members, and I would encourage any Members to reach out to  
9 your Executive Director or your respective Chairmen. We're  
10 compiling a list of those that we have notice from as far  
11 as wanting to ask questions, and so we'll add you to the  
12 list as we receive them.

13 So we'll start with Representative Eric Nelson.

14 REPRESENTATIVE NELSON: Thank you, Mr. Chair,  
15 Madam Secretary.

16 My question is centered in the area of contact  
17 tracing, and one of the employees who submitted testimony  
18 for today was Chef Arnold Ivey, who is the Executive Chef  
19 at a restaurant in our district, the IronRock Tap House.  
20 Their business was, unfortunately, closed when -- the  
21 business itself wasn't closed, but contact tracers had  
22 emailed and phone called to a number of their employees and  
23 required they were to quarantine for 14 days. So the  
24 business itself lost its employees and the ability to  
25 operate.

1           A lot of confusion and frustration about some of  
2 the letters that came from the contact tracers,  
3 specifically as we have had meetings with individuals with  
4 the contact tracers about immediately adhering -- this is a  
5 letter from contract tracers to employees:

6           "You must immediately adhere to this quarantine  
7 directive and all disease control measures included in it.  
8 If you do not cooperate with this directive, the Secretary  
9 of Health may petition a court to have you confined to an  
10 appropriate place chosen by the Department...."

11           I skip a line.

12           "This may be a hospital, or some other  
13 appropriate place, whichever the Department determines is  
14 best suited for your case. You will be kept there until  
15 the Department determines it can release you from  
16 quarantine. Law enforcement may be called upon, to the  
17 extent necessary, to ensure your compliance...."

18           And I refer to the second packet where an  
19 employee, an alternate employee from that business,  
20 received a call from a contact tracer, and I read:

21           "Approximately 2 days later, I received what I  
22 perceived to be a very threatening call, which stated  
23 things such as if I do not comply with self-quarantine, the  
24 police may show up at my house and I may be  
25 institutionalized and not released until they decided."

1           My question, Madam Secretary, this is extremely  
2 disturbing where I think all of us want to maintain a  
3 balance between healthy operations and public safety and  
4 civil rights.

5           Workers who receive phone calls and emails that  
6 are threatening to them do not seem to have the ability to  
7 dispute a claim or to raise questions about a claim.  
8 Specifically, as contact tracers are making these  
9 allegations to citizens, is there actual police authority  
10 and is there an appeal process that an employee who  
11 disputes the claim of a contact tracer is able to follow,  
12 potentially third-party oversight? There seems to be a  
13 very one-sided and oftentimes impending threat by the  
14 contact tracers.

15           SECRETARY LEVINE: Well, thank you for that  
16 question.

17           There are three ways to deal with a pandemic.  
18 The first is containment, the second is mitigation, as we  
19 have been discussing, and the third is a vaccine, and we'll  
20 all be hoping and praying for a vaccine either by the end  
21 of 2020 or in 2021, although that won't be a quick fix  
22 either.

23           Containment means testing, and we have been  
24 working to increase our testing significantly over the  
25 course of the pandemic. Those that test positive are

1 isolated. They have to isolate according to CDC guidelines  
2 until they meet the criteria to be released. And then we  
3 do case investigations of those individuals. We find out  
4 who their contacts are, in addition to other information.  
5 Those contacts are contacted by the Pennsylvania Department  
6 of Health by phone or by email or by mail, and then they  
7 need to quarantine for 14 days according to the CDC  
8 criteria. That is not new to this pandemic. This is  
9 standard public health practice, which has been present for  
10 decades.

11           The Disease Control and Prevention Act does give  
12 the Secretary actually the authority to isolate and  
13 quarantine individuals that refuse to do that. That has  
14 been done in previous pandemics and in infectious diseases  
15 as well. But we have not taken that action---

16           REPRESENTATIVE NELSON: Madam Secretary, my --  
17 Madam Secretary, my question is---

18           SECRETARY LEVINE: Let me finish, sir. I'm not  
19 going to stop talking, so let me finish until I answer your  
20 question.

21           REPRESENTATIVE NELSON: ---related to one of  
22 those three ways. One of those three ways, one of those  
23 three ways is not the use of force.

24           SECRETARY LEVINE: So we continue to do  
25 that---

1 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Excuse  
2 me.

3 SECRETARY LEVINE: ---and that is according to  
4 the law, the Disease Control and Prevention Act. But we  
5 have not taken anyone to court to be able to do that,  
6 because individuals are quarantining and they are  
7 isolating. But the measures of our contact tracers are  
8 appropriate to contact to public health.

9 REPRESENTATIVE NELSON: Madam Secretary, one of  
10 those three ways that you mentioned is not the use of  
11 police force or the threatening of police force on citizens  
12 who are not positive. These are citizens who do not  
13 experience and have not experienced symptoms. They are  
14 receiving phone calls from random people and are being  
15 threatened to be removed from their home by police force.

16 Does the Department of Health have the authority  
17 or are you claiming, Madam Secretary, respectfully, that  
18 the Department of Health will use police force to remove  
19 healthy people from their homes against their will?

20 SECRETARY LEVINE: Go ahead.

21 EXECUTIVE DEPUTY SECRETARY BOATENG: I think it's  
22 important to be clear that quarantine is exactly that. It  
23 is the quarantine of individuals who have been exposed to a  
24 disease. It's a standard public health practice, and the  
25 Department absolutely has that authority. We had that

1 authority given to us by the General Assembly through the  
2 Disease Control and Prevention Act to apply in  
3 circumstances like COVID-19 and has been applied to many  
4 other disease outbreaks for many, many years.

