

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Thursday, February 23, 2017

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Souza, Senators Martin, Lee, Harris, Anthon, Agenbroad, Foreman, and Jordan

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:08 p.m. **Chairman Heider** informed the attendees that the purpose of the meeting is only to receive information, and no votes will be taken. He thanked attendees for coming to the meeting and advised attendees to keep comments directed to the issues.

PRESENTATION: Revised Immunization Exemption Form. **Richard Armstrong**, Director of the Department of Health and Welfare (Department) introduced himself to the Committee to provide a follow-up to an earlier presentation. There has been concern expressed about the Department's opt-out form for immunizations. The Department reviewed the form to make it shorter and revised language that some people found offensive (see Attachment 1).

Director Armstrong stated the original form contained one page devoted to education and informed consent and a second page designed to meet legal obligations of the Department and school districts related to immunizations. The Department concluded the education component could be handled more efficiently. The revised document is exclusively designed to address public health and school district statutory responsibilities.

Director Armstrong mentioned Idaho rules require schools to maintain immunization documentation on a form provided by the Department. Duties contained in Idaho Code require the Director to protect the public from the spread of infectious or communicable diseases or from contamination. There is a long-standing body of case law that also applies and requires the Department to exclude students from school during an outbreak unless they are immunized or the threat of disease is contained. When a disease enters a school, the Department has the legal obligation to rapidly and efficiently remove children who are at risk. The revised opt out form is specifically designed to provide the tools on a common form. For example, the Spokane, Washington schools recently employed this strategy during an outbreak of mumps and removed 160 children from school who were not immunized or had compromised health from some other medical condition.

Director Armstrong explained the revised document lists the diseases for which immunizations are available, along with a physician's statement section for children who are not eligible for immunizations due to health conditions. The bottom section allows for an exemption for religious or other reasons along with a short statement that the parent or guardian understands in the event of a disease outbreak, the child may be excluded from school for the duration of the outbreak. The Department must ensure parents are aware of the unilateral action a school may take.

Senator Foreman commented the acknowledgment on the form that their child may contract a vaccine-preventable disease might be problematic, and he asked if that sentence could be left off the form. **Director Armstrong** answered the Department's goal is to make it as easy as possible for a parent with an objection to opt out of immunizations. Legally, the Department must know the parent understands there are diseases with a vaccine available. It must be clear that the parent assumes the responsibility for the decision.

Senator Foreman suggested all the information about immunizations be put on a separate sheet. The schools could be asked to give it to the parents and obtain an acknowledgment that the parent received the information sheet. **Director Armstrong** replied part of what government is supposed to do is be efficient. **Director Armstrong** said he spends most of his time working with his staff to make sure they are only doing what they must do to meet the letter of the law without burdening school districts, public health districts, and citizens with unnecessary paperwork and documentation. The opt-out forms must be managed and stored, and part of the goal is to have a simple form that will reduce the cost of administrative overhead by everyone involved. The Department is trying to strike a balance between personal responsibility and accountability, and the role and responsibility of public health. The revised form contains the shortest statement the Department felt it could use and still meet its statutory obligation.

Senator Jordan stated the revised form is a significant improvement, and she asked if parents must sign an acknowledgment of risk when a child signs up to play school sports. **Director Armstrong** replied there are acknowledgments on sports forms.

Vice Chairman Souza complimented Director Armstrong on the simplicity of the revised form. She asked if the Department was planning to create an information-only page using the previous page one information about the vaccinations. **Director Armstrong** answered yes. The Department has not yet consulted with all of its partners in the immunization network nor talked to 114 school districts. The education material will be developed and what it looks like will depend on the work group.

Vice Chairman Souza referred to Dr. Hahn's previous testimony in which she stated it was common for a parent to opt a child out of one or two immunizations, while some opt out of all immunizations. If a parent opted out of the chicken pox immunization, then in the event of a chicken pox outbreak, the child would be pulled out of school, but not if there was an outbreak of measles if the child was already vaccinated for measles. **Director Armstrong** said the most common occurrence is that the parent arrives at school and opts out, then returns to school a week or two later to let the school know the immunizations have been given.

