

## **Testimony in Support of SB22**

### **Government Oversight and Reform Committee**

Chairwoman Roegner, Vice Chair McColley, Ranking Member Craig, and honorable members of the Government Oversight and Reform Committee, thank you for this opportunity to voice support for SB 22.

Over the last 11 months those who disagree with the covid policies and decisions of Gov. DeWine and the Ohio Department of Health have had no voice and no recourse. The opportunity to submit testimony before this committee is a hopeful sign that will change.

The covid restrictions and mandates of the governor and ODH have been forced on Ohioans to the point of fines, court cases and threats of imprisonment if not actual imprisonment. The legislative branch has been left out of these decisions.

Not only was there no normal process of law in the forming of the mandates, ODH and the governor have consistently refused to provide documentation proving that there is any basis for these mandates.

On April 2, 2020 the American Policy Roundtable submitted a public records request to the Ohio Department of Health “to permit all Ohioans to ‘see the math’ behind the construction of Dr. Acton’s latest model, which is controlling public policy decisions in Ohio.” ODH responded on April 7, 2020 stating that according to a law just passed in March they do not have to fulfill document requests until “90 days after the state of emergency declared by Governor DeWine is lifted, or December 1, 2020, whichever date occurs first.”

<https://aproundtable.org/wp-content/uploads/2020/04/PRR-APR-ODHResponse.pdf>

To my knowledge this request has never been fulfilled nor has any future request for such information been fulfilled. To my knowledge ODH was in fact blocking discovery efforts for this and similar information in the courts this past September.

The discussion before this committee today is not whether or not the covid policies and mandates of the governor and ODH are good. The question is whether or not it is good for decisions that have such drastic and often harmful affects on Ohioans to be left in the hands of just two individuals for eleven months, namely the director of ODH and the governor.

**Have the actions of ODH and the governor proven that good decisions can be made if the ultimate authority is left to them alone?**

If we look at what happened in the last 11 months the answer is clearly, “no.” From the very beginning poor decisions were made based on poor data and poor interpretation of data.

We now know that lockdowns are far more harmful than good. They should never have been done. Yet Ohio shut down earlier and harder than almost any state in the US. Dr. Acton referenced a study to support lockdowns but even according to the information given in that study Ohio locked down far too early. The study showed that locking down too early actually hurt rather than helped in a pandemic. The study showed we needed to reach a certain number of deaths per 100,000 before lockdown would be beneficial. In the words of the poet Byron, Acton could read the study she referenced with “just enough learning to misquote.”

<https://youtu.be/5CQDNDJUzPs?t=833>

Another reason Ohio shut down so early was because Dr. Acton claimed on March 12: “we know” we have “at the very least” 100,000 cases of Covid-19 in Ohio.

<https://youtu.be/MiUyGfDJ76g>

This was used as a justification for severe restrictions and general closures on businesses. The harm done was immense and it turns out it was all based on a false number. No checks and balances were present to recognize and prevent the error. Dr. Acton’s number was immediately rejected by notable scientists who are by no means of conservative leaning but who could not accept Dr. Acton’s math.

For example:

Prof. Carl T. Bergstrom, Professor of Biology at University of Washington: “Ohio Dept. Health director Amy Acton estimates 100,000 #COVID19 #coronavirus cases in Ohio. Unless she has access to shocking information not available to the rest of us, this strikes me as high by 10-fold if not 100-fold.”

[https://twitter.com/ct\\_bergstrom/status/1238263122739236865](https://twitter.com/ct_bergstrom/status/1238263122739236865)

Dr. Trevor Bedford, Affiliate Associate Professor, Epidemiology and Genome Sciences, Assistant Member at the Fred Hutchinson Cancer Research Center affiliated with the Vaccine and Infectious Disease Division and with the Computational Biology Program: “I very respectfully disagree with the estimate of 100k #COVID19 infections in Ohio put forth by the @OHdeptofhealth.”

<https://twitter.com/trvrb/status/1238290215178887169>

Dr. Trevor Bedford, said he could not find Acton’s method of arriving at that number. She gave no source besides a vague statement that it was a number “from the experts.” However, the next day she explained how she got the number and it turns out it was not from the experts at all but was her own calculation from a horribly faulty understanding of the model put out by Harvard professor Marc Lipsitch. See her explanation here:

<https://youtu.be/pBfjPjAYnc8?t=38m40s>

Lipsitch’s model claimed 40-70% would get the virus worldwide in the course of the pandemic. This means *in the course of 12 to 18 months*. Dr. Acton *misinterpreted* the model and claimed that 60% of Ohioans would have the virus *by mid April*. That’s 7 million Ohioans sick with covid in one month! This was an absurd interpretation of

Lipsitch's model, yet ODH and Governor DeWine accepted this number without question and shut down the state.

Even worse were the decisions made based on a failure to understand or appreciate long-term care facility data.

