

# Long Term Care Covid-19 Commission Mtg.

Commissioners' briefing by Ministry of Labour,  
Training and Skills Development  
on Tuesday, October 20, 2020



77 King Street West, Suite 2020  
Toronto, Ontario M5K 1A1

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1 MEETING OF THE LONG-TERM CARE COVID-19 COMMISSION

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5 --- Held Virtually via Zoom, with all participants  
6 attending remotely, on the 20th day of October, 2020,  
7 9:00 a.m. to 10:46 a.m.

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9

10 BEFORE:

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12 The Honourable Frank N. Marrocco, Lead Commissioner  
13 Angela Coke, Commissioner  
14 Dr. Jack Kitts, Commissioner

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17 PRESENTING:

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19 Sandra Lawson, Acting Executive Director for  
20 Operations Division at the Ontario Ministry of  
21 Labour, Training and Skills Development.

22

23 Jody Young, Assistant Deputy Minister for  
24 Operations Division at the Ministry of Labour,  
25 Training and Skills Development.

1 PARTICIPANTS:

2

3 Jessica Franklin, Policy Lead, Ministry of  
4 Long-Term Care

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6 Alison Drummond, Assistant Deputy Minister,  
7 Long-Term Care Commission Secretariat

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9 Derek Lett, Policy Director, Long-Term Care  
10 Commission Secretariat

11

12 John Callaghan, Lead Counsel, Long-Term Care  
13 Commission Secretariat

14

15 Dawn Palin Rokosh, Director Of Operations  
16 Ontario Long-Term Care Commission Secretariat

17

18 Danielle Meuleman, Counsel, Ministry of  
19 Labour, Training and Skills Development.

20

21 Brandon Parlette, Counsel, Ministry of Labour  
22 Skills and Training Development

23

24 Judith Parker, Counsel, Ministry of the  
25 Attorney General

1 PARTICIPANTS (cont'd):

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3 Eric Wagner, Counsel, Crown Law Office Civil

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5 Roopa Mann, Counsel, Crown Law Office Civil

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9 ALSO PRESENT:

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11 Judith M. Caputo, Stenographer/Transcriptionist

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15 REQUESTS OF INFORMATION

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1 -- Upon commencing at 9:00 a.m.

2

3 COMMISSIONER MARROCCO: We're ready  
4 when you are.

5 Thank you for coming and thank you for  
6 taking the time to give us some sort of  
7 understanding of the Ministry of Labour's role.

8 We're in the process of trying to  
9 educate ourselves as best we can about this  
10 environment, and so we do have -- this is a spot in  
11 our knowledge that will be very useful if it can be  
12 filled in, and so thank you for doing that.

13 We have followed the practice of asking  
14 questions as we go along. So, we found it easier  
15 than trying to go back.

16 So, if it's okay with you, then we'll  
17 just interrupt with a question. Don't think we're  
18 rude; we just don't want to forget to ask the  
19 question.

20 There's a court reporter, as I guess  
21 you know, I don't know if you met Ms. Caputo, and  
22 there will be a transcript.

23 So we're ready when you are. And you  
24 met Commissioner Kitts, at least I hope you did,  
25 and Commissioner Coke. The three of us, we are the

1 Commission.

2 So we're ready when you are.

3 MS. YOUNG: Great. Good morning,  
4 everyone. Thank you, Commissioners.

5 The slide deck, I'm not sure who has  
6 control of the slide deck, if they can put it up  
7 for me.

8 -- OFF THE RECORD DISCUSSION --

9 COMMISSIONER MARROCCO: Can one of your  
10 members, Ms. Young, share your screen with us and  
11 then we can follow along, and then you can tell  
12 them from slide to slide when you find it  
13 convenient.

14 MS. PARKER: Judith Parker, counsel for  
15 Ontario. I would be happy to run the slides so  
16 Ms. Lawson and Ms. Young can concentrate.

17 COMMISSIONER MARROCCO: Yes, that's  
18 very helpful.

19 MS. PARKER: So I'll do that right now.  
20 Please let me know when you have the screen.

21 COMMISSIONER MARROCCO: Ms. Parker is  
22 pretty high-priced help to be running the slides.

23 MS. PARKER: I don't think you know how  
24 much we get paid.

25 COMMISSIONER MARROCCO: I shouldn't

1 have gotten into that. So thanks very much for  
2 doing that.

3 MS. YOUNG: Perfect, we can see the  
4 slides now on the screen. Thank you so much,  
5 Ms. Parker.

6 So, the foundational briefing today  
7 will be delivered by myself, Jody Young, Assistant  
8 Deputy Minister for Operations Division at the  
9 Ministry of Labour, Training and Skills  
10 Development, and I will be supported by Sandra  
11 Lawson, Executive Director for Operations Division.

12 So as we move to the next slide, slide  
13 two, our briefing will provide a bit of an overview  
14 of the Ministry of Labour, Training and Skills  
15 Development, Occupational Health and Safety  
16 mandate; an overview of the Occupational Health and  
17 Safety Act and the regulations made under it.

18 We will also speak to our risk-based  
19 proactive inspection strategy, referred to as Safe  
20 At Work Ontario.

21 Next, we will cover our Occupational  
22 Health and Safety COVID-19 response and our  
23 activities to date.

24 And finally, we will share with you a  
25 bit of our collaborations with our Ministry

1 stakeholder partners, as well as our health and  
2 safety system partners that we have been engaged  
3 with previously, and those relationships that have  
4 been fostered better under the COVID pandemic as  
5 well.

6           Next slide. So, with respect to the  
7 mandate and an overview of the Occupational Health  
8 and Safety Act, the Ministry of Labour, Training  
9 and Skills Development are responsible for  
10 developing occupational health and safety policies  
11 and enforcement of the Occupational Health and  
12 Safety legislation and its regulations for  
13 provincially regulated workplace throughout the  
14 Province of Ontario.

15           And we work with internal partners,  
16 such as our supports from our legal policy  
17 prevention, as well as external partners, the WSIB,  
18 and our health and safety association system  
19 partners, to advance workplace health and safety  
20 and prevent injuries and illnesses.

21           Next slide. This slide is a high-level  
22 org chart for Ministry of Labour, Training and  
23 Skills Development, and you will see the  
24 highlighted box in yellow is my box. I am  
25 alongside eight other ADMs, and underneath me I



1 have eight regional and branch directors that  
2 report in to me, as well as Sandra Lawson, who's  
3 here with us today as the Acting Executive Director  
4 for Operations Division.

5 The next slide. We might have to  
6 shrink that one a little bit.

7 A very, very busy slide, unfortunately,  
8 but what we're trying to demonstrate here is the  
9 way all of the different partners, internal and  
10 external partners, that are part of the overall  
11 health and safety system within the Province of  
12 Ontario.

13 So, if you start at the very centre of  
14 the slide, you will see "Provincial OHS Strategy"  
15 in the very centre of your page, in the bubble.  
16 That forms the foundational piece under which all  
17 of our proactive and prevention activity stems  
18 from. So the Chief Prevention Officer above that  
19 bubble will lay out the strategy for the province  
20 based on risks, trends and emerging issues within  
21 the health and safety system.

22 You will see at the top, to the right  
23 and left of the Deputy Minister, are two advisory  
24 bodies. They're very important parts of our  
25 system. On the right-hand side we have the

1 Prevention Council. That's a tripartite group of  
2 stakeholders that will provide advice and support  
3 to the Minister, the Deputy, and the Chief  
4 Prevention Officer.

5 And on the left-hand side you will see  
6 Section 21 Committees, and they are bipartite  
7 labour and employer organizations that are stood up  
8 under the Occupational Health and Safety Act by  
9 sector. And it is important to note that there is  
10 a Section 21 Committee for Healthcare that also  
11 contains representatives from long-term care, that  
12 provides their input and advice, regulatory,  
13 policy, emerging issues.

14 We consult with Section 21s; they  
15 identify issues within their sector that need to be  
16 addressed.

17 So those are some important features of  
18 the health and safety system. Then, as you glance  
19 around the rest of the placement, you will see a  
20 number of other external organizations such as the  
21 WSIB, the Workplace Safety and Insurance Board, as  
22 well as our health and safety association system  
23 partners. And most of this system is funded  
24 through the Workplace Safety and Insurance Board  
25 employer premiums.

1                   As we move to the next slide, there is  
2 a list of all of the health and safety association  
3 organizations that provide supports to workplace  
4 parties throughout the province.

5                   They are funded through the WSIB and  
6 provide training programs, education, outreach to  
7 all of their stakeholders, and they are divided up,  
8 as you can see, by sector.

9                   And in the very centre column, the  
10 Public Services Health and Safety Association is an  
11 organization that supports the healthcare sector as  
12 well as other public sector employers, such as the  
13 education sector and government.

14                   COMMISSIONER MARROCCO: Can I just  
15 interrupt you for a minute.

16                   One of the things that we have heard so  
17 far is that sometimes there was confusion between  
18 the long-term care inspectors and the Ministry of  
19 Labour inspectors and who you called if you had a  
20 problem.