Senator Anthon asked if the Department intends to implement the sample form provided. **Director Armstrong** responded the suggested form will be provided to the stakeholder coalition and they will be encouraged to use it. The Department has no authority over an individual school district, and he realizes some districts have been very strict in requiring immunizations. If a school district makes a different decision, the Department has no statutory authority to enforce the form, and a school district could employ a more stringent form. **Senator Anthon** stated the school districts administer how they accept the students and whether or not to use the form, but the rules mandate the Department to provide the form. He asked if this situation will arise in the future if the form is not implemented next school year. **Director Armstrong** answered the Department created the form and will send it out. **Senator Anthon** asked if the form will be provided to the school districts for the next school year. **Director Armstrong** answered that is the Department's intention. If a school district wants to add something to the form, the Department has no authority to tell the school district what to do. The Department assumes the

vast majority will use the form provided, but he can't force someone if they want to add something else.

Senator Foreman asked in the event a parent only completes the bottom section of the form and does not complete the rest, if the Department will accept the form. **Director Armstrong** replied the Department's instructions will be that the school district employee ask the person whether the opt out applies to all immunizations on the list. If someone absolutely refuses to fill out the top part, the Department will assume it applies to all immunizations.

Vice Chairman Souza commented she was surprised to hear some school districts act independently in how they deal with this issue and asked how that fits with the exemption statute. She does not read the statute as allowing school districts to use their own discretion. **Director Armstrong** answered he has run into the situation and does not know if it is still occurring. School districts are not subdivisions of the Department, and he can't make people do things, and there is the possibility it could happen.

Senator Lee said she appreciates all the work that has gone into the revised form. In her district, it is likely parents won't have any problem signing the statement acknowledging the child will be removed from school in the event of an outbreak, but she does think some parents will not agree with the statement that the child might contract a vaccine-preventable disease. A parent might not sign the form at all if they don't agree with those two statements. **Senator Lee** asked how these sentences can be statutory when Idaho Code allows the parent to submit only a signed statement. **Director Armstrong** responded the Department wants parents to know their child is at risk of a preventable disease if there is an outbreak. The statement is only to acknowledge schools are incubators of disease. It places no liability on the parent, who has already accepted the responsibility by opting out, and he wants to make sure the parent knows it is not the Department's or the school district's responsibility. This is protection for the institutions.

Senator Anthon asked if the form is promulgated by the Department. **Director Armstrong** answered yes. **Senator Anthon** inquired whether the school has any right to say whether or not it will use the form. **Director Armstrong** replied the school is required to use a form provided by the State to document the situation.

PRESENTATION: Relating to Immunizations. **Leslie Minookian** introduced herself to the Committee as a former executive who worked on Wall Street for several years, and she has produced an award-winning documentary on vaccines. (See Attachment 2 for presentation.) **Ms. Minookian** said she has served on many national and local non-profit boards. There is generally a perception that those who question vaccinations are uneducated, and that is far from the truth. The average parent who challenges and questions is actually highly educated. She understands and appreciates that Director Armstrong believes everything he says and is trying to do what is best for Idahoans. The parents who have an issue are trying to do what they think is best for their children. She would like to sit down with the Department and discuss the science and share her observations on what is happening around the country.

Ms. Minookian mentioned the childhood vaccine schedule has tripled from 22 doses of 7 vaccines in the 1980s to 69 or 70 doses of 16 vaccines today. There were not massive disease outbreaks in the 1980s that warranted introduction of the increased vaccines and dosages. Vaccines contain many toxins and contaminants, such as mercury, aluminum, formaldehyde, antibiotics, monosodium glutamate, monkey kidneys, cells from aborted human fetuses, and chicken embryos. Certain vaccines are far more reactive for children who receive them, and contamination could be the reason. Vaccine safety studies are deeply flawed and do not use proper placebos. To study whether or not a pharmaceutical product is safe, the placebo should be something inert. In vaccine safety studies, however, another vaccine or a solution that contains mercury or aluminum is used as the placebo. These other components mask any adverse reactions from the vaccine and do not provide a true picture.

