

Dear Senate President Steve Sweeney, Senate Republican Leader Tom Kean, and the Bipartisan Review and Recovery Committee to Investigate COVID-Related Crises:

We are a group of NJ Department of Health employees who have banded together to release the truth about the shortcomings of New Jersey's response to the COVID-19 pandemic, at the hands of Commissioner Persichilli and other members of the Murphy administration.

We are not political animals by any stretch of the imagination. Although we represent a diversity of political views, in full disclosure, most of us who have any political interests are members of the Democratic Party who have decided to blow the whistle on this tragedy, despite our personal politics. It took the biggest public health crisis of the last century for us to realize that we, as the experts, would not be called upon to guide the decision-making of our leaders. Instead, top brass specifically asked us to "avoid putting any concerns into email", and have cut us off from meetings and discussions around the most important questions that lay ahead: when and how we should open, and the data-based, public health triggers that would inform such decisions.

Despite the Governor's slogans, there are, in fact, no established thresholds to this effect that came from the public health experts in his state government. As we have all seen, the Governor sits at his press conferences musing about New York Times articles that he reads with new information about the virus, while "Data Determines Dates" flashes on a display screen. In reality, his own public health officials in the health department have no idea what inputs he is using to make opening decisions. Meanwhile, his own health commissioner has been caught on type saying that even she has trouble getting his attention. All of this deeply concerns us, as he has already made several opening decisions without any degree of transparency around what triggered them. Meanwhile, other Governors across the country have very sensible metrics on their display screens, with goal thresholds for each step of their reopening. If any of you have thought we deserve that in New Jersey as well, we agree. And if it's not us, or even our own flawed health commissioner, feeding the Governor what he needs to make those decisions, all of this leads us to believe administration is making things up as they proceed, or making decisions and justifying them on the back end. That is both dangerous and the worst type of cynical politics-- right smack in the middle of the worst pandemic in modern history.

Our department's unmitigated failures in long term care are now public knowledge, and it pains us to admit this. From our vantage point, these failures are a direct result of our health commissioner's failure to hear and respond to our concerns, in addition to other senior health department officials and members of the Governor's cabinet. To summarize the failures with collective input: a number of us advocated for a more fair allocation of both PPE and test kits to be dedicated to long term care centers starting toward the end of March. We were all alarmed by the terrible outcomes we saw from a nursing home in Washington state. And we were seeing nursing homes in New York state going through the same thing. So we clamored for more testing for nursing homes as a general matter, so that long term care facilities could begin cohorting residents, and dedicating specific staff to serve those residents, to minimize spread. We said that without having that critical testing information, and the PPE to be able to protect staff, nursing home residents would face devastating outcomes.

Some of us were even pressured by Commissioner Persichilli to relax PPE standards for testing, so that staff in nursing homes, psychiatric hospitals, centers for the developmentally disabled, and prisons could be "given the go-ahead" to test with the paltry PPE supplies they were offered by the state Office of Emergency Management. Instead, we remained firm and insisted that any staff who tested with nasopharyngeal swabs needed the appropriate PPE to do so, in accordance with established guidelines. All of this was in service to the Governor's arbitrary testing goals (again, set with political lenses in mind), without regard for the safety of those who needed to do the testing.

The State OEM office then used arbitrary allocation guidelines that short-changed nursing homes and other congregate living centers, or in other words, where the most vulnerable New Jersey residents live when it comes to this virus. While testing capacity has always been limited from the outset of this pandemic due to failures at the federal level, there was clearly enough testing capacity, from the day that the first public, drive-thru testing center opened up, to instead allocate that testing capacity to the individuals most likely to die from this disease. We understand that public anxiety made it politically more favorable to offer a testing resource to the general public early on. But to completely ignore long-term care testing until late April, when at that point, tens of thousands of tests had been offered to only mildly symptomatic New Jersey residents (again, remember that one has to be well enough to drive or be in a car to get the test at these centers), is a clear failure.

