



Ohio Advocates for Medical Freedom

Advocating for Medical Freedom since 2015

House Bill 559 – Opponent Testimony
Ohio House Health Committee
Donna Kazee, President, Ohio Advocates for Medical Freedom
April 19, 2018

Chairman Huffman, Vice Chair Gavarone, Ranking Member Antonio, and honorable members of the Health Committee:

Thank you for allowing me to provide opponent testimony for House Bill 559. My name is Donna Kazee. I'm a biomedical engineer, president for Ohio Advocates for Medical Freedom, and mother of two children with vaccine injuries who had medical exemptions while they attended public school. Our organization represents over 3,700 active members, with a social media following of over 5,000 people.

House Bill 559 provides for the development of a form, contents not specified or constrained, by the department of health for parents to take to physicians for recording vaccines and delivering information on the risks and benefits of vaccination as well as the risks of diseases. Additionally, it would require Ohio Departments of Education and Health to publish rates of vaccination and exemptions.

OAMF opposes this bill for many reasons:

- The bill violates sections I.07 and I.21 of the Ohio Constitution, providing for rights of conscience and perseveration of the freedom to choose health care.
- It runs counter to the 1st and 14th Amendments of the United States Constitution.
- It lacks explanation of how the additional requirements would be funded, including the medical professional consultation.
- It includes no guarantees that parents will be granted exemptions.
- There is no language indicating what information medical professionals are to give parents or disallowing coercive tactics.
- There is no form wording defined in the bill, leaving that at the discretion of the department of health.
- Publicizing vaccination and exemption rates gives very little meaningful information for the public, perpetuates unfair stigmas about unvaccinated children, and serves to incite panic and outrage over a private health care information.

The Ohio Constitution section I.07 states: "All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience" and "nor shall any interference with the rights of conscience be permitted."ⁱ The State's and medical doctors' opinions about the science is irrelevant with respect to conscience/religious beliefs. Requiring parents to be exposed to that to be able to exercise an exemption amounts to the State putting itself between parents and their God. It amounts to attempting to persuade parents to disobey God, and to punish them with guilt or fear when they hold firm to their faith in God despite pressure to disobey God.

Section I.21 prohibits the state from compelling any "person, employer, or health care provider to participate in a health care system."ⁱⁱ By requiring a parent to see a medical professional to provide information and sign an

exemption form, the State is compelling that parent, who may not even use mainstream medical care, to participate in the health care system.

OAMF opposes any legislation that attempts to insert another person, including a physician, in the decision-making process of a parent or guardian regarding vaccination of their child, whereby the parent or guardian is protected by the U.S. Constitution as stated in our attached testimony against a similar proposal from the Ohio AAP via last year's state budget. To summarize, parents have a 14th Amendment due process right to parent their children that includes the right to make medical decisions. There is a presumption that fit parents act in their children's best interests; there is normally no reason for the State to inject itself into the private realm of the family to further question fit parents' ability to make the best decisions regarding their children.

Requiring a form to be signed by a medical professional certainly seems more restrictive than the First Amendment free exercise of religion. HB 559 also may violate First Amendment free speech rights. By requiring parents to be educated by medical professionals about the alleged risks and benefits of vaccines and then sign a form saying they have been educated, the state is imposing upon parents its view of the facts concerning vaccines and infectious disease.

Aside from the Constitutional concerns we have over House Bill 559, OAMF wonders how these additional provisions will be funded? The sponsors did not seem to have an answer for that in their testimony on April 11. This bill could place a financial burden on parents for something that is not even medical in nature, forcing them to seek a service from a medical professional they are not choosing on their own! The visit will also cause some parents considerable stress and time, again not of their own choosing.

And according to the bill language: "The signature of the physician, physician assistant, advanced practice registered nurse, registered nurse employed by a local health department, or pharmacist on the immunization form indicates that the information described in division (D) (1) of this section was provided to the child's parent or guardian. It does not constitute a determination that a pupil is exempt from immunization..." (lines 317 to 325). We respectfully ask, then what does determine that the pupil is exempt?

The bill states that "If a child's parent or guardian declines for reasons of conscience, including religious convictions, to have the child immunized..." the medical professional shall inform the parent of "the risks and benefits of immunization" and "the health risks presented to the child and community by the one or more diseases." Insofar as any legislative language that would insert another individual in the process for parents' right to refuse vaccines on philosophical grounds, it fails to recognize the moral and ethical imperative for vaccine reasons of conscience exemptions. For example:

1. The CDC claims vaccines are "safe and effective." Yet in 2011, the U.S. Supreme Court said that vaccines are "unavoidably unsafe."
2. Federal government payouts for vaccine injury and death:
 - a. Total to date (1989 - February 2016): \$3.8 Billion
 - b. Average annual payout FY 1989-2015: \$120 Million per year
 - c. Average annual payout FY 2011-2015: \$218 Million per year
 - d. Cases compensated (May 1, 2018): 5,999

Many parents have reported to our organization issues with doctors using excessive fear tactics and even threats about vaccines and various diseases. Others have been given incomplete and inaccurate information about vaccines and diseases. Some practices refuse to even see unvaccinated children. These realities place

parents who decline vaccines in an untenable position, especially with no specific language about what information may be provided or prohibitive language about what may not be said. What in the bill will protect parents from abusive or derogatory behavior?

