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**August 24<sup>th</sup>, 2021**

## *Testimony of Michael Brady, MD, FAAP*

### House Bill 248 – Vaccine Choice and Anti-Discrimination Act

Chairman Lipps, Vice Chair Holmes, Ranking Member Russo, and members of the House Health Committee, thank you for the opportunity to provide testimony today in opposition to House Bill 248. My name is Michael Brady, I am a Pediatric Infectious Disease Physician in Ohio, a former chair of the National AAP Committee on Infectious Disease which is responsible for developing vaccine policies for children, and I am here today on behalf of the 3,000 members of the Ohio Chapter of the American Academy of Pediatrics.

After medical school, I came to Columbus Children's Hospital, now known as Nationwide Children's Hospital, for my Pediatric Residency. I then went to Baylor College of Medicine/ Texas Children's Hospital for a 3-year Pediatric Infectious Diseases Fellowship. I returned to Columbus Children's Hospital and the Ohio State University to a clinical practice in pediatric infectious diseases. My areas of focus are Hospital Epidemiology/ Infection Control, HIV infection and Vaccine-Preventable Diseases.

While I was a resident and again in my early faculty career, bacterial meningitis was one of the most devastating infectious diseases for children. Each year more than one hundred children from central Ohio would develop bacterial meningitis due to 3 organisms: *Haemophilus influenzae*, *Streptococcus pneumoniae* and *Neisseria meningitidis*. These children developed deafness, neurologic injury that spanned the spectrum from mild to very severe and debilitating, and unfortunately all too frequently death. Because of the availability of vaccines for each of these bacteria over the past few decades, bacterial meningitis and its severe consequences occur only rarely and just a few of times each year at the hospital; and very frequently these cases are in the unvaccinated.

I was born in 1951. I lived through the conquering of polio. I cannot recall all details in the 1950s because of my young age. But I have 3 older sisters who would talk about summers when they couldn't go to the community pool or during peaks in polio outbreaks, they were not even allowed to even go outside of our house to be with other children. I also had some classmates who wore leg braces because they had been infected with polio. I can vividly remember standing in line for many hours on 3 Sundays in the Summer of 1960 to receive a sugar cube with the live polio vaccine at the local high school. These were known as "Sabin Sundays" and they occurred across the entire country. Every American clamored to receive the polio vaccine and its protection. Because of the success of the polio vaccines, one of the 3 polio strains is no longer circulating in the world and the other 2 strains are only circulating in Afghanistan and Pakistan.

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Much of the public attention is focused on COVID-19 and debates around vaccination and mask requirements. While these discussions are important, I want to take a step back and remind all of you that vaccinations have been recognized as the single most significant health care achievement over the past century. We have been able to dramatically reduce and, in some cases, eliminate the occurrence of vaccine-preventable disease. There are currently 19 infectious agents that we rarely think about because vaccines have made them rare. However, earlier generations lived in dread of these infections. I have been a practicing physician for more than 40 years and I have just shared some of what I have witnessed firsthand, specifically the harm and mortality that resulted from these vaccine-preventable diseases. I fear that passage of House Bill 248 will bring about the resurgence of many of these diseases.

As a physician, I understand the importance of maintaining a strong relationship with my patients and their families. During my practice, I have counseled parents and children on immunizations. I have heard every concern and objection about vaccines, from the rational to the irrational. All vaccine providers, public or private, are required by federal law under the National Vaccine Childhood Injury Act to give a Vaccine Information Statement with every vaccine given that explains the benefits and risks of each vaccination to the patient or parent prior to EVERY dose of the vaccine. It is important that this committee understands that both medical consensus and public opinion strongly support immunization. This requirement for a review of the Vaccine Information Sheets by vaccine providers should negate the need for much of this bill. Anti-vaccine activists have consistently tried to diminish confidence in immunizations and have made baseless accusations about the conduct of providers like me who care for Ohioans. It is important that I can provide care for my patients free from interference by anti-vaccine advocates who are attempting to influence those in government with unfounded conspiracy theories and at times just lies.