21                   Did that issue come up? Or how would  
22 it likely bubble up on the Ministry of Labour side?

23                   MS. YOUNG: I haven't heard significant  
24 confusion from our stakeholders, labour groups or  
25 employer groups, with respect to that particular

1 issue. But certainly the Public Services Health  
2 and Safety Association, as they're doing their  
3 education and outreach, would be identifying some  
4 of that clarity. So resident safety issues in  
5 long-term care would be funneled through the  
6 long-term care compliance officers. And anything  
7 related to worker health and safety would be  
8 funneled through the Ministry of Labour, Training  
9 and Skills Development Contact Centre.

10 COMMISSIONER MARROCCO: So if a problem  
11 is being articulated or brought to your attention  
12 by an employee, you would expect that could very  
13 well be a Ministry of Labour matter. If the  
14 problem revolved around a resident, that would  
15 probably be a Ministry of Long-Term Care problem.

16 MS. YOUNG: That is correct. However,  
17 if a worker called in and had a variety of issues  
18 and some of them were related to resident care  
19 issues, we have the ability, as a Ministry, to  
20 provide a heads-up to our sister Ministry, to  
21 notify them that a resident safety issue has been  
22 raised with us and they ought to be dealing with it  
23 on their end.

24 COMMISSIONER MARROCCO: So then would  
25 both inspectors be expected to deal with it, or

1 what would happen there?

2 MS. YOUNG: Yes, that's correct. So  
3 they would utilize their own legislative framework  
4 and ability to enforce their legislation, and we  
5 would enter and utilize our own authorities to deal  
6 with the occupational health and safety issues.

7 COMMISSIONER MARROCCO: Okay. But as  
8 you sit here, you don't recall this issue actually  
9 being considered, the confusion issue?

10 MS. YOUNG: Yes, I have to say, I have  
11 been in this business for more than 20 years and  
12 haven't had a lot of those issues brought to our  
13 attention.

14 COMMISSIONER MARROCCO: Okay. All  
15 right. Thank you.

16 MS. YOUNG: Okay. Next slide.

17 The next slide highlights our  
18 foundational legislation, the Occupational Health  
19 and Safety Act. The Act sets out powers,  
20 requirements, duties and responsibilities of all of  
21 the workplace parties. It sets out the requirement  
22 to establish joint health and safety committees  
23 and/or health and safety representatives. It sets  
24 out requirements for workplace violence and  
25 harassment, and the authority to make regulations.

1                   And it also prohibits reprisals against  
2 workers by employers for bringing forward health  
3 and safety concerns; provides for enforcement  
4 details by our inspectors and establishes offences  
5 and penalties under the Act.

6                   COMMISSIONER MARROCCO: So if a nurse  
7 or a personal support worker brought a matter to  
8 your attention, they're protected against any  
9 attempt or an attempt by the employer to get back  
10 at them?

11                  MS. YOUNG: That's correct.

12                  COMMISSIONER MARROCCO: What does that  
13 mean? What can you do generally?

14                  MS. YOUNG: We would investigate the  
15 issue of the reprisal, or the matter leading to the  
16 reprisal. We would make a referral to the Labour  
17 Relations Board, and with supports from what's  
18 called the Office of the Worker Adviser, if  
19 required to support that particular worker.

20                  If the worker was a unionized worker,  
21 there may be a parallel process happening as well  
22 with respect to their collective agreement. And  
23 then the matter would be heard.

24                  COMMISSIONER MARROCCO: But even if --  
25 just correct me, I'm just trying to understand it.

1                   If their collective agreement does not  
2 have reprisal protection in it, are they still  
3 protected by the Occupational Health and Safety  
4 Act?

5                   MS. YOUNG: Absolutely.

6                   COMMISSIONER MARROCCO: All right. So  
7 it doesn't really matter -- I don't want to put  
8 these words in your mouth -- but there's protection  
9 there, whether it's in the Collective Agreement or  
10 not?

11                  MS. YOUNG: That's correct.

12                  And so the next slide, the Occupational  
13 Health and Safety Act, as I mentioned, covers  
14 provincially-regulated workplaces, and that equates  
15 to approximately 6.35 million workers within the  
16 province. It does not apply to work being done by  
17 an owner or occupant within the private residence,  
18 and of course workplaces that fall under Federal  
19 jurisdiction, and there is a list there on this  
20 slide. Those are covered by the Canada Labour  
21 Code.

22                  To the right of the slide, we're  
23 highlighting there that the underpinning of the  
24 Occupational Health and Safety Act is a concept  
25 referred to as the Internal Responsibility System.

1 So the Act sets out duties and responsibilities for  
2 every single workplace party within the workplace,  
3 based on the level of control that that particular  
4 party might have over the workplace.

5 And so if the system is functioning at  
6 its best, ideally an employer would acquaint all  
7 workers and supervisors with the hazards that exist  
8 within their workplace, provide them with training  
9 and education, based on all those hazards.

10 Workers would then, if they observe a  
11 hazard within their workplace that they can't  
12 remedy, they would bring it to the attention of  
13 their supervisor, who would then take action, and  
14 so on. And as the Act sets out, the establishment  
15 of a joint health and safety committee, they are  
16 intended to be internal auditors of this Internal  
17 Responsibility System, to ensure that it continues  
18 to function within the workplace.

19 COMMISSIONER MARROCCO: So in a  
20 situation where a person is working in a long-term  
21 care facility and COVID-19 has entered the  
22 facility, but they don't have training on how to  
23 put on and take off personal protective equipment,  
24 for example, that would be a matter, at that point,  
25 a potential violation of the Act would have taken



1 place and there would be an investigation if  
2 there's a complaint?

3 MS. YOUNG: That's correct.

4 COMMISSIONER MARROCCO: Was the  
5 Ministry taxed because of the outbreak? Would this  
6 put a strain on the ability to respond to  
7 complaints and inspect, from your perspective?

8 MS. YOUNG: Yes, so the Ministry saw at  
9 some points during the peak of the pandemic an  
10 increase by 200 percent in the numbers of  
11 complaints and inquiries coming into the Ministry.

12 So we had to be very focused in our  
13 deployment of our OHS resources to address the  
14 particular complaints and issues at hand, very  
15 specifically.

16 COMMISSIONER MARROCCO: Okay. When a  
17 person is hired as an investigator or inspector, is  
18 there training? There must be some training they  
19 have to go through.

20 MS. YOUNG: Yes. So we have a very  
21 extensive training program that's approximately  
22 nine months in duration, and it's a combination  
23 between in-classroom training as well as  
24 experiential hands-on learning and mentoring with a  
25 seasoned officer.

1                   Our training program is actually second  
2 to none, and has been borrowed by a number of other  
3 jurisdictions across the country.

4                   COMMISSIONER MARROCCO: But that would  
5 inhibit your ability to suddenly increase the  
6 number of inspectors because they have to go  
7 through a training program before you can put them  
8 out on the road?

9                   MS. YOUNG: Yes, that's correct.

10                  COMMISSIONER MARROCCO: Okay.

11                  MS. YOUNG: Next slide.

12                  COMMISSIONER MARROCCO: Ms. Parker,  
13 your job is in jeopardy here.

14                  MS. YOUNG: So this next slide  
15 highlights our Health Care and Residential  
16 Facilities Regulation made under the Occupational  
17 Health and Safety Act. This regulation applies to  
18 acute and long-term care homes. And we'll get into  
19 further detail, of course, as we speak to the  
20 legislation in our COVID response, but at a high  
21 level, this legislation applies to all workers  
22 within a long-term care home, including nursing  
23 staff and personal support workers, including the  
24 housekeepers and the kitchen staff.

25                                   And the regulation addresses a broad

1 scope of issues, including safe work practices;  
2 you've already referred to personal protective  
3 equipment and training therein. Just to give you a  
4 bit of a grocery list of things: things like work  
5 surfaces, ladder safety, electrical safety,  
6 anesthetic gasses, antineoplastic drugs, compressed  
7 gas cylinders, just to name a few, are all  
8 specifically highlighted within the healthcare  
9 regulation.

10                   Next slide. So the next couple of  
11 slides were highlighting some of the key duties,  
12 responsibilities and rights of all of the workplace  
13 parties.

14                   So the first slide here are the list of  
15 employer duties. The first one, "Take every  
16 precaution reasonable in the circumstances" is  
17 often referred to as our general duty clause. So  
18 we utilize, it's called 25(2)(h) of the  
19 Occupational Health and Safety Act, and we utilize  
20 it quite readily, especially with respect to  
21 COVID-19 and the hierarchy of controls with respect  
22 to infection measures and procedures.

23                   The next one is maintaining and  
24 ensuring proper use of equipment, materials and  
25 devices, ensuring that measures and procedures are

1 carried out in the workplace.

