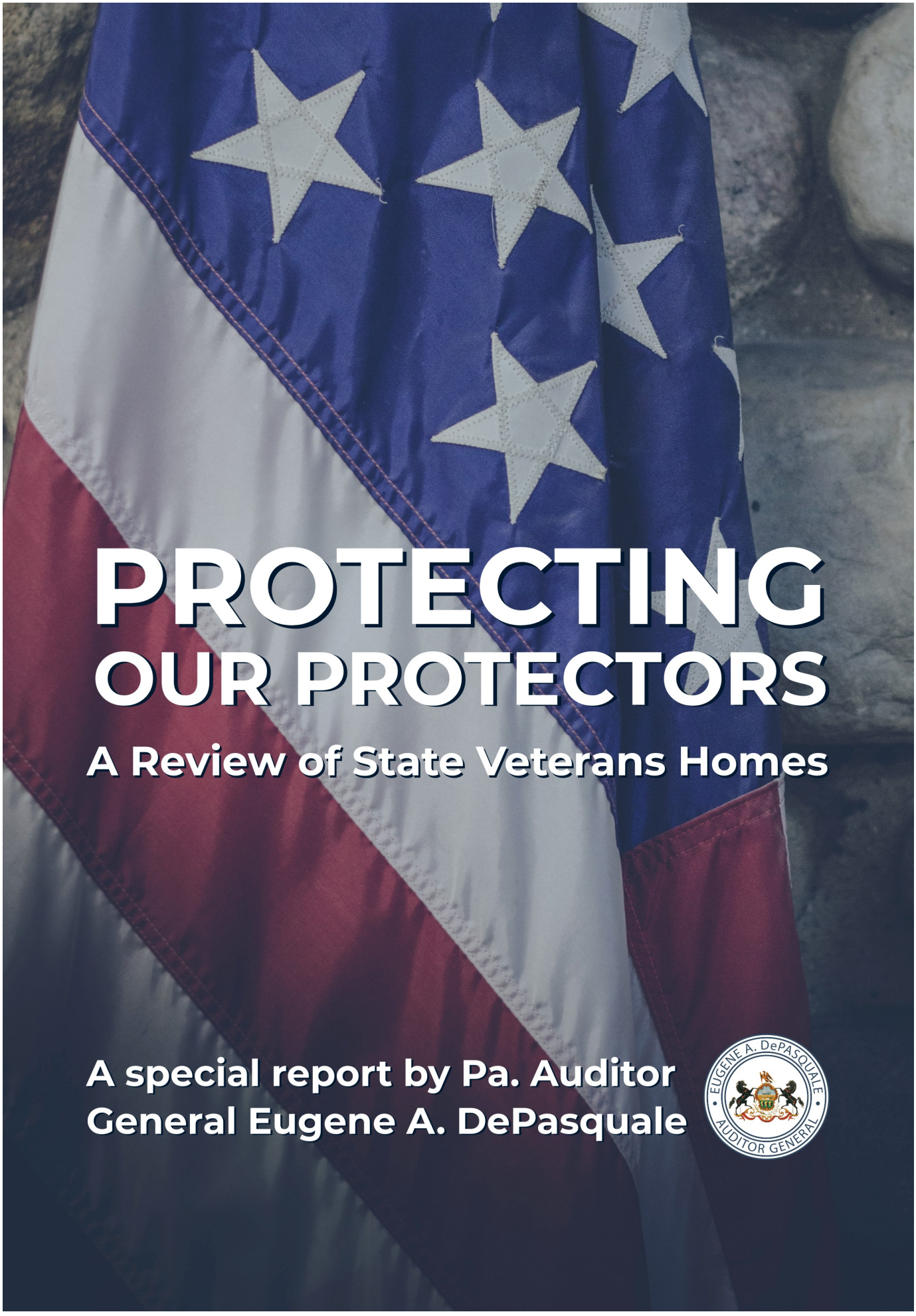

PROTECTING OUR PROTECTORS

A Review of State Veterans Homes

A special report by Pa. Auditor General Eugene A. DePasquale

DEAR FELLOW PENNSYLVANIANS,

The people who have served in our nation's military deserve our utmost respect and gratitude. In Pennsylvania, one of the ways we show appreciation for their service is by providing long-term care through six state veterans homes (SVHs) operated by the Pennsylvania Department of Military and Veterans' Affairs (DMVA).

