

Date: May 10, 2013

To: All Legislators

From: Rep. Jeremy Thiesfeldt and Sen. Grothman

Re: LRB 0020/1— Relating to: limitations on requiring and requesting vaccination against influenza.

This bill allows for a “personal” exemption of any mandated flu vaccination that any employer may impose. Employees should not fear demotion, retaliation, or dismissal for making a personal choice to decline a mandated flu shot from their employer. This bill only applies to the flu vaccine.

No one should have to choose between losing employment and having a largely ineffective vaccine injected into their body. It is a matter of freedom for an individual to make personal health care decisions, conversely mandated flu shots cause employees to be medicated without consent. Further complicating this issue, neither employees dismissed by management for non-compliance, nor those who quit their jobs to avoid the vaccine would likely be eligible for unemployment compensation.

It is not unreasonable to raise a personal objection to flu vaccine. A random sampling of individuals would find objections to the flu vaccine for several reasons. Some will relate stories of negative side-effects or simply standing their ground on an issue of personal freedom. But, legitimate disputes with the efficacy and safety of the vaccine are also prevalent.

Currently, if an employer mandates a flu vaccine as a condition of employment, a “religious exemption” must be allowed which protects the 1st Amendment rights of employees. I question why a religious exemption supersedes a personal objection for this specific issue.

The Center for Disease Control (CDC) says that flu viruses are constantly changing. The vaccine formulated each year is an educated guess as to which flu strain will need to be fought each season. Because of this, it is entirely possible that a vaccine may be ineffective before being administered to patients. Additionally, the CDC admits that every season there are those who test positive for the flu even after receiving the vaccination. Rep. Thiesfeldt learned that 6 of 14 people vaccinated at an assisted living home in Fond du Lac tested positive for the flu (type A), and they found that their vaccinations only protected against the type B influenza virus.

Based on the Center for Disease Control’s own documents the flu vaccine fails in over 40% of vaccinated employees. With such a level of ineffectiveness, vaccination status is not a reliable indicator of immune status. Furthermore, the Vaccine Adverse Event Reporting System and National Vaccine Injury and Compensation Program have revealed irrefutably that flu vaccines can cause permanent disability and even death.

Lastly, in a September 2011 Position Statement, OSHA (Occupational Safety and Health Administration) stated that it “believes there is insufficient scientific evidence for the

federal government to promote mandatory influenza vaccination programs that do not have an option for the HCP [healthcare professionals] to decline for medical, religious and/or personal philosophical reasons.”

Analysis by the Legislative Reference Bureau

This bill prohibits any employer, including the state and local governments, from demoting, suspending, discharging, or otherwise discriminating against an employee or contractor for refusing to be vaccinated against seasonal influenza.

An employee, under the bill, includes any intern and any volunteer. The bill also prohibits any employer from doing any of the following: refusing to hire a prospective employee or renew the contract of an employee or contractor on the basis of vaccination status for seasonal influenza or refusal to be vaccinated against seasonal influenza; requiring any employee or contractor to receive a vaccination against seasonal influenza if the employee or contractor declines in writing after receiving certain information; requiring unvaccinated employees or contractors to wear masks in retaliation for refusing the influenza vaccination; or requiring employees or contractors in a health care setting to wear masks in a manner that exceeds a certain requirement. If the employer requests that any of its employees or contractors be vaccinated against seasonal influenza, that employer must provide, or arrange for, the vaccination at no cost to those employees or contractors.

Under the bill, an employer that requests employees or contractors to be vaccinated against seasonal influenza must provide, in writing, a statement of the risks and benefits to an individual of receiving that vaccine and a statement that the employee or contractor has the right to refuse the seasonal influenza vaccine for any reason without risk of discrimination for that refusal. The employer must provide the employee or contractor a reasonable time to review these statements before providing or arranging for seasonal influenza vaccination. An employee or contractor who has received these statements may decline the vaccination, in writing, for any reason and the employer may not require that employee or contractor to receive the vaccination. An employer may provide the vaccine information statements about the applicable form of seasonal influenza vaccine that is created by the federal Centers for Disease Control and Prevention and this satisfies the requirement to provide the statements.

Under the bill, an employer is allowed to request or require an employee, or contractor, who is showing symptoms of seasonal influenza to leave the place of employment while ill.

If you are interested in signing on to this bill please email back to Rep. Thiesfeldt or call 6-3156 or Sen. Grothman at 266-7513 by **Friday, May 24, at 1:00 p.m.**