Ms. Minookian said children's health in America is in decline, and the U.S. has the worst infant mortality rate in the developed world and the highest vaccination rate in the first year of life. Countries that give half the number of vaccines have an infant mortality rate roughly one-third that of the U.S. No one can predict whose child will have an adverse reaction from a vaccine, and vaccine makers have no liability for their vaccines. A vaccine maker cannot be sued; instead there is a trust fund set up using a \$.75 per vaccine tax levied on all vaccines. This fund has paid out \$3.3 billion to compensate victims of vaccine injury, and many are denied compensation. Thirty thousand adverse effects are reported every year, with 13 percent of those classified as serious.

Ms. Minookian referred to comments made by Director Armstrong at the Committee's meeting of January 18, 2017 and advised that a study showed vaccinations do not account for the impressive declines in mortality seen in the first half of the 20th century. Nearly 90 percent of the decline in infectious disease mortality happened before the widespread use of vaccines or antibiotics. Clean drinking water, public sanitation, and rising socioeconomic conditions were the cause. Tuberculosis has all but died out in the U.S., despite there being no vaccine in wide use. Polio died out across Europe at the same rate as in the U.S., even though there was no vaccine used in Europe.

Ms. Minookian commented all live virus vaccines have the ability to shed and spread disease after the vaccination. Some killed and weakened vaccines can also spread disease and cause changes in the diseases themselves. Thousands of people who were vaccinated for whooping cough have no or very mild symptoms, yet they can spread the disease to both vaccinated and unvaccinated individuals. The pertussis vaccine only protects against a single strain of bacteria and causes a 40-fold increase in the colonization of parapertussis in animal tissues.

Ms. Minookian stated there have been tens of thousands of whooping cough cases around the U.S. in the last five to ten years, and 80 to 90 percent of those who contracted whooping cough were fully vaccinated. The greatest risk to young children for whooping cough is their older, vaccinated siblings, but the Centers for Disease Control (CDC) continues to blame outbreaks on the unvaccinated. An independent research study found 100 people need to be vaccinated to avoid one case of the flu, making the vaccine 99 percent ineffective. During a 2006 outbreak of mumps in the Midwest, 99 percent of children who got mumps were vaccinated. In the recent U.S. measles outbreak, over 50 percent of measles cases were adults who were vaccinated in childhood. A 2011 measles outbreak in Canada resulted in 725 cases despite 90 to 95 percent of the population having been vaccinated. The most susceptible were older children ages 12 to 17.

Ms. Minookian mentioned vaccine-induced immunity is not permanent and pushes the diseases to a time when they are more dangerous. It is safer to get most childhood diseases before puberty. Levels of immunity that are conferred by vaccines fall away and then people are more susceptible. The idea that an unvaccinated child should be excluded from school is not supported by the data. Most children getting the diseases are vaccinated. Anyone is at risk, not just the unvaccinated. Vaccines induce antibodies, but antibodies does not mean immunity.

Ms. Minookian advised there is a tremendous amount of corruption in vaccine research. A doctor at the CDC reported high officials altered data in studies to conceal the fact that the Measles-Mumps-Rubella (MMR) vaccine causes autism. Merck & Co. (Merck) is the subject of a federal lawsuit for falsifying data on its mumps portion of the MMR vaccine and Merck is the only vaccine provider licensed to sell MMR in this country. Former scientist employees of Merck allege they were threatened with jail and forced to put animal antibodies and other things into the safety studies to make the studies prove the vaccine was more effective than it was. A group of 12 scientists have come together and submitted a letter to the CDC chief of staff. They allege special interests are influencing their ability to do their jobs and affecting scientific integrity and policy.

Ms. Minookian commented that herd immunity is a myth. If vaccines work the way they are purported to work, the outbreaks in fully and nearly fully vaccinated populations would never happen. Herd immunity is real when people contract diseases naturally and derive lifelong protection, and get community boosting when their children and grandchildren contract diseases. Vaccine-induced herd immunity is assumed but the science data shows it is an illusion, and it is not necessary for 95 percent of the population to be vaccinated.

