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## AMERICA THE UNPROTECTED

A report on the federal government's  
failure to inspect Western Pennsylvania  
workplaces for COVID-19 complaints



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CP PHOTO: JARED WICKERHAM  
Allegheny Valley Hospital in Natrona Heights

## THE BIG STORY

# NOWHERE SAFE

A Trump labor department hasn't been inspecting Pittsburgh workplaces for COVID-19 complaints

BY CODY MCDEVITT  
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**T**HE FEDERAL OCCUPATIONAL SAFETY and Hazard Administration (OSHA) received a notice on April 9 from employees at Garden View Manor in Wilksburg that a worker had tested positive for COVID-19. Even though employees had worked in close proximity to that person, they were not told to quarantine after the employer found out about the result, according to the complaint.

Employees didn't have Personal Protective Equipment (PPE) and the facility wasn't protected or sanitized during the early part of the pandemic, according to the complaint. Christopher Robinson, OSHA's area director, sent Garden View a letter saying they had five days to respond with appropriate action that would be verified by a letter sent back to his office.

Marisol Valentin, compliance, integrity and risk officer for Mercy Behavioral Health, which owns the Wilksburg facility, responded to Robinson by email and indicated that 2 out of 9 people tested for the virus had positive results. On April 9, she provided the Allegheny County Health Department (ACHD) with a list of six colleagues who reported symptoms. No residents were found to be symptomatic, according to her email.

# "THIS IS A PROBLEM NATIONALLY — OSHA HAS BEEN GETTING **THOUSANDS** OF COMPLAINTS AND REQUESTS FOR HELP BUT OPENING **VERY FEW** ACTUAL PHYSICAL INSPECTIONS."

Despite the severity of the complaint, OSHA never sent an inspector to Garden View Manor or issued a citation — something that has become the commonplace response during the pandemic from the agency that serves as the enforcement mechanism for workplace safety.

Valentin says that Garden View Manor followed the contact tracing guidelines set forth by ACHD, and that the employees who filed the complaint were not determined to have the level of exposure necessary to quarantine, although they were in their rights to voluntarily get tested for coronavirus. Valentin did confirm that OSHA never responded further to the complaint, and said her interaction on these coronavirus issues have been with ACHD, and that the county agency has been "great" and "very communicable."

Mercy Behavioral Health was one of several organizations and businesses in the area that had employees file complaints with the OSHA. Thanks to a COVID-19 federal policy handed down to regional offices, including the one in Pittsburgh, those OSHA departments didn't send a single inspector or issue any citation to a site that had been brought to their attention through the formal complaint process. *Pittsburgh City Paper* determined this by unearthing hundreds of documents from a Freedom of Information Act request.

At least one local leader is frustrated by OSHA failures to follow up on complaints. U.S. Rep. Mike Doyle (D-Forest Hills) says this inaction follows a pattern that OSHA has exuded under the Trump administration. A former OSHA secretary under President Barack Obama says the current failures of OSHA are occurring across the nation, and notes that Trump officials disregarded his calls to institute rules that might have helped OSHA handle the cases related to COVID-19. But for now, it appears

workers in Pittsburgh, and across the country, are left with OSHA's failures leading to less accountability than usual during the middle of a global pandemic.

**WHEN OSHA CONDUCTS** an inspection, it is an independent review of the employer's injury and illness records, hazard communication, personal protective equipment, emergency action or response, blood borne pathogens, confined space entry, lockout, and related safety and health issues. The employer itself doesn't do the investigation, which is where in the past few months, it has diverged from the conventional idea of how the agency is supposed to work.

Attempts to reach OSHA for comment on this article were unsuccessful. Local officials declined to comment, and the national press office didn't respond by CP's deadline.

Health-care providers have been aware of the potential dangers of a pandemic since George W. Bush's Administration. In 2008, the Institute of Medicine published the findings of the *Committee on Personal Protective Equipment for Healthcare Workers During an Influenza Pandemic*. The book suggested various approaches that would help local, state, and federal leaders adapt to the situation to mitigate it. The panel experts emphasized then that respirator masks would be something they would likely have to deal with in a pandemic.