5 SECRETARY LEVINE: So, and I would question you  
6 when you say that this is random. We get names from people  
7 in terms that they have been exposed from the people who  
8 are positive. Through our case investigations, we  
9 determine, we determine from those individuals who their  
10 contacts are, and then we contact those individuals to  
11 quarantine.

12 I mean, as we have discussed, there's only three  
13 ways to deal with the pandemic, and we don't have a  
14 vaccine. So if you're questioning our ability to contain  
15 and you have previously questioned our ability to mitigate,  
16 then there is no way to address the spread of the disease.  
17 And we have seen in other States, as I have been  
18 articulating, what happens when you let this virus burn---

19 REPRESENTATIVE NELSON: Madam Secretary,  
20 my---

21 SECRETARY LEVINE: ---which will indicate to  
22 many, many more hospitalizations and deaths.

23 REPRESENTATIVE NELSON: My question was  
24 specifically, is there a dispute process where a citizen  
25 has the right to an appeal? This is a nontransparent

1 process that contact tracers are emailing and calling  
2 workers in the State of Pennsylvania and threatening police  
3 force against them. The citizen does not have an  
4 opportunity, as I understand, at this time, and I would  
5 certainly encourage that the Department develop such a  
6 procedure if they don't have one.

7 EXECUTIVE DEPUTY SECRETARY BOATENG: Sir, sir,  
8 that is not accurate.

9 So if we were to force through a court process  
10 the quarantine of an individual, that would process through  
11 the courts. So there would be that branch of government  
12 available there to provide that level of outside oversight.

13 SECRETARY LEVINE: So that's entirely correct.  
14 We don't just send the police in. To be able to force  
15 someone to isolate or to quarantine if they were refusing  
16 to, we have to go to court to be able to accomplish that,  
17 and that court would be the process that you are  
18 discussing.

19 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
20 you.

21 And at this time, we have a question from  
22 Representative DeLissio.

23 REPRESENTATIVE DeLISSIO: Thank you,  
24 Mr. Chairman.

25 Good morning, Dr. Levine.



1           I appreciate and support these efforts to contain  
2 and to mitigate, cheering on that vaccine coming out as  
3 well. In the interim, I, too, as many of my colleagues  
4 have, have been working closely with our constituents,  
5 particularly small businesses, over the last several months  
6 to help them understand what some of those mitigation  
7 efforts are, how they can best respond to them.

8           Is there an established process within the  
9 Department where now that we are months into this, and I  
10 know it is far from over -- and I can appreciate  
11 Ms. Oyler's predictability. As a former small business  
12 person and having run several companies, I get that. But I  
13 would imagine that the challenge is, the virus is not  
14 predictable; therefore, I'm not sure how policy can be  
15 predictable, because I have often used this example, we're  
16 building the plane as we're flying it.

17           So, you know, all of us are sympathetic and  
18 empathetic with that frustration. But every now and then,  
19 I come across a constituent who has a particular problem,  
20 and I'm looking to see if there's a process that is  
21 established, and my apologies if I have overlooked it, or a  
22 process that can be established.

23           For instance, my one constituent owns a number of  
24 spa franchises. She has informed me that aestheticians are  
25 not able to return to work. They are the category of

1 "professional worker" who does facials and that the face  
2 masks basically prohibit that.

3           It was great to talk to her, because this was a  
4 businesswoman who was able to give me statistics.  
5 Thirty-three percent of her business is that. The majority  
6 of these aestheticians are women, and in many cases, head  
7 of household women. So employment and gainful employment  
8 is very important to them. And last but not least, other  
9 States seem to have figured this out.

10           So is there a process within the Department  
11 whereby these types of matters can be brought to the  
12 Department's attention and it can be further reviewed and  
13 looked at?

14           SECRETARY LEVINE: So thank you for that  
15 question.

16           So first, I might ask Sarah Boateng to speak  
17 after me. Actually, I know that the aestheticians have  
18 talked to the Department of State and the Board in terms of  
19 specific rules. You are correct that facials are very  
20 difficult to perform because the patient can't wear a mask  
21 and have a facial. Some other States have forgone that,  
22 but other States have maintained that ban on facials.

23           But in terms of contacting the Department,  
24 Sarah Boateng?

25           EXECUTIVE DEPUTY SECRETARY BOATENG: Sure.

1           So the Department has a general number,  
2   877-PA-HEALTH, that citizens can reach out to at any time  
3   to reach public health professionals. Our community health  
4   nurses are dedicated to that line. Of course, for Members  
5   of the General Assembly, David Toth and his team are  
6   constantly available to connect to Secretary Levine and  
7   myself and our team, and we would be very open. And as the  
8   Secretary has said, we have had also opportunities to talk  
9   to many individuals in industries, including individuals  
10  who work in the facial industry.

11           SECRETARY LEVINE: And I have actually spoken  
12  with help through Legislators, with actually many Members,  
13  many barbers and hairstylists in the past and  
14  aestheticians, et cetera, and would be pleased to do so  
15  again. They have organized some large calls. So the  
16  individual can contact us, and then you as their  
17  Representative, feel free to contact David Toth, and we'd  
18  be glad to respond.

19           REPRESENTATIVE DeLISSIO: That would be very much  
20  appreciated. At the moment, we're kind of caught up in a  
21  Department of State/Department of Health pillar-and-post  
22  situation. So I'm fairly persistent and somewhat intrepid,  
23  so I will do that, and I appreciate your listening today.

24           Thank you, Secretary

25           SECRETARY LEVINE: Thank you.

1 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
2 you.

