

# Pittsburgh Post-Gazette

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## PHILIPS HALTING CPAP SALES IN U.S.

WITH EVERY BREATH

### The company will stop selling new breathing devices until certain conditions are met as part of FDA deal

By Michael D. Sallah  
Pittsburgh Post-Gazette  
and Debbie Cenziper  
ProPublica

Reeling from one of the most catastrophic recalls in decades, Philips Respironics said it will stop selling sleep apnea machines and other respiratory devices in the United States under a settlement with the federal government that

will all but end the company's reign as one of the top makers of breathing machines in the country.

The agreement, announced by Philips early Monday, comes more than two years after the company pulled millions of its popular breathing devices off the shelves after admitting that an industrial foam fitted in the machines to reduce noise could break apart and

release potentially toxic particles and fumes into the masks worn by patients.

It could be years before Philips can resume sales of the devices, made in two factories in Murrysville and New Kensington. The company said all the conditions of the multiyear consent decree — negotiated in the wake of the recall with the Department of Justice on behalf of the Food and Drug Ad-

ministration — must be met first. The move by a company that aggressively promoted its machines in ad campaigns and health conferences — in one case with the help of an Elvis impersonator — follows relentless criticism about the safety of the machines.

A Pittsburgh Post-Gazette and ProPublica investigation found the company held back thousands of complaints about the crumbling foam for more than a decade before warning customers about the dangers. Those using the machines

