

MINUTES
SENATE AND HOUSE COMMITTEES ON INSURANCE AND COMMERCE
ALC-ARKANSAS HEALTH INSURANCE MARKETPLACE OVERSIGHT SUBCOMMITTEE
MEETING JOINTLY
MAC, Room A
Little Rock, Arkansas
Monday, August 31, 2020

The Senate and House Interim Committees on Insurance and Commerce and the ALC-Arkansas Health Insurance Marketplace Oversight Subcommittee met jointly Monday, August 31, 2020, at 9:30 a.m., in the Multi-Agency Complex (MAC), Room A, in Little Rock, Arkansas.

Committee members present: Senators Jason Rapert, Chairman; Kim Hammer, Co-Chairman; Larry Teague, Vice-Chairman; Missy Irvin, Ronald Caldwell, Jane English, Mark Johnson, Terry Rice, and Trent Garner. Representatives Mark Lowery, Chairman; Deborah Ferguson, Co-Chairman; Robin Lundstrum, Vice-Chairman; Reginald Murdock, Michelle Gray, Kenneth Ferguson, James Sorvillo, Brandt Smith, Fred Allen, John Maddox, Bruce Coleman, Roger Lynch, Aaron Pilkington, Mark Perry, Joe Cloud, Denise Ennett, Jeff Wardlaw, Jim Dotson, Jack Ladyman, Nelda Speaks, Jack Fortner, and Jamie Scott.

Also attending: Senators Bob Ballinger, Alan Clark, Jonathan Dismang, Jimmy Hickey, Jr., Ricky Hill, and Mathew Pitsch. Representatives Mary Bentley, Stan Berry, Harlan Breaux, Cameron Cooper, Andy Davis, Marsh Davis, Jana Della Rosa, Megan Godfrey, Steve Hollowell, Lee Johnson, Johnny Rye, Dwight Tosh, and Danny Watson.

Senator Rapert called the meeting to order.

CONSIDERATION TO APPROVE MEETING MINUTES FOR FEBRUARY 19, 2020 [EXHIBIT C]
Senator English made a motion to approve the February 19, 2020, Insurance and Commerce meeting minutes, and Senator M. Johnson seconded the motion. The motion carried.

ISSUES AFFECTING COMMERCE IN ARKANSAS FROM COVID-19 PANDEMIC [EXHIBIT D]

Mr. Mike Preston, Cabinet Secretary, Arkansas Department of Commerce (via teleconference) said the Department of Workforce Services (DWS) was averaging about 1,100 unemployment claims per week prior to the pandemic. The week Arkansas had its first COVID case, claims spiked to 10,000. The following week, 30,000 unemployment claims, and the subsequent week 60,000 claims. The DWS IT-system was outdated, and the onslaught took all hands on deck to make it right.

The CARES Act approved by congress required DWS to begin three new programs including: 1) Federal Pandemic Unemployment Compensation (FPUC)-an additional \$600 per week compensation; 2) Pandemic Unemployment Assistance (PUA)-new program for independent contractors, and self-employed; and 3) Federal Pandemic Unemployment Extended Benefits Program-extending benefits to those who expired in that time frame. To date \$1.3 billion has been paid out in the FPUC; \$700 million in the PUA; and \$19 million in the Pandemic Unemployment Extended Benefits Compensation.

Arkansas has applied for a new program, as an executive order by the president, for the Lost Wages Assistance Program. It is an additional \$300 per week compensation, instead of \$600 per week, and is through the Federal Emergency Management Agency instead of the Department of Labor. Unemployment claims are down to 44,000 and PUA claims are 43,000.

There were 45,000 individuals in "fraud" status where unemployment checks have been flagged and have been asked to schedule a time to come into the office. Denied unemployment claims have the right go through an appeals tribunal. The system is strained with denied unemployment claims to the point that additional personnel have been added to step up the appeals tribunal.

The Department of Finance and Administration economic development-related Arkansas Development Finance Authority (ADFA), supplied \$3 million to tenant-based rental assistance via local housing agencies. When DWS was struggling to get the PUA system up and running due to delayed federal funds, ADFA supplied a \$4 million loan to DWS that allowed the PUA system to proceed. Federal funds were eventually released, and ADFA was paid back, showing a good example of how the commerce departments worked together.

Secretary Preston thanked individual legislators for legislation over the years, instrumental in getting a broadband program up and running, by appropriating \$125 million as well as funds coming out of the CARES Act to support rural broadband deployment across

Arkansas. There is a pipeline of requests being vetted for broadband funds that will be deployed by end of the calendar year. His PowerPoint presentation gave statistics for DWS achievements and traditional economic development.

OVERVIEW OF CURRENT CORONAVIRUS (COVID-19) STATISTICS IN ARKANSAS AND CONTACT TRACERS UPDATE [HANDOUT 6]

Senator Rapert swore-in both Dr. Dillaha and Dr. Romero.

