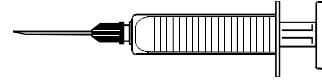


# PROVE

Parents Requesting Open Vaccine Education



March 3, 2003

Dear \_\_\_\_\_,

We urge you to **OPPOSE SB 355 scheduled for Public Hearing TODAY** in the Senate Infrastructure Development and Security Committee because of problems in the following sections:

- **SECTION 5**  
**Removes the public's ability to participate in changes to ROUTINE childhood vaccine schedule of mandates.** Currently, alterations to the childhood vaccine schedule are made by the Texas Department of Health by publishing the proposed changes in the Texas Register for a public comment period. Then parents, health care providers, insurers and others have the ability to bring up concerns like safety and cost issues, and the changes are not made to the mandates unless the Texas Board of Health votes to approve the proposed rule. **This section of this bill guts public participation by removing the oversight authority by the board and a public comment period and makes the Texas Department of Health vaccine schedule dictators.**

This is problematic for 3 reasons:

- 1) It allows for unlimited unchecked mandates which in turn raise costs of insurance for everyone and expenses on schools who have to enforce the new mandates.
- 2) Parents in Texas can't legally refuse a vaccine that they believe to be unsafe or unnecessary for their child for reasons of conscience OR broad based religious beliefs and now would have no way to participate in formation of the vaccine schedule legally forced on their child.
- 3) TDH already has a reputation for pushing superfluous vaccine requirements through the Texas Board of Health that couldn't even gather enough legislative support to get out of past legislative committee hearings (ex. Current mandates for Chicken pox vaccine, hepatitis A vaccine, and expanded requirements for Hepatitis B vaccine.)

- **SECTION 1**  
**Definition for "Public Health Emergency" too Broadly Defined – loophole allows for abuse of discretion.** The definition of a "Public Health Emergency" fails to limit the threat from a highly infectious communicable disease that poses a high risk of death or serious long-term disability to a large number of people to the general healthy population. In other words, with Texas having over 21

million people, there are many large subsets of the population with special health concerns that would make almost any communicable disease a public health emergency under this definition. For example, the flu for elderly in a nursing home or people infected with HIV or other immune suppressive diseases could be classified this way. Is it really this committee's intention to allow a public health emergency to be declared for the flu? This definition would allow for that.

- **SECTION 7**  
**Gives unchecked authority for the Health Commissioner to request reports for “other health conditions” creating the opportunity for fishing expeditions that could have little to do with a public health emergency and could compromise patient privacy on sensitive health information.** The language is too broad and fails to responsibly limit the subjects of the reports to the commissioner to other health conditions that might be useful in detecting or confirming a suspected act of bioterrorism or an epidemic of a highly contagious and deadly disease.
- **SECTION 20**  
**Gives unchecked authority to the department to order a person to enact control measures or destroy their property.** There is no financial protection or compensation for negligent or over reactive orders by the department that causes damage to our property. Who will protect us from a department going too far?
- **SECTION 21**  
**EXPANDS power to order quarantine yet codified protections for individuals in this section and current quarantine law is sorely lacking.** Merely stating that the quarantine is “to be accomplished by the least restrictive means necessary to protect the public health” gives little comfort to those who have witnessed the department’s overzealous overreaction compromising individual rights before. There is nothing in law to guarantee the right for families to stay together or the right for a parent to designate a temporary guardian for their child, and there are no reasonable limitations of a quarantine period to something like the incubation period of a suspected illness, and there are many other concerns.
- **BROAD POWERS FOR IMPLEMENTATION OF CONTROL MEASURES THAT COVER IMMUNIZATION AND MEDICAL TREATMENT IN THIS BILL AND CURRENT LAW RECKLESSLY CREATES HEALTH RISKS FOR INDIVIDUALS.**

This bill gives new and expanded powers to the Texas Department of Health and the Health Commissioner. The dirty secret in Texas’ existing communicable disease statutes is that the department has the authority to order “control measures” which include vaccination or pharmaceutical drug treatments on an individual and the individual has no right to refuse for safety concerns or medical contraindications, religious beliefs, or reasons of conscience – refusal to follow

orders for vaccination or drug treatments during an outbreak or epidemic of any communicable disease declared by the health commissioner can land a person in jail and with hefty financial penalties. Some have classified existing Texas law as far worse than the language included in the highly controversial Model State Emergency Health Powers Act.

This is particularly concerning when one considers the large list of contraindications and high risk factors associated with the smallpox vaccine. The Texas Department of Health website states that one case of smallpox in Texas would activate their plan to vaccinate the entire state population within 5-10 days. (<http://www.tdh.state.tx.us/smallpox/posteventspvac.htm>). **The current statute under these circumstances would not give anybody the ability to decline immunization and choose to be quarantined instead.** A person could be put in jail for up to 6 months and fined up to \$2000 for refusing to take a drug or vaccine ordered by the health department. **Because of the health histories of our members, an order for smallpox vaccination by the health department could be either a death sentence or a jail sentence for the majority of our organization's members. This is wrong.**

The Texas Department of Health already has a huge credibility problem and a reputation for abusing authority. Expanding the authority of this department while offering individuals little if any legal ability to protect themselves or their family from the dangerous effects of some vaccines, drugs or other "control measures" ordered at the whim of a department, whether during an emergency or not, will make people further distrust the department in a true public health emergency, which unfortunately is the precise time we need most to trust and rely upon them.

I would also like to let the committee know that we met with Senator Janek's staff on February 14<sup>th</sup> and discussed our concerns in person with his legislative aid in charge of this bill and provided her with written support materials. There was no indication at our meeting that any changes would be implemented, and to this date, I have not received any communications back from his staff that any changes would be made to address these concerns. Therefore, we are respectfully requesting that you oppose this bill.

Thank you.

Sincerely,  
Dawn Richardson, President  
Parents Requesting Open Vaccine Education

PROVE provides information on vaccines, and immunization policies and practices that affect the children and adults of Texas. Our mission is to prevent vaccine injury and death and to promote and protect the right of every person to make informed independent vaccination decisions for themselves and their family.