In mid-May Dr. Acton claimed in a press conference that only 22% of covid deaths were from nursing homes when everyone could tell the official data showed it was 64%. A reporter asked her about this number and his microphone was cut:

<https://www.youtube.com/watch?v=YC0QtcNYGZg>

We later found out LTC deaths were even worse at closer to 79% but ODH had not yet revealed the data from pre-April 15. Dr. Acton's ignorance of these numbers was shocking and inexcusable especially considering that one month earlier, on April 13, she had stated: "I think it's very, very important. We've known all along that nursing homes were going to be a very high risk place for us in Ohio, as it is everywhere around this country."

On April 22 after part of the nursing home data was finally released a reporter asked Gov. DeWine what the nursing home data should mean in regard to our covid strategy. The governor simply avoided the question saying all data is important and then promptly changed the subject:

"Well, I think all information is important. Ohioans need to weigh all of that information. We're trying to get every piece of information out of that. Let's talk, good news close here. Another thing that Ohioans can do together on Earth Day is to keep our state beautiful by not littering."

Media outlets had to fight for a month to get ODH to release the pre-April 15 nursing home fatality data. Only after mid-May did we find out just how bad those numbers were. In one press conference DeWine and Acton were asked why Lucas County had such high fatality numbers. They did not have an answer. I could have given them the answer: It was because they had one of the highest rates of nursing home deaths from covid in Ohio. Again, how could the director of health for the state not be aware of this?

Due to lack of oversight, lack of checks and balances and poor understanding of data the governor and ODH chose to focus on restrictions and mandates that seriously hurt non-vulnerable individuals and damaged businesses, meanwhile failing to protect the vulnerable in LTC's. I know several cases of LTC staff being required to work when symptomatic with covid while waiting days for the weekly testing. All of the money spent bailing out businesses and those who lost their jobs could have been spent focusing on protecting the vulnerable but it wasn't.

The governor's mask orders were no less irresponsible. In June DeWine stated: "Yesterday, Dr. Robert Redfield of the director of the Centers for Disease Control and Prevention said the following: 'If all of us would put on a face covering now for the next six weeks, we could drive this epidemic to the ground.'"

Yet, the Center for Infectious Disease Research and Policy out of the University of Minnesota expressed concern over the total inaccuracy of that claim:

“These concerns remain true today, particularly after CDC leadership made the unfortunate statement that the US epidemic could be driven to the ground if everyone wore face coverings for the next 4 to 6 weeks. If this were true, why do we need a vaccine to end this pandemic? Just ‘mask our way’ to control. When put into this context, it's obvious how the CDC statement is unrealistic and misleading. Why do places like Hong Kong, which has a requirement for the use of cloth face coverings in public at a risk of a \$HK 5,000 fine, have their highest number of community-acquired COVID-19 cases since the beginning of the pandemic?”

<https://www.cidrap.umn.edu/news-perspective/2020/07/commentary-my-views-cloth-face-coverings-public-preventing-covid-19>

We were told masks would save lives, yet our total covid death count since November has been equal to that of Sweden despite Sweden not using masks and even banning them in some places. Sweden has nearly equal population to Ohio. This means we obtained nothing from all these restrictions and masks; we ended up with the very same death count. The Czech Republic is also very similar in population size to Ohio and has a similar percentage of population over 65 (17% for Ohio and 19% for Czechia). They were hailed as a mask success story in May yet their death count is now at 17k compared to Ohio's death count at 11.7k. Masks did not and do not work yet they are being forced on us under threat of fines and closure of businesses.

The story goes that one day King Charles II asked the scientific men of his court the following profound problem: How is it that a dead fish weighs less than a living one? The scientific men discussed the difficulty and wrote elaborate treatises on it to please the king but came to no conclusion. Finally it occurred to one of them to test whether what the king said was even true and of course he discovered that it was a joke. I fear too many have simply accepted Governor DeWine's mandates and claims without a sufficiently critical mind and this has done grave harm.

### **Should the governor and ODH be allowed to exercise emergency powers for 11 months?**

Emergency powers are intended for one thing only: to take quick action when there is no time for the normal legislative process. The whole purpose is the presumption that the legislature does not have time meet and pass the necessary laws to react to an emergency. There is no reason to justify emergency powers continuing for 11 months. That is the bottom line.

The legislature has met multiple times and has had ample opportunity to act. Even if one agrees with every decision the governor and ODH made there is still no excuse for excluding the legislature from those decisions for this long.

Nor can it be good to have life-altering decisions made by so few. If a doctor told you he needed to amputate a leg would you not want a second opinion? What if the doctor insisted for 11 months that you were not allowed to get a second opinion because it is an emergency? What if you were fined and threatened by the doctor for not complying? This is completely unreasonable and needs to stop.

Lastly, the governor would have done far better last March to remind Ohioans that evils afflicting a nation are the result of sin. We have many sins in Ohio crying to God for punishment, especially the loss of innocent life through abortion. “Justice exalteth a nation; but sin maketh nations miserable” (Prov. 14, 34).

Thank you for your time and hearing this testimony. I pray you make the right decision.

Fr. Gabriel Lavery