

Proponent Testimony

Senate Bill 311

June 24, 2020

TO: Chair Burke, Vice-Chair Huffman, Ranking Member Antonio, and members of the Senate Health, Human Services and Medicaid Committee

FROM: Greg Jevnikar, former Long-Term Care Administrator

PERSONAL IMPACT OF THE SHUTDOWN

I was scheduled to work the polls on Primary Election Day in March. I received a phone call around 8:30 p.m. the evening before informing me not to show up at 5:30 a.m. because the election was postponed. That was my first indication that the DeWine Administration may have gone too far in responding to the coronavirus crisis. This was especially true since several other states did hold their primary election that Tuesday as scheduled. I do not believe that our Governor and the Ohio Department of Health (ODH) Director consulted the legislature regarding this last-minute decision.

The Administration robbed me of my chance to work the polls that day. Because of the two-step process needed to vote, many would-be in-person voters did not vote. The Administration robbed candidates who worked hard giving their all – time, talent and resources – right up to Election Day to have their dream and hard work diminished. Voters and candidates were short-changed by the short sidedness of the Administration.

On the federal level I was supposed to start training as a census enumerator in March, but even the 2020 Census has been delayed. Shutdown orders have affected local, state and national progress.

MY PERSPECTIVE

As a former long-term care administrator, I never had to face what administrators are going through during this coronavirus crisis. The Ohio Department of Health (ODH) did regular annual and complaint surveys, but we never were ordered to restrict family visits for month after month.

Of all the deaths from COVID-19 so far in Ohio, **70% were residents in nursing homes** and other long-term care facilities. (1) Nationally, between one-third and 50% of all deaths from COVID-19 were nursing home residents. It puzzles me, therefore, as to why more attention was and is not being paid to the long-term care resident population, especially here in Ohio. **To quarantine the vulnerable institutionalized elderly and those who are sick who have comorbidities like diabetes, heart disease and obesity is prudent, logical and rational.** (3) **But to quarantine the healthy is unnecessary, imprudent, and even tyrannical.** Therefore, placing limits on the Ohio Department of Health Director is critical. SB 311's provision, "No order of the department shall be effective for a period exceeding fourteen days, except with the approval of the joint committee on agency rule review..." (4) allows the legislature to have a say in ramifications in addition to public health such as the impact on the economy and the citizen's constitution rights and freedoms. This shutdown of the healthy has been devastating to the economy, to jobs, to education, to businesses and to individual liberty.

The UNIVERSAL PRECAUTIONS infection control policies and procedures mandated by regulation already deal with communicable diseases. So, if people follow universal precautions as they are required to do that helps limit the spread of infections. It is the vulnerable people, like the elderly and the sick for whom it is wise to quarantine.

However, it is cruel and unusual punishment to keep nursing home residents imprisoned for months without visitors or interaction with the outside world. Surely some provisions could be made to accommodate close relatives and friends. Perhaps Isolation areas in nursing homes could be established for COVID-19 infected residents, or even COVID-19 dedicated facilities to care for those infected. Again, the one-size-fits-all approach is not the right approach. Why "punish" all nursing home residents for the few that may be infected. Wearing masks and disposable gowns by family members during visits might be one possible solution to the NO VISITORS approach the DeWine Administration is an overreach and overreaction. It is downright shameful to allow a parent or loved one to

die alone, to be alone months on end. It could even be the cause of premature deaths.

LOOK AT THE EVIDENCE

I'd like to quote from a summary of a recent paper from the Heritage Foundation, "Policymakers Should Adapt COVID-19 Responses to the Evidence":

"WIDESPREAD LOCKDOWNS WERE INSTITUTED WHEN LITTLE WAS KNOWN ABOUT COVID-19, LARGELY TO PREVENT HOSPITALS FROM BEING OVERWHELMED. WHILE MUCH ABOUT THE VIRUS REMAINS UNKNOWN, IT IS NOW CLEAR

- THAT THE (COVID-19) DISEASE IS NOT EVENLY DISBURSED GEOGRAPHICALLY;
- THAT DEATH RATES ARE HIGHEST AMONG THE ELDERLY, UNCOMMON AMONG YOUNG ADULTS, AND EXTREMELY RARE AMONG CHILDREN;
- THAT NEARLY 90 PERCENT OF COVID-19 DEATHS ARE AMONG PEOPLE WITH COMMORBIDITIES;
- THAT AS MANY AS HALF OF THE DEATHS ARE NURSING HOME RELATED; AND
- THAT HOSPITAL ACUTE CARE AND INTENSIVE CARE CAPACITY IS ROBUST.

