

Testimony of Jennifer Daniel, RN
Support of HB193
Economic Development, Commerce, and Labor
June 6, 2017

Good afternoon Chairman Young, Vice Chair DeVitis, and Ranking Member Lepore-Hagan and members of the Economic Development, Commerce and Labor Committee.

My name is Jennifer Daniel. I have been a registered nurse for over 13 years. I am here today to provide testimony in regards to Health Care Workers (HCW) being mandated to receive the influenza vaccine or face penalties when they choose to opt out. In light of my testimony, I hope to gain your support of HB193.

Today, I will outline 3 key areas of contention with the influenza vaccine mandate: 1) personal medical reasons that make it unethical to mandate the influenza vaccine, 2) the violation of patient care and HIPPA as a result of the mandate and subsequent non-compliant documents and procedures and 3) lack of alignment to stated Occupational Safety and Health Administration (OHSA) policy, the combination of which render it impractical and unethical.

To begin, I have personally been affected by my Health Care Employer (HCE) enforcing mandatory influenza vaccines. I started my nursing career in 2005. I had never received a flu vaccine nor was it a requirement at this time. However, this changed in 2009 with the scare of the swine flu pandemic. It was mandated that all employees receive the H1N1 vaccine. With this influenza vaccine and those thereafter, I would experience shortness of breath, tachycardia (increase heart rate), lightheadedness, and dizziness within minutes of receiving the vaccine. In addition, after receiving my first flu shot, I developed an autoimmune disorder, Hashimoto's disease. I am aware that correlation does not imply causation; however, there are clinical cases of Hashimoto's thyroiditis and/or subacute thyroiditis that have been observed after exposure to vaccines (1).

Aside from my personal response to the vaccine, there is medical literature that outlines the adverse endocrine autoimmune effects adjuvants within the vaccine can trigger. Adjuvants are compounds that enhance the specific immune response against co-inoculated antigens. Some of these compounds include ***mercury, egg protein, hydrolyzed porcine (pig) gelatin, formaldehyde, and polysorbate 80***. According to an article in *Frontiers in Endocrinology*, it is possible that adjuvants can trigger endocrine autoimmune diseases (1). The authors state, "When used in vaccines, adjuvants are purposely used as immunogenicity enhancing agents that are essential for directing the adaptive immunoresponse. However, they might trigger undesired autoimmune reactions. Autoimmune well-defined diseases, as well as non-specific immune disorders, following vaccination can present as a subacute vaccination side effect or appear months or years after" (1). In summary, the authors stated, physicians must be mindful that thyroiditis and other thyroid disorders can be induced by diverse adjuvants and therefore to

reconsider non-essential vaccination in genetically predisposed individuals for autoimmune diseases. (1).

In addition to the adverse medical ramifications of mandating the influenza vaccine to individuals with predisposed endocrine autoimmune conditions, it also violates patients' rights, to refuse medical treatment and the right to privacy. In this context, all HCW are also patients receiving the vaccine, and to mandate care and label any HCW as non-compliant violates HIPPA rights. Given the current mandate, my only choice was to take the mandatory vaccine or be labeled as "non-compliant"; I chose to take the flu vaccine the following two years. However, in 2012, I discussed with my primary care physician about the reactions I was having upon receiving the flu vaccine. She provided me with a medical exemption that I submitted to my employer. My medical exemption was denied. I was told the hospital's doctor reviewed my exemption and stated that the "benefits outweigh the risks". I felt completely violated of my autonomy, denied the right to refuse medical treatment, which is protected under law. I discussed my concerns with Employee Health regarding my reactions and the fact that my own doctor suggested I did not receive any further influenza vaccines. However, I was informed I could receive my influenza vaccine at Employee Health with the doctor present in case I should have a severe allergic reaction. I've had many adverse reactions to antibiotics and medications. The last reaction I had to a medication I went into SVTs (an abnormal heart arrhythmia) and required oxygenation. I don't know if any of you have suffered a severe allergic reaction but it is terrifying to say the least. Each time I receive the influenza vaccine I am in fear of having a dreadful adverse reaction. This makes no sense to me.