2 The next is "information, instruction  
3 and supervision", and that's where training fits  
4 in. So if we issue a training order, that's the  
5 section that we would utilize. And then, as I  
6 mentioned earlier, acquainting workers and  
7 supervisors with workplace hazards.

8 Next slide. These are some of our key  
9 supervisor duties. And there's a similar duty,  
10 general duty for supervisors, "Take every  
11 precaution reasonable in the circumstances."

12 "Ensure a worker works in the manner",  
13 so using the procedures, and so on, and with the  
14 protective devices and measures that are required  
15 by the Act.

16 "Ensure any equipment, protective  
17 device or clothing required" is worn. So in the  
18 case of personal protective equipment, if it's  
19 needed and required to be worn, that's the section  
20 a supervisor would be required to be enforcing.

21 And then advising a worker of the  
22 existence of any danger, potential or actual  
23 danger, that the supervisor is aware of.

24 COMMISSIONER MARROCCO: And that's the  
25 supervisor at the workplace, like, that's the

1 long-term care home person?

2 MS. YOUNG: Correct.

3 COMMISSIONER MARROCCO: So if something  
4 happens, and they didn't do that, then they're  
5 subject to whatever the Occupational Health and  
6 Safety Act provides. They're measured against that  
7 standard?

8 MS. YOUNG: That's correct.

9 The next slide are a few of the worker  
10 duties. So working in compliance with the Act and  
11 regulations; using and operating equipment in a  
12 safe manner; and reporting any defects in  
13 equipment, or any hazards, or contraventions of the  
14 Act that they are aware of, and reporting those to  
15 their supervisor.

16 Next slide. These are very important  
17 embedded elements in the Occupational Health and  
18 Safety Act and are fundamental to the Act, and they  
19 are the workers' right to know about the hazards  
20 that they might be exposed to within their  
21 workplace.

22 They have a right to participate in  
23 resolving health and safety concerns through, for  
24 example, membership in a joint health and safety  
25 committee. They identify members from among them

1 who will represent them on the committee.

2 And then they have a right to refuse  
3 unsafe work.

4 COMMISSIONER MARROCCO: So do I have it  
5 right then that, in a situation where the home is  
6 unsafe because there's not sufficient -- just to  
7 give an example -- there's not sufficient  
8 protective equipment for everybody, the worker can  
9 legally and properly refuse to work in that  
10 environment?

11 We, of course, have been hearing that  
12 that creates a huge problem, that the staff  
13 shortage was a significant problem in terms of  
14 looking after the people who were residing in the  
15 long-term care home and had difficulty looking  
16 after themselves.

17 I take it, from the Ministry's point of  
18 view, you're more focused on the right to refuse to  
19 work in an unsafe location than on the consequences  
20 that that might have had. Not that the Ministry  
21 doesn't care about the consequences, but I'm asking  
22 you really, do you get involved with the  
23 consequences of the people refusing and the lack of  
24 care that generates?

25 Don't misunderstand my question. I'm

1 not suggesting a person should have to work in an  
2 unsafe environment and get sick. I'm not  
3 suggesting that. I'm just trying to understand if  
4 there's any attempt to balance the two problems.

5 MS. YOUNG: So I think, when we go to  
6 the next slide, you will see that there is a slight  
7 limit to a healthcare worker's availability to  
8 refuse work for that very reason that you've just  
9 described.

10 So if you look to the left of the  
11 slide --

12 COMMISSIONER KITTS: Could I just ask a  
13 question before we go to the next slide?

14 MS. YOUNG: Sure.

15 COMMISSIONER KITTS: Coming back to the  
16 increase in complaints and issues by 200 percent  
17 during COVID and your surge capacity to get more  
18 inspectors trained properly is nine months.

19 My question is: Did you have any surge  
20 capacity to move towards health from perhaps areas  
21 that had suspended operations because of the  
22 emergency order, or how did you manage a  
23 200 percent increase in complaints and how did you  
24 prioritize them?

25 MS. YOUNG: Right. So we focused all

1 of our capacity in the system to all of those  
2 essential businesses, including healthcare.

3 And where we might, in previous  
4 situations, respond to a complaint and expand the  
5 scope of the complaint to include a broader swath  
6 of issues, we would be very focused on the specific  
7 complaint that was being presented to us.

8 So we would go in and deal with, for  
9 example, infection measures and procedures for  
10 which the complaint was stemming, and we would  
11 address it. And then we would go on to the next  
12 workplace rather than, you know, let's say in a  
13 regular situation where we're not in a pandemic, we  
14 might then explore and look to see whether there  
15 are any other hazards that might be related to that  
16 specific issue as well.

17 So we were very focused. We were able  
18 to -- we have approximately 181, what we call  
19 "industrial inspectors". They cover 29 sectors,  
20 including healthcare.

21 So, as you are aware, a number of  
22 sectors were closed, so we were able to redeploy a  
23 number of those officers into those essential  
24 businesses, including healthcare.

25 COMMISSIONER KITTS: And in your



1 recollection, there wasn't a lot of complaints  
2 rising to your level around the concerns around PPE  
3 in long-term care homes?

4 MS. YOUNG: Most of the complaints --  
5 there were several complaints related to personal  
6 protective equipment stemming from both long-term  
7 care and acute care, within those workplaces,  
8 absolutely.

9 COMMISSIONER KITTS: Okay. Thank you.

10 MS. YOUNG: So the work refusal  
11 process, there is a limited right for specific  
12 workers, especially those that have a role with  
13 respect to public safety. So, folks like police,  
14 fire, corrections officers, hospital, long-term  
15 care, education sector teachers, they all have a  
16 limited right to refuse. And those conditions,  
17 their limited conditions, are based on whether it's  
18 inherent in their work or not.

19 Obviously, in the case of a corrections  
20 officer, they have to deal with potentially violent  
21 individuals, and that is really inherent in their  
22 job. But, for example, if the lock on the cell  
23 door is malfunctioning, that's not really inherent  
24 in their work.

25 So just to give you an example of

1 something that would not be inherent in their work,  
2 is a normal condition of the worker's employment.  
3 Or if the worker's refusal to work would directly  
4 endanger the life, health and safety of another  
5 person, so potentially a resident in a long-term  
6 care home, or a student in a classroom, for  
7 example.

8           So when you walk through a regular work  
9 refusal, it starts in the workplace with a worker  
10 identifying something that's unsafe. They would  
11 bring it to the attention of his or her supervisor  
12 or employer, and it would be investigated in  
13 concert with a health and safety committee  
14 representative. If the situation is resolved, the  
15 worker would go back to work.

16           If the worker felt that his or her  
17 issue was not resolved adequately, they may  
18 continue to refuse work, and at that point in time,  
19 the Ministry of Labour would be contacted. We  
20 would then attend immediately to respond to that  
21 work refusal.

22           We have inspectors on call after hours,  
23 so that on weekends or after hours we are also  
24 available to respond with a level of immediacy.

25           COMMISSIONER MARROCCO: Ms. Young, just

1 hang on a second.

2 Commissioner Coke.

3 COMMISSIONER COKE: I'm just trying to  
4 get a sense of during this Wave 1, what was the  
5 scope of the number of work refusals that you got  
6 from long-term care homes.

7 MS. YOUNG: Yes, between March 11th and  
8 today, we've had 13 work refusals from long-term  
9 care homes, out of more than 350 total work  
10 refusals within the Province.

11 COMMISSIONER COKE: Thank you.

12 COMMISSIONER MARROCCO: Do you have any  
13 sense -- does that seem low to you, or do you have  
14 any sense of that?

15 MS. YOUNG: Well, we have received 351  
16 complaints for that same time period. So it could  
17 be that, you know, workers, instead of engaging in  
18 a work refusal, utilized the complaint mechanism,  
19 for the reasons that are highlighted on this slide  
20 to the left.

21 So you see that they have a limited  
22 right to refuse. They may have chosen, and I'm  
23 simply guessing at this point, but they may have  
24 been choosing to utilize the complaint mechanism  
25 instead of the work refusal mechanism with which to

1 get their issue dealt with.

2           And you will see as I walk through the  
3 work refusal process, when the Ministry of Labour  
4 comes in, one of the things they will do is to look  
5 at the worker's limited right and determine whether  
6 it's inherent in their work; determine if it is a  
7 normal condition of their employment; determine if  
8 the work refusal might endanger someone else within  
9 their scope. And if that's the case, then the  
10 Ministry will not rule on the work refusal, but  
11 they will instead deal with the issue as a  
12 complaint.

13           COMMISSIONER MARROCCO: Commissioner  
14 Coke.

15           COMMISSIONER COKE: Yes, I'm just  
16 curious now as to how many complaints you would  
17 have gotten from long-term care homes.

18           MS. YOUNG: 351 complaints from  
19 March 11th to today.

20           COMMISSIONER MARROCCO: Commissioner Kitts?

21           COMMISSIONER KITTS: And did they all  
22 go to stage two, second stage, where Ministry of  
23 Labour got involved?