My 2016 audit of the DMVA's administration of veterans homes found that the agency needed to improve how it handled the waiting lists to get veterans and their spouses into the homes and how it addressed residents' complaints or grievances. For this follow-up special report, I have determined that the DMVA closely followed my team's recommendations to improve those deficiencies.

However, given the disproportionate impact of COVID-19 on residents of long-term-care facilities and nursing homes across the state this year, a review solely of the 2016 audit recommendations would not present a full picture of how the DMVA is serving our aging veterans.

My team and I spoke with nearly two dozen people for this special report and reviewed more than 100 pages of documentation, including patient care inspections conducted by the state Department of Health (DOH) at each of the six SVHs both before and during the pandemic. At most of the veterans homes, we found good records of compliance and histories of passing grades.

A June DOH inspection of Southeastern Veterans' Center (SEVC) in Spring City, however, found that questionable actions by the facility's leadership put 83 percent of its residents in immediate, serious jeopardy.[1] The lengthy DOH report includes interviews with SEVC staff members about conditions inside the facility during the early days of the pandemic and details deficient infection-control protocols taking place months after the pandemic began. At least 28 SEVC residents died from COVID-19 between March and July 2020; as of Dec. 1, 2020, the number had climbed to 42, according to DOH.

I can't bring those beloved veterans back to their families. But I can – and do – urge Gov. Wolf to publicly release his office's independent review of how SEVC administrators initially managed the COVID crisis as soon as possible.

This special report features three observations and four recommendations, including two that address the need for SVH management to listen to and value the insight provided by direct-care staff, who are the hands-on daily caregivers for our veterans.

Thank you for the opportunity to serve you.

Sincerely,

Eugene A. DePasquale

[1] https://sais.health.pa.gov/CommonPOC/Content/PublicWeb/ltc-survey.asp?Facid=426002&PAGE=1&SurveyType=H

BACKGROUND

ABOUT THE DMVA

Headquartered at Fort Indiantown Gap near Annville, Lebanon County, the Department of Military and Veterans' Affairs (DMVA) administers a variety of services and benefit programs for veterans, their dependents and their spouses throughout Pennsylvania.

Created by the General Assembly in 1793, the DMVA is one of Pennsylvania's largest employers, with more than 22,000 military and civilian personnel in 90 communities statewide.[2] Pennsylvania's Military and Veterans Code delegates management responsibility of veterans facilities to the adjutant general, a governor-appointed, cabinet-level position that is "responsible to the commonwealth and to the governor for the organization and functioning" of the DMVA.[3]

The DMVA has a dual mission: to provide quality service to the state's veterans and their families, and to oversee and support the members of the Pennsylvania National Guard.[4]

For Pennsylvania's nearly 800,000 veterans and their families, the DMVA fulfills its mission by providing resources and assistance and by providing care for aging and disabled veterans.

APPLICATION PROCESS AND VETERANS HOMES

Pennsylvania provides residential care for veterans and their spouses at six long-term-care facilities. Residents can receive four levels of care: personal care, skilled nursing care, domiciliary care and dementia care.

As of Sept. 30, 2020, the state veterans homes (SVHs) could serve a total of 1,526 residents:

DMVA State Veterans Homes	Location	Maximum Residency
Delaware Valley Veterans' Home	Philadelphia	171
Gino J. Merli Veterans' Center	Scranton	196
Hollidaysburg Veterans' Home	Hollidaysburg	424
Pennsylvania Soldiers' and Sailors' Home	Erie	207
Southeastern Veterans' Center	Spring City	292
Southwestern Veterans' Center	Pittsburgh	236
		1,526 total

[2] Current law codified at 51 Pa.C.S. § 701 *et seq.* (Act 92 of 1975, as amended by Act 12 of 1996). See also http://www.dmva.pa.gov/Pages/Mission.aspx
[3] 51 Pa.C.S. § 902. Maj. Gen. Anthony J. Carrelli assumed his duties to serve as adjutant general of Pennsylvania in January 2016, was confirmed by the Senate as the 53rd adjutant general in June 2016 and was reappointed for another term in January 2019. *See* https://www.pa.ng.mil/Biographies/Article/1837745/major-general-anthony-j-carrelli/.
[4] http://www.dmva.pa.gov/Pages/Mission.aspx

SVHs are accredited by the federal Veterans' Administration (VA) and annually licensed by the Pennsylvania Department of Health (DOH) for skilled nursing and dementia care and by the Pennsylvania Department of Human Services (DHS) for personal and domiciliary care.