Ms. Jennifer Dillaha, MD, State Epidemiologist and Medical Director, Immunizations and Outbreak Response, Arkansas Department of Health (ADH), noted the first COVID case was recognized March 11, 2020, and through August 30, 2020, there are 60,859 cases in Arkansas, and there have been 784 deaths from the virus. The ADH website has a report that is updated twice a week. It is an overview of current active cases with a breakdown of gender, race, age, and location. Another section indicates where diagnosed individuals have been 14 days prior to diagnosis. The ADH tracks facilities and looks for occupational clusters, which is a location with five or more active cases. Senator Hammer requested the number of deaths from the 4,182 hospitalized individuals.

Contact tracing is done through interviews of COVID-diagnosed individuals to determine when they were infectious and to identify people the infected individual came into contact with. They are contacted and told of their exposure and to quarantine themselves for 14 days, and are monitored. ADH has contracted General Dynamics Information Technologies and Arkansas Foundation for Medical Care to assist with contact tracing.

Representative Bentley requested the percentage of nursing home patients from the total COVID-19 deaths.

Mr. Jose´ Romero, MD, Cabinet Secretary, ADH; Infectious Disease Consultant, Conway Human Development Center (CHDC); and Chairman, Advisory Committee on Immunization Practices, U.S. Centers for Disease Control and Prevention (CDC), stated no directives were given to medical directors at nursing homes, but ADH issued advice on its website regarding the use of Hydroxychloroquine (HCQ). Representative Bentley asked information be sent regarding confirmed Arkansas deaths due to side effects of HCQ.

Dr. Romero noted ADH has not issued any recommendations to insurance carriers regarding reimbursing for use of HCQ associated with COVID.

Senator Rapert confirmed Dr. Romero’s testimony in his role at the ADH having denied specifically telling someone not to use HCQ. In discussion regarding an email dated June 21, 2020, Dr. Romero noted the ADH does not endorse the use of HCQ for use as therapy in COVID-19 patients. He noted a doctor may use it, but ADH is not in favor of its use and does not recommend it. They acknowledge medication can be used by physicians as they see appropriate for a patient with discussion and consent of the patient.

Representative Lowery asked Dr. Romero when someone had specifically asked for direction, Dr. Romero’s answer sounded like a mandate or a directive to not use the treatment. He asked how a physician asking for directive can know whether the statement is a recommendation as opposed to a mandate.

Dr. Romero noted the recommendation issued is to leave it up to the individual physician. ADH does not stop physicians from use of the drug.

Senator Rapert noted he does not understand the aversion and resistance to utilize HCQ when Remdesivir is being used as an “emergency use” and it is not approved to treat COVID. He wants the people of Arkansas to have access to HCQ treatment. He said the message from ADH is confusing to the point that doctors are not prescribing and pharmacies are not filling prescriptions for HCQ. Dr. Romero noted HCQ has a long half-life in the body and acts as an antagonist to Remdesivir.

Dr. Dillaha noted there are two kinds of COVID death cases, a confirmed case, and a probable case. Case investigations are done by the ADH, but contact tracing has been added to investigations. Each case is reported to ADH and interviewed. Senator Irvin requested a copy of the contracts being used with contact tracers.

Representative Fortner asked Dr. Dillaha for clarification of the death list, and to send him information including: the number of people with terminal illnesses before contracting COVID-19, and how many died directly from COVID-19 without indirect cause of death such as an auto accident or cancer.

**HYDROXYCHLOROQUINE-USE TO PREVENT AND/OR TREAT COVID-19 [EXHIBITS F1a, F1b, F1c, F1d]
[HANDOUT 3, HANDOUT 4]**

Ms. Simone Gold, MD, Board Certified Emergency Room Doctor, Founder of America's Frontline Doctors, noted her concern about the erosion of doctor patient relationship and what is known about American COVID deaths, the majority of which could have been prevented. As an ER doctor, she said the medical director, of the hospital where she worked, told her she should not prescribe HCQ to patients. She was warned if she continued to do so, she would be fired. She could not understand it, so she continued to prescribe HCQ with zinc and was fired. Dr. Gold wanted to impress upon the committee how bizarre it is that government bureaucrats, state or federal, tell doctors what they can practice. It has never happened.

She showed a clip of Professor Harvey Risch, M.D., Ph.D. from Yale University. He concluded the HCQ evidence is overwhelming that people who need to be treated, and are treated early, have a substantial benefit in reducing risk of hospitalization or mortality. There has been a mass disinformation campaign that stretches from government to the media, that is either suppressing this message or it is countering it with a false message. Professor Risch stated he is not an expert in reasons why this is happening other than just observing it, but that he is an expert in the science, and that the science is one-sided.

Dr. Gold emphasized HCQ is a very safe drug. She referred to her exhibits that show studies where HCQ works, noting there are over fifty studies that show it works. It is important for a state like Arkansas to make its own decisions and why state public health officials need to be on top of the science data.

