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February 12, 2020

Chairman Steve Huebert:
House Education Committee
Kansas State Capitol
10th and Jackson, Room 286N
Topeka, Kansas 66612

Re: HB 2601

Dear Chairman Huebert:

I am a resident of Louisburg and practice law in Overland Park. I am here in support of HB 2601 in order to limit the power of the Secretary of Health and Environment to mandate additional vaccines for our children.

In 1961, the legislature passed a mandatory vaccine statute that permitted the Secretary to mandate vaccines as a requirement for school attendance. At that time there were 3 vaccines on the list. The list has now grown to 72 mandated vaccines. This number exploded after Congress removed liability of the vaccine manufacturers and doctors in 1986.

In 2017, proponents of additional vaccine mandates requested then Secretary of Health, Dr. Susan Mosier, to add meningitis to the list. She declined because she determined that this new mandate was unjustified. These proponents then attempted to override her decision by introducing legislation to mandate meningitis. That effort failed as well.

In 2019, the newly appointed Secretary of Health and Environment, Dr. Lee Norman, decided to add meningitis to the list despite the actions of the previous Secretary and the legislature. He also decided that Kansas school children should be required to undergo the Hepatitis A vaccine. Nothing had changed except for a new appointee as secretary. No new information was presented on meningitis. This was obviously a political decision, not a medical decision.

Using the regulatory procedure to amend the regulations, the KDHE did everything it could to prevent the citizens of Kansas from being heard. First, K.S.A. 77-421 states that in order for the KDHE to change this regulation it must provide, among other information, a 60-day notice to the public. KDHE posted a notice in the Register on February 28 for a hearing it held on March 11. Eleven days hardly satisfies the statute. This legally deficient notice resulted in the Secretary's office having to provide a second notice on April 25 for a "legal" public hearing held on June 27.

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You may ask what is the problem if a hearing was eventually held. The problem arises because a purported "public hearing" was held on March 11 and no one from the public attended. Even though the hearing was a nullity, the Secretary informed the only bodies who oversaw this regulatory procedure, the Director of the Budget and The Joint Committee on Rules and Regulations, that a public hearing was held and the public did not attend to voice any opposition to the new mandates. By the time the hearing was held on June 27, a hearing with the required legal notice of 60 days and with a notice containing the other information required to be included in the notice, some 100 citizens came to voice their opposition to the mandates. However, the decision to approve the mandates had already been made by the Director of the Budget and the Joint Committee on Rules long before this hearing based on the misrepresentation by the KDHE that the public was not interested enough in the regulatory changes to even attend a hearing.

Second, KDHE violated K.S.A. 77-416 which requires the KDHE to inform the Director of the Budget that it actually consulted and solicited members of the public that may be affected by the proposed rule change. What was their response to this question on the form it filed and was approved by the budget office on March 15? KDHE stated as follows:

The agency consulted with representatives of hospitals, local health departments, private providers, health insurers and other interested parties through the Immunize Kansas Coalition meetings. Input was sought regarding impact of changing the regulation, with overwhelming support for the amendment.

KDHE clearly misled the committees by failing to solicit members of the public unless it believes that the public consists of various entities related to the medical industry as represented by the Immunize Kansas Coalition, which, incidentally, proudly states that it is affiliated with Merck, Pfizer and Sanofi Pasteur, the largest vaccine manufacturers in the world. The moms and dads you see today supporting this legislation are willing to engage in the good fight, but they expect the fight to be a fair one.

The Secretary should no longer be entrusted with the right to mandate additional vaccinations for our children without meaningful limits. We ask you to support the changes proposed in HB 2601.

Respectfully submitted,
William D. Mize