Applicants to SVHs must be an eligible veteran[5] or spouse of an eligible veteran who is a current resident of Pennsylvania or was a resident upon entry into the military.

In addition to verifying this information about applicants, DMVA officials also conduct background checks on applicants. An applicant convicted of a felony is ineligible for admission unless the applicant has demonstrated good character and behavior and has no convictions for crimes or offenses for at least five years.[6]

Once approved, the application is forwarded to the applicant's SVHs of choice. Each SVH has an admissions committee that determines what level of care the applicant needs and whether the home can meet the applicant's needs. If approved, the applicant is placed on the facility's waiting list based on the date the DMVA approves the application.

At the beginning of the COVID-19 pandemic, the DMVA placed a moratorium on new admissions to all SVHs, although it continued to accept applicants onto waiting lists. As of late September 2020, SVHs began allowing new admissions again as part of their reopening plans. Each SVH has its own timeline to reopen and is following DOH and VA guidance, according to Andrew Ruscavage, director of the DMVA Bureau of Veterans' Homes.

[5] "Eligible veteran" is defined as "an individual who served in the United States Armed Forces or the Pennsylvania Military Forces … who was released or discharged from service under honorable conditions who meets the admissions criteria set forth in this chapter, and who is eligible for certain benefits, rights and privileges resulting from the service." *See* 43 Pa. Code § 7.1.

[6] 43 Pa. Code § 7.3(b)(6)

2016 AUDIT SUMMARY

The Department of the Auditor General's 2016 performance audit of DMVA's oversight of veterans homes had three findings:

1. **A total of 14 applicants were not properly placed on admissions waiting lists in three of six state veterans homes as of Dec. 18, 2015.**

   Auditors' review of a one-day snapshot of the waiting lists for the six veterans homes found 11 people who should have been placed higher on their respective waiting lists and three people who should have been placed lower on their respective lists.

2. **DMVA's outdated and inflexible waiting list policy has led to state veterans homes not administering waiting lists consistently.**

   Under the policy used during the audit period, applicants who were offered an available bed in a veterans home were generally given five days to accept the bed and move in. If they were unable to do so, their names were removed from the list entirely, and they had to restart the application process. Auditors found multiple instances where this policy was inconsistently applied across the six veterans homes.

3. **DMVA's new grievance policy is inadequate and many residents' grievances were not resolved in accordance with the new policy.**

   Prior to September 2015, the DMVA did not have a policy to address complaints or grievances by residents, staff or family members. When it did finally adopt a policy, the plan for tracking and monitoring grievances was inadequate, the DMVA offered no training or training materials for staff, and ambiguous terms in the policy were interpreted differently across the six veterans homes.

The 2016 audit offered 13 recommendations. This special report follows up on the 2016 audit to determine how well DMVA has addressed these deficiencies, as well as how the SVHs reacted to the 2020 coronavirus pandemic.

WHAT WE HEARD 1

DMVA added much-needed flexibility to administration of its waiting lists.

Wait times vary at each SVH, according to DMVA Bureau of Veterans' Homes Director Andrew Ruscavage. Generally, Delaware Valley and Southeastern veterans homes have the longest waiting periods because they are in the populous area around Philadelphia.

Prior to the COVID-19 pandemic, Southeastern Veterans' Center had the longest wait time at roughly 10 months, Ruscavage said. By contrast, Hollidaysburg Veterans' Home in Altoona, which is the largest veterans facility, always has open beds because the region's population is smaller and it's rare for Philadelphia families to be willing to drive approximately 4 hours to Altoona to visit their loved ones, he said.

As a result of our 2016 performance audit and its recommendations, DMVA officially revised its waiting list policy[7] in March 2018 to better reflect real-world circumstances for applicants and their families.[8] Our audit and its recommendations assisted DMVA in enhancing its policy, which now states that:

1. An applicant who is offered a bed in a SVH has five days (10 days if the SVH commandant and Ruscavage agree there are exceptional circumstances) to accept it and move in.
2. The first time applicants turn down a bed, they move down one spot on the waiting list.
3. The second time applicants turn down a bed, they drop to the bottom of the waiting list.
4. The third time applicants turn down a bed, they are removed from the waiting list.