24           MS. YOUNG: So there were 13 work  
25 refusals that would have gone to the stage two.

1 And there were 351 complaints that didn't start  
2 with a work refusal, that ended as a complaint.

3 COMMISSIONER KITTS: So you could, I  
4 guess, assume that it was handled then in stage  
5 one?

6 MS. YOUNG: No. So workers can  
7 exercise one -- either avenue. So a worker might  
8 call in a complaint and say, "I have concerns about  
9 inadequate provision of inadequate personal  
10 protective equipment in my workplace. I brought it  
11 to the attention of my supervisor. They haven't  
12 remedied the situation. I need an inspector to  
13 come and deal with this complaint of mine."

14 A work refusal is a different mechanism  
15 and we would be alerted to the fact that the worker  
16 has stopped work, they have engaged in a work  
17 refusal, the employer has attempted to remedy that  
18 work refusal and they haven't come to a remedy that  
19 is satisfactory to the worker. We then come in  
20 immediately to respond and make a decision.

21 COMMISSIONER COKE: Okay.

22 MS. YOUNG: Is that helpful?

23 COMMISSIONER KITTS: Yes. I'm just  
24 trying to piece together. We've heard that a lot  
25 of workers just left. So I'm wondering where in

1 the chain they lost confidence in I guess the  
2 ability to change the conditions, but I'm just  
3 speculating. I'm just trying to piece that  
4 together.

5 MS. LAWSON: Dr. Kitts, do you mean  
6 they just left while the work refusal was being  
7 investigated?

8 COMMISSIONER KITTS: No, I'm mixing it  
9 all together now. It's just basically we've heard  
10 a number of times that there was fear for their  
11 safety, so they left. I'm trying to figure out  
12 where in this chain they would feel they'd have to  
13 exit.

14 COMMISSIONER MARROCCO: You know, we've  
15 heard significant numbers of people not showing up  
16 for work, to the point where it seems to have  
17 created -- that fact alone seems to have created a  
18 real crisis in the particular long-term care  
19 facility. And we've been told that the reason  
20 people didn't show up was fear and so on, fear for  
21 their own safety, and a lack of training dealing  
22 with personal protective equipment, that sort of  
23 thing. We didn't catalog the nature of the  
24 complaints, but that's what we've been hearing.

25 And I guess the question was, how they

1 would fit into this process, because they just seem  
2 to have walked away?

3 MS. YOUNG: So if they were aware that  
4 they could engage in a work refusal or lodge a  
5 complaint, with respect to work refusals, we  
6 respond right away as the work is stopped and we  
7 have a level of immediacy with respect to  
8 responding to work refusals.

9 And then with respect to complaints, we  
10 prioritize worker health and safety complaints and  
11 have been responding to those in a very, very  
12 timely manner, often within 24 hours.

13 So if they're aware that the mechanism  
14 exists for us to attend, you know, maybe that might  
15 be the missing piece.

16 COMMISSIONER MARROCCO: So if a worker  
17 went to a long-term care home and wanted an N95  
18 mask and the employer refused to provide it, and  
19 the worker felt that any other kind of mask  
20 wouldn't protect them and that they could get sick,  
21 then if they engaged in a work refusal and reported  
22 it and the inspector came out -- I don't know  
23 whether the inspector was going to the home or  
24 dealing with it on the phone, because we've heard  
25 that there were people dealing with these things on

1 the phone. But can they make an order? Can the  
2 inspector say to the home, "Look, you have to give  
3 that person a mask. I don't know what you're  
4 thinking, but you have to do that."

5 Can they make an order like that?

6 MS. YOUNG: Yes. So an inspector will  
7 assess the circumstances under which the worker is  
8 being required to work, so what kind of work is the  
9 worker being asked to perform; what are the  
10 conditions of the workplace; what is the space the  
11 worker is being asked to work in; what is the  
12 condition of the patient that they're treating,  
13 et cetera.

14 Based on that, if there is an  
15 inadequate level of personal protective equipment  
16 being provided by the employer, in those  
17 circumstances they would be ordered to provide the  
18 appropriate level of personal protective equipment.

19 COMMISSIONER MARROCCO: If a person  
20 refused to work, the inspector would attend  
21 promptly?

22 MS. YOUNG: Yes.

23 COMMISSIONER MARROCCO: Now, were they  
24 going in person or by phone?

25 MS. YOUNG: So our inspectors were



1 attending in person up to -- so there was a period  
2 of time where we were handling some of our, what I  
3 call reactive calls, virtually, and that would have  
4 been between March 16th and April 28th. So there  
5 was about a six-week timeframe where some of our  
6 reactive work was conducted virtually.

7           It's important to note, however, that  
8 when those inspections were conducted by phone, the  
9 health and safety committee, the worker's side of  
10 the committee, needed to be present and engaged for  
11 those investigations so that people could be  
12 interviewed and the details of the circumstances  
13 could be appropriately relayed in an unbiased  
14 fashion.

15           COMMISSIONER MARROCCO: Commissioner  
16 Coke.

17           COMMISSIONER COKE: Did you have any  
18 issue with your own inspectors refusing or not  
19 wanting to go into the homes to do their work?

20           MS. YOUNG: Certainly, during the peak  
21 of the pandemic, our inspectors -- some of our  
22 inspectors raised some concerns. We have some  
23 staff that are in an older demographic who are at  
24 higher risk. But I would say, for the most part,  
25 our inspectors often enter some quite hazardous

1 working spaces in industrial establishments and  
2 other -- so they are provided with a suite of  
3 personal protective equipment, such as N95 masks,  
4 half-face respirators, Co2 monitors, all kinds of  
5 devices they are trained to use, wear, don and  
6 doff.

7           And so we did a retraining session, as  
8 we had a greater level of knowledge of COVID-19  
9 exposure, and prepared them during that six-week  
10 timeframe, where we did do some responding  
11 virtually to ensure that their confidence and  
12 comfort level, and all of the personal protective  
13 equipment that they needed they had on hand, and we  
14 had very few complaints or concerns.

15           And any concerns -- the important  
16 thing, I think that we did, too, throughout the  
17 process was we engaged our bargaining agents. So  
18 our inspectors are OPSEU members and we engaged the  
19 bargaining agents, the management employee  
20 relations committees and the local employer  
21 relations committees and the joint health and  
22 safety committees to ensure that any issues that  
23 they might have were being resolved at a local and  
24 then at provincial level.

25           We were extremely responsive, every

1 step of the way, to any concerns our inspectors  
2 might have because we have an order-in-council  
3 responsibility as a Ministry to continue to operate  
4 during a state of emergency, and they are very well  
5 aware of that.

6 So we also want to make sure that we're  
7 collaborating with our workforce to ensure they  
8 have what they need to feel safe to do the work  
9 that they needed to do.

10 COMMISSIONER COKE: Thank you.

11 MS. YOUNG: So just as a -- we're  
12 keeping statistics. Obviously, it's a moving  
13 target, but we do regular check-ins to see how many  
14 people might be self-isolating for, you know,  
15 they've had an exposure in the community or  
16 something like that. And at any given time we're  
17 up around 87 to 88 percent of our workforce in the  
18 field on any given day.

19 COMMISSIONER MARROCCO: Okay.

20 MS. YOUNG: The next slide outlines  
21 some of the powers of our inspectors.

22 Without warrant, they can enter any  
23 workplace; take up or use any equipment or  
24 machinery; interview any workplace parties; take  
25 away samples; take away copies of security camera

1 footage, those types of things; require expert  
2 testing of equipment. And as they conduct their  
3 compliance and enforcement, they will issue orders.  
4 They can issue offence notices and initiate  
5 prosecution as warranted.

6 And I think it's important to note that  
7 inspector decisions about compliance with the Act  
8 or the regulations are based on the circumstances  
9 that they observe at the time that they attend at  
10 the workplace and based on the information they're  
11 gathering at the time of the inspection or the  
12 investigation.

13 The next slide is a bit of an overview,  
14 just to give you a sense of the scope and scale of  
15 the activities undertaken on an annual basis within  
16 operations division at MLTSD. So we've highlighted  
17 there the annual number of visits that we normally  
18 conduct, the number of orders we typically issue,  
19 the number of stop work orders, the number of  
20 events reported to the Ministry. You see there are  
21 25,969.

22 We've seen a big spike in the number of  
23 events reported to the Ministry. So events are  
24 notices of occupational illness, complaints,  
25 critical injuries, work refusals, fatalities.

1 Those are all events reported into the Ministry.  
2 We've seen an increase in those numbers this year.

3 The next slide. So the next piece of  
4 our presentation relates to our proactive  
5 inspection strategy. So we talked a lot about all  
6 of the reactive work we've been doing in the field.  
7 What's left over, the capacity that we have left  
8 over to do proactive inspections, we will engage in  
9 a risk-based strategy that is informed by the  
10 occupational health and safety system in the  
11 province, and it's referred to as Safe At Work  
12 Ontario.