In February, the World Health Organization said that the top priority for every country during the pandemic should be the protection of its health-care workers. David Michaels, former assistant secretary for labor for OSHA, urged the Trump administration early on that it should institute emergency standards, but he

knew that the White House would likely be averse to regulation of any sort.

Michaels said OSHA's hands were tied in this crisis because it does not currently have a regulation covering airborne infectious agents. OSHA could help limit the impact of a global epidemic in the U.S. by issuing an emergency temporary standard, quickly protecting health-care workers and others from exposure to COVID-19.

CONTINUES ON PG. 6





But now, more than three months later, Michaels assessed the situation to CP through an email correspondence and said the situation hasn't improved.

"This is a problem nationally — OSHA has been getting thousands of complaints and requests for help but opening very few actual physical inspections," Michaels said.

This issue is so widespread that the Commonwealth of Virginia is poised to create its own workplace safety mandates because of a lack of enforcement from Trump's OSHA. Other national publications have also addressed the topic. On June 21, the *New York Times* featured an editorial about how OSHA went AWOL during the pandemic. The *Times* editorial criticized President Trump for issuing voluntary guidance instead of enforceable rules.

And this inaction can have some dire effects locally.

At Brighton Rehabilitation and Wellness Center in Beaver, the site of the worst nursing home outbreak in Pennsylvania, a staffer complained to OSHA on April 13 that their employer was not following CDC guidelines such as providing masks for employees or enforcing social distancing.

In its official response to OSHA, the center's administrator Dana Wittman said that in the middle of March, they retaught all personnel on the appropriate use of PPE, including donning and doffing procedures. On April 1, they had an educational center installed at the main entrance area that included materials on COVID-19. At that time, they also started reception area training for staff to include social distancing guidelines and procedures.

However, even though OSHA officials determined the complaint for Brighton Rehab was valid and serious insofar as severity, they didn't do an inspection. They spoke with the employer over the phone on April 14 and sent an email



CP PHOTO: JARED WICKERHAM  
Pittsburgh Mercy Garden View Manor in Wilkensburg

that same day. They expected a response from the company about how it addressed the complaint a week later, according to the OSHA file on the matter.

By May, Brighton Rehab had experienced hundreds of coronavirus cases, and at least 76 deaths, the highest number of COVID-19 deaths at a nursing home in Pennsylvania. Local officials called for federal investigations into Brighton Rehab.

Meanwhile, some workers in western Pennsylvania have had their complaints

go unheard. Adrienne Chiusano didn't think her bosses at Passavant Memorial Homes had properly taken care of their staff during the COVID-19 pandemic when she worked there earlier this year. The five-year employee left the organization in April.

"They were telling us they didn't have masks," she said. "They gave us each a mask and then if they broke or whatever, they told us they didn't have any more to supply anybody. We had to pick them or get our own. And it turns out they were donating thousands of masks to other people to make themselves look good."

Several other employees there agreed to talk anonymously and supported Chiusano's account about Passavant Memorial Homes, which operates out of Warrendale.

Thomas W. King III, attorney for Passavant Memorial Homes, spoke with CP about his client's complaint. He said no patients contracted COVID-19 at their facilities. He said people came to the facilities to ask for masks.

"With respect to Passavant, there is no one in western Pennsylvania or

in the United States who did more to protect their employees," King said. "We supplied masks to all our employees."

All told, there were 17 workplaces throughout the Pittsburgh region that received OSHA complaints. Hospitals and health-care facilities made up the lion's share of the complaints.

A worker at UPMC St. Margaret in Aspinwall said they didn't have access to adequate PPE. Dave Rhodes, an employee with OSHA, emailed officials with UPMC Passavant and told them it was in the emergency department reception area where staff felt they should have respirator masks. A clinician coordinating the fit testing told them that they were no longer in the fit testing program and would not be provided protective equipment because of a shortage. UPMC Mercy also received a complaint about not having appropriate PPE for its staff.