Before the 2018 changes, applicants who did not accept the first bed offer by moving in within five days were dropped off the list entirely and had to restart the application process.

Ruscavage said for this report that new automated technology has helped staff be able to accurately administer this more complex but flexible system for its waiting lists.

[7] DMVA's Policy Information Memorandum (PIM) #16 was officially revised March 8, 2018.
[8] Based on a recent detailed review conducted by our Department, DMVA adequately addressed each of our recommendations regarding Finding 2 pertaining to its waiting list policy (PIM #16).

WHAT WE HEARD 2

DMVA greatly improved its complaint/grievance process and procedures.

As the 2016 performance audit pointed out, federal and state regulations[9] require SVHs to have a process in place for residents to voice complaints and grievances and for such grievances to be addressed and resolved in a timely manner.

Until September 2015, each SVH had its own policies and procedures to address grievances. Then, the DMVA created a standard grievance-resolution policy and process for all six SVHs. The 2016 performance audit found several problems with the execution of that policy, such as varied response times because of ambiguous language.

Because of our audit and its recommendations, the DMVA hired a compliance and ethics officer in 2016 and updated and enhanced its policy[10] in November 2017 to address those problems.

As with the waiting list administration, new technology has greatly automated the tracking of grievances, said Margo Coleman, DMVA's social work discipline coordinator. Residents, family members, staff and vendors can now file grievances in one of three ways:

- Via hotline, at 1-833-945-0176;
- Via online form, available on the DMVA's website[11]; or
- Via paper form, available in the SVHs.

On average, each SVH handles about five grievances per month, Coleman said, and staff are instructed to help residents fill out the form as needed.

[9] *See* **Federal regulations** 42 CFR Chapter IV (Centers for Medicare & Medicaid Services), specifically 42 CFR § 483.10(f)(5)(iv) (relating to Residents Rights – Self-determination [i.e., requiring prompt action on grievances and recommendations of residents and family groups], (g)(vi) (relating to Information and contact information for filing grievances or complaints concerning any suspected violation of state or federal nursing facility regulations) and (j) (relating to Grievances of residents) ; **State regulations** 6 Pa. Code Chapter 11 (Older Adult Daily Living Centers), specifically 6 Pa. Code § 11.20(a) (relating to Grievance procedures [i.e., requiring written procedures]); 55 Pa. Code Chapter 2600 (Personal Care Home), specifically 55 Pa. Code § 2600.41(d) (relating to Notification of rights and complaint procedures [i.e., requiring submission of copy of procedures upon admission]).

[10] DMVA's Policy Information Memorandum (PIM) #49 was officially revised Nov. 17, 2017. Based on a recent detailed review conducted by our Department, DMVA adequately addressed each of our recommendations with only minor exception regarding Finding 3 pertaining to its grievance policy (PIM #49).

[11] https://www.dmva.pa.gov/paveteranshomes/Documents/Resident-Grievance-Form.pdf

WHAT WE HEARD 3

Southeastern Veterans' Center reacted too slowly to the COVID-19 pandemic, jeopardizing residents' lives.

When the COVID-19 pandemic began in the United States in March 2020, the federal Centers for Medicare & Medicaid Services (CMS), which oversee long-term-care facilities such as nursing homes, issued guidance[12] designed to protect residents and staff members from the coronavirus.

In addition, the federal Centers for Disease Control and Prevention (CDC) offered a multitude of guidelines,[13] and the state Department of Health (DOH) also issued guidance[14] for healthcare and long-term-care facilities to minimize the impact of COVID-19 on their residents and staff.

