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 for one reason or another. Vaccines have been proven over and over to be safe, effective and prevent the spread of terrible infectious diseases. This is why I and any physician practicing appropriately strongly recommend parents fully immunize their children according to the American Academy of Pediatrics (AAP), American Academy of Family Physicians and the American College of Obstetricians and Gynecologists and Advisory Committee on Immunization Practices (ACIP) approved recommended immunization schedule.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 for their community as a whole. I take this counsel seriously and ensure the parent is well aware of the potential side effects associated with their child going unimmunized. If the parent continues to have hesitations I politely inform them that I will continue to bring up the issue at each subsequent well-child visit to impress upon the importance of this crucial clinical recommendation. If after a significant period of time – in my clinic’s case, a full year – then we arrange for the patient to seek care 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. It is not the place of state or federal government to question this clinical decision and dictate the practice of medicine.

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

Physicians have a duty to ensure patient family 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, were an infectious disease to be brought into a waiting room, not only would it endanger patients with fragile immune systems, but logistically, the facility would have to be shuttered for a period of time for cleaning, 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 an individual physician to make clinical and business workflow decisions on behalf of the safety and wellbeing of their patient population. With infectious disease outbreaks on the rise, physicians must make tough decisions to keep vulnerable populations – including children, pregnant women and the elderly – safe in the physician’s own waiting rooms. The concern for all the physician’s patients may lead to a clinic making the difficult decision to not accept new patients who are unwilling to vaccinate after counseling and/or transitioning current families out of their practice if they are unwilling to catch up on vaccines after counseling.

Absent an emergency, 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, orAMA ethical guidelines prohibiting discriminating based on a protected class, including race, color, or religion, among others. 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. 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.

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