Ms. Minookian said the Department is mandated to protect public health, but Idaho Code does not require one person's life to be risked for the herd. The CDC states it uses tracking registries and data to identify areas of under-vaccination to bring them into compliance. The U.S. Department of Health & Human Services has floated the idea of a national adult immunization plan and an initiative to track everyone and their vaccination status. This plan would allow people to be detained anywhere, any time, indefinitely without appeal involving diseases such as flu or measles.

Ms. Minookian stated the Department says its exemption form helps school administrators track exemptions and provide statistical information to the Department. Many parents do not want to be tracked and opt out of the voluntary registry. Requiring parents to detail which vaccinations they do not want their children to receive is the same as forcing participation in the vaccine tracking registry. Idaho Code clearly states the form is not required, yet it is pushed on the parents, which makes parents mistrustful that the Department will follow Idaho Code. When there is an outbreak, all families are notified, not just the unvaccinated. Vaccination status is not proof of immunity. Requiring any form is the same as having a surreptitious vaccine registry.

TESTIMONY:

Betsy Moynihan, a school nurse in the Boise School District, introduced herself to the Committee. She sees many parents at school who do not have their children vaccinated and want to sign the exemption form. She reviews the form with the parents and many are shocked to read the immunization information. Many times parents just don't want the MMR immunization, and sometimes most of the immunizations have already been given but the series isn't finished. The information is helpful to the parents because they are not as knowledgeable. **Ms. Moynihan** said she is disappointed the old form won't be used. She does not talk anyone into having their children immunized, but so many just don't understand and need the education. She has never had a parent be upset by the exemption form.

Her school prints the form on pink paper so it is easy to identify which students are not immunized in the event of an outbreak.

Vice Chairman Souza commented that the Director has promised to make the informational handout available to the parents.

TESTIMONY:

Dr. Tom Patterson introduced himself to the Committee as a pediatrician for the last 21 years. He is an associate clinical professor of pediatrics at the University of Washington and a pediatric provider at Family Medicine Residents of Idaho. He understands not everyone will react to a vaccine the same way or receive the same level of protection from a vaccine. If there is an outbreak, it is important to know who has been vaccinated and who has not. This is about protecting children rather than violating rights of privacy. He would want his child to be excluded from school if his child was not immunized.

Dr. Patterson commented the Department's form is good. For every procedure he does, including immunizations, he must have informed written consent, and not vaccinating is also a procedure. When a child presents to the emergency room with a fever, he evaluates the child in the context of the vaccination history, meaning the child might be susceptible to things he doesn't usually look for like pneumococcal disease or haemophilus influenzae Type B (HIB). He has seen one unimmunized child who requires constant care due to HIB, and the child has lived in a facility his entire life.

Dr. Patterson said immunizations are the number one greatest advance of modern medicine. He would prefer to have some side effects rather than death or disability from a disease. Diseases confer about six to nine years of natural immunity, while the vaccine confers six to seven years of protection. He has seen chicken pox decrease and other diseases disappear. He used to make a living from rotoviral gastroenteritis with dehydration. After the first rotovirus vaccine, there were some safety concerns. **Dr. Patteron** mentioned medical providers and the general public can report adverse effects from vaccinations to a vaccine safety data link website. Since the second rotovirus vaccine came out, he has seen only one case of rotoviral gastroenteritis.

Dr. Patterson mentioned he recently participated in a mock debate on the side of anti-vaccine. The experience helped him realize the person who doesn't vaccinate loves their child and does the best they can for their child, and he doesn't want to take that away. If a child has had all vaccines but one, the school would have to exclude for every outbreak without the form. The herd immunity is different for every disease. This is not about vaccination, it's about keeping kids safe. He doesn't want anyone to be vaccinated who doesn't want to be vaccinated.

TESTIMONY:

Sarah Walton-Brady introduced herself to the Committee as the parent of three children. She recently learned one of her children may have autism. **Ms. Walton-Brady** said she has issues with the old form, and she will likely take issue with the new form. She is pro-choice about vaccinations. She did not like the old form because did not want to agree with the printed statements on the form or explain the reason for her exemption. She understands the Department may not want to be legally liable. Vaccine inserts list many side effects including possible death. She suggested adding "hold harmless" language to the exemption form.