Whether we are discussing the COVID-19 vaccine or another fully approved vaccine, it is important to understand that these products undergo significant testing and research prior to be approved for use. Despite the rapid production of the Covid-19 vaccines through Operation Warp Speed, all essential research steps necessary for assurance that the vaccines that were under investigation were performed to ensure that these vaccines were safe and effective as occurs in the usual situation. The major impact of Operation Warp Speed was that it markedly reduced many of the bureaucratic steps that occur with any FDA drug approval. There is no reason to be concerned about whether the Covid-19 vaccines were approved without all of the necessary research being completed.

In addition, all vaccine providers screen patients and ensure that informed consent is obtained for every vaccine. There are appropriate safeguards, including the Vaccine Adverse Event Reporting System (VAERS), the Vaccine Injury Compensation Program, the Vaccine Safety Datalink and the Institute of Medicine that ensure we are monitoring vaccine safety and efficacy data and addressing any issues that arise in a timely fashion.

I want to stress that vaccines are safe and effective. Further, the vaccines given today have been engineered to be even more safe and efficient.

While the stories of the incredibly rare severe adverse reactions to vaccines are heartbreaking, the deaths or permanent harm caused by the diseases themselves are equally heartbreaking and far more common. The data documenting injuries from vaccines don't compare to the success vaccines protection against disease since the risk of severe adverse reaction is only 1 in a million. In contrast, evidence from the CDC shows that vaccinations

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have prevented more than 21 million hospitalizations and 732,000 deaths among children born in the last 20 years.

HB 248 generally prohibits any vaccine mandate adopted by a public or private entity. This would include hospitals, universities, and businesses. The recent response from the Indiana Supreme Court and Supreme Court Justice Amy Coney Barrett upholding the University of Indiana's Covid-19 vaccine mandate for students and staff suggests that this prohibition may not survive an appeal. Justice Barrett gave as her reason for her decision in her own words the "balance of harms and the public interest favor Indiana University."

HB 248 does allow for current vaccine requirements for public schools and child-care centers to be continued, though it adds a requirement that these entities publicize vaccine exemptions. Just publicizing the option of an exemption does not provide parents with the necessary information for them to make the best choice for their child. Schools and childcare centers are not the appropriate sources of information to ensure parents make an informed decision which could have significant consequences for the health and wellbeing of their children. The decision about exemptions should occur because of a conversation between the parents, and at times the child, and their health care provider. This would allow a true "Informed Consent". This discussion is already mandated as noted previously by the requirement for vaccine providers to give and discuss the Vaccine Information Sheet. Further, the bill prohibits reporting of vaccine status and classifies immunization information collected by schools as 'personally identifiable information'. This would effectively eliminate contact tracing and put other students and their families at a significant health risk as they would be unaware of their child's exposure, and it would reduce necessary preventive measures to protect them. Finally, the bill prohibits any public or private entity from taking protective actions against unvaccinated individuals.

By promoting vaccine exemptions, House Bill 248 not only does not provide informed consent but also would create a disincentive for parents to immunize. The bill would simply make it more convenient for parents to not vaccinate than to vaccinate. Parents who choose to immunize must schedule an appointment with their primary care provider or visit a pharmacy or health department. They must also submit a form signed by a provider detailing their child's immunize record or attesting to a medical contraindication. Under HB 248, parents who either choose not to immunize or simply don't want to or run out of time to have the form signed by a provider can easily claim a medical or nonmedical exemption with no documentation. This essentially allows parents to have a 'convenience waiver' rather than a true medical or philosophical exemption. That is not informed consent as line 72 of the bill suggests, rather it allows people to opt out of vaccination with very little knowledge or information. As a result, Ohio's immunization rates would suffer. This would result in significant increases in vaccine-preventable infections in not only the child who does not receive their vaccine but also for children who may be too young to receive their vaccine or whose immune

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systems may not be adequate to develop a protective immune response. Herd immunity is essential to protect the vulnerable. Herd immunity represents the portion of a population that needs to be immunized to prevent additional spread. Recent drops in measles immunizations due to fraudulent claims about harms from the measles vaccine have resulted in significant outbreaks of measles. Measles is not benign. Measles can result in pneumonia, encephalitis, and death. Before the Covid-19 Delta variant, most experts predicted that herd immunity for Covid-19 would require that at least 70% of a population would need to be fully immunized. With the more transmissible Delta variant, the proportion of the population that would be needed to be fully immunized to prevent community transmission needs to be above 85%. Ohio is not anywhere near this number. Without a greater proportion of unvaccinated Ohioans getting vaccinated, it is very likely that Covid-19 hospitalizations and deaths will continue for months and possibly years. The answer is clear and so easy to accomplish.

