



**Texas House Public Health Committee
House Bill 2856 by Rep. Valoree Swanson
Testimony by Mai Duong, MD
April 21, 2021**

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

Good afternoon, Chair Klick, Vice Chair Guerra, 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 House Bill 2856* 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 practicing pediatrician and chief of pediatrics at Austin Regional Clinic.

Vaccines are safe, effective, and save lives.

As a physician and a pediatrician, my 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 and effective and to 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 Centers for Disease Control and Prevention (CDC) Advisory Committee on Immunization Practices.¹

Counseling patients about the benefits of vaccines is a core physician responsibility.

If parents are concerned about getting their child fully immunized on time, my job as a physician is to counsel them 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. Because this crucial clinical recommendation is so important, at my clinic we give parents reminders and information at subsequent wellness checks, should they continue to have hesitations. If we fail to convince parents to immunize their child according to public school entry requirements, then we ask these parents to seek care for their child elsewhere. We don't do this out of spite or frustration but in the best interest of my clinic's thousands of pediatric patients. This practice is a clinical decision borne out my first responsibility – to do no harm to my patients. We believe HB 2856 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 right to seek care from a pediatrician who is not within my organization. In fact, AAP has outlined considerations and best practices when dismissing a patient for refusal to adhere to clinical recommendations including vaccine refusal.²

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

² Kathryn M. Edwards, Jesse M. Hackell, Committee on Infectious Diseases, 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>.

House Bill 2856 would endanger patients in a physician’s waiting room who may be susceptible to infectious diseases and compromises a physician’s clinical judgment and decisionmaking.

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 because of 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 unvaccinated people near them. 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 also, logistically, the facility may have to be shuttered for a period of decontamination, disrupting patient care. Parents have 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 well-being 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, we may see 150 pediatric patients in a day. Of those, approximately 20% will be under 12 months old, the youngest 2 days old. None of these children can receive their MMR (measles, mumps, 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 not to accept new patients or transition patients out of our practice who are unwilling to vaccinate after counseling.

HB 2856 infringes upon the right of a physicians and health care providers to limit or control their practice responsibilities.

Just like in any other small business, physicians may decline to undertake care of a patient as long as they are not violating federal or state laws or American Medical Association 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 a commercial or public insurance network 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 physician.

HB 2856 targets physicians who are willing to care for Medicaid and CHIP patients.

Violation of this legislation would lead to removal of all state funding from a physician, including Medicaid and Children’s Health Insurance Program (CHIP) funding, undermining the ability of low-income patients who depend on these programs to access care in their community. Meanwhile, those who refuse to vaccinate tend to reside in higher-income areas and use commercial insurance instead of qualifying for Medicaid or CHIP.⁴ They would typically find it easier to transition to a different physician 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 because of low payment and high administrative hassles. Adding another barrier to providing best-practice clinical care to these patients will encourage even more physicians to drop out of the program.

Thank you for the opportunity to testify against HB 2856. For any questions or follow-up please contact Clayton Travis, director of advocacy and health policy, Texas Pediatric Society, at Clayton.Travis@txpeds.org.

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: www.ncbi.nlm.nih.gov/pubmed/19261196.