POLICYMAKERS SHOULD ADAPT THEIR INTERVENTIONS TO THESE FACTS WHICH SUGGEST THAT BROAD-BASED LOCKDOWNS ARE COUNTERPRODUCTIVE IN MOST AREAS AMONG THE NON-ELDERLY POULATION. PUBLIC POLICY SHOULD EVOLVE WITH THESE FACTS, RELYING LESS ON LOCKDOWNS WHERE INFECTION RATES ARE LOW, AND RELYING MORE HEAVILY ON TRADITIONAL PUBLIC HEALTH INTERVENTIONS (ISOLATION, CONTACT TRACING, AND TARGETED AVEL RESTRICTIONS) WHERE INFECTION RATES ARE HIGH. EXCEPT IN HOTSPOTS, POLICYMAKERS SHOULD NOT PLACE HEALTHY AMERICANS UNDER AGE 55 ON RESTRICTIVE LOCKDOWNS. SPEARATE INTERVENTIONS ARE REQUIRED TO PROTECT NURSING HOME RESIDENTS." (4)

Instead of DICTATING to nursing homes to follow a one-size- fits-all order, maybe the ODH should be more focused on GUIDING AND ASSISTING long-term care staff and listening to their input and recommendations. This lets the people closest to the problem come up with solutions the people sitting in Columbus would never consider. Solving the problem of maintaining a safe environment is a two-way street. What I have observed it is the ODH way is the best and only way. The refrain we hear is "We are in this together" really?

REDRESS OF GRIEVANCES

I have participated in more than 6 or 7 events here in Columbus at the Statehouse, the Ohio Department of Public Safety, the Governor's Mansion, and even Dr. Acton's home joining with others in attempting to obtain a redress of grievances regarding the overreaction and overreach by the Administration.

Nobody seems to be listening. Hopeful this committee will listen to the concerns of the proponents of this bill. Every job is essential. Every person is essential. Every business is essential. The facts and the data are essential.

Unlike what has been happening in Columbus recently with protest-turned-to-riot every event which I have been involved pertaining to the Governor's and Director's restrictive lockdown orders were peaceful.

What are my specific grievances? More to the point, why must we limit the ODH Director's authority over a medical emergency?

1. Lack of transparency in the data. As stated earlier, not using the evidence but relying on initial approaches and being seeming inflexible to change. And a lack of willingness to admit errors.
2. Too much control by the executive branch with insufficient involvement and input by the legislative branch on such a crucial decision as the length and need for a lockdown.
3. The cure or response has proven and is proving to be worse than the disease itself.
4. The ODH Director overreacted to the coronavirus outbreak with extended shutdown orders having relied on faulty models and making wrong guesstimates. This without virtually any

consideration on its overall impact on Ohio's economy, jobs or education.

CONCLUSION & RECOMMENDATIONS

I urge you to pass SB 311 with the 14-day limit on any future shutdown orders by the ODH Director and to have the Congress be a partner in decisions necessary to extend any future shutdown beyond the initial 14-days. Continuing to ignore the data and evidence and to extend the shutdown indiscriminately and to pick and choose which businesses are essential and which are not has proven to be more hurtful than helpful. In retrospect, Congress should have never given the ODH Director absolute power in the area of a medical emergency because we know absolute power corrupts absolutely. Just look at the damage done to our economy and to our jobs.

I would recommend that both the executive and the legislative officials consider the content of Norbert J. Michel, PhD, Doug Badger, "Policymakers Should Adapt COVID-19 Responses to the Evidence," The Heritage Foundation, May 23, 2020 in current and future policy and legislations and administrative rules.

FOOTNOTES

- (1) Rich Exner, "Ohio nursing home patients account for 70% of total coronavirus deaths, state reports," March 21, 2020, Cleveland.com <https://www.cleveland.com/coronavirus/2020/05/at-least-1247-ohio-nursing-home-patients-have-died-with-coronavirus-70-of-total-covid-19-deaths-state-reports.html>
- (2) Karen Yourish, K.K. Rebecca Lai, Danielle Ivory and Mitch Smith One-Third of All U.S. Coronavirus Deaths Are Nursing Home Residents or Workers, New York Times, Updated May 11, 2020 <https://www.nytimes.com/interactive/2020/05/09/us/coronavirus-cases-nursing-homes-us.html>
- (3) Norbert J. Michel, PhD, Doug Badger, "Policymakers Should Adapt COVID-19 Responses to the Evidence," The Heritage Foundation, May 23, 2020
- (4) Text of S.B. 311 As Introduced page 8, section (C) (1) <https://legiscan.com/OH/text/SB311/id/2185705>