DMVA's six SVHs were to be following all of this guidance, according to Andrew Ruscavage, director of the DMVA Bureau of Veterans' Homes. However, multiple sources indicate that was not happening in all of the SVHs, including a June 2020 DOH inspection of Southeastern Veterans' Center (SEVC) in Spring City that resulted in a scathing report issued June 9, 2020.[15]

Overall, SEVC failed that inspection. According to the report:

> "Based on review of facility policies, clinical records, and facility documents, as well as observations and staff interviews, it was determined that the facility failed to ensure that policies and procedure were in place to trace and investigate COVID-19 presumptive positive and positive residents and staff to mitigate or potentially control the spread of the coronavirus, failed to follow CDC (Center for Disease Control) guidelines, CMS (Center for Medicare/Medicaid Services) guidelines and Pennsylvania Department of Health (DOH) guidelines to reduce the spread of infections and prevent cross-contamination during the COVID-19 pandemic ...
>
> **"These failures placed … residents at the facility in an Immediate Jeopardy situation."**[16]

The DOH report lists a litany of deficient practices at SEVC related to the coronavirus pandemic, including not properly performing swab tests on residents — which only began in April 2020, nearly a month after Gov. Tom Wolf declared a state of emergency because of COVID-19 — and staff not being required to wear proper personal protective equipment (PPE) such as N95 masks and gloves.

Between March and July 2020, COVID-19 was found to be present in five of the six SVHs, which saw a combined total of at least 41 resident deaths from the disease during that time, according to Ruscavage.

Of those 41 deaths, 28 were in SEVC, Ruscavage said.

[12] https://www.cms.gov/files/document/qso-20-14-nh-revised.pdf
[13] https://www.cdc.gov/coronavirus/2019-ncov/hcp/nursing-home-long-term-care.html
[14] https://www.health.pa.gov/topics/prep/PA-HAN/Pages/2020-HAN.aspx
[15] https://sais.health.pa.gov/CommonPOC/Content/PublicWeb/ltc-survey.asp?Facid=426002&PAGE=1&SurveyType=H
[16] Emphasis added. https://sais.health.pa.gov/CommonPOC/Content/PublicWeb/ltc-survey.asp?Facid=426002&PAGE=1&SurveyType=H.

Each SVH eventually created "zones" to separate residents according to whether they had tested positive for COVID (red zone), were showing symptoms of COVID and were awaiting test results (yellow zone), or were displaying no symptoms of COVID (green zone), Ruscavage said.

One licensed practical nurse (LPN) who has worked at SEVC since 2007 wept as she talked for this report about SEVC administration's slow response to the pandemic.

"When COVID first started, we had no masks available," she said. "And even once we got them, we were told not to wear them because it would scare the residents. … I know one maintenance worker who was sent home three times early on because he refused to take his mask off."

The June 9, 2020, DOH inspection report shows that staff members were not wearing proper PPE as late as June 1, 2020, when a laundry aide entered a resident's room wearing only a surgical mask, not "the required N95 mask, gloves, gown or eye protection."

Further, the report points out, the same laundry aide told the DOH surveyor that day that "she has been going in and out of all resident rooms (both COVID positive and negative) to deliver laundry and has never been told to wear the correct protective equipment."

A nurse's aide also told the DOH surveyor on June 2 that "staff have been pulled from positive to negative (COVID) units and back the same day." The nurse's aide also said that day, "Sometimes when I come in there isn't any PPE."

The LPN interviewed for this report said staff members were given one mask for every five shifts, and she was among staff who were rotated from floor to floor, working with residents who were positive for COVID-19, then healthy residents, then residents who showed COVID symptoms and were awaiting test results – all during the same shift.

The same LPN also said SEVC residents continued to dine communally even after residents began displaying COVID-19 symptoms. "One day, a resident … showed all the symptoms (of COVID) around lunchtime but she was still eating in the dining room. … Two days later, she went to the hospital and tested positive for COVID, and she died three days later."

Again, the June 9 DOH inspection report supports the description given by the LPN for this report. The first time a resident showed COVID symptoms was March 25, according to the DOH report, but "communal dining was stopped April 1, 2020, when the first employee was positive."

One family's loss

Ian Horowitz of Chester County was among those who had a loved one at SEVC die from COVID. Horowitz's dad, Cpl. Ed Horowitz of Philadelphia, was an Army veteran who served in the military police from 1957-63.

In March 2019, Ed Horowitz moved into the personal care/independent living section of SEVC. He became fast friends with his roommate, Ian Horowitz said, and the two were known in the facility as the best of friends.

In April 2020, Ed Horowitz's roommate became sick with COVID symptoms, including a bad cough. Ed Horowitz, 81, asked to be separated from his roommate, but his request was denied, Ian Horowitz said.

"Instead, when (his roommate) complained that he was cold because of his fever, they just kept turning up the thermostat and throwing blankets on him," Ian Horowitz said for this report. "And his cough just kept getting worse."