The bill leaves the form contents up to the department of health. We are concerned that the bill would require parents to sign a form with language implying that they are placing their child and others at risk, an unfair and potentially harmful admission. Further, what recourse would parents who don't agree with form language have?

Finally, House Bill 559 calls for Ohio Department of Health to make available on its website percentages of pupils who have been vaccinated and percentages of students who have medical and reasons of conscience/religious exemptions. No identifying information is to be published; however, for smaller schools, this could be problematic. In fact, Dayton Daily News journalists who pressed for exemption information under Ohio public records laws reported: "The state redacted entries for 170 schools, saying the student sample size was too small to report without possibly revealing personal health information in violation of federal privacy laws."ⁱⁱⁱ

Committee members should be aware that similar exemption laws and practices are being reviewed in Michigan right now by the US Department of Education's Family Policy Compliance Office for potential FERPA violations. In fact a recent legal analysis revealed several concerns, including the health-department-provided parent education for religious exemptions and the publication of vaccination data outside of emergency situations.^{iv} Basically, the act of disclosing vaccine and other personal information to a provider or other third party without consent and as a condition of attendance at public school may be construed as forcing a parent to reveal private educational records. The state department of education makes agreements to follow FERPA when accepting federal education funds, and these funds may be jeopardized by parts of this bill.

The sponsors have stated that publication of rates would be for parents to have information to make decisions. Vaccination status is an unreliable and misleading indicator of overall student health or school health risks. Unless the Ohio legislature were to insist on checking titers for all students, it could not be sure that any of them had immunity for any of the vaccinatable diseases. There are known issues with vaccines that also place others at risk: individuals given live-virus vaccines can shed for up to six weeks,^v individuals receiving acellular pertussis vaccine can asymptotically transmit pertussis for up to 35 days,^{vi} and vaccinated people with influenza shed the virus at six-fold the rate of non-vaccinated people through passive respiration.^{vii}

Having a child with secondary immunodeficiency, I can tell you that when he did go to school, it was the very obviously sick (and mostly vaccinated) kids who infected him. Kids whose parents believed that, since they had their shots, they were safe. Kids who came to school symptomatic with fever, vomiting, diarrhea, and cough/nasal discharge. Kids with Coxsackie virus, colds, conjunctivitis, flu (even H1N1) despite being vaccinated, noninfluenza respiratory illness, strep throat, and other infections. The lesson to me was that all symptomatic kids should remain home to prevent the spread of illness – vaccinated or not! It also taught me that I had virtually ZERO control over my child's exposures. The onus was on me in terms of where I allowed him to go because the reality is sick people are everywhere.

House Bill 559 sponsors and proponents have indicated that Ohio needs to streamline the process of exemption by and make information better reported and publicly available. They insist the bill is not about changing the exemptions available, but then also say that states adopting similar changes have increased

immunization rates. Past investigations have indicated this issue may be more with schools obtaining and reporting information than parents providing it. This bill places additional burdens on a minority^{viii} of Ohio parents who utilize exemptions, when the onus should be on the schools. OAMF respectfully requests that you vote no on this bill, upholding rights and freedoms in the Ohio and US Constitutions and affirming a parent's right to freely accept or decline vaccines.

ⁱ <https://www.legislature.ohio.gov/laws/ohio-constitution/section?const=1.07>

ⁱⁱ <https://www.legislature.ohio.gov/laws/ohio-constitution/section?const=1.21>

ⁱⁱⁱ <https://www.mydaytondailynews.com/news/local-education/team-sheds-light-vaccination-rates/csfvceAlnJ3mj8pCbi7dfP/>

^{iv} https://docs.wixstatic.com/ugd/36330e_93d6615ee3824039923a1b31d3949007.pdf?dn=MVC+FERPA+LAW+FINAL.pdf

^v <https://www.fda.gov/downloads/BiologicsBloodVaccines/Vaccines/ApprovedProducts/UCM142812.pdf> (Section 5.4)

^{vi} <https://bmcmecicine.biomedcentral.com/articles/10.1186/s12916-015-0382-8>

^{vii} <http://www.pnas.org/content/early/2018/01/17/1716561115>

^{viii} <https://www.cdc.gov/mmwr/volumes/66/wr/mm6640a3.htm>