3 Next we have a question from Representative  
4 Ecker.

5 REPRESENTATIVE ECKER: Thank you, Mr. Chairman,  
6 and thank you to our testifiers. And Dr. Levine, thank you  
7 for being here.

8 My question pertains, since we're talking about  
9 the three ways of dealing with a pandemic, I'm going to  
10 speak to the mitigation aspect, because I think that's  
11 where we have, as a State, that's kind of where we're at  
12 right now.

13 In that regard, in mid-July -- and we have heard  
14 testimony on this -- we developed new guidance as it  
15 pertains to restaurants, and in my case, which I'm going to  
16 ask about, is venues and event space. So in that regard,  
17 and because I wanted to know what data, to focus on the  
18 data and the science and see, you know, how these decisions  
19 are made, I asked, I submitted a Right-to-Know request in  
20 August and very graciously was provided information from  
21 the Department as it pertains to how those decisions were  
22 made. And specifically, the bulk of that information  
23 seemed to be information that was given from the White  
24 House, the White House Office of Intergovernmental Affairs,  
25 and in reviewing that information and in the response

1 through my Right-to-Know request, which questioned the data  
2 behind the capacity order limitation, limiting indoor  
3 events to 25 and outdoor events to 250, the Federal  
4 guidance, which you claim, the Department claimed to have  
5 used and from the CDC and from the White House, at the  
6 time, Pennsylvania was averaging about 40 new cases per  
7 100. This was compared to the national average of 119 per  
8 100. And additionally, 42 percent of those cases, roughly,  
9 in Pennsylvania were from three counties -- Allegheny,  
10 Philadelphia, and Lancaster.

11           So when we first started this pandemic, we really  
12 had targeted mitigation efforts, and it was a county based  
13 or regional approach, but then as we got to the summer, we  
14 kind of went to a statewide approach. And in this report,  
15 the recommendations are limited to indoor dining and use of  
16 community mitigation programs in counties with high  
17 caseloads.

18           So my question is pretty simple here: Why were  
19 the capacity limits on the indoor and outdoor facilities  
20 for the entire State as opposed to a targeted mitigated  
21 area such as Allegheny County or Philadelphia County or  
22 places where it was higher as opposed to places like Adams  
23 County or Cumberland County or even other places that I  
24 don't represent that are a lot less populated and really  
25 have not had the outbreaks from the statewide perspective?

1           SECRETARY LEVINE: Thank you for the opportunity  
2 to answer that question.

3           So what we saw, I mean, through our efforts in  
4 the spring, we were able to bend the curve and be able to  
5 decrease the spread of COVID-19 significantly. Through  
6 those very challenging and difficult mitigation efforts, we  
7 were successful in bringing our case counts down in June,  
8 down to 300 or 400 per day.

9           What we were seeing in the summer were increasing  
10 case counts because of spread throughout the country that  
11 we have been discussing, spread in the South in Florida and  
12 then Georgia, Alabama, Mississippi, Louisiana, Texas,  
13 Arizona, et cetera. That spread was going North. We saw  
14 South Dakota, North Dakota, Virginia, and Maryland,  
15 et cetera. It was coming from the West as well. And so we  
16 were looking at the possibility of exponential growth  
17 again, and so to prevent that, we took a specific targeted  
18 mitigation against restaurants that decreased restaurants  
19 to 25 percent, closed bars and nightclubs, and instituted  
20 the gathering limitations that we discussed.

21           As you pointed out, this was specifically from  
22 the recommendations from the White House Task Force in  
23 terms of 25 percent for restaurants and closing bars and  
24 nightclubs and those type, and that is where the evidence  
25 was throughout the country that the spread was occurring.

1           At that time, the age group that that was  
2 increasing greatly were young people. Now being 63, young  
3 is a variable term. It wasn't just 20s, but it was, you  
4 know, 30s, et cetera. That was successful. We bent the  
5 curve again, so that by the end of August, the beginning of  
6 September, we were down to again about 400 or 500 new cases  
7 per day.

8           We did this statewide, because what we saw was  
9 that in every region of Pennsylvania, whether it was the  
10 north-central, northwest, northeast, southeast, southwest,  
11 and south-central, that there were counties that were  
12 increasing, that it wasn't just in, so I know some of the  
13 majority were in our most populous counties, but we were  
14 seeing increases really in all regions of Pennsylvania.  
15 And so the decision was made, to prevent that exponential  
16 growth that we saw in the spring, to do the mitigation  
17 orders statewide.

18           Anything that anyone would like to add?

19           EXECUTIVE DEPUTY SECRETARY BOATENG: I think the  
20 only thing I would like to add is when we're talking about  
21 the data and the availability, I do think it's important to  
22 contextualize.

23           You know, the 150,000 cases here in Pennsylvania  
24 and the 8,000 deaths, each of those datapoints is a person,  
25 a person who, you know, has a right to their information

1 being private, to being kept confidential, to being only  
2 used for public health purposes. It is our duty at the  
3 Department to respect that privacy.

4 And so, you know, the Department has pushed out  
5 historic levels of data related to COVID-19. We provide  
6 daily updates to the State on the impact of the virus. But  
7 ultimately, all of that data is someone. It represents one  
8 individual person, and it is our duty to respect their  
9 right to privacy.

10 SECRETARY LEVINE: And so what we saw was the  
11 success, not only in Pennsylvania but actually throughout  
12 the nation, eventually as other States caught up to what we  
13 were doing, to be able to decrease that spread.

14 Now, we're seeing increases in the country now,  
15 mostly in the Midwest. And so, you know, really, they need  
16 to catch up to us in terms of the efforts that we have been  
17 able to do to stop the spread in Pennsylvania.

