



**House Public Health Committee**  
**Testimony by Donald K. Murphey, MD**  
**House Bill 81 by Rep. Brian Harrison**  
*March 20, 2023*

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Honorable Chair Klick, Vice-Chair Campos, and Committee Members:

My name is Dr. Donald Murphey, and I'm a pediatric infectious disease physician here in Austin, testifying on behalf of the Texas Medical Association, the Texas Pediatric Society, the American College of Physicians – Texas Services Chapter, and the more than 30 members of the Texas Public Health Coalition. Thank you for the opportunity to testify today **in opposition to** House Bill 81.

Informed consent is a cornerstone of the trusted relationship between a patient and his or her health care professional. It not only ensures patients are appropriately educated about the risks and benefits of a medical intervention, it also provides an opportunity to address any patient questions or concerns in a safe, confidential space. Under longstanding Texas law, informed consent requires a physician or other health care professional to disclose the risks that could influence a reasonable patient's decision to consent to a medical treatment, including immunizations.

**Unfortunately, HB 81 redefines the established legal framework for informed consent by making vaccinators financially liable for the conduct of a third party.** Instead of requiring the vaccinator to disclose clinical risks of the treatment itself, HB 81 restructures informed consent laws for COVID-19 vaccinations by placing the onus on the person administering the vaccine to know about the external factors that brought the patient through the door. It does this by making informed consent not about educating the patient on the risks of vaccination but about whether someone has compelled or coerced the patient to receive the vaccination. HB 81 also creates a new minimum \$5,000 fine for providing a vaccination without informed consent. However, the liability is not directed at the source of the compulsion; instead, it is directed towards the physician or other health care professional administering the vaccine. And the bill does not require the lawsuit to be successful for the plaintiff to recover attorney's fees and other litigation costs, increasing the likelihood of frivolous "shakedown" lawsuits.

**Additionally, HB 81 restricts the rights of employers such as health care facilities from protecting their employees, patients, and economic livelihoods from disease outbreaks.** Patients seeking care from their physicians or other health care professionals should be able to trust they have established a healthy environment that minimizes disease risk. That physician or health care provider also should not have to fear a penalty from the government for trying to protect patients. COVID-19 still disproportionately affects patients who are immunocompromised, elderly, or otherwise likely to need frequent medical care, regardless of their vaccination status. HB 81 prevents health care facilities from implementing their own infectious disease protocols to keep their patients and staff safe, needlessly endangering those who are most vulnerable. Businesses in Texas should have the freedom to set their own health and wellness policies in alignment with the best interests of their staff and those they serve.

Thank you again for the opportunity to testify, and I would be happy to answer any questions.