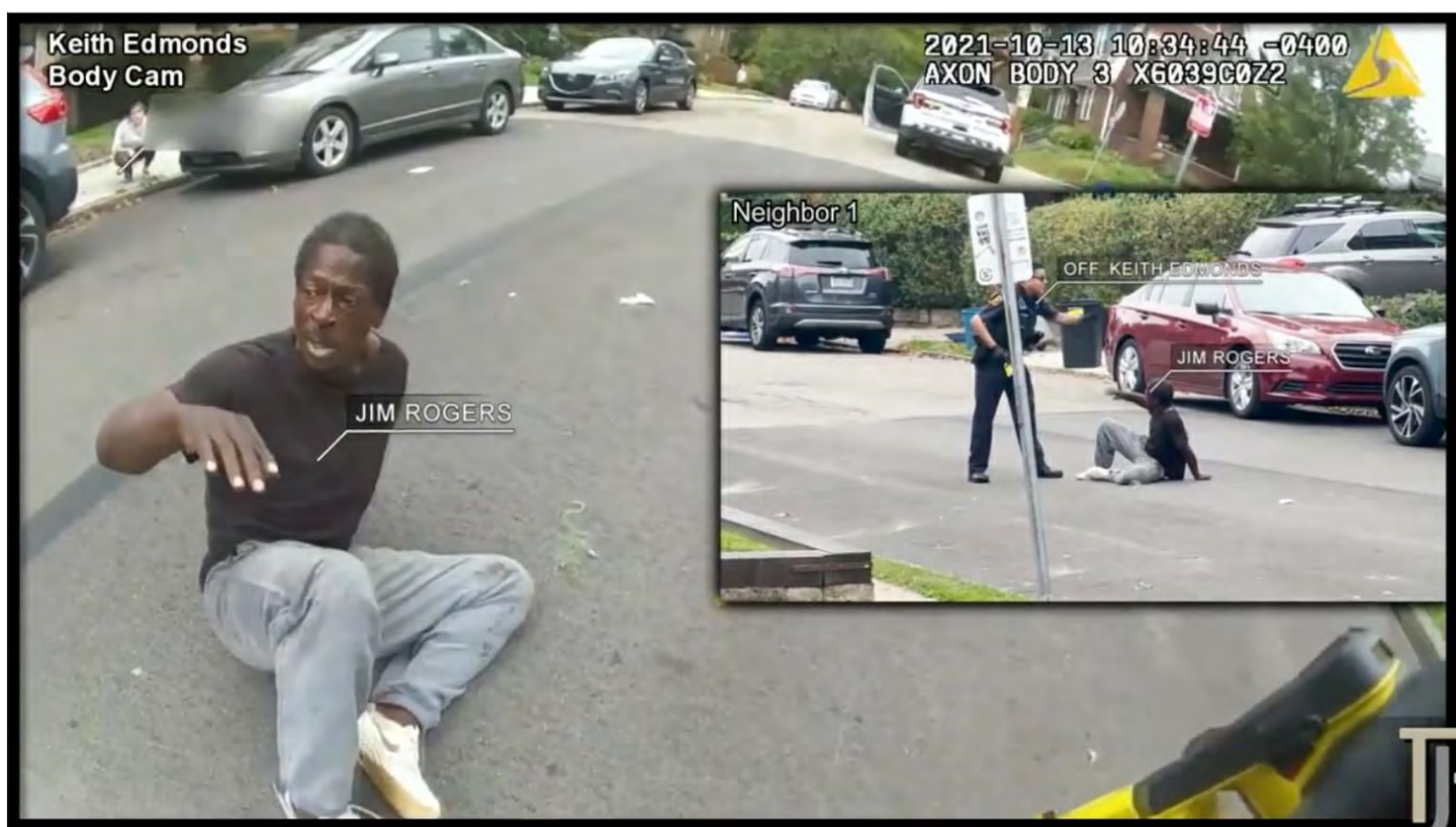
SEE PHILIPS, PAGE A-11

MORE COVERAGE ONLINE



Scan the QR code for an interactive presentation, which includes more stories, visuals and data about this joint investigation between the Post-Gazette and ProPublica.

## THE JIM ROGERS TASER CASE



A screen grab from a video released by Todd Hollis Law on Monday shows Jim Rogers, who died Oct. 14, 2021, interacting with then-Pittsburgh police Officer Keith Edmonds. Courtesy of Todd J. Hollis Law

## NEW VIDEO EMERGES

### Attorney releases footage of police encounter before Rogers' death

By Megan Guza  
Pittsburgh Post-Gazette

**Content warning:** The following story and accompanying video contain graphic images and descriptions of Pittsburgh police officers' interactions with Jim Rogers on Oct. 13, 2021, in Bloomfield. The video was provided by attorney Todd Hollis in accordance with a federal court order. Viewer and reader discretion is advised.

For 17 minutes, Jim Rogers rocks back and forth against the hard plastic backseat. He is moaning, panting and nearly unintelligible as he knocks his head against the back of the seat.

He asks for help, and he asks for medics.

Pittsburgh police officers promised him both. Neither arrived.

For 17 minutes officers in and around the patrol car chat



Lucy Schaly/Post-Gazette

Attorney Todd Hollis held a news conference on Harriet Street in Bloomfield to announce a settlement by the city on April 27, 2023. The family of Jim Rogers received \$8 million for his death, which came after he was hit with a Taser at least 10 times.

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To see video of the police interactions with Rogers on that October 2021 day, go to [post-gazette.com](http://post-gazette.com).

amongst themselves while Rogers moans. The chit-chat is punctuated by the driver, identified as Officer Pat Desaro, telling Rogers he was fine — to just breathe, and to stop yelling out the window.

New video footage released publicly Sunday on the website of Todd Hollis, the attorney representing Rogers' estate in a federal lawsuit against the city of Pittsburgh, showed never-before-seen vantage points of officers' Oct. 13, 2021, interactions with Rogers, a 54-year-old Black man.

The city settled the case for \$8 million last year.

SEE ROGERS, PAGE A-2

PA. SUPREME COURT

## Abortion coverage case is revived

By Marc Levy  
Associated Press

HARRISBURG — Pennsylvania's Supreme Court said Monday that a lower court must hear a challenge to the constitutionality of a decades-old state law that limits the use of Medicaid dollars to cover the cost of abortions, a major victory for Planned Parenthood and the abortion clinic operators who sued.

The decision also elicited hope that the state Supreme Court may one day find a right to abortion in Pennsylvania's constitution after the U.S. Supreme Court ended nearly a half-century of federal abortion protections by overturning Roe v. Wade.