COVID is thought of as an early disease and a late disease. The early disease is about viral replication. The way to stop the virus from replicating is with HCQ and zinc together. It works very well as shown by dozens of studies. There are no studies that show it does not work given early or prophylactically. The prophylactic dose is very low, 1/7 of the dose given for lupus or rheumatoid arthritis. In the late stage it is about cytokine storm an immune condition in which the immune system overacts to the virus it is trying to fight, attacking the organs, and sometimes killing the body.

Dr. Gold submitted to the committee, "let doctors be doctors", and urged that restrictions on HCQ be lifted. Citing statistics, she noted countries and states that use HCQ liberally have a lower death rate. In much of the world HCQ is over-the-counter and taken once a week like aspirin or Motrin. She said her website has listings of doctors and pharmacists that are HCQ knowledgeable.

Mr. Robin Armstrong, MD, Armstrong Medical Group, gave an example of using HCQ with success in a nursing home where 37 out of 38 patient treated survived COVID-19. He notes from personal use while traveling abroad, HCQ is a safe medicine and does no harm. Early on he had used Hydroxychloroquine, Erythromycin, and zinc for patients in hospitals and saw success.

Representative Ferguson noted there are reasons for the FDA and CDC and having controlled studies, and they are available. To prove the efficacy of what the presenters are saying, they could participate in one of these studies. She noted that some of this information is confusing to people.

Dr. Armstrong gave statistics for elderly mortality rates in scenarios from studies done in other countries. Dr. Armstrong believes it would help to remove restrictions from HCQ use, allowing physicians to prescribe medications to their patients.

Dr. Armstrong pointed out that in the midst of a pandemic performing randomized control trials is difficult and probably irresponsible. The setting in the nursing facility was to treat patients. Many of his nursing home patients had comorbid conditions such as heart disease, diabetes, obesity. What he observed was these patients did well. These are all observations. In a pandemic setting everything coming out from these places is observation.

In response to a question by Senator Hammer, Dr. Gold noted liability insurance for medical practitioners is decided by each state. She is aware of lawyers considering a class action lawsuit for denial to use HCQ to treat COVID. An entire treatment course of HCQ is between \$10 and \$15 and a treatment course of Remdesivir is between \$4,000 and \$5,000.

Ms. Sandra Young, MD, noted she has prescribed HCQ to a few people who have found the corporate owned pharmacies, where the pharmacist is an employee, have been told they cannot fill HCQ prescriptions unless it is for lupus, rheumatoid arthritis or other previous approved conditions. The smaller, privately-owned pharmacies will fill the prescription. She has used three pharmacies in Arkansas. The cost for 26 HCQ pills was \$20.75, and 250 zinc tablets were \$11.99. There is no money to be made with HCQ.

Senator Rapert swore in Dr. Young.

Dr. Young referred the committee to a you-tube-video [medcram coronavirus #34](#). The video is two doctors explaining HCQ and zinc.

As a former doctor at the CHDC, she noted, regarding the aforementioned email from Dr. Romero, she was told by the CHDC administrator the hospital is controlled by ADH and has to follow what it says.

CHDC is not using HCQ now, and it was Dr. Young's understanding, and that of the hospital administrator, that they were being advised not to use HCQ. Dr. Young felt she could not stay and watch patients and staff sicken and possibly die, when she knew it could be prevented. She believes if HCQ could be sold over the counter in Arkansas, COVID could be stamped out in two weeks by following a protocol of 200mg once a week along with zinc supplement. Dr. Young has resigned from the CHDC.

Representative Della Rosa asked how a pharmacist has authority to question what a doctor prescribes. She is concerned that a doctor's scope of practice is being invaded. The legislature has passed no law to allow questions to be asked as a contingency upon filling a prescription. Dr. Gold noted each state's pharmacy board determines whether a pharmacist can ask. Senator Rapert said he has an inquiry into CVS on its policy. He has also consulted the Pharmacy Board and was told it is not an issue in the independent pharmacies, it happens with the big chain pharmacy.

Senator Rice summarized the ADH is working under extreme pressure, and believes the committee should call Governor Hutchinson, who directed ADH, to put out a clarification on this issue immediately. He says the legislature is not practicing medicine, but is trying to give people their rights and give doctors back what it is they do, let them treat their patients.

Senator Hammer asked Dr. Young if she spoke with Dr. Romero regarding his June 21 email comments. She said she tried to get on the agenda for the July 23, 2020, Board of Directors meeting of ADH, but was denied. She attended and spoke with Dr. Romero after the meeting and told him that she had quit her job at CHDC. He wanted to know why, and she told him it was because she could not prescribe HCQ. Dr. Romero said patients could not be treated as an experiment, there needed to be a double blind study, but that she could prescribe HCQ for her private patients.

OTHER BUSINESS

Senator Rapert noted the committee will consider the remaining agenda items at the next meeting, and the meeting adjourned at 1:47 p.m.