While the Ohio AAP as an organization supports a parents' right to make the decision whether to vaccinate their child, we believe strongly that this informed decision should be that – an actual informed decision made after careful consideration and scientific facts presented. No one would argue that vaccinations are not a personal choice for patients or their parents. However, that decision if not adequately informed can have dire public consequences. The fact of the matter is no one is forced to receive an immunization under current law; there are exemptions granted. Ohio's current vaccine laws for children already include both medical and non-medical exemptions, in fact we are only 1 of 16 states that allows for philosophical exemptions.

Further, HB 248 would cripple our ability to have reliable data on immunization rates and status of immunization for children in the event of an outbreak. This information is especially important to parents of immune-compromised children who cannot receive a vaccine. By limiting reporting as HB 248 does, you are eliminating the benefit of our state immunization registry, which is not public information; however, it is used by a school district or health department in determining which children are at risk of a certain disease, which is critical in the case of an outbreak such as the ones we have seen in Ohio with the measles and the mumps in the past decade.

Obviously, the prohibition on vaccine mandates outside of the K-12 and childcare settings poses a significant danger to children who are hospitalized. This language effectively ties the hands of hospitals by removing an important tool for patient safety. Further, the prohibition on reporting will impact the ability of hospitals, health plans, and public health departments from collecting data on vaccination status. Information contained in these registries is not public, however it serves an important role in population health. HB 248 would severely diminish our ability to collect and analyze immunization data.

Proponents of this legislation and vaccine opponents in general often frame this debate as a fight for personal freedom. Americans have always valued their personal freedoms; and they should since they were hard earned. When Thomas Jefferson was asked about personal freedoms, he answered with following response "the person's ability to swing their fist ends just short of another person's chin". In other words, freedom comes with responsibility to not cause harm. Not understanding Thomas Jefferson's caveat on freedom forgets the requirement for responsibility for consequences. This is a very dangerous way of thinking as it ignores the fundamental nature of COVID-19 and other vaccine-preventable diseases: one's decision impacts other people. We are during a global pandemic, and any person who chooses not to get immunized against COVID-19, wear a mask, or take other preventive actions is also making a choice to place others at risk. This is an indisputable fact and, for some, an inconvenient truth. When you decline immunization for yourself or your children, you are

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putting others at risk. If you recall the story of my 3 sisters during polio outbreaks, they were given the freedom to go to the pool and play with their friends because of the polio vaccine. Vaccines improve health, saves lives, markedly reduce medical costs and free people from the fear of infectious diseases that have life-affecting consequences. Based on recent estimates from the trajectory of Covid-19 infections, in the United States prior to availability of Covid-19 vaccines, Covid-19 vaccines have already prevented 3 million cases, 140 thousand deaths and more than 700 billion dollars in medical costs.

Further, the Ohio General Assembly and our elected leaders at all levels of government should be doing everything in their power to encourage and promote immunization. The harm caused by vaccine preventable disease far exceeds any of the rare adverse reactions that someone may experience after receiving a vaccine. To put it simply, the danger posed by vaccine-preventable diseases far exceeds the risk of vaccine harm. By refusing a vaccine, you are making a very risky choice for your own health and, as I have already noted, you're putting others at risk. Even if you are uncomfortable with mandating vaccines, I believe that ever member of this committee should be encouraging their constituents to get the COVID-19 vaccine and to ensure their children are fully immunized.

In closing, I want to remind this committee that both medical consensus and public opinion strongly support immunization for Covid-19 and other vaccine-preventable diseases. The conduct of HB 248 proponents only seeks to diminish the value of and confidence in vaccines. The consequence is many Ohioans will be put at risk and we will see a resurgence of vaccine-preventable diseases in children. The freedom of many more Ohioans will be lost by passage of this dangerous legislation. On behalf of myself, my family, my patients, and my colleagues who you trust to care for your children, I hope you will oppose this harmful legislation. Thank you for your time and thoughtful consideration.

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