13 So the next slide highlights some of  
14 the features of our Safe At Work Ontario strategy.  
15 So what we're trying to achieve is to improve  
16 health and safety culture within the workplace;  
17 reduce workplace injuries and illnesses; provide  
18 compliance assistance, level the playing field.

19 I'm so sorry.

20 -- Reporter's Note: (Brief interruption  
21 in the proceedings).

22 MS. YOUNG: Sandra, could you take over  
23 on this slide for me?

24 MS. LAWSON: Yes.

25 So, as Jody said, this strategy has

1 several overarching objectives, but it's also very  
2 much informed by data and a risk-based approach.  
3 So looking at the WSIB data and trends when it  
4 comes to LTIs or "lost-time injury rates", fatality  
5 data, occupational illness, critical injuries data.

6 We also look at the compliance history  
7 of certain particular workplaces and sectors and  
8 firms; look at overall workplace demographics, some  
9 of the trends by sector; and also stakeholder  
10 information.

11 Jody had mentioned earlier that we have  
12 a Section 21 Committee. We also consult every year  
13 on where we should be focusing our proactive  
14 inspection efforts and have consultations with the  
15 healthcare sector, and all those things inform  
16 where we focus.

17 Just to give you an example of where  
18 we've typically focused in healthcare over the last  
19 few years is, we actually had a three-year  
20 initiative where we were aiming to get to as many  
21 hospitals, long-term care homes, retirement homes,  
22 group homes that were a little bit more risk-rated  
23 in terms of needing extra help, based upon all  
24 these indicators, where we did comprehensive  
25 inspections focusing on the internal responsibility

1 system and the common hazards in those sectors.

2 Other initiatives or campaigns that  
3 we've had through Safe At Work Ontario over the  
4 years include a focus on workplace violence, which  
5 is one of the leading causes of lost-time injuries  
6 and complaints in healthcare and also long-term  
7 care.

8 We've also focused campaigns on slips,  
9 trips and falls, and noise. That just gives you  
10 some examples of some of the other hazards and  
11 issues in healthcare.

12 Back over to you, Jody.

13 MS. YOUNG: Thank you, and sorry for  
14 that interruption.

15 So this graphic highlights the Safe At  
16 Work Ontario strategy, which utilizes data. So  
17 lost-time injury, non lost-time injury data from  
18 the WSIB; a sector-specific or hazard focus; and  
19 then a component always of partnerships.

20 So we showed you, at the beginning of  
21 this presentation, all of the players within the  
22 health and safety system that are contributing to  
23 the prevention agenda. So we're working  
24 collaboratively with all of these system partners  
25 to ensure that we have the right resource at the

1 right workplace, at the right time, to support that  
2 particular workplace.

3           And then when you go to the next level,  
4 the process will hone in on those specific  
5 employers or firms that need our help the most  
6 within the particular sector strategy. And while  
7 our inspectors are within, conducting those  
8 proactive inspections, one of the foundational  
9 pieces, the Internal Responsibility System, is  
10 something that they're ensuring is in place when  
11 they're doing these hazard-specific inspections.  
12 And I'll give you an example.

13           For example, in residential  
14 construction, we see a number of falls from heights  
15 that result in worker fatalities. So we've had a  
16 number of falls-from-heights campaigns, and we will  
17 focus in on those particular companies that have  
18 had falls. We will also focus in on smaller firms  
19 that may be at a higher risk and we will work with  
20 them to ensure that they have an Internal  
21 Responsibility System in place. They may not have  
22 set up a health and joint safety committee, for  
23 example. We may connect them to a system partner  
24 that can help work with them and provide them with  
25 training, et cetera.



1                   So, ideally, the entire system is  
2 risk-based, with a goal to increase compliance,  
3 reduce lost-time injuries and fatalities and to  
4 elevate the level of health and safety leadership  
5 within each of those particular workplaces.

6                   Next slide. So, this slide is  
7 basically showing the different types of  
8 interactions our inspectors have with workplaces.

9                   If we start at the bottom, we spent a  
10 lot of time talking about the type of  
11 investigations that we have been conducting. For  
12 the last eight months, we have had a very high  
13 number of investigations. So we've had less  
14 capacity to do proactive inspections, which are at  
15 the next level, in the green.

16                   And then thirdly, in the dark green, we  
17 have what's called consultations. We don't do very  
18 many consultations per year. Those are typically  
19 initiated by workplace parties, where they would  
20 invite the Ministry of Labour in to come and talk  
21 about, for example, they might be employing a new  
22 technology or they might be changing a process and  
23 they're looking for some guidance from the  
24 Ministry. And we will engage with them and talk to  
25 them about -- might even bring in an engineer or a

1 hygienist or some other technical expertise to  
2 assist the workplace parties in resolving a  
3 challenge that they have in front of them.

4 We don't have a lot of capacity to do  
5 consultations. A lot of our work is focused in  
6 those two other areas.

7 Next slide. I think Sandra has  
8 highlighted this already, but this is an example of  
9 a proactive inspection initiative that we've  
10 undertaken in the last year and it relates to  
11 workplace violence prevention. As you will see a  
12 little bit later in the slide deck, this continues  
13 to be a significant issue resulting in lost-time  
14 injuries within the sector.

15 So there's been a very high level of  
16 focus, a lot of work being done through a workplace  
17 violence prevention and healthcare leadership table  
18 that set a lot of new tools and supports for the  
19 sector. And this piece, the enforcement piece, was  
20 to dovetail in behind all of those product  
21 developments and all of those education and  
22 outreach that has already been done, to see whether  
23 workplaces have indeed taken up these tools and  
24 processes and implemented them effectively within  
25 their workplace.

1                   So this is an example of one of the  
2 initiatives we've taken in the province.

3                   The next slide is an example of the  
4 trending with respect to long-term care homes and  
5 occupational health and safety events reported to  
6 the Ministry of Labour and Training and Skills  
7 Development. Events, just a reminder, are all of  
8 those things that are coming into our contact  
9 centre, so notices of occupational illness,  
10 complaints, injuries, work refusals. And you can  
11 see that the number of complaints for long-term  
12 care homes in 2020 has elevated.

13                  Next slide. Again, another graphic on  
14 our activities within the long-term care sector.  
15 You can see the increased number of field visits.  
16 You can see the increased number of reactive visits  
17 that we've had. And one of the significant notes  
18 which we've actually embedded on to this slide is  
19 the decrease in the number of orders issued at the  
20 same time as the number of field visits and  
21 reactive calls were increasing. We believe that  
22 this is typically due to the fact that we mentioned  
23 earlier. Our inspectors would traditionally go in  
24 on a complaint and look at a whole suite of other  
25 issues. So we might go in on a complaint that

1 relates to workplace violence and harassment, but  
2 then we do an inspection of the kitchen and notice  
3 that there was a guard missing on a dough mixer; or  
4 we might be looking at where their compressed gas  
5 cylinders are stored and find a contravention  
6 there; or we might determine that their handling of  
7 antineoplastic drugs was not appropriate, and would  
8 address that in the form of an order.

9 All of our work in the last six to  
10 eight months has been very focused on infection  
11 measures and procedures, and there are a limited  
12 number of orders that we would be issuing in those  
13 types of circumstances.

14 The other thing that we have seen is a  
15 50 percent decrease in the number of administrative  
16 orders issued by our inspectors in the last eight  
17 months. By "administrative orders", I mean things  
18 like, do you have a copy of the Act posted in the  
19 workplace; are the members of your joint health  
20 safety committees' names and work locations posted  
21 in the bulletin board; and so on.

22 And so those non -- I refer to them as  
23 something that are not killer contraventions, but  
24 they are administrative contraventions. So our  
25 inspectors were just really focused in on getting

1 in, dealing with the infections control issues and  
2 getting out, and issuing orders as appropriate and  
3 not expanding the scope of the investigation.

4 So that's one of the rationales. We  
5 have looked through all of the orders to determine  
6 where those differences have been.

7 Next slide.

8 COMMISSIONER KITTS: Before you go on,  
9 the long-term care home inspectors, are there  
10 health inspectors that do both long-term care and  
11 other health areas, they're not dedicated to  
12 long-term care?

13 MS. YOUNG: Right. We don't have  
14 inspectors dedicated to long-term care. We have  
15 approximately 181, what we call industrial health  
16 and safety inspectors. They cover all 29 sectors,  
17 including healthcare.

18 Currently, we have three dedicated  
19 healthcare inspectors that only do healthcare. We  
20 have 44 -- of those 181 inspectors, three of them  
21 are only dedicated to healthcare; 41 of them are  
22 what we call healthcare leads. So they have  
23 special training and expertise in  
24 healthcare-related issues. And then the remaining  
25 industrial inspectors of that 181 -- so we have 341

1 and 181 -- those remaining industrial inspectors  
2 have the training in the healthcare regulations,  
3 they have training in infection control measures  
4 and procedures. They may not come from a  
5 healthcare background, for example. So they may  
6 lean in on a highly technical issue, they may lean  
7 in on a healthcare lead to provide them with some  
8 support or advice on a complex issue.