Much ado has already been made about the Commissioner's order to make long-term care facilities take residents back from hospitals, even without negative tests. This administration's defense has been, "well, we did require them to be able to cohort residents in order to do so!" Of course, we do know that many nursing home administrators probably did lie so that they could take residents back and charge for their stays. But allow us to offer you a reality check: very few of these nursing homes were tangibly ready to take these residents back based on the Commissioner's criteria because the state failed to allocate enough PPE and staffing resources to them to do so. And with a former hospital CEO at its helm, the Department of Health was only focused on the acute care hospital piece of the health care system.

The failure to allocate PPE to nursing homes was a direct result of negligence on the part of our Colonel of the State Police, and his failure to listen to public health experts in state government. The former Assistant Commissioner for Public Health, Infrastructure, Laboratories, and Emergency Preparedness, Christopher Neuwirth, was booted from his essential role in the State Emergency Operations Center (otherwise know as the ROIC). Part of this had to do with a few of us insisting that the PPE allocation system prioritize long term care centers, and other group living institutions with vulnerable populations. We warned him about this, and instead of listening, he suppressed our voices, as did our Health Commissioner. Ultimately, Christopher was fired for doing his job. This is what your appointed leaders are doing right now. We raised literally every one of these concerns to our leadership in the Department of Health, and all of them not only went unaddressed, but in many cases, people were punished, suppressed, or otherwise reprimanded for using their public health expertise to recommend the right course of action.

This is why we have chosen to make our concerns heard to the general public, through the media, and now, as the elected officials who represent the residents of this state- all of you.

We believe that the combination of a lack of action where we should have seen it, and a willful desire to focus only on where most media attention was afforded during the peak of the crisis (the general public and hospitals), led to preventable deaths in long-term care, prisons, and other institutions.

In other words, we believe the leadership failures of Commissioner Persichilli lead to preventable deaths.

Of course, nobody realized what we would be facing in New Jersey until early March. But subsequent reporting in the press has already laid these failures out for public analysis. We trust that your committee will take an even deeper look at how long term care centers, developmentally disabled centers, veterans homes, prisons, and virtually every other type of congregate living institution were left to deteriorate as a result of our Commissioner's sole focus on hospitals during the peak of this pandemic's surge.

Commissioner Persichilli also made several, specific decisions that spelled willful neglect in hearing and responding to our concerns. First, the Commissioner created layers in the department between herself and the experts, rather than elevate the voices that could have lead to a better response. She brought in scores

of others to make these decisions in lieu of her own people: McKinsey consultants who all seem to be recent college graduates without the collective decades of public health experience that we offer; a retired former state epidemiologist who we discovered is a personal friend of the Commissioner; and now, a third consultant, Manatt, who seem to have been brought in for political cover more than for tangible recommendations.

On that last point, we now have direct knowledge (some of which has already been reported publicly in the press) of a toxic culture of infighting in the Murphy administration that has prevented the right decisions from being made early enough for them to have had an impact. Case in point: we have gained knowledge that Commissioner Carole Johnson of the Department of Human Services seems to have convinced the Governor's deputies, including Chief of Staff George Helmy, to bring in a consultant on the state's public health response to long-term care facilities. If true, the manner by which she did so begs for an investigation. It appears that Commissioner Johnson has a personal relationship with members of the group who ultimately won a contract that was half a million dollars in value for only several weeks of service to pump out "recommendations" on what we should be doing with long-term care facilities.

Notwithstanding that a countless number of our own recommendations were ignored by Commissioner Persichilli, it is inexcusable that such a sizeable allocation of taxpayer money went to a bunch of contractors, especially ones who seem to have secured it based on a personal relationship.

But the worst thing about this: it is clear that a small group of people in the Governor's administration pushed this consultant on the health department to save face before the public. There are now multiple media reports to this effect.

One last point on the Manatt consultants: be careful about whatever they will recommend. As we have seen from this Governor before, his self-commissioned "investigations" have usually led to broad findings around how the "system" has failed all of us-- but never individuals on his team. We all now have the benefit of hindsight to realize that the horrific outcomes in New Jersey nursing homes and other institutions-- by far, the worst in the nation per capita-- weren't due only to baseline infrastructure problems, as the Governor and his consultants may have you believe. It was also neglect and malfeasance on the part of our Commissioner of Health.