The 3-2 decision overturns a lower court decision to dismiss the case on procedural grounds and puts aside a 1985 state Supreme Court decision that upheld a law banning the use of state Medicaid

SEE ABORTION, PAGE A-2

## WHARF FLOODING



Tim Robbbaro/For the Post-Gazette

Two people work to save some possessions from a flooded homeless encampment at the Mon Wharf on Monday. **Story, A-10**



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### Weather

Mostly cloudy and milder.  
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# Local

## PHILIPS SUSPENDS CPAP SALES IN U.S.

PHILIPS, FROM A-1

included some of the most fragile people in the country, including infants, the elderly, veterans and patients with chronic conditions.

"It's about time," said Richard Callender, a former mayor of Lower Burrell who spent years using one of the recalled machines. "How many people have to suffer and get sick and die?"

Philips said the agreement includes other requirements the company must meet before it can start selling the machines again, including the marquee DreamStation 2, a continuous positive airway pressure, or CPAP device heralded by Philips when it was unveiled in 2021 for the treatment of sleep apnea. The settlement, which is still being finalized, has to be approved by a court and has not yet been released by the government.

“

**It's about time. How many people have to suffer and get sick and die?"**

**Richard Callender**

former mayor, Lower Burrell

The FDA declined to comment until the agreement is final. The DOJ could not be immediately reached for comment.

It remains unclear how the halt in sales will impact patients and doctors. The company's U.S. market share for sleep apnea devices in 2020 was about 37% — behind only one competitor, medical device maker

ResMed, according to an analysis by iData Research. The company has dominated the market in ventilator sales, the data shows.

One global market report on Monday referred to the agreement as "very punitive" and noted, "It will be very difficult for Philips to recover its U.S. Respiromics market position."

After the announcement, the company's stock prices plunged by 7% in early trading.

Philips did not address the safety of the recalled devices in its announcement, but the company has previously said that new testing shows the foam causes no "appreciable harm" to patients. The FDA has challenged those claims, saying the company's tests are not "adequate."

The settlement comes just weeks after federal lawmakers called for an immediate criminal probe of Philips by the DOJ, and the Government Accountability Office, the investigative arm of Congress, said it will launch an inquiry of the FDA's oversight of medical device recalls for the first time in years.

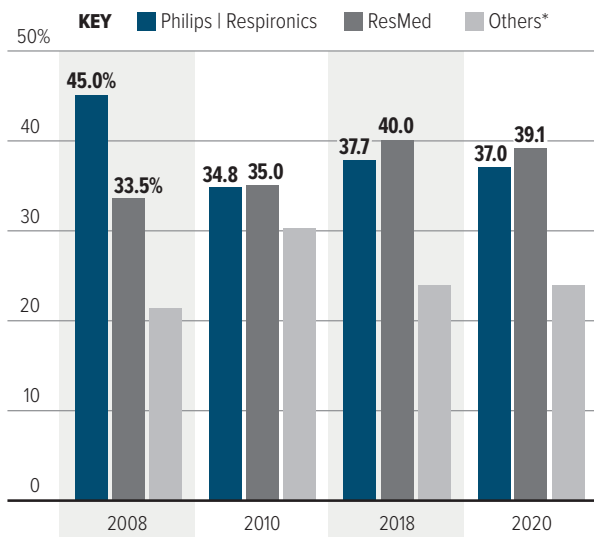
The Post-Gazette and ProPublica identified thousands of reported cases of cancer, respiratory illnesses and liver and kidney conditions among users of the recalled machines, as well as more than 370 reports of deaths.

The news organizations found that scientists inside the company repeatedly raised concerns about the foam and the company's own testing called into question its safety claims.

The news organizations also reported that a new and different foam used in the DreamStation 2 and mil-

## U.S. sleep apnea device market

Since its acquisition of Respiromics in 2008, Philips has been a dominant player in the sleep apnea devices market. The Justice Department's decree threatens to jeopardize that position.



