

Testimony of M. Hamlin, Esq. in Support of LD 51 – An Act to Restore Religious and Philosophical Exemptions to Immunization Requirements

Dear Members of the Education and Cultural Affairs Committee:

From the time of its inception in 1977, Maine’s vaccine law for students included an exception, in one form or another, for a family’s objection on moral, philosophical or other personal grounds.¹

For almost half a century, this Constitutional “relief valve” protected individuals and families with legitimate circumstances and concerns, allowing a reasonable and proportionate balance with the enforcement of the public interest.² Hundreds of Maine families have lived their lives in reliance on continuity in the law as their sons and daughters thrived in school and grew up in our fine communities.

Until, all of a sudden, their communities did not want them anymore. In the fall of 2021, for the first time in Maine’s history, these children were denied an education and no longer allowed to attend any classes. You have heard many of Maine’s current stories as part of these proceedings. For each one you hear, there are many more.

This recent testimony has illustrated that, in many ways, the sudden tightening of restrictions has left no daylight between the medical community’s interests and the state’s mandates – no room for families to ensure they could do what is best for their children, regardless of the many competing interests that may affect their provider’s opinion.

Prior to the fall of 2021, there existed no greater danger to public health than afterward. The only difference was that these sons and daughters of Maine could no longer have teachers, classmates, teammates; could no longer be included in society within the borders of this state. A disproportionate and harmful solution in the face of no real problem.

¹ See http://ldc.mainelegislature.org/Open/Laws/1977/1977_PL_c471.pdf.

² A common legal principle. Here, whether the new restrictions are constitutional is simply a matter of the arguments that may be further developed in court, such as the disparate nature of the punishments in cases such as one often cited in support of constitutionality, *Jacobson v. Massachusetts*, 197 U.S. 11, (1905), where the punishment for not taking a vaccine was \$5, not the loss of livelihood. **The current balance you must weigh is far different, and at this moment, the decision is yours to make.**

I am providing this testimony, not as a lawyer, because a legal memo is not what is needed here, but as a Maine citizen, because my family has been significantly and negatively affected by the aftermath of the 129th Legislature's passing of LD 798. However, I will not be sharing the details of our family's circumstances, because the law does not, and should not, require it. The point of the long-standing exceptions is that they recognized there are legitimate situations, private to the family, warranting them.

The law that has always been in effect in Maine (until 20 months ago) provides the right balance and needs to be restored. For decades, it has successfully protected public health without infringing upon the minority. There was never a need for such a drastic change, which was disproportionate to the reality of Maine's robust public health through the years.

For these and the many other reasons and examples heard in testimony, Maine needs to reinstate the long-standing law and restore the right balance.

LD 51 OUGHT TO PASS.

LD 1098, which includes the provisions in LD 51 and has additional provisions applicable to virtual public charter and private schools, OUGHT TO PASS.

Melissa Hamlin, Esq.
Westbrook
April 7, 2023