9 COMMISSIONER KITTS: Okay.

10 MS. YOUNG: Important to note, you may  
11 have seen that we will be hiring an additional 100  
12 inspectors. By December we'll be onboarding a  
13 whole crew of new officers, and among them we will  
14 be hiring an additional 30, three-zero,  
15 healthcare-specific inspectors.

16 COMMISSIONER KITTS: Thank you.

17 One last question: Do you know whether  
18 the Ministry of Labour inspectors in Health have a  
19 relationship, a working relationship, with either  
20 the long-term care home inspectors and/or the  
21 public health inspectors?

22 MS. YOUNG: So we have quite strong  
23 working relationships with the public health units  
24 and their inspectors.

25 We often actually conduct joint with

1 them, where there's a significant outbreak or a  
2 complex issue, where we want to be really  
3 coordinated in our efforts.

4 We have had over the years -- I've been  
5 here for about 20 years and we've had some joint  
6 pilot work done with the long-term care compliance  
7 officers, but I would say in the last five years or  
8 so, we haven't had a tight or a joint effort with  
9 long-term care.

10 COMMISSIONER KITTS: Thank you.

11 COMMISSIONER MARROCCO: Is there a wide  
12 variation in training, do you know?

13 MS. YOUNG: You know what? I couldn't  
14 speak to long-term care compliance officers'  
15 training.

16 COMMISSIONER MARROCCO: Okay.

17 COMMISSIONER COKE: Just a question. I  
18 know in the past there had been talk about trying  
19 to do cross-training, cross-inspections, that sort  
20 of thing, so to increase capacity and not  
21 overburden people when inspectors are coming in.

22 I'm just curious if there's any  
23 movement in that regard, or not so much.

24 MS. YOUNG: So we have been meeting in  
25 the last couple of months with long-term care

1 public health units. We've been sharing  
2 information such as we've been providing weekly  
3 updates to long-term care of those homes that we  
4 have been attending.

5 And we have, as I've mentioned, been  
6 coordinating some of our efforts with the public  
7 health units to collaborate together, either in a  
8 joint inspection or to attend different homes or  
9 workplaces, so that we're expanding our reach.

10 We've also started communications with  
11 long-term care to achieve some of those similar  
12 goals, where we can potentially provide each other  
13 with heads-up about issues in each other's area of  
14 expertise, so that we can expand our respective  
15 reach within all workplaces across the province.

16 So we're moving towards establishing  
17 some of that, you know, cross-training. For  
18 example, identifying -- having long-term care  
19 identify their top ten issues that our inspectors  
20 might come across and ensuring that our inspectors  
21 are aware of those so that they can provide that  
22 heads-up, and vice versa.

23 COMMISSIONER MARROCCO: Was there any  
24 plan in place to respond in the event of an  
25 outbreak or some kind or an infectious disease



1 outbreak?

2                   You know, because we've had like SARS,  
3 and so I was just wondering if, as a result of  
4 something like that, there was a kind of a plan in  
5 place as to what we would do if that happened  
6 again.

7                   MS. YOUNG: Yes, so I think out of the  
8 SARS Commission, there were a number of changes  
9 that were made, certainly with the Ministry of  
10 Labour, Training and Skills Development. We've  
11 enhanced our healthcare capacity training for  
12 infection control for all of our staff, implemented  
13 a whole host of new approaches, including those  
14 proactive inspections and blitzes. Our presence in  
15 healthcare has substantially increased.

16                   In addition to that, we entered into a  
17 memorandum of agreement with the Public Health  
18 Unit. So weekly we get listings of all of the  
19 outbreaks, and we'll marry that up against our  
20 notices of occupation analyst to make sure that  
21 workplaces are actually complying with the rules  
22 and that we're collaborating with public health  
23 units to ensure that we're responding to those  
24 outbreaks in a timely manner and the occupational  
25 health lens, as well as the public health lens, are

1 being applied.

2 So there have been a number of  
3 improvements made post-SARS to open those lines of  
4 communication, share information in a timely manner  
5 to ensure that the right groups of people have the  
6 information so that they can respond accordingly.

7 COMMISSIONER MARROCCO: Okay.

8 MS. YOUNG: So we'll move into our  
9 COVID-19 response to date.

10 So, next slide. So COVID-19, a new  
11 infectious disease, but occupational infections are  
12 obviously not new to long-term care. So, long-term  
13 care homes have encountered many other infections  
14 and have been dealing with those infections and  
15 they have a requirement to notify us when a worker  
16 acquires one of these infections within the  
17 workplace.

18 So there's some examples on the slide.

19 COMMISSIONER MARROCCO: Can I just stop  
20 you there. How do I read that? It says:

21 "The SARS-CoV-2 virus was newly  
22 identified in late 2019 as the  
23 causative infectious agent for  
24 COVID-19".

25 What does that mean?

1 MS. YOUNG: So I guess what we're  
2 trying to say there is that towards the end of  
3 2019, we had this novel virus that was then  
4 identified as COVID-19 as we got more information  
5 about that particular virus.

6 Sandra, do you have further clarity on  
7 that?

8 MS. LAWSON: Yes, I mean, I think what  
9 we colloquially call COVID-19 now, and I think to  
10 Jody's point, there was work that started at the  
11 Ministry and in the broader system, you know, going  
12 back to, you know, I would say October, November,  
13 of 2019 in terms of preparing for this virus.

14 COMMISSIONER MARROCCO: And did that  
15 occur because -- that interest, did somebody get  
16 sick in an environment, some work environment  
17 somewhere, and that was identified? Or what caused  
18 that in late 2019?

19 MS. LAWSON: I think we were watching  
20 what was happening around the world and that was  
21 causing us to prepare for the virus, you know,  
22 coming to North America.

23 COMMISSIONER MARROCCO: Commissioner  
24 Kitts.

25 COMMISSIONER KITTS: I think it was a

1 SARS-like virus and it was a coronavirus; the "COV"  
2 is Corona. So the initial name was SARS-type  
3 coronavirus 2, and that quickly changed to novel  
4 coronavirus, and then to COVID-19. So it's the  
5 same virus.

6 COMMISSIONER MARROCCO: So you're  
7 watching, like the rest of us, what's going on in  
8 the world, and life goes on, that it may have an  
9 implication for the workplace in Ontario. So you  
10 start reacting to that.

11 COMMISSIONER KITTS: Right.

12 MS. YOUNG: That's correct. And  
13 historically, we've reacted in the same way when  
14 Ebola was emerging and H1N1.

15 So we would be, in the course of  
16 conducting proactive inspections, we'd be really  
17 honing in on infection measures and procedures and  
18 the employing of universal precautions.

19 So, when you're dealing with something  
20 that's novel, something that's new, something that  
21 we were not necessarily in the beginning absolutely  
22 certain about how it's transmitting, we would go  
23 to -- we would look to universal precautions, sort  
24 of maximum personal protective equipment, to  
25 protect workers from this particular hazard. And

1 so that was a regular part of the inspectors'  
2 routine inspections and the line of questioning  
3 they'd have within the workplace.

4 COMMISSIONER MARROCCO: If you're  
5 familiar with Justice Campbell's report, you would  
6 know that he refers to something called "the  
7 precautionary principle". So correct me if I'm  
8 wrong; I'm asking. To me that means when you're  
9 looking at a new infectious disease, you're going  
10 to make certain assumptions about how it's  
11 transmitted and what protective measures you have  
12 to take, where you're going to assume the worst in  
13 terms of how easily it's transmitted. So would  
14 that affect the inspections?

15 MS. YOUNG: Yes. So when we were out  
16 conducting our proactive inspections in late 2019  
17 and early 2020, we had not a lot of information  
18 about this novel coronavirus at the time. So our  
19 expectation within workplaces is that they would be  
20 applying the cautionary principle and ensuring  
21 maximum protection for workers until such time as  
22 we had a better understanding of how this virus was  
23 transmitted.

24 COMMISSIONER MARROCCO: Right.

25 Sorry, Ms. Lawson, you want to say

1 something?

2 MS. LAWSON: Sorry, if I could just  
3 add, we were very much involved in the discussions  
4 with Ministry of Health and Public Health Ontario  
5 in late fall into 2020 and we were very much  
6 endorsing that recommendation of the Campbell  
7 Commission report around the precautionary  
8 principle.

9 In fact, you will probably all know  
10 that Ontario was one of the only jurisdictions at  
11 the beginning of the pandemic to adopt that  
12 approach and require a level of N95 protection for  
13 PPE, and as the science evolved, Public Health  
14 Ontario adjusted its guidance and directives based  
15 upon the evolving science.

16 But that was something that I would say  
17 that our Ministry of Labour, Training and Skills  
18 Development was very much communicating and working  
19 with the healthcare partners and systems at the  
20 table in late fall and into the winter as the  
21 pandemic arrived and the science evolved.