My employer does a wonderful job making sure patients' medication allergies are known in their charts to prevent them from receiving a medication they are allergic too. However, they ignore this critical component for care with their own employees and ignore my rights as a patient. How can my employer's doctor override my doctor's medical exemption when he has never assessed me and knows nothing about my medical history? This would be considered malpractice if a doctor did this to a patient. Given that my medical exemption was denied, I was therefore labeled non-compliant and did not receive my merit raise. My HCE requires all medical exemptions to be reviewed by their doctor and all religious exemptions to be reviewed by their own clergy staff. This not only ignores expert medical opinion to my own patient history, it is biased and invalidates any opinion that does not align with the wishes of the HCE.

I am very passionate about my career and I provide the utmost care to my patients. Do you think nurses will continue to go above and beyond if their recognition of their dedicated work is stripped from them by taking away their merit raises all because of their decision to opt out of the flu shot? Nurses who opt out are shamed and discriminated against. HCE are implementing an authoritarian approach to those who refuse to vaccinate. One approach is mandating HCW to wear a mask during flu season. In some instances, a unvaccinated HCW can receive a \$100 fine if they fail to comply with the mask-wearing requirement and can receive disciplinary action by their licensing board. (2). Many HCWs feel this measure to be stigmatizing and discriminating. (3). I would agree. This makes a HCW's vaccine status visible to everyone. This

can be seen as a violation against HIPPA for the nurse. After all, a nurse is still a patient. They should have the right to refuse medical treatment, such as the flu shot, as any other patient, and they should have the right to keep their medical treatment confidential.

Another approach to those HCW who decline vaccines is to sign a declination form. Not all nurses agree to what is stated on the form; therefore, are unwillingly signing it. Those who do sign it may fear consequences should a patient they care for were to be infected; they fear they may be held accountable for the transmission of the virus. I understand the flu can have devastating consequences to some people; however, so can the flu vaccine itself. As I mentioned, flu vaccines can have true adverse events. The CDC claims vaccines are "safe and effective"; however, in 2011, the U.S. Supreme Court ruled that vaccines are "**unavoidably unsafe**". (4) This is why the federal government pays out compensations for injuries through the National Vaccine Injury Compensation Program (NVICP). As of fiscal year 2017, over 3.6 billion has been paid out for vaccine injuries/deaths with the highest compensation to influenza vaccine. (5) When there are such true risks, shouldn't an individual have the right to refuse the flu vaccine without facing any type of penalty?

Flu vaccines are changing each year to try and capture the predicted strain of influenza; therefore, unlike other medications, there are no long-term studies. The package insert states the flu vaccines "has not been evaluated for carcinogenic or mutagenic potential". I personally do not want to take a vaccine that has not been studied properly and I may suffer devastating consequences years from now.

I find it interesting that the OSHA, who is the primary federal agency charged with protecting healthcare workers, has a strong position of not mandating flu vaccines and honoring medical/religious, and personal exemptions. Deputy Assistant Secretary states "**While we support the Healthy People 2020 goal of 90% health care personnel vaccination as an aspirational goal, we are troubled that some have tried to convert the goal into a mandate. High health care personnel influenza vaccination rates are generally desirable, but we are unaware of any evidence to support the notion that such a high influenza vaccination rate is also essential to protect patients, and should thus be mandatory.**"(6) OSHA states "influenza vaccination exemptions should be for HCP with valid medical contraindications to vaccinations or religious and/or personal objection." (6)

Given that my HCE influenza vaccine mandate directly conflicts with the stated policy of OSHA, has put individuals with valid health concerns at unnecessary risk, violates my rights as a patient to refuse care I disagree with on medical, religious or personal grounds, and violates my HIPPA rights to privacy, it is imperative that HB193 gain your support. Employees deserve to be protected from mandates that violate their rights. On moral, ethical, medical and legal grounds, it is critical that legislation provide protection from 1) mandated influenza vaccination and 2) protects employees from penalties for refusing the influenza vaccine based on medical, religious or philosophical grounds.

For these reasons, I implore you to support HB193 and provide the same freedom of choice and protection of medical rights for HCW entitled to all patients.

References:

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