18 REPRESENTATIVE ECKER: Well, you know, thank you  
19 for that answer. And really, you know, I have looked at  
20 the data that is put on. I appreciate the data that has  
21 been put out by the Department, and I got to admit, like, I  
22 can't -- you know, looking at the data from my perspective,  
23 you can justify it one way or the other here.

24 And I think we are focusing here in Pennsylvania  
25 on a positivity, an infection rate, while, you know,



1 keeping -- from a layman's, I'm no statistician, I'm no  
2 expert in data, but in looking over the last, I don't know,  
3 4 weeks, even probably 2 or 3 months, our hospitalization  
4 rate has been on the decline dramatically, and people are  
5 out and about.

6 I mean, people are out and about more than they  
7 were in March and April and people are interacting. And I  
8 recognize your role. I recognize your role as public  
9 safety. I get that. You should be advocating for that.  
10 But to categorize some of the efforts that we have made as  
11 reckless -- I'm not going to put words.

12 But from where we're coming from as Legislators  
13 is, we're hearing voices from all types of people, you  
14 know, including public health, but also from an aspect of  
15 folks trying to get back to work or trying to get to a  
16 normal situation. So whenever we focus on a positivity or  
17 an infection rate, it seems to me that hospitalization  
18 rates are declining. Mortality rates are declining.

19 My last question is, at what point here can these  
20 mitigation efforts be relaxed to some degree that kind of  
21 gel or coincide with the true data that is really showing  
22 that Pennsylvania can reopen, for example, to 50 percent  
23 capacity or 75 percent capacity? I mean, it seems to me  
24 that the numbers have improved from where we were in March  
25 and April, despite the fact that people are out and moving

1 around. So at what point is the Department willing to  
2 recommend that we can increase these capacity limits for,  
3 we'll keep it to events and venue space?

4 SECRETARY LEVINE: So the fact is actually that  
5 we have increased restaurants to 50 percent. But we are  
6 now entering the fall, so we are entering a time where,  
7 again, case counts are increasing again in other parts of  
8 the country.

9 And so we have to stay vigilant. It is somewhat  
10 unpredictable, because the virus is not predictable. But  
11 we're going to have to stay very vigilant over the next,  
12 over the next number of weeks and months to watch for  
13 increasing case counts.

14 But I know you had mentioned in terms of our  
15 data, and so I would like our State Epidemiologist, who  
16 actually was the President of the CSTE, the national  
17 epidemiology association, until, you know, until her term  
18 ended, to comment upon the data.

19 DR. WATKINS: Sure. Thank you for those  
20 questions.

21 We look at the data every day. I mean, we are  
22 looking at case counts. We are looking at outbreaks. We  
23 are looking at where cases are occurring by age group. We  
24 are looking at percent of positivity, our testing numbers,  
25 our testing rates, and what we have learned is that

1 increases in a subgroup or in a certain county can  
2 rapidly become increases in a county three doors over in  
3 that same subgroup or that same risk group, and that has  
4 really been one of the lessons learned from this emerging  
5 pandemic.

6           So we need to be prepared, and we can't be  
7 comfortable that just because we have done something in one  
8 county we're done and that it won't impact another county,  
9 and we have learned that it does.

10           For example, we are doing better, but we are  
11 seeing, you know, high increases in counties where college  
12 students are. We're seeing increases related to other  
13 kinds of activities that go on with school and going back  
14 to fall. And so we just need to be vigilant, because we  
15 don't have, as Dr. Levine has mentioned, we don't have a  
16 lot of tools in the toolbox to really address this  
17 pandemic. We don't have a vaccine yet.

18           Remember, at the very beginning of the pandemic,  
19 we did not have effective or known treatments or therapies  
20 for these individuals. Through watching our neighboring  
21 States have their hospitals overrun, their EMS overrun,  
22 individuals were dying in their homes and not able to get  
23 treatment or to hospitals, and we really, really did a  
24 great job of avoiding those kinds of situations, but we  
25 don't want to be in that situation again.

1           And as we head toward fall where outdoor dining  
2 is not as able to be accommodated, I mean, we're really  
3 looking at this every day in what we can do to not just  
4 suppress the virus but move forward thoughtfully.

5           SECRETARY LEVINE: So in terms of the risk,  
6 Wisconsin is---

7           REPRESENTATIVE ECKER: Dr. Levine, so---

8           SECRETARY LEVINE: I just have another comment to  
9 your question.

10          REPRESENTATIVE ECKER: Okay.

11          SECRETARY LEVINE: Wisconsin is being overrun in  
12 terms of their hospitals and their health systems right  
13 now, and we have specific recommendations from Dr. Birx,  
14 both in writing and in verbal communications, as well as  
15 her press conferences, and Dr. Redfield and Dr. Giroir not  
16 to wait until the hospitals are overrun. If you wait until  
17 the hospitals are overrun and you are letting it burn, then  
18 you are weeks behind the curve. Their specific advice to  
19 us this summer is to continue containment and work on  
20 mitigation before the hospitals are overrun or you have  
21 missed the boat. That was the Federal recommendations in  
22 writing and verbally specifically to the State Health  
23 Departments.

24          REPRESENTATIVE ECKER: Thanks, Dr. Levine. I'm  
25 going to allow some other colleagues to speak. Thank you.

1 Thank you, Mr. Chairman.

2 SECRETARY LEVINE: Thank you.

3 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Next  
4 we have a question from Chairman Frankel.

