1601 N. Tucson Blvd. Suite 9
Tucson, AZ 85716-3450
(800) 635-1196 or (520) 327-4885
FAX (520) 326-3529 or 325-4230
www.aapsonline.org

Association of American Physicians and Surgeons, Inc.
A Voice for Private Physicians Since 1943
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May 21, 2021 Re: Support for HB 248

Chair P. Scott Lipps and Vice Chair Adam Holmes
Ohio House Committee on Health
77 South High Street, 13th Floor
Columbus, OH 43215

Chair Lipps, Vice Chair Holmes, and Members of the House Committee on Health:

The Association of American Physicians and Surgeons (AAPS) strongly supports Ohio HB 248 and its prohibition of mandated vaccines. After being fully informed of the risks and benefits of a medical procedure, patients have the right to reject or accept that procedure. Preemption of patients' or parents' decisions about accepting drugs or other medical interventions is a serious intrusion into individual liberty, autonomy, and parental decisions about child-rearing.

AAPS represents thousands of physicians in all specialties nationwide. It was founded in 1943 to protect private medicine and the patient-physician relationship.

A public health threat is a rationale given for mandatory vaccines. But how much of a threat is required to justify forcing people to accept risks? Regulators may intervene to protect the public against a one-in-one million risk of a threat such as cancer from an involuntary exposure to a toxin, or-one-in 100,000 risk from a voluntary (e.g. occupational) exposure. What is the risk of death, cancer, or crippling complication from a vaccine? There are no rigorous safety studies of sufficient power to rule out a much higher risk of complications, even one in 10,000, for vaccines. Such studies would require an adequate number of subjects, a long duration (years, not days), an unvaccinated control group ("placebo" must be truly inactive such as saline, not the adjuvant or everything-but-the-intended-antigen), and consideration of all adverse health events (including neurodevelopment disorders).

Forcing Ohioans or anyone into receiving an experimental medical intervention in exchange for freedom to go to work or participate in society is contrary to fundamental human rights. The medical principle of informed consent would be subverted if such a policy were implemented. Many individuals have medical, religious, and other valid personal reasons for declining a vaccination, particularly an experimental one that has not even been approved by the FDA except on an emergency use basis.

Vaccines are necessarily risky, as recognized by the U.S. Supreme Court and by Congress. The Vaccine Injury Compensation Program has paid some $4 billion in damages, and high hurdles must be surmounted to collect compensation. The damage may be so devastating that most people would prefer restored function to a multimillion-dollar damage award.

The smallpox vaccine is so dangerous that you can't get it now, despite the weaponization of smallpox. Rabies vaccine is given only after a suspected exposure or to high-risk persons such as veterinarians. The whole-cell pertussis vaccine was withdrawn from the U.S. market, a decade later than from the Japanese market, because of reports of severe permanent brain damage. The acellular vaccine that replaced it is evidently safer, though somewhat less effective.

The risk: benefit ratio varies with the frequency and severity of disease, vaccine safety, and individual patient factors. These must be evaluated by patient and physician, not imposed government, corporations, or other bureaucrats.

Prior to COVID, measles was the much-publicized threat used to push for mandates, and is probably the worst threat among the vaccine-preventable illnesses because it is so highly contagious. There are occasional outbreaks, generally starting with an infected individual coming from somewhere outside the U.S. The majority, but by no means all the people who catch the measles have not been vaccinated. Almost all make a full recovery, with robust, life-long immunity. The last measles death in the U.S. occurred in 2015, according to the Centers for Disease Control and Prevention (CDC). Is it justified to revoke the rights of all Americans because of the hypothetical risk that a person who cannot be vaccinated due to immune deficiency might catch measles from an unvaccinated American, rather than from a visitor or a person whose artificial vaccine-based immunity has waned? Such mandates establish a precedent for ever-greater restrictions on our right to give—or withhold—consent to medical interventions?

Many serious complications have followed MMR vaccination, and are listed in the manufacturers' package insert, though a causal relationship may not have been proved. According to a 2012 report by the Cochrane Collaboration, "The design and reporting of safety outcomes in MMR vaccine studies, both pre- and post-marketing, are largely inadequate" (cited by the National Vaccine Information Center).

Mandate advocates often assert a need for a 95% immunization rate to achieve herd immunity. However, Mary Holland and Chase Zachary of NYU School of Law argue, in the *Oregon Law Review*, that because complete herd immunity and measles eradication are unachievable, the better goal is for herd *effect* and disease *control*. The best outcome would result, they argue, from informed consent, more open communication, and market-based approaches.

Even disregarding adverse vaccine effects, the results of near-universal vaccination have not been completely positive. Measles, when it does occur, is four to five times worse than in pre-vaccination times, according to *Lancet Infectious Diseases*, because of the changed age distribution: more adults, whose vaccine-based immunity waned, and more infants, who no longer receive passive immunity from their naturally immune mother to protect them during their most vulnerable period.

Additional issues that should be considered include:

- Manufacturers are virtually immune from product liability, so the incentive to develop safer products is much diminished. Manufacturers may even refuse to make available a product believed to be safer, such as monovalent measles vaccine in preference to MMR (measles-mumps-rubella). Consumer refusal is the only incentive to do better.
- There are enormous conflicts of interest involving lucrative relationships with vaccine purveyors.
- Research into possible vaccine adverse effects is being quashed, as is dissent by professionals.
- There are many theoretical mechanisms for adverse effects from vaccines, especially in children with developing brains and immune systems. Note the devastating effects of Zika or rubella virus on developing humans, even though adults may have mild or asymptomatic infections. Many vaccines contain live viruses intended to cause a mild infection. Children's brains are developing rapidly—any interference with the complex developmental symphony could be ruinous.
- Vaccines are neither 100% safe nor 100% effective. Nor are they the only available means to control the spread of disease.