\*The U.S. top producers of sleep apnea devices are shown in the bar chart; dozens of other companies in the U.S. and elsewhere manufacture the machines.

Source: iData Research Inc

James Hilston/Post-Gazette

lions of other replacement machines sent out by Philips in the wake of the recall was found to emit dangerous chemicals as well, including formaldehyde, a known carcinogen. The company has said the new foam is safe, but scientists involved in the testing have again raised alarms and the FDA has said additional safety tests are still needed.

In its announcement, the company said it would provide ongoing service and parts for machines already in the hands of doctors and patients and continue selling its devices outside the United States, subject to requirements in the agreement.

"Resolving the consequences of the Respiromics recall for our patients and customers is a key focus area and I acknowledge and apologize for the distress and concern caused," said Roy Jakobs, chief executive officer of parent company Royal Philips. "We are fully committed to complying with the consent decree, which is an important step and provides a clear path forward."

The announcement was

the latest in a series of developments at Philips since the recall prompted a global health emergency that sent millions of patients scrambling to find replacement machines and assess the risk of long-term exposure.

Philips has discontinued some of the recalled devices, including ventilators and, just last week, the widely promoted DreamStation Go, a portable CPAP.

In an online update and email to U.S. customers, Philips said the decision to pull the devices off the market in the United States was a "strategic" choice that "streamlined" its portfolio. The email reignited anger and frustration among patients and doctors.

"They used to be one of the most respected industry leaders," said Dr. Radhika Bredaren, a sleep medicine specialist in Oregon. "They have lost the trust of many of our sleep patients and many professionals in the sleep field."

Post-Gazette data reporter Michael Korsh contributed to this report.

## Shapiro will seek boost in transit funding, with \$40M increase possible for PRT

By Ford Turner  
Pittsburgh Post-Gazette

HARRISBURG — Gov. Josh Shapiro on Monday said he will ask for more money for public transportation in next week's 2024-25 budget address, and a top lawmaker said the proposal would mean an increase of about \$40 million for Pittsburgh Regional Transit.

Mr. Shapiro revealed his proposal in a morning news release, following a similar approach Friday when a new release from his office revealed his budget address will include a proposed overhaul of the higher education system. The budget address is scheduled for Feb. 6 in the Capitol.

Mr. Shapiro said he would seek "the first increase in the state share of public transit funding in over a decade." While he did not give system-by-system figures, he said the proposed state share of the funding would increase by 1.75%. That, he said, would be a \$282.8 million investment and amount to nearly \$1.5 billion over five years.

Mr. Shapiro mentioned the systems in Philadelphia and Pittsburgh by name — SEPTA and PRT — and said people across the state "deserve clean, safe, cost-effective ways to travel."

Mr. Shapiro's announcement drew immediate caution flags from top Republicans.

The Senate majority leader, Sen. Joe Pittman of Indiana County, said Philadelphia District Attorney Larry Krasner has unleashed a "raging crime crisis" by implementing progressive law enforcement policies, and it has affected SEPTA ridership. "No amount of increased

subsidy can restore confidence in making use of the network," Mr. Pittman said.

A spokesperson for Republican Senate President Pro Tempore Kim Ward of Westmoreland County, Erica Wright, said, "The distribution of funds and cost to taxpayers are glaringly missing" from Mr. Shapiro's Monday announcement.

PRT currently gets a state subsidy of about \$280 million a year. A spokesperson, Adam Brandolph, said public transit is vital to the region and PRT welcomed the governor's proposal.

Senate Democratic minority leader Jay Costa, of Allegheny County, said PRT's share of the proposed increase would be about \$40 million. He said SEPTA will be the largest recipient because it sprawls over many counties in the Philadelphia metro area. Other recipients will include smaller transit systems such as the ones in Westmoreland, Beaver and Indiana counties, Mr. Costa said.

"The need is greater than what the governor is recommending," Mr. Costa said. "But this is a good first step."

Transit agencies are experiencing "fiscal cliffs" because of the end of COVID-19 relief funding, according to state Rep. Ed Neilson, D-Philadelphia and chairman of the House Transportation Committee. "It is a big change. It is a welcome change," he said of Mr. Shapiro's proposal.