5 MINORITY HEALTH CHAIRMAN FRANKEL: Thank you.

6 Actually, Dr. Levine, you have addressed some of  
7 this. I mean, one of the things that is clear from what we  
8 are hearing from Dr. Birx and to Dr. Redfield and Dr. Fauci  
9 is really kind of a dire forecast for the fall and this  
10 coming winter. And I think one of the things that I  
11 believe, contrary to what some of the legislative efforts  
12 here have been, is that we need to be nimble and responsive  
13 to changing circumstances, and it's almost impossible for  
14 the Legislature to be that vehicle to do that. So I  
15 appreciate, you know, your comments with respect to being  
16 able to have that kind of flexibility as we move forward.

17 At the same time, you know, I am very sympathetic  
18 to our business community and the challenges that they are  
19 facing. And I'm also wondering, you know, there are, I  
20 have been told, you know, for instance, and I don't want to  
21 dwell on the issue of aestheticists, but some of the States  
22 that, for instance, are doing a very good job in doing the  
23 mitigation and containment, you know, for instance, in that  
24 area, have allowed aestheticists to operate. And we have  
25 this kind of cooperation agreement regionally, as I

1 understand it, with several other States in the Northeast.

2 Do we have an understanding of, you know, kind of  
3 the best practices, particularly with respect to, you know,  
4 which businesses we can provide more flexibility to and be  
5 less restrictive?

6 SECRETARY LEVINE: So thank you, Representative  
7 Frankel.

8 I mean, we are always pleased to revisit issues.  
9 So we are pleased to look at aestheticians and their  
10 practice and what other States are doing right now and to  
11 revisit that situation. So Dave will reach out to you and  
12 to other Representatives that have brought up that issue.  
13 We would be glad to have another phone call and meeting,  
14 you know, with the aestheticians, and, you know, we are  
15 pleased to revisit that.

16 We want to be, I mean, it was talked about being  
17 flexible. I think, actually, that we have been very  
18 flexible and that we have evolved and changed according to  
19 what the pandemic is showing us at this time. But we also  
20 have to be, as you put it out, extremely vigilant as we  
21 enter the fall.

22 It has been pointed out, the weather is going to  
23 change. We're going to get colder. Cold weather can  
24 enhance the spread of respiratory viruses such as  
25 coronavirus. In addition, people won't be able to dine out

1 and do as many of those activities outside. Coming indoors  
2 will increase the risk.

3 And then we're also going to have flu. We have  
4 seasonal influenza, and the juxtaposition of both COVID-19  
5 and influenza at the same time is going to be a significant  
6 public health challenge, so our vigilance will be required.

7 But thank you for your comments, and we're  
8 pleased to reach out and speak to the aestheticians.

9 MINORITY HEALTH CHAIRMAN FRANKEL: Thank you.

10 And, Mr. Chairman, I have one other quick thing,  
11 unless there are others.

12 I wonder, with respect to contact tracing, we  
13 have an example in Allegheny County of the effectiveness of  
14 contact tracing, I think the first real instance. Can you  
15 talk about how that worked and what the response was?

16 SECRETARY LEVINE: So, you know, Representative  
17 Frankel, Allegheny County, of course, with their own health  
18 department does their own contact tracing. Can you  
19 highlight which specific instance you are speaking about  
20 for our comment?

21 MINORITY HEALTH CHAIRMAN FRANKEL: Well, I think  
22 that there was a response, you know, that we had bars, you  
23 know, that there was a contact tracing that traced that to  
24 the south side of the city, so.

25 SECRETARY LEVINE: Yes. That's exactly correct.

1 EXECUTIVE DEPUTY SECRETARY BOATENG: Secretary?

2 SECRETARY LEVINE: Sarah.

3 EXECUTIVE DEPUTY SECRETARY BOATENG:

4 Representative Frankel, this might be an opportunity to  
5 highlight the app that the Department has recently put  
6 forward that complements the traditional public health  
7 contact tracing. So this is COVID Alert PA.

8 Pennsylvanians can voluntarily download it onto their  
9 phone, running off of Bluetooth technology -- not GPS  
10 location technology, Bluetooth technology. It's another  
11 tool in the toolbox to allow Pennsylvanians to be alerted  
12 electronically if they have been in close contact with an  
13 individual who is COVID-19 positive.

14 So Pennsylvania rolled that out last week. I  
15 understand New York and New Jersey are following suit with  
16 a rollout today. And we really are leading the nation in  
17 bringing that type of technology here to work alongside the  
18 traditional public health contact tracing efforts.

19 SECRETARY LEVINE: So I know that Dr. Bogen in  
20 Allegheny County has been able to do some really granular  
21 contact tracing, which did highlight in the summer, as you  
22 said, specific bars, restaurants, nightclubs, et cetera,  
23 which were involved in significant spreading. And so, yes,  
24 contact tracing, it's bread-and-butter public health.

25 And to highlight the app, I mean, I think the app



1 is a really big advance, and I know that we were very  
2 pleased to highlight the app to you all, to those who  
3 wanted to participate in terms of learning how the app  
4 works and the advantages of using the app in terms of that  
5 public health measure.

6 MINORITY HEALTH CHAIRMAN FRANKEL: Thank you very  
7 much.

8 Thank you, Mr. Chairman.

9 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
10 you.

11 Mr. Longstreet, you had a comment based on  
12 something you heard from the Secretary?

13 MR. LONGSTREET: Thank you, Mr. Chairman.

14 And thank you, Representative Frankel, for  
15 bringing up Allegheny County. We worked closely with  
16 County Executive Rich Fitzgerald and Dr. Bogen on the  
17 situation that you brought up there, and they tracked back  
18 to some highly publicized bars that were not operating  
19 within the guidelines, the careful guidelines, that were  
20 put together by Governor Wolf and Secretary Levine. Had  
21 they been there, that never would have happened, because  
22 the guidelines required, and one of the differences between  
23 Pennsylvania, Texas, and Florida that we have talked about  
24 in the carefully crafted guidelines, there was what we  
25 called the "no seat, no service" rule in the green phase

1 for restaurants, which means you could not be served either  
2 food or beverages unless you had a seat. You could not be  
3 in a restaurant if you had to -- if there was not a seat  
4 available, you had to wait outside, socially distanced, to  
5 get a seat or a place at the bar. And that's one of the  
6 reasons, one of the huge differences between the guidelines  
7 that were originally put together and some of the other  
8 examples we have been given.