Importantly, all of the jockeying and petty infighting between senior Murphy administration officials has distracted from the real task at hand: finalizing a widespread testing and contact tracing plan that will allow New Jersey to open up safely again. We have been asking for this from the beginning, knowing that it would be key for a safe reopening. And as we mentioned above, the Governor has already made decisions to open several aspects of the economy without the data to back it up, and without the resources to contact-trace future illness and exposures as they occur. There is simply no final contact tracing plan as of yet, and if it is elusive to us as the state's experts, it is likely elusive to you as lawmakers, and by extension, the general public in New Jersey. This really concerns us, and it should concern the public.

This disturbs not only the New Jersey residents among us, whose safety is directly impacted by these decisions, but also their sentiments as taxpayers. We need to open safely, but also in a timely manner that is actually informed by data. That needs to be real, and not just claimed on social media and press conferences. This Commissioner and this Governor need our help to do this; not the help of consultants who will be taking our own data and analyses anyway, and repackaging them, as they have done so far. It is often forgotten that we, as state workers, are also taxpayers who have been working nonstop during this pandemic since January. If they have to furlough us at least in part because they did not do the legwork early enough to determine when it is actually safe to reopen, our livelihoods and our ability to continue fighting this pandemic on the front lines would be put at risk. The Governor is blaming his elected official counterparts from other states for not bailing out the state, which makes sense. But he should also blame

his own senior team, and particularly, his health commissioner, for failing to direct her department to allow him to open up as soon as possible, and safely.

Finally, we must inform of you of a disturbing trend of retaliation that we are seeing from this administration. In the wake of a number of us pursuing our efforts to get the truth to the public, the administration has started investigating DOH officials in a "gunshot approach" to see who will blink and reveal these efforts out of fear. We have not waived, and we will not waiver, and we will definitely not succumb to this intimidation. But we have little in the way of options. We do not want to have to write you a letter with this information, but have determined that is one of few chances we have left to cement our legally protected status as state officials who are disclosing misconduct, without revealing our exact identities. It is clear that we have no safe outlet internally to let our voices be heard.

I know that the Governor has been flippant in his remarks about "having no time" for the public hearing about how the "sausage is made." On this, we do have a message for the Governor:

"We did not want to do this. We wanted our voices heard since March of 2020, when we were worried about what this pandemic could do to the most vulnerable residents of this state. Your Commissioner of Health should have listened to us. She didn't, and you are ultimately accountable for her actions. Our job is not to be loyal to her, or to you, or to keep state secrets from the public. Our job is to be loyal to the mission. That is why your investigations and scare tactics won't phase us. That is why firing Chris Neuwirth won't deter us. The fact that you and your health commissioner don't understand that is why we are writing this letter to your counterparts in the the state legislature. They are our only hope, after you and your health commissioner have failed this state."

Senate President and Senate Minority Leader, we need your help. We beg for your help. We come with training, experience, and a motivation only to help the residents of this state whether the crisis. But we have found a Commissioner, and an administration, that seems to care more about prevailing in their own childish war gaming than they do about protecting the public's health. And worse, it is clear that we have leadership that does not respect the truth, and does not respect propriety to the mission, rather than to the specific, flawed leaders we have right now. The whistleblower retaliation that is happening right now should never be tolerated in a democracy. And we need you to help us defend democracy in New Jersey. We need and deserve better in this state.

Therefore, we call on the Commissioner of Health, Judith M. Persichilli, to resign for her negligence in the public health response to nursing home residents and other vulnerable communities, and for retaliation against well-meaning members of her staff.

We also call for the investigation of Carole Johnson, Commissioner of Human Services, for possibly influencing the acquisition of a contractor in a corrupt manner (based on her personal relationships with the individuals who secured the contract), and of Colonel Patrick Callahan, who failed to respond to legitimate concerns raised about long term care facilities getting their fair share of personal protective equipment.

We hope all of this is helpful to you as you begin the course of your investigations. You are our last hope for an effective response to this pandemic, and for justice. Thank you.

Sincerely,

Members of the NJ Pandemic Response Team