22 COMMISSIONER MARROCCO: Did the  
23 Ministry take any steps to say to individual  
24 long-term care homes or to the Ministry of  
25 Long-Term Care -- my words, not yours, obviously --

1 "You need to make sure you have enough personal  
2 protective equipment because you should pay  
3 attention to this, this is potentially or  
4 inevitably going to get here, unless we shut down  
5 the borders and the airports and didn't let anybody  
6 in or out, including our own people. It's going to  
7 come here."

8 Was there any communication to the  
9 Ministry or to the individual homes?

10 MS. YOUNG: Certainly, in the course of  
11 our proactive inspections with individual acute and  
12 long-term care facilities, we would have been  
13 looking at what IPAC or infection prevention  
14 control measures they had in place to deal with  
15 this novel coronavirus.

16 We would be speaking to them about  
17 whether they had the appropriate personal  
18 protective equipment available; that their workers  
19 had been trained on that personal protective  
20 equipment; that they knew how to don and doff the  
21 equipment appropriately. Basically, the care, use  
22 and storage of personal protective equipment, they  
23 would need to be able to demonstrate to the officer  
24 in the course of the inspection that all of that  
25 was in place.

1                   COMMISSIONER MARROCCO: But, you know,  
2 that speaks to a proactive inspection, and you  
3 have, you know, a limited number of inspectors.

4                   But I was more interested in whether  
5 there was a communication, whether it's an e-mail  
6 or a letter or something, that says to either the  
7 Ministry or the individual homes, "Look, this poses  
8 a potential risk to the safety of workers. Pay  
9 attention to it, that you need protective  
10 equipment", as opposed to an inspector going there,  
11 doing a proactive inspection, and issuing or  
12 leaving a report or making a recommendation. I  
13 meant something broader-based than that because you  
14 couldn't proactively inspect all 626 homes in the  
15 late fall of 2019. Perhaps you'd have to do  
16 nothing else but do that.

17                   MS. YOUNG: Right. So we have  
18 published through our prevention division,  
19 published a hundred and some-odd guidance,  
20 sector-specific guidance notes to support sector by  
21 sector all of the requirements that need to be in  
22 place to deal with COVID-19 transmission within the  
23 workplaces.

24                   Our health and safety association  
25 system partners were also developing through the



1 winter a number of sector-specific products that  
2 they were pushing out to all of their associations.  
3 So the Public Services Health and Safety  
4 Association would have been pushing out all of  
5 their materials to the healthcare sector to inform  
6 them.

7           The Ontario.ca website was set up to  
8 resource all of those materials as well. You'll  
9 see further in the slide deck, we also engaged a  
10 number of long-term care home associations in  
11 webinars. That albeit was in April that we were  
12 engaging with them, you know, to really walk  
13 through in greater level of detail all of the  
14 expectations and things that needed to be in place  
15 within their individual workplaces.

16           We can certainly come back to you with  
17 a list of all of the earlier communications we had  
18 and all of the vehicles we used to communicate out  
19 to the sector. We can do an inventory.

20           Sandra, you have your hand up there.

21           MS. LAWSON: Yes. And Jody, I just  
22 might add that a lot of the early communication to  
23 the healthcare sector was coming from Ministry of  
24 Health, and we were contributing to those memos,  
25 putting the occupational health and safety lens.

1                   So, Commissioner Marrocco, to your  
2 point about, you know, was word getting out there  
3 that they needed to have adequate supplies of PPE,  
4 that was being communicated, my recollection was,  
5 but as Jody said, we can come back to you with more  
6 information. It was coming from memos from the  
7 Chief Medical Officer of Health or the Ministry of  
8 Health to the particular sectors.

9                   COMMISSIONER MARROCCO: Yes, that's  
10 kind of how I thought it might happen. I wasn't  
11 thinking -- because you would have every worker in  
12 Ontario -- I mean, it has to go through some sort  
13 of a more sector-specific approach, or however you  
14 want to say that. That's kind of what I expected.  
15 I was just trying to get a feel for when you would  
16 have first said -- you know, not just that this is  
17 all your responsibility; it isn't -- but when you  
18 would have first said, "Listen, we are paying  
19 attention and we see an implication for workplace  
20 safety in Ontario".

21                   MS. LAWSON: Yes. And as you know,  
22 Ministry of Health really took the lead on the  
23 supply and availability of PPE, and they did have  
24 to prioritize, right?

25                   But they, over time, became sort of the

1 conduit for making sure PPE got to where it was  
2 needed most.

3 COMMISSIONER MARROCCO: So that would  
4 be helpful if, just give us a feel for that, that  
5 would be very helpful.

6 MS. YOUNG: Moving on to the next  
7 slide.

8 The next two slides highlight some of  
9 the Workplace Safety and Insurance Board data as it  
10 relates to long-term care homes within the rate  
11 group.

12 "LTI" represents lost-time injuries,  
13 and "non-LTI" is non-lost-time injuries.

14 I think the important thing to note  
15 here is that you can see an important comparator, I  
16 would say, that the average for the province in  
17 LTI or lost-time injury rates fluctuates somewhere  
18 between .9 and 1.1.

19 So, essentially, the lost-time injury  
20 rate in the long-term care sector is pretty much  
21 double that of the provincial average, and I think  
22 that's a pretty significant issue.

23 And the next slide identifies, by  
24 percentage and numbers, the areas where workers  
25 within the sector are becoming injured. And so

1 first and foremost is exposures. And exposures can  
2 be anything physical, chemical or biological  
3 exposure. So it will include things like  
4 infectious diseases, norovirus, scabies, any other  
5 types of infectious diseases, including COVID-19.

6 And then we go down to musculoskeletal  
7 disorders, handling clients, sort of second; and  
8 then falls, third; and workplace violence, fourth.

9 So a lot of our proactive inspections  
10 programming hones into those sort of top four  
11 hazard areas of focus when we're out there doing  
12 proactive inspections.

13 COMMISSIONER MARROCCO: Commissioner  
14 Coke, did you want to ask a question?

15 No? Okay.

16 MS. YOUNG: The next slide gets into a  
17 bit of the chronology around our activities over  
18 the last eight months.

19 As Sandra mentioned, we were conducting  
20 proactive inspections within the healthcare sector  
21 and responding to reactive investigations between  
22 January and mid-March.

23 We knew that there was this new virus  
24 that was on the horizon, and so with each and every  
25 inspection or investigation, we'd also be honing in

1 on infection measures and procedures at each one of  
2 those visits, to ensure that precautionary  
3 principle was being applied and that workplaces  
4 were preparing themselves for the pandemic.

5           Inspectors from our team also conducted  
6 in-person inspections at the evacuation centres in  
7 Trenton and at NAVCAN in Cornwall, as the  
8 Government was receiving the chartered planes of  
9 Canadians coming over from overseas, as well as the  
10 local hospitals adjacent to those centres, to make  
11 sure that they were well prepared. That if any of  
12 those individuals that were at Trenton or NAVCAN  
13 got violently ill and were transported to hospital,  
14 that the hospital was ready and prepared to handle  
15 those particular patients.

16           The week of March 3rd, we did a very  
17 heavy focused blitz in our acute care centres,  
18 anticipating a surge into the hospitals,  
19 particularly in the urban centres and those  
20 hospitals near to airports. And so there were a  
21 lot of resources applied to that effort in the week  
22 of March 3rd.

23           The week of March 10th, our inspectors  
24 continued to also attend long-term care and  
25 retirement homes to gauge their ability to be

1 prepared with all of the appropriate infection  
2 control measures and procedures and that they were  
3 aware of the precautions that needed to be taken  
4 and focusing in on physical distancing and  
5 screening and hand hygiene, self-monitoring. Not  
6 only our own inspectors doing so, but also looking  
7 at what the workplaces were doing in that regard.

8           Next slide. So we talked a little bit  
9 about this previously, around our proactive and  
10 reactive inspections, both in person and virtual.  
11 So, you can see some of the activity within the  
12 long-term care sector. As I mentioned, we had a  
13 reduced number of in-person inspections between  
14 March the 16th and April 28th, so that's where a  
15 lot of the numbers of phone inspections would have  
16 taken place, in an effort to reduce the spread, in  
17 an effort to reduce the number of outside visitors  
18 to long-term care and retirement homes during that  
19 period of time.

20           Next slide. On April 28, we resumed  
21 all in-person inspections into long-term care and  
22 retirement homes, both proactive and reactive. We  
23 certainly felt that we had a greater level of  
24 effectiveness. Even though we were engaging the  
25 worker side of the joint health and safety

1 committee during these virtual visits, we felt that  
2 being there in person, starting from entering at  
3 the front door and walking through the screening  
4 process and so on, and being able to see visibly  
5 and ask questions of various workplace parties, not  
6 just those that are engaged in the phone  
7 conversation, were a lot more effective at  
8 identifying hazards or contraventions in the  
9 workplace, deficiencies, that we may not be able to  
10 see or hear about over a virtual or telephone call.