9           So in Allegheny County, this was not being  
10 enforced, obviously, because there was a congregation of  
11 young people in bars where they felt like they traced the  
12 contact tracing back to. We worked with Allegheny County,  
13 meaning the PRLA, and the Allegheny County Department of  
14 Health in creating what has now been rolled out, which is  
15 called Safe Service Allegheny, which is a program which  
16 helps restaurants and bars there to comply.

17           Essentially, there are no bars anymore because  
18 bars have been shut down, but had they been following the  
19 guidelines, or had the guidelines been enforced, I might  
20 say, I don't think that situation would have ever happened.

21           Bar seating is really important, and this was  
22 brought up by one of my colleagues today, because in many  
23 restaurants, and I don't know about you, but when my wife  
24 and I go out, we like to sit at the bar and eat, socially  
25 distanced from others, and that seating is required to ever

1 get back to 50 percent.

2 One last thing on the 25-percent number that  
3 Dr. Levine pointed out that they got from the White House.  
4 I'm not sure about that number, but I can tell you that in  
5 the middle of August, according to an Association of  
6 Retired Persons survey, national survey, there was only  
7 five States that had their restaurants at 25 percent.  
8 Pennsylvania, obviously, was one of them. And 26 of the  
9 States had no requirements at all on capacity, recognizing  
10 that if you are social distancing, if you are face masking,  
11 if you have a "no seat, no service" rule, that that's the  
12 most important thing to stop the spread of the virus.

13 And in fact, we have tried to set up restaurants  
14 at 50 percent with a social distancing of 6 feet, as is  
15 required now. It's hard to get there anyway. So it was a  
16 redundant requirement, and then the 25 percent simply  
17 closed restaurants.

18 Thank you.

19 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
20 you.

21 Next we have a question from Representative Roae.

22 REPRESENTATIVE ROAE: Thank you, Mr. Chairman.

23 And this question is for Dr. Levine. A lot of my  
24 constituents are still really confused about all these  
25 numbers and percentages, and if this room we're in right

1 now were part of a casino, you and Governor Wolf said we  
2 could use 50 percent of the capacity, but if this was part  
3 of a restaurant, we can only use 25 percent of the  
4 capacity. If this was a bar with no food, you and Governor  
5 Wolf said we could have zero people in here. If this was  
6 an area where people are watching a youth hockey game or a  
7 girls' volleyball game, there could only be 25 people in  
8 here -- not 25 percent, 25 people. If this was a riot  
9 staging area, there could be an unlimited number of people  
10 in here. How does COVID-19 know? I mean, why isn't there  
11 a consistent number, so many people per square feet? And  
12 it just seems, it just doesn't make any sense.

13           At a high school football game, all those empty  
14 bleachers, a limit of 250 people, but if that football  
15 field area was part of an amusement park, you could have  
16 thousands of people in that exact same area. The rules  
17 that you and Governor Wolf are making, they're probably  
18 well intended, but they just don't make any sense.

19           Like, how do you justify that, I mean, if a  
20 high school got a Ferris wheel and bumper cars, can they  
21 have thousands of people watch the football game? I mean,  
22 if a bar that you ordered closed starts selling pizza, can  
23 they open back up again? I mean, how does COVID-19 know  
24 who to attack and who not to attack, and why aren't there  
25 some kind of consistent, scientifically common sense,

1 logical kind of things put in place?

2 SECRETARY LEVINE: Please go ahead.

3 EXECUTIVE DEPUTY SECRETARY BOATENG: Yeah.

4 Thank you, and thank you for that question. I  
5 think those are questions we have heard---

6 REPRESENTATIVE ROAE: I would like Dr. Levine to  
7 answer. She is the Secretary.

8 SECRETARY LEVINE: Actually, we all work very  
9 closely together, and Executive Secretary Boateng will  
10 answer.

11 EXECUTIVE DEPUTY SECRETARY BOATENG: So I want to  
12 go back to, you know, this virus is most often transmitted  
13 person to person through close contact interaction, so  
14 being within 6 feet of someone for 15 minutes.

15 REPRESENTATIVE ROAE: Okay. So hold on. So at a  
16 hockey arena where parents could be---

17 EXECUTIVE DEPUTY SECRETARY BOATENG: Let me  
18 answer the question.

19 REPRESENTATIVE ROAE: No, no. Hold on.

20 EXECUTIVE DEPUTY SECRETARY BOATENG: I was  
21 getting right to that point.

22 REPRESENTATIVE ROAE: At a hockey arena where  
23 parents could be---

24 EXECUTIVE DEPUTY SECRETARY BOATENG: So in order  
25 to talk about that, individuals, you know -- so you had

1 highlighted an example of a business versus a restaurant.  
2 So often in a restaurant, individuals are sitting together  
3 in close contact, within 6 feet, for more than 15 minutes.  
4 So those interactions happen often and regularly and  
5 intentionally. The same is possible at sporting events,  
6 where individuals are sitting there for an extended period  
7 of time watching their children play sports.