Lt. Gov. Austin Davis, formerly a lawmaker in Allegheny County, said PRT "helps tens of thousands of people in southwest Pennsylvania every day."

Ford Turner:  
fturner@post-gazette.com

## News Obituaries

MELANIE SAFKA | Feb. 3, 1947 – Jan. 23, 2024

### 'Brand New Key' singer who made a solo splash at Woodstock

By Alex Williams  
and Peter Keepnews  
The New York Times

Melanie, the husky-voiced singer and songwriter who was one of the surprise stars of the Woodstock music festival in 1969 and two years later had a No. 1 single with the disarmingly childlike "Brand New Key," died Jan. 23. She was 76.

Her death was announced on social media by her children, Leilah, Jeordie and Beau Jarred. Neither the cause nor the location were cited.

Melanie, born Melanie Safka, was only 22 but already a presence on the New York folk scene when she appeared at Woodstock. She was one of only two women who performed unaccompanied at the festival (Joan Baez was the other) — and as a singer used to the snug confines of Greenwich Village coffee houses, she was, she later recalled, petrified at the thought of strumming her music in front of a sea of some 400,000 people.

It started to rain before she took the stage, and she would later say that the sight of people in the crowd lighting candles inspired her to write "Lay Down (Candles in the Rain)," which she recorded with gospel-style backing from the Edwin Hawkins Singers. Released in 1970, it became her first hit, reaching No. 6 on the Billboard Hot 100.

Melanie's biggest hit,

"Brand New Key," might not have happened without an impromptu stop at a McDonald's.

A vegetarian at the time, Ms. Melanie had just been through a cleansing fast in which she consumed nothing but distilled water for 27 days, she said in 2021 in an interview with the newspaper. The Tennesseean in Nashville, where she was living at the time.

She was so weakened by hunger that she was almost hallucinating, and a doctor recommended that she eat meat to build strength. One day, on a trip to a flea market with her husband, Peter Schekeryk, she found herself unable to resist the lure of the Golden Arches.

"No sooner than had I finished the last bite of burger," she told the newspaper, "I wrote 'Brand New Key.' It just came into my head. I had one of those little practice guitars in the van with me, and when my husband, who was a record producer, heard me singing, he said, 'What's that?' And I said, 'Oh, some silly song. I'm just playing around.' He said, 'No, no — do that part again!' And I did, and he said, 'Melanie, that's a hit!'"

He was not wrong. With its sunny vocals and a percolating beat, "Brand New Key" set heads bobbing around the country. The song was No. 1 on the Billboard Hot 100 for three weeks starting on Christmas Day, 1971. Billboard later ranked the infec-

tious ditty the No. 9 song of 1972.

But not everything about the song was rainbow happy.

"Brand New Key," seemingly written from the point of view of a girl hoping to win the favor of an elusive boy, includes the freighted line "I'm OK alone, but you've got something I need," and then takes an apparent Freudian turn, with many listeners gleaming a sexual undertone in these lyrics:

*Well, I've got a brand-new pair of roller skates*

*You've got a brand-new key*

*I think that we should get together*

*And try them on to see*

In a time when the guardians of mainstream popular culture fought to keep radio and television output squeaky-clean, controversy soon followed. "I guess I can see why it was banned by some radio stations all across America," she said in an interview with the website Where Music Meets the Soul.

The clamor recalled other "hidden meaning" kerfuffles, including speculation over the Beatles' Technicolor odyssey "Lucy in the Sky With Diamonds," which John Lennon always denied was a song about LSD.

"It was a time when people were reading things into lyrics," Melanie said in the website interview. "Some said it was sexual innuendo or that it related to drugs, and 'key' a code for kilo."



Melanie

But, she added, "I was just having a romp through my memory of learning how to ride my bike and roller skating," along with the thrill of first love.

