

Testimony on Kansas Senate Bill 213 - Ross D. Silverman, JD, MPH - [rdsilver@iu.edu](mailto:rdsilver@iu.edu)

Thank you, Senators for the opportunity to submit **testimony in opposition to Senate Bill 213**. My name is Ross Silverman, and I am a professor of public health and law at Indiana University's Richard M. Fairbanks School of Public Health and Robert H. McKinney School of Law in Indianapolis, Indiana. I have twenty years of experience researching legal, ethical, and policy questions related to vaccines, public health, and health care safety. The information I offer is based upon my experience and analysis as a researcher, and do not represent the opinions of my employer.

Employers need to have the authority to require that employees be vaccinated when they can show a mandate is needed to protect their employees or vulnerable populations they serve from dangerous infectious disease outbreaks. Research shows that rules like those proposed in SB213 would create significant new risks for deadly -- and financially costly -- outbreaks of **preventable** diseases like flu, measles, whooping cough, hepatitis, and possibly COVID-19 in health care settings, nursing homes and other sensitive workplace settings.

Vaccines are highly regulated, safe, effective, cost-effective, and necessary tools to protect society from deadly and debilitating infectious diseases.

The COVID-19 vaccines are new and critical contributors to our public health response to a pandemic that has caused so much death, disease and economic destruction over the past year. As of February 22, more than 60 million Americans have received at least one dose of the two approved vaccines, and their [safety continues to be demonstrated](#).

That said, when it comes to the COVID-19 vaccine, I do not believe we need to have state mandates, or that there need to be mandates in place for the vaccine in **most** work situations.

To protect the public's health from dangerous infectious diseases, I believe, for most situations, that what public health, health care, businesses, and government need to do is to strongly support and encourage vaccination programs, and make it as easy as possible for people to access vaccines and say yes to getting vaccinated. On the particular issue of COVID-19 vaccines, I describe ways we can support vaccine uptake in an article for the New England Journal of Medicine titled "Ensuring Uptake of Vaccines against SARS-CoV-2," available for free here: <https://www.nejm.org/doi/full/10.1056/NEJMp2020926>.

But there are a few situations where vaccine mandates are necessary, or may be necessary for COVID-19 vaccines. This option to put mandates in place should continue to remain available in those cases where businesses need to ensure the safety of employees and the people they serve.

The Center for Disease Control's Advisory Committee on Immunization Practices **strongly recommends that all Health Care Workers be vaccinated against (or have documented immunity to) the flu, hepatitis B, measles, mumps, rubella, and chicken pox. It is a best practice for patient safety and in support of the ethical principle of "do no harm."** Without mandates, this can be difficult to make happen. For decades, health care workers have been encouraged to get flu shots. At best, without mandates, hospitals were able to get in the range of 70% of their employees vaccinated. This left employees and patients at significant risk of infection from the flu while seeking out care for other issues. A [CDC-led 2019 study](#) found that hospitals putting in place flu vaccination mandates as part of their infection prevention and control initiatives were associated with an 11-12% increase in employee vaccination rates.

**Under Federal law, employees in many situations can already request medical and religious exemptions from employer mandates.** Laws like the Rehabilitation Act, the Americans with Disabilities Act, and Title VII of the Civil Rights Act, already give employees rights to request exemptions when the vaccine may be medically contraindicated, or if the employee opposes the vaccine based upon “sincerely held religious beliefs, practices, or observances.” For COVID-19 vaccines approved under the Emergency Use Authorization process, Federal policy states that those who might be offered the vaccine also must be informed that they have a right to request a religious or medical exemption.

However, those laws and policies do let employers make a reviewable case to exclude employees from certain jobs. The employer has to be able to demonstrate either that having the employee there would cause “significant risk of substantial harm to the health or safety of the individual or others that cannot be eliminated or reduced by reasonable accommodation,” or that accommodating the request would create an undue hardship on the business.

This bill would take that balance, and that ability to protect employees and others, away from employers. Having less stringent vaccine laws also is associated [with higher average rates of preventable disease outbreaks](#).

Putting all this together raises the risks of a race to the bottom as far as business-based infection prevention and control against a whole range of deadly and dangerous infectious diseases.

Finally, in addition to increasing the risk of health care facility-based infections of employees and the vulnerable, if enacted this bill would likely end up leading to our hospitals, nursing homes, other employers, and public health agencies spending significantly more money and worker time on infection disease control efforts. I’ll give you an example: In February 2008, a traveler from Europe came to an emergency department. It turned out they were infected with measles, which, like COVID-19, can be transmitted even if the person doesn’t have symptoms. That person initiated a measles outbreak that ended up with 14 people getting infected. 7 of the people were infected in the hospital, including a health care provider and 4 people who were already hospitalized for something else. To respond to and contain the cases that took place in the hospitals ended up costing the facilities \$800,000.

Having more infectious disease outbreaks in our workplaces and our communities does not make us more free - it actually makes living in our communities harder. We are already straining our health care and public health systems, and spending extraordinary amounts of money, trying to stop the spread of COVID-19. This bill would not only make that process more difficult, it would weaken our state and local public health systems, make workplaces less safe, and create new risks and costs associated with otherwise preventable outbreaks of diseases like measles, flu, whooping cough, and hepatitis. For these reasons, I ask that you please oppose SB213.