8 REPRESENTATIVE ROAE: Well, hold on. Hold on a  
9 second. Hold on.

10 EXECUTIVE DEPUTY SECRETARY BOATENG: In this  
11 instance, for an individual---

12 REPRESENTATIVE ROAE: I got to ask something  
13 here.

14 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Excuse  
15 me. If I could ask for everybody to stop for a moment.

16 EXECUTIVE DEPUTY SECRETARY BOATENG: It's not  
17 often, when using this space, to spend time---

18 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Excuse  
19 me. If I could ask everyone to stop for a moment.

20 I have been to several of these hearings, and  
21 the Departments, whether it is Labor or Health, have a  
22 habit of going on and on and on and never making it to the  
23 heart of the question. And so I would ask that you get to  
24 the heart of the question and answer it and then wait for  
25 follow-up.

1           We have unlimited time today. As far as I know,  
2 session is not going to happen until they call us in, so we  
3 will continue to have questions answered. But I would ask  
4 that you get to the heart of answering the question rather  
5 than going on tangents and filibusters, as we have seen.

6           So thank you, and I'll go back to Representative  
7 Roae.

8           REPRESENTATIVE ROAE: In the case of a hockey  
9 arena---

10          SECRETARY LEVINE: Representative, may I just  
11 respond to that?

12          REPRESENTATIVE ROAE: ---or a high school gym---

13          SECRETARY LEVINE: We strongly disagree with  
14 that. I'm trying to answer your question.

15          MAJORITY LABOR AND INDUSTRY CHAIRMAN COX:  
16 Secretary Levine, Representative Roae is speaking.  
17 Secretary Levine, Representative Roae is speaking at the  
18 moment. Please wait.

19          REPRESENTATIVE ROAE: In the event of a hockey  
20 arena where the capacity is many, many, many hundreds of  
21 people and all the parents could be 8 feet apart from each  
22 other or 10 feet apart from each other, in a high school  
23 football field stadium where the stadium seats maybe  
24 4,000 people, and again, people could stay 7 or 8 feet  
25 apart from each other, not just 6 feet, why is that not

1 allowed? Why does COVID-19 attack those people if they did  
2 get into that setting, but at a casino, inside, people can  
3 be sitting very closely to each other? It just doesn't  
4 make any sense.

5           And when you're at a high school football game or  
6 a girls' volleyball game and you have girls sitting out in  
7 the hallway -- there's a gym that holds 3,000 people, and  
8 some of the girl volleyball players are sitting out in the  
9 hallway and they can't go into the game, and the coach has  
10 to send somebody out to the hallway, oh, go get Lisa, we're  
11 going to sub her in; oh, Jill, you have to go out in the  
12 hallway now, but if that exact room was part of a casino,  
13 you, Secretary Levine and Governor Wolf, you would allow a  
14 couple thousand people in that exact same room. It doesn't  
15 make any sense.

16           And why are our bars and clubs closed just  
17 because they don't serve food? If I'm sitting here  
18 drinking something, I'm going to get COVID-19 and die, but  
19 if I'm eating something, oh, I'm safe all of a sudden, so  
20 it can be open. I mean, it doesn't make sense. Why can't  
21 the Department of Health actually use scientifically based  
22 data? Why can't you have rules that make sense? Although  
23 the court did say that you and Governor Wolf violated our  
24 constitutional rights with capacity limits, so I'm  
25 surprised the Department and Governor Wolf hasn't put out



1 more of a statement saying that limits are  
2 unconstitutional. But if you're going to have limits, why  
3 don't you at least have limits that make sense?

4           And somebody asked me, so I'm going to ask you,  
5 if we put a tax rate on high school hockey and high school  
6 girls' volleyball, if we tax those tickets at the same rate  
7 that we tax slot machines, would the Administration  
8 consider allowing 50 percent capacity like you do with the  
9 casino? Because some people are saying it's a money thing.  
10 Casinos make a lot of money, a lot of tax money for the  
11 State. Is that why they have a larger capacity?

12           Secretary?

13           EXECUTIVE DEPUTY SECRETARY BOATENG: Sir, we  
14 don't establish---

15           SECRETARY LEVINE: Again, Sarah Boateng will  
16 respond.

17           EXECUTIVE DEPUTY SECRETARY BOATENG: Sir, we  
18 don't establish tax policy here. We are a public health  
19 department. So it is our duty to protect the health and  
20 welfare of Pennsylvanians, not to determine tax policy.

21           REPRESENTATIVE ROAE: I know. But I'm saying if  
22 we implemented a tax on high school volleyball tickets and  
23 high school hockey tickets, would the Department switch to  
24 50 percent capacity like you do for the casinos? Because a  
25 lot of people believe the reason casinos get to go up to

1 50 percent is because of the high tax revenue involved.  
2 But if that same exact area was a viewing area for  
3 high school sports, you can't have anybody there for that  
4 same exact---

5 EXECUTIVE DEPUTY SECRETARY BOATENG: Sir, to  
6 be---

7 REPRESENTATIVE ROAE: It just doesn't make any  
8 sense.

9 EXECUTIVE DEPUTY SECRETARY BOATENG: Sir, to  
10 be---

11 SECRETARY LEVINE: Would you like us to answer a  
12 public health question or to answer your questions about  
13 casinos in schools, which doesn't make any sense.

14 REPRESENTATIVE ROAE: Well, what doesn't make any  
15 sense are all the Executive orders and the issues out of  
16 your office.

17 In this exact room 3 months ago, Secretary, I  
18 asked you, what is after the green reopening phase? What's  
19 it called? What's the criteria to get there? And we still  
20 don't know. I mean, a lot of things just don't make any  
21 sense.