Gloria Kreps, spokeswoman for UPMC, said safety was the health-care provider's top priority. They screen for symptoms at all entrances, limit visitors, use N-95 respirators, surgical masks, gloves, gown, and eye protection for their staff. They also train staff on using PPE and on interdepartmental communication regarding exposure, she said.

"We were the first to be able to offer COVID-19 testing for all patients coming into UPMC for an inpatient stay," Kreps said. "We were also the first to set up adequate screening procedures to protect our staff and patients so that we could offer the inclusion of a support person for each UPMC patient, both inpatient or outpatient."

OSHA didn't follow up on any of these complaints related to UPMC.

At another Pittsburgh hospital, gowns were allegedly not provided in March for medical procedures in one section of the hospital, according to a March 27 complaint. According to another OSHA complaint filed in March, a workplace in West Mifflin allegedly didn't clean or disinfect its hand scanner that grants access to about 2,500 employees that work in the facility. At a suburban Pittsburgh hospital, employees had informed OSHA that nurses and nurses' aides were possibly exposed to COVID-19 and other illnesses when entering isolation rooms, and employees were allegedly not notified when a patient was confirmed having COVID-19. An employee at a diagnostic facility complained about the lack of cleaning and sanitizing areas where testers handled COVID-19 samples.

Employees at Allegheny Valley





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CP PHOTO: CODY MCDEVITT  
Passavant's corporate office

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by CDC guidelines.”

Regardless of whether health-care facilities defended their actions, OSHA never sent an inspector out to check on the claims. And this lack of follow through might be more prescient again, as Allegheny County is currently experiencing one of the fastest growing coronavirus case loads in the U.S. Between June 22-29, Allegheny County saw 476 positive coronavirus cases, which is an average of about 60 per day. Before this last week, the county never saw such a rise in cases. Officials say the new cases are mostly linked to people traveling out of state and back, and to people crowding into restaurants and bars without wearing masks.

CP shared the OSHA documents and scope of the problem with local U.S. Rep. Mike Doyle (D-Forest Hills). He issued a statement through his press secretary about the situation. Doyle said he was aware that OSHA failed to carry out

its mission in recent weeks and was angry about it. He said it was unacceptable that the administration had issued only vague guidance for employers and failed to follow up on thousands of complaints. Doyle said he urged leadership in the House to pass legislation directing OSHA to issue clear regulations aimed at ensuring worker safety.

Doyle said that the Heroes Act included provisions to direct OSHA to create a permanent comprehensive infectious disease standard and to forbid employers from retaliating against whistleblowers. Several committees have held public hearings regarding these failures, he said.

“This is not a new issue, however,” Doyle said. “Throughout the Trump Administration, OSHA has consistently investigated fewer complaints and issued fewer penalties than during the Obama Administration. These failures have put worker safety at risk for years.” •

Hospital said in a complaint that workers in the primary care unit and in clinical decision units were not provided with N-95 respirator masks. The complaint file said that some of those workers have been in contact with patients who had COVID-19 or were suspected of having it. The hospital responded in a letter back to OSHA that said respirator masks were only needed when caring for suspected or confirmed COVID-19 patients in critical care units and settings where it was likely that an aerosol-generating procedure, like intubation or extubation, would be performed.

“This is primarily a droplet-transmitted virus which can only become airborne when aerosolized,” said Gregory Bailey, director of clinical safety at Allegheny Valley, in a letter to OSHA. “On non-critical care units, a gown, gloves, ear loop surgical masks, and protective eye wear are adequate to protect staff. This approach is supported

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Cody McDevitt is an investigative reporter based in western Pennsylvania. Formerly a staffer at the Somerset Daily American, his work has appeared in Pittsburgh Quarterly and the Pittsburgh Post-Gazette. His website can be found at [codymcdevitt.com](http://codymcdevitt.com).