11 Next slide. So our approach to our  
12 proactive inspections, we talked earlier about  
13 sharing of information. So we're utilizing data  
14 from the Ministry of Health that identify, by risk  
15 level, each long-term care home.

16 We receive weekly public health  
17 outbreak reports, and as of just the last couple of  
18 weeks, we're starting to receive real-time daily  
19 outbreak data, which has been hugely beneficial, so  
20 that we can get out to these homes in a more timely  
21 way.

22 As well as the homes reporting to us  
23 their notices of occupational illness and where  
24 there is a discrepancy, for example, we know that  
25 they've had an outbreak, yet they haven't notified

1 us that that they've had an occupational illness in  
2 the work area, and we would certainly prioritize  
3 that home for an inspection.

4           Important to note as well, you may be  
5 aware that there were two mediated settlements that  
6 took place over the spring with SEIU. One of them  
7 resulted in us attending weekly, for eight weeks,  
8 to a number of long-term care homes. As well as in  
9 the second settlement, we visited nine long-term  
10 care homes in person that were identified through  
11 this mediated settlement as well.

12           Next slide. So, over the course of the  
13 late spring and early summer, we were working with  
14 Ministry of Health. Our healthcare team  
15 anticipated the fall. The combination of flu  
16 season, combined with a potential second wave of  
17 COVID-19, called for us to ensure that we had a  
18 strategy and resources available to be deployed  
19 into homes, both retirement and long-term care  
20 homes, to ensure that the measures and procedures  
21 were in place. So that is in process right now.

22           And the next slide will speak to that  
23 infection strategy. And again, it's difficult for  
24 us to get to all 600 and some-odd long-term care  
25 homes as well as all the retirement homes, so we're



1 utilizing a risk-based approach that is identified  
2 in the coming slides.

3 So, if we flip to the next slide, that  
4 is a bit of a pictorial of using risk as well as  
5 information-sharing to inform our inspections.

6 We can go to the next slide. This  
7 slide highlights some of the risk-based  
8 intelligence that we're using to select our homes  
9 for inspection. So, besides field intelligence and  
10 their history with the Ministry and their  
11 compliance history with us, we're focusing in on  
12 long-term care homes that are known as Class C  
13 homes, that are older builds, that have multiple  
14 residents within a room. And we're also utilizing  
15 the weekly data that we're receiving from the  
16 Ministry of Health, as well as the emergency  
17 operation centre, where there are outbreaks  
18 happening, where there are homes at a higher level  
19 of risk.

20 Our healthcare unit is identifying  
21 those by region and pushing them out to the  
22 regional offices for a priority inspection by the  
23 inspectors in those specific areas.

24 So that particular initiative is  
25 happening right now, and has been ongoing since the

1 beginning of October.

2 Next slide. The inspections that were  
3 conducted during the peak of the pandemic  
4 identified a number of items that needed to be  
5 focused in on, and so those have served to form the  
6 key pieces or foundational pieces for the proactive  
7 inspections that are taking place right now.

8 And the list is in the next slide for  
9 those items that we're honing in on: signage,  
10 screening, hand hygiene, training for workers on  
11 COVID cleaning, personal protective equipment,  
12 training on personal protective equipment, how to  
13 put it on, take it off, and how to wear it  
14 appropriately. Physical distancing, and reporting  
15 of occupational illnesses. Because there has been  
16 some issues with complying with that requirement as  
17 well identified.

18 The last piece of our slide deck  
19 relates to some of the collaboration that we've  
20 undertaken over the last several months, as well as  
21 collaborations that were already in place, some of  
22 which came post-SARS.

23 So, the next slide. So we have  
24 maintained extremely close contact and  
25 communication with our system partners, public

1 health units, Ministry of Health, Public Health  
2 Ontario. Our specialists have provided advice into  
3 sector guidance to ensure that an occupational  
4 health lens is being applied to all of those  
5 guidance materials.

6 We have provided technical advice on  
7 things like fit testing, standards for respiratory  
8 protection, options for respiratory protection.  
9 We've weighed in on the policies around universal  
10 masking and provided clarity.

11 There's sometimes a bit of discrepancy  
12 or differences around public health measures and  
13 occupational health and safety requirements. So,  
14 you know, where possible, when we're provided with  
15 drafts of materials, we're putting the occupational  
16 health and safety requirements lens.

17 We're also responding to information  
18 about privacy concerns and workplace testing  
19 questions, and those types of issues. We're  
20 providing ongoing editing as this pandemic has been  
21 evolving, providing updated information on guidance  
22 bulletins that are being posted on our health and  
23 safety associations systems' websites to ensure  
24 their sector-specific guidance is being continually  
25 updated with the knowledge and information that we

1 have that's evolving.

2 And the last slide is some other areas  
3 of our Ministry that have had some involvement in  
4 engaging with our labour stakeholders, our  
5 healthcare unions in particular, around their  
6 occupational health and safety concerns, provision  
7 of personal protective equipment, personal  
8 protective equipment supplies and availability.

9 I mentioned earlier that we've  
10 participated with our health and safety association  
11 partners to deliver webinars to long-term care and  
12 retirement home employer organizations. The dates  
13 of those are listed there on the slide.

14 And we are continuing to have extensive  
15 communication with our system partners to  
16 anticipate and respond to any emerging issues that  
17 are happening and ensuring that all of our  
18 materials and information are regularly updated.

19 And the remaining pieces in the deck  
20 are some appendices for your review.

21 COMMISSIONER MARROCCO: All right.

22 Commissioner Kitts.

23 COMMISSIONER KITTS: I'm sorry, but  
24 could you go back to slide 36 for a second.

25 So it says:

1 "During the peak of the  
2 pandemic in the long-term care  
3 sector, inspections have revealed a  
4 number of items that have formed the  
5 basis of the inspection focus for  
6 this strategy."

7 And so I'm kind of interested,  
8 since July -- I think the next slide, it says what  
9 your focus is on.

10 MS. YOUNG: That's right.

11 COMMISSIONER KITTS: Do you have  
12 information from July to present in terms of how  
13 we're doing in this regard?

14 MS. YOUNG: So, our proactive  
15 inspection strategy commenced at the beginning of  
16 October, and so we'll be starting to roll up the  
17 results of those. I think, you know, anecdotally,  
18 we're seeing a higher level of compliance with a  
19 lot of those issues now.

20 Certainly, in the peak of the pandemic,  
21 we were responding to complaints and work refusals  
22 where there was clearly an inadequate level of  
23 screening happening, an inadequate level of  
24 training for workers on how to wear personal  
25 protective equipment, what personal protective

1 equipment was provided and so on.

2 So I think we're seeing -- anecdotally,  
3 we're seeing a higher level of compliance. But as  
4 we roll up the results from this proactive  
5 inspection strategy, we'll have a much better sense  
6 going forward.

7 COMMISSIONER KITTS: Is it the Ministry  
8 of Labour, on site, when they see these areas are  
9 not up to what they should be, you provide the  
10 order and you've got the authority to make that  
11 correct and you don't have to go through other  
12 ministries?

13 MS. YOUNG: That's correct.

14 COMMISSIONER KITTS: But you are, I  
15 think you said, you're communicating directly with  
16 the Ministry of Health and Ministry of Long-Term  
17 Care.

18 MS. YOUNG: Sorry, can you repeat that?

19 COMMISSIONER KITTS: I think you said  
20 in the next section that your communication lines  
21 are wide open with Ministry of Health and Ministry  
22 of Long-Term Care and others.

23 MS. YOUNG: Yes, that's correct. Yes.

24 COMMISSIONER KITTS: Thank you.

25 COMMISSIONER MARROCCO: Well, there are

1 no further questions.

2 Thank you both for the very detailed  
3 presentation.

4 I think, certainly for me anyway, it  
5 cleared up a number of issues which have arisen.  
6 We may be back, if that's okay. And thank you very  
7 much for a very informative presentation.

8 MS. YOUNG: You're very welcome. Thank  
9 you.

10 MS. LAWSON: Thank you for giving us  
11 the opportunity.

12 COMMISSIONER COKE: Thank you.

13

14 -- Meeting adjourned at 10:46 a.m.

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1 REPORTER'S CERTIFICATE

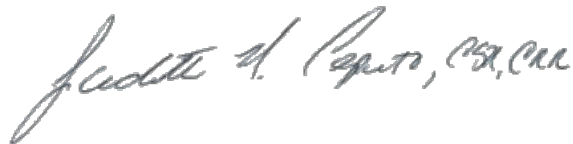
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6  
7 That the foregoing proceedings were  
8 taken before me at the time and place therein set  
9 forth;

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11 That all remarks made at the time  
12 were recorded stenographically by me and were  
13 thereafter transcribed at my direction;

14  
15 That the foregoing is a true and  
16 correct transcript of my shorthand notes so taken.

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20 

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