22 You had this color-coded thing, red, yellow,  
23 green, county by county, and then boom, suddenly every  
24 frickin' restaurant in the whole State was under the same  
25 rules, regardless of whether there were only a few cases or

1 a thousand cases.

2 I mean, the frustrating part of this situation is  
3 none of the stuff coming out of the Governor's Office, none  
4 of the stuff coming out of the Secretary of Health's  
5 Office, none of it has made any sense during this entire  
6 time. It's just all random. Nothing seems to be based in  
7 actual numbers or statistics or common sense, and could we  
8 start doing that?

9 SECRETARY LEVINE: Representative, we're going to  
10 agree to disagree in terms of our orders. We feel that our  
11 orders have made a lot of sense. We feel that that court  
12 decision will be overruled in the Circuit Court, and we  
13 feel that we have been entirely consistent in terms of our  
14 rules and regulations according to public health measures.  
15 And that has actually saved lives, as has been noted by  
16 Dr. Birx.

17 Thank you.

18 REPRESENTATIVE ROAE: All right. I'm going to be  
19 done now.

20 MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: Thank  
21 you, Representative Roae.

22 I just want to put a brief question in. I'll  
23 call it the prerogative of the Chair.

24 It was several months ago as well that I, on a  
25 Zoom call, asked what the next phase after the green phase

1 would look like, and I was told by you, the Secretary of  
2 Health, that we would see that you were putting something  
3 together and within the next couple of weeks we would see  
4 what was after the green phase. What came after the green  
5 phase, in reality, was the 50 going to 25 percent and all  
6 of the other arbitrary things that just seemed to bounce  
7 around based on whatever the news of the day is.

8           And so I would ask that if there is a document  
9 guiding what follows the green phase, that you submit it to  
10 both the Labor Chairman -- myself -- also the Health.  
11 Secretary, I serve on both committees, so the Chairman of  
12 Health would love to see that and the Committee Members of  
13 both committees would love to see that. We were promised  
14 it a long time ago. At what point do we assume it doesn't  
15 exist?

16           SECRETARY LEVINE: So---

17           MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: So  
18 please provide that to us at your earliest convenience.

19           Can I ask you, does that document exist? I'll  
20 just ask you point-blank.

21           SECRETARY LEVINE: So after the green phase  
22 when we were down at 300 or 400 new cases per day were  
23 the increases that we talked about before, led by younger  
24 individuals at bars and restaurants and nightclubs and  
25 gatherings that started in Florida and other

1 Southern States and then spread to Pennsylvania, and our  
2 response was the targeted mitigation that we have all  
3 been discussing involving those specific bars and  
4 restaurants and nightclubs that we have been discussing.  
5 So instead of the more broader mitigation that we did with  
6 the red, yellow, green phase, we did a more targeted  
7 surgical mitigation to the businesses that were most  
8 implicated in the increases, as discussed by the White  
9 House Task Force.

10           That was successful. We were able to bring down  
11 the numbers by August, down significantly through August  
12 and the beginning of September. We have seen some  
13 increases since that time, because we are not an island and  
14 we are responsive to what happens in the rest of the  
15 country. And we will again keep our mitigation as targeted  
16 and specific as possible as opposed to the more broader  
17 mitigations and business closures that were necessary in  
18 the spring. So that is the answer to your question, sir.

19           MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: I  
20 would repeat my request for the document you stated was in  
21 production at the time of the hearing when I asked for it  
22 and you said it was in the works. So I would hope that you  
23 have that on a shelf somewhere that you can pull off and  
24 send it over to us by the end of the day. That would be  
25 great.

1           Our next individual is Representative Daley. I  
2 believe she's joining us online.

3           REPRESENTATIVE DALEY: I am joining you online,  
4 and thank you for the opportunity to ask a question of  
5 Dr. Levine and her colleagues in the Department of Health.

6           I actually have two questions that I wanted to  
7 ask. I'll ask them both, one after the other. So I wanted  
8 to know, is Pennsylvania collecting racial data in the  
9 information that you collect? And my second question has  
10 to do with the COVID Alert PA app. And I have that  
11 downloaded, and I have been encouraging family and friends  
12 and my staff to download it.

13           MAJORITY LABOR AND INDUSTRY CHAIRMAN COX:  
14 Excuse me. We have to interrupt the meeting for a moment.  
15 Representative Rapp has a statement that she needs to make.

16           MAJORITY HEALTH CHAIRMAN RAPP: Yes.

17           I would like the Members of the Committee to  
18 please be at ease for a few moments. And Whitney,  
19 Representative Cox, Mr. Scarpato, if you would like to join  
20 me in the Speaker's Office, please.

21           Please be at ease, and we shall return.

22

23           (The public hearing was put at ease.)

24

25           MAJORITY LABOR AND INDUSTRY CHAIRMAN COX: I

1 thank you for everyone's patience. At this time, we have  
2 been informed that the House will be convening, so for that  
3 reason, we'll be needing to end this meeting. We will  
4 recess it in the hopes of, not necessarily continuing  
5 today; I know a lot of schedules have to be shifted around  
6 for that, but we will potentially attempt to reschedule in  
7 the future to continue with the discussion.

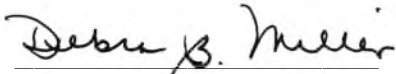
8           We still have a large number of individuals with  
9 questions, and so we do thank you for your availability  
10 today, and we hope you'll be available in the future for  
11 additional questions and so forth.

12           Thank you.

13

14           (At 11:10 a.m., the public hearing recessed.)

1 I hereby certify that the foregoing proceedings  
2 are a true and accurate transcription produced from audio  
3 on the said proceedings and that this is a correct  
4 transcript of the same.

5  
6  
7 

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