Melanie Anne Safka was born on Feb. 3, 1947, in Astoria, Queens, to Frederick and Pauline (Altomare) Safka. Her mother was a jazz singer, and Melanie turned to music at an early age, making her public singing appearance on the talent show "Live Like a Millionaire" at 4.

By the time she was in high school in Long Branch, N.J., she was already singing in local coffee houses, and eventually moved her act to the folk dens of New York while studying acting at the American Academy of Dramatic Arts.

She earned a contract with Columbia Records and released two singles on the label before moving to Buddah. She initially found particular success in Europe, where she appeared frequently on television; her 1969 single "Bobo's Party" reached No. 1 in France.

Regardless of her intentions, "Brand New Key" would live on in popular culture as a musical time capsule of the 1970s, capturing the decade's colorful kitschiness as well as its love-the-one-you're-with carnality.

HERBERT COWARD

Aug. 21, 1938 – Jan. 25, 2024

### Actor who played toothless man in thriller 'Deliverance'

By Jesus Jiménez  
The New York Times

Herbert Coward, the actor whose modest career included the small but memorable role of Toothless Man in the 1972 thriller "Deliverance," was killed Thursday in a motor vehicle accident in North Carolina. He was 85.

Mr. Coward died after he drove onto U.S. Highway 23 in Haywood County in the western part of the state and was struck by a truck, said Sgt. Marcus Bethea, a North Carolina State Highway Patrol spokesman. A passenger in Mr. Coward's vehicle, Bertha Brooks, 78, was also killed, as were a Chihuahua and pet squirrel, Sergeant Bethea said.

Mr. Coward, who lived in Canton, N.C., in Haywood County, was often seen with his pet squirrel, according to local news reports.

The 16-year-old driver of the truck was taken to a hospital with minor injuries, according to Sergeant Bethea. He said that it was unclear what had led to the crash and that no charges had been filed.

Mr. Coward, who went by the nickname Cowboy, was best known for his role in "Deliverance," which featured Burt Reynolds, Ned Beatty and Jon Voight. The film is an adaptation of a novel by James Dickey about four Atlanta businessmen on a harrowing canoe trip in rural Georgia.

In the movie, two of the businessmen come across two hostile mountain men in the woods, one of them being Toothless Man. The

men tie one of the friends to a tree, and then force the other to strip down to his underwear and "squeal like a pig."

As the two men contemplate what to do with the friend tied up to the tree, Mr. Coward's character delivers the line, "He got a real purty mouth, ain't he?"

The four friends are eventually reunited and escape by killing one of the men with an arrow and chasing off Mr. Coward's character. The scene is brief, but Mr. Coward's line became one of the more memorable movie lines of the 1970s and the most remembered of Mr. Coward's career.

Mr. Coward's acting career was largely limited after "Deliverance." He appeared in the 2007 film "Ghost Town: The Movie" and in one episode of the TV series "Hillbilly Blood" in 2013, according to IMDb.

Herbert Coward was born in Haywood County on Aug. 21, 1938, to Fred and Moody Parker Coward, he said in an interview with The Smoky Mountain News in 2019. His mother died when he was young, and Mr. Coward said that he worked different jobs across the country, including performing at a Wild West-themed park in Maggie Valley, N.C.

Complete information on survivors was not immediately available on Thursday.

While at the theme park, Mr. Coward briefly worked with Reynolds, who later recommended Mr. Coward for the role of Toothless Man, Mr. Coward said in the interview.

## CLASSIFIED OBITUARIES

**AUDLEY**, Marian P. Snyder, Dormont and Pittsburgh

**CLEMONS**, David "Ikey"

**CURTISS**, Betty-Ann, Presto

**KINNEY**, Shirley Ann Donaldson, Ambler, formerly McDonald and Midway

**KOLLER**, Genevieve, Ross

**ONYSZKO**, Alexander T., Robinson

**RILEY**, Barbara A., Scott

**KINNEY**, Phyllis J., Brookline

**WALSH**, Joann Gigliotti "Sitto," Brookline

**SHEPTAK**, Peter E., M.D., Pittsburgh

**WEINER**, Bronia