TESTIMONY: **Dr. Greg Ferch** introduced himself to the Committee as a 25-year practicing chiropractor who has studied the immunization issue. Decisions are often made based on assumptions that immunizations will protect people. However, 97 percent of whooping cough cases will occur in people who are immunized. Since the chicken pox vaccine was introduced, the incidence of chicken pox has been reduced, but there has been an increase in shingles. Hepatitis B immunity only lasts four to five years. The lowest rate of shingles occurs in pediatricians because they are constantly exposed to sick children. There are more cases of shingles in parents and grandparents because they are no longer caring for children with chicken pox and getting a natural booster of protection.

Dr. Ferch mentioned a school will be shut down and hazardous material remediation done because someone broke a thermometer on the sidewalk. Yet there is mercury in immunizations at much higher levels than exposure to a broken fluorescent light bulb. The CDC said Lumber Liquidators flooring caused cancer because of formaldehyde saturation of the flooring, but formaldehyde is included on the list of vaccine ingredients. Parents have reported that within hours after vaccination, their previously normal child lost ocular tracking ability, speech and language, and ability to ambulate. **Dr. Ferch** said he is willing to have his data challenged scientifically. Informed consent means both sides of the subject are informed, not just one side.

TESTIMONY: **Miste Karlfeldt** introduced herself to the Committee as the Executive Director of Health Freedom Idaho. There has been a lot of information presented on both sides of the issue. Parents are making immunization decisions based on information and take issue with the statement that they are knowingly putting their children at risk if they do not vaccinate. If the exemption form is used as education, it should also include the vaccine insert that shows the potential harm from vaccines. Education should be between the parent and the doctor, not between the parent and the school. It is the parent's decision whether or not to immunize and they should not have to report their choice to the State. **Ms. Karlfeldt** believes the exemption form is just a workaround for the immunization registry, and it does not truly allow for an opt-out.

TESTIMONY: **Samantha Congdon** introduced herself as a registered nurse and president of the School Nurse Organization of Idaho, representing 102 school nurses throughout the State of Idaho. (See Attachment 3.) She is not here to discuss the pros and cons of vaccines but rather to talk about the form used in schools. Parents have the right to opt out of having their children immunized. Some parents take great issue with the front of the current form, and **Ms. Congdon** allows them to write in that space that they do not agree with the form. However, the form allows school staff to quickly identify students who might be at a higher risk of disease in the event of an outbreak. Her district uses an electronic medical records system but other districts use secretaries and parent helpers to go through school records to find the exemption forms. If a parent wrote an exemption on a sticky note, it would be very difficult to find that in a student's cumulative file in a timely manner.

Ms. Congdon informed the Committee that having a standardized form helps the schools. The only data given to the Department are numbers of students and number of exemptions, not names or anything else. The form is part of the student's confidential school file, and it can only be obtained by subpoena. The National Association of School Nurses has published a Framework for the 21st Century in School Nursing Practice. The model focuses on the student, school, and community. Some parents don't have a family medical provider, and they call the school nurse to ask for medical advice. Not everyone comes from an intact, stable household or has a parent that can do the research. She appreciates the Department adjusting the exemption form and urged that the standard exemption form be maintained.

Director Armstrong was recognized to conclude the remarks. He informed the Committee the Department does not maintain a central database, and there is no centralized reporting. The Department gets global statistics only. The CDC can't get any personal information about immunizations because the Department does not have the information. He stated the Department always enjoys hearing from constituents to improve its services.

Senator Anthon commented that, based on his reading of the law, the current form is an overreach. He can't understand why it would be necessary to identify what church or religious organization a family belongs to, and that information has nothing to do with statistics or sorting out children in the event of an outbreak. It is unnecessary to justify a philosophical exemption, which is a parent's right under the law. He hopes the Department will take steps to correct a mistake that was made.

ADJOURNED: There being no further business at this time, **Chairman Heider** adjourned the meeting at 4:38 p.m.

Senator Heider
Chair

Jeanne Jackson-Heim
Secretary