Ten days after exhibiting his first COVID symptoms, Ed Horowitz's roommate was finally taken to Phoenixville Hospital, where he died, Ian Horowitz said. That same day, Ed Horowitz began exhibiting his own COVID symptoms; 10 days later, on May 10, 2020, he also passed away.

"We couldn't even have a funeral for him," Ian Horowitz said. "We could only have a burial … and everybody had to stay in their cars and just watch the casket go into the ground."

Testing of residents only began April 2, the report states, and "there was no one specifically trained to do nasopharyngeal or oropharyngeal COVID testing with swabs" at that time.

The LPN said that, during the worst days of the pandemic in April and May, SEVC ran out of body bags and had to wrap deceased residents in sheets.

"Watching people die was awful," another licensed practical nurse told the DOH inspector for the June 9 report.

Each SVH is run by a commandant, who is the head of administration. SEVC's commandant and its director of nursing were indefinitely suspended in May 2020 pending the outcome of an investigation into how they handled the facility's initial response to the COVID-19 pandemic. The Governor's Office hired an outside law firm to handle that investigation which, as of Dec. 1, 2020, was ongoing.

In the meantime, an outside contractor, The Longhill Co., has been running SEVC since June 2020, Ruscavage said. The company has provided an acting facility administrator and acting director of nursing.

SEVC subsequently passed DOH inspections on Aug. 5 and Sept. 9, 2020.[17]

The other five SVHs were inspected on the following dates in 2020 and were deemed in compliance with state and federal regulations:

- Delaware Valley[18]: June 25, July 24
- Gino Merli[19]: May 11, June 30, Aug. 6
- Hollidaysburg[20]: June 17, July 15
- Soldiers' and Sailors'[21]: June 24, Aug. 4
- Southwestern[22]: April 2, April 15, July 19, Sept. 4, Oct. 22

[17] https://sais.health.pa.gov/CommonPOC/Content/PublicWeb/ltc-survey.asp?Facid=426002&PAGE=1&SurveyType=H
[18] https://sais.health.pa.gov/commonpoc/Content/PublicWeb/ltc-survey.asp?Facid=12720200&PAGE=1&NAME=DELAWARE+VALLEY+VETERANS%27+HOME&SurveyType=H&COUNTY=PHILADELPHIA
[19] https://sais.health.pa.gov/commonpoc/Content/PublicWeb/ltc-survey.asp?Facid=014902&PAGE=1&NAME=GINO+J%2E+MERLI+VETERANS+CENTER&SurveyType=H&COUNTY=LACKAWANNA. Note that Gino Merli Veterans' Home remains on a provisional license because of problematic prior inspections on May 6, 2019, and Jan. 31, 2020.
[20] https://sais.health.pa.gov/commonpoc/Content/PublicWeb/ltc-survey.asp?Facid=341402&PAGE=1&NAME=HOLLIDAYSBURG+VETERANS%27+HOME&SurveyType=H&COUNTY=BLAIR
[21] https://sais.health.pa.gov/commonpoc/Content/PublicWeb/ltc-survey.asp?Facid=198202&PAGE=1&NAME=PENNSYLVANIA+SOLDIERS%27+%26+SAILORS%27+HOME&SurveyType=H&COUNTY=ERIE. Note that the June 24, 2020, survey did find deficient practices in screening visitors for COVID-19, but those issues were resolved by the Aug. 4, 2020, inspection.
[22] https://sais.health.pa.gov/commonpoc/Content/PublicWeb/ltc-survey.asp?Facid=068802&PAGE=1&NAME=SOUTHWESTERN+VETERANS+CENTER&SurveyType=H&COUNTY=ALLEGHENY

RECOMMENDATIONS

1. **The independent investigators hired by the Governor's Office** should complete their review and make their findings public as soon as possible.
2. **DMVA officials** must ensure every staff member in every SVH has access to and is trained on the need for and proper use of PPE at all times.
3. **SVH commandants and directors of nursing** should form partnerships with labor associations to amplify the voices of direct care workers and facilitate management-workforce collaboration and communication.
4. **SVH management** should include direct care staff in organizational, safety and care decisions. **Nurses and aides** are providing direct care, and their opinions need to be sought out and valued.

ACKNOWLEDGMENTS

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