When considering COVID vaccines, in particular, there are multiple additional reasons that policies mandating the current mRNA & DNA-based injections should not be allowed:

1. The FDA granted Emergency Use Authorization (EUA) for three COVID-19 vaccines; however, they are not currently FDA-approved to treat, cure, or prevent any disease. Under normal circumstances clinical trials would be required for at least two years before the FDA could even consider approval of these vaccines as effective and safe.

2. Federal law, 21 U.S. Code § 360bbb–3(e)(ii)(III), requires that individuals must be provided "the option to accept or refuse administration" of any product available under an Emergency Use Authorization.

3. Mandates may eliminate liability for harm and allow employers to escape accountability for their actions. It also obscures any information that would otherwise be provided by the existence of a control group of individuals who did not receive the injection.

4. The COVID-19 vaccines on the market in the U.S., mRNA (Moderna and Pfizer) and DNA (Johnson & Johnson – Janssen), have been reported to cause serious side effects, pathology and even death (>2,983 deaths per VAERS as of May 3, 2021 [4434 as of May 10][1]). The loss of life is tragic. The adverse reactions result in absence from school and work, hospital visits.[2] Women may be at unique risk for adverse events following administration of the experimental COVID injections currently available. According to the CDC, all cases of life-threatening blood clots reported in the US as associated with the J&J vaccine occurred in younger women.[3] The vast majority of anaphylaxis have also occurred in women.[4] In addition, "women are reporting menstrual irregularities after getting the coronavirus vaccine,"[5] and 127 stillbirths have been reported to the U.S. Vaccine Adverse Effects Reporting System (VAERS) following COVID vaccination as of May 3, 2021.[6]

5. Recent research data demonstrates that the spike protein, present on the SARS-CoV-2 virus and the induced primary mechanism of action of COVID-19 vaccines, is the primary cause of disease, infirmity, hospitalization, and death.[7]

6. Individuals who have had self-limited cases of COVID-19 already possess antibodies, activated B-cells, activated T-cells (detectable by lab testing). This durable, long-term immunity would not only largely prevent them from getting recurrent COVID-19, but also would represent herd immunity to protect others in their communities.[8,9]

7. Individuals who have already recovered from COVID may be harmed by COVID-19 vaccine mandates.[10] They already have extensive immunity and are at increased risk of harm from mRNA induced production of spike protein, potentially causing enhanced autoimmune reactions leading to illness and possible death.[11]

8. Ohioans may justifiably believe these policies discriminate against individuals who aren't candidates for this vaccine, have pre-existing conditions, previous COVID-19 disease, cite religious objections, or are otherwise exercising their freewill choosing not to participate in this experimental injection. The Nuremberg code from WWII requires individuals "to be able to exercise free power of choice, without the intervention of any element of force…."[12]

9. Policies that permit some individuals to choose or refuse vaccination, but do not allow others the same options raise equal protection constitutional issues.

10. The ADA, Americans with Disabilities Act, requires "reasonable accommodations," be provided based on an individual's own unique health situation. This includes rejection of an experimental vaccine intervention which may exacerbate known health problems and thereby cause harm.

11. Entities requiring experimental COVID vaccines should consider whether they might be liable for damages, poor health outcomes, and loss of life due to mandatory COVID-19 vaccination policies.[13]

12. "Positive cases" of COVID 19, as defined by laboratory testing alone, may be false positives due to an excessive number of amplification cycles that may pick up viral particles, or asymptomatic infection that is not clinically proven to spread disease.

13. Ambulatory outpatient early treatment for SARS-CoV-2 infection / COVID-19 has been demonstrated effective in adults.[14]

14. Informed consent is the standard for all medical interventions. The FDA factsheet for the healthcare provider reads, "The recipient or their caregiver has the option to accept or refuse (Pfizer-BioNTech) vaccine."

In summary, AAPS believes that liberty rights are unalienable. Patients and parents have the right to refuse vaccination, although potentially contagious persons can be restricted in their movements (e.g. as with Ebola), as needed to protect others against a clear and present danger. Unvaccinated persons with no exposure to a disease and no evidence of a disease are not a clear or present danger. I urge the committee to please support HB 248 to protect Ohioans from mandates that do more harm than good. Making the COVID, and other vaccines, optional is the only way to protect the medical and individual rights of our citizens, consistent with good medical ethics.

Thank you for your time and attention.

Respectfully yours,
Jane M. Orient, M.D., Executive Director
Association of American Physicians and Surgeons

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[1] https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/adverse-events.html
[2] https://www.nydailynews.com/coronavirus/ny-covid-ohio-student-death-johnson-shot-20210416-hm54bbifnvgc7ggxxc4cxrvpui-story.html
[3] https://www.cdc.gov/media/releases/2021/fda-cdc-lift-vaccine-use.html
[4] https://jamanetwork.com/journals/jama/fullarticle/2776557

[5] https://www.ajc.com/life/women-reporting-irregular-menstrual-cycle-after-vaccination/XRN2P4FOWRAV7DIPYTU2MO67VA/
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[7] https://www.qeios.com/read/26GTOD.2/pdf
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[9] https://www.nih.gov/news-events/nih-research-matters/lasting-immunity-found-after-recovery-covid-19
[10] https://www.aier.org/article/if-you-had-covid-do-you-need-the-vaccine/
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