

# **Testimony of George Ilavsky**

**Finance – Health and Medicaid Subcommittee**

**Re: House Bill 49 - State Operating Budget**

**Opposition to Ohio Chapter AAP proposal to change immunization exemption and tracking processes**

*May 24, 2017*

Chairman Hackett, Vice Chair Tavares, and members of the Senate Finance and Medicaid Subcommittee,

I am providing written testimony in opposition to the proposal from the Ohio Chapter of American Academy of Pediatrics (AAP), that would require all religious, personal and conscientious belief exemptions to any vaccines be signed by a physician or other licensed health care provider. I also oppose any data collection or reporting proposed by the AAP and any other amendments that would restrict immunization exemptions that may be presented to the Finance-Health and Medicaid Subcommittee. There are apparent issues with this proposal, regarding the Ohio Constitution's Bill of Rights.

Firstly, this proposal would give all religious and conscientious power to the physician and it would remove it from the individual. There is no way for a physician to know all the practices of all religions, including the declination or acceptance of medical procedures, such as vaccinations. According to the Ohio Constitution Bill of Rights I.07 Rights of conscience; education; the necessity of religion and knowledge (1851), "All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience. No person shall be compelled to attend, erect, or support any place of worship, or maintain any form of worship, against his consent; and no preference shall be given, by law, to any religious society; nor shall any interference with the rights of conscience be permitted." This law allows a person to conscientiously decide what form of higher power he or she chooses to believe in or worship. The language, "Maintain any form of worship," allows for a broad spectrum of religious practices and beliefs, not just the beliefs based upon organized or recognized teachings, sects, or religions. Religious beliefs of an individual could guide an individual on how to live his or her daily life, such examples as, how to pray, what higher power to pray to, what foods should or should not be eaten, or what medicine or medical procedures should be accepted or avoided. That being said, a person can choose any form of religion to follow and should be able to decide what medical procedures he or she accepts or declines based on their religious beliefs.

The language in the Bill of Rights I.07 that "All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience," is important regarding the AAP proposal. This language gives a person the right to worship according to their own conscience and not should not be mistaken for only worshipping a Christian God. By requiring an individual to have a religious or contentious belief exemption signed by a physician would violate this language. A physician cannot simply search through a database of what religion may or may not practice certain medical procedures, since religious belief is left to the consciences of the individual. Giving power to anyone to make decisions for a person on any issue not only

violates the Ohio Constitution's Bill of Rights but the United States Constitution as well. I surely wouldn't want a person to tell me what shampoo I have to use, what car I have to buy, or what to feed my child. Imagine going to a dealership and the salesman says you have to buy a specific car and you cannot leave the lot or drive on the road unless you buy it. That would not be a country or state I'd want to live in. By giving power to the physician to decide if a patient or child qualifies for a religious exemption removes an individual from making conscience or religious thought. This would also give the physician the power to make medical choices for their patients, overriding the legal guardian's wishes. The physician's own conscience thought and religious beliefs may hinder or impede the decision process. Therefore, the physician could simply deny the patient because there is a difference in beliefs between the patient and physician. Keep in mind the physician cannot legally make choices for a patient regardless of religion, or in the absence of a legal guardian. To make healthcare choices upon someone's behalf would require healthcare power of attorney documentation. According to the Ohio Bar, a personal physician cannot be a healthcare power of attorney for their patient.

It is important to note that the Bill of Rights I.07 states that, "Religion, morality, and knowledge, however, being essential to good government, it shall be the duty of the general assembly to pass suitable laws to protect every religious denomination in the peaceable enjoyment of its own mode of public worship, and to encourage schools and the means of instruction. If this proposed amendment became law then the General Assembly would have failed at protecting all religious denominations, which also includes religions that is left to the conscious mind and not solely a recognized religion.

The AAP proposal also violates the Ohio Constitution Bill of Rights I.01 Inalienable Rights (1851), which is, "All men are, by nature, free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing, and protecting property, and seeking and obtaining happiness and safety." The proposal would remove an individual from being free and independent. One cannot simply be free if a physician were to have the power to deny a person's beliefs. Liberty is therefore undermined because this takes away a person's free thought and religious beliefs. Also, a physician cannot simply be the one to decide what is safe for the child. The AAP proposal removes decision making from the parent, whom fully best understands the needs of the child.

Thank you for your time and attention to my testimony and I urge you to uphold the Ohio Constitution and freedom of medical choice by not adding this proposed amendment to House Bill 49.

Thank you,

George Ilavsky

#### References:

<https://www.legislature.ohio.gov/laws/ohio-constitution/section?const=1.01>

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

<https://www.ohiobar.org/ForPublic/Resources/LawFactsPamphlets/Pages/LawFactsPamphlet-13.aspx>