



**Senate Health and Human Services Committee
Senate Bill 2351 by Senator Bob Hall
Testimony by Mai Duong, MD
April 23, 2019**

Testimony submitted on behalf of:
Texas Pediatric Society
Texas Medical Association
Texas Academy of Family Physicians
Texas Public Health Coalition

Good afternoon Chair Kolkhorst and committee members,

Thank you for the opportunity to testify today. My name is Dr. Mai Duong, and I am here to speak in *opposition to Senate Bill 2351* by Senator Hall on behalf of the Texas Pediatric Society, Texas Medical Association, Texas Academy of Family Physicians and the more than 30 member organizations of the Texas Public Health Coalition. I am a general pediatrician and Chief of Pediatrics at Austin Regional Clinic.

Vaccines Are Safe, Effective and Save Lives

As a physician and a pediatrician, the first responsibility to my patients and my community is to do no harm. To carry out this responsibility, my colleagues and I must make difficult decisions about how to provide best practice care in complex situations. One such situation is that of parents who are vaccine hesitant. Vaccines have been consistently proven to be safe, effective, and prevent the spread of terrible infectious diseases. This is why I, along with physicians who support evidence-based medicine, strongly recommend parents fully immunize their children according to the approved recommended immunization schedule of the American Academy of Pediatrics (AAP), American Academy of Family Physicians, American College of Obstetricians and Gynecologists, and CDC Advisory Committee on Immunization Practices (ACIP).¹

Counseling Patients about the Benefits of Vaccines is a Core Physician Responsibility

If a parent is concerned about getting their child fully immunized on time, my job as a pediatrician is to counsel the parent about the benefits of immunization, not only for their child, but also for their community as a whole. I take this counsel seriously to ensure the parent is well aware of the potential risks associated with their child going unimmunized. Due to the importance of this crucial clinical recommendation, reminders and information are provided to the parent at subsequent wellness checks, should they continue to have hesitations. If we fail to convince the parent to immunize their child according to what is required for public school entry, then we ask the parent to seek care for their child elsewhere. This is not done out of spite or frustration, but in the best interest of my clinic's thousands of pediatric patients. This practice is a clinical decision born out my first responsibility – to do no harm to my patients. We believe that SB 2351 encroaches on the autonomy of a physician to treat and practice according to these foundational clinical and medical principles and responsibilities. Furthermore, if parents cannot trust me to immunize their children as I have my own, according to the CDC and AAP schedule, then there is a fundamental mistrust issue that speaks to a family's

¹ Centers for Disease Control and Prevention. (2019). Vaccine Recommendations and Guidelines of the ACIP. Retrieved from: <https://www.cdc.gov/vaccines/hcp/acip-recs/index.html>

right to seek care from a pediatrician that is not within my organization. In fact, the AAP has outlined considerations and best practices when dismissing a patient for refusal to adhere to clinical recommendations including vaccine refusal.²

SB 2351 Would Endanger Patients in a Physician's Waiting Room who may be Susceptible to Infectious Diseases and Compromises a Physician's Clinical Judgment and Decision Making

I have a duty to ensure patients have a safe place to receive medical care. Herd immunity is an essential public health strategy to keep those who cannot get vaccinated due to a medical condition safe from infectious disease. Immunocompromised children, such as children with leukemia and infants too young to receive vaccinations, are vulnerable to the spread of infectious diseases from those near them who have not been vaccinated. As a practical matter, should an infectious disease be brought into a waiting room, not only would it endanger patients with fragile immune systems, but logistically, the facility may have to be shuttered for a period of time for decontamination, disrupting patient care. A parent has the right in Texas not to vaccinate their child. However, other parents likewise have a right not to see their own, possibly medically fragile children, exposed to illness because of the decisions of others. It is the responsibility of the individual physician to make clinical and business workflow decisions on behalf of the safety and wellbeing of their patient population. With infectious disease outbreaks like measles on the rise, physicians must make tough decisions to keep vulnerable populations – including children, pregnant women and the elderly – safe in their own waiting rooms. For instance, in my clinic yesterday 152 pediatric patients were seen. Of those 31 were under 12 months, the youngest 2 days old. None of these children can receive their MMR (Mumps, Measles, Rubella) vaccination yet as they are too young. I must think of the health and safety of all my patients thus we've made the difficult decision to not accept new patients or transition patients out of their practice who are unwilling to vaccinate after counseling.

SB 2351 Infringes upon the Right of a Physician or other Health Care Provider to Provide Services to Limit or Control their Practice Responsibilities

Just like any other small business, a physician may decline to undertake care of a patient as long as they are not violating Federal or State laws or AMA ethical guidelines prohibiting discrimination based on a protected class, including race, color, or religion, among others.³ Immunization status is not a protected class. Patients who require care within an insurance network, whether through commercial or public insurance, are guaranteed access to a physician, but not a specific physician. If a physician and patient cannot come to an agreement on establishing or continuing a patient/physician relationship, it is the obligation of the patient's health plan to find another in-network provider.

SB 2351 Targets Providers who are Willing to Care for Medicaid and CHIP Patients

Violation of this legislation would lead to removal of all state funding from a health care provider, including Medicaid and CHIP funding, undermining the ability of this low-income population to access care in their community. Meanwhile, those who refuse to vaccinate tend to reside in higher income areas and utilize commercial insurance instead of qualifying for Medicaid or CHIP.⁴ This population would typically find it easier to transition to a different provider than a low-income patient. The bill could have the inadvertent consequence of increasing barriers to care for low-income patients – through no fault of their own - who, statistically speaking, adhere to vaccine regimens in higher numbers. Texas already has too few physicians accepting Medicaid patients due to low reimbursement and administrative hassles. Adding another barrier to providing best practice clinical care to their patients will discourage even more providers to drop out of the program.

Thank you for the opportunity to provide testimony.

² Kathryn M. Edwards, Jesse M. Hackell, THE COMMITTEE ON INFECTIOUS DISEASES, THE COMMITTEE ON PRACTICE AND AMBULATORY MEDICINE. Countering Vaccine Hesitancy. Pediatrics Sep 2016, 138 (3) e20162146; DOI: 10.1542/peds.2016-2146. Retrieved from: <https://pediatrics.aappublications.org/content/138/3/e20162146>

³ American Medical Association Council on Ethical and Judicial Affairs. E-9.12 Patient-physician relationship: respect for law and human rights. Code of Medical Ethics. Updated November 2007. Available at <http://journalofethics.ama-assn.org/2010/08/coet1-1008.html>

⁴ Wei F, Mullooly JP, Goodman M, et al. Identification and characteristics of vaccine refusers. BMC Pediatr. 2009; 9:18 pmid:19261196 Available at: <https://www.ncbi.nlm.nih.gov/pubmed/19261196>