

Objections to House Bill 1144: HEALTH/CHILDREN: Requires public school students entering kindergarten and sixth grade to provide documentation of completion of a wellness evaluation. (<https://www.legis.la.gov/legis/BillInfo.aspx?i=230635>)

1) The state should not be mandating personal health care decisions or other decisions that should be left to parental discretion.

The state should not codify into law specific times parents are required to take their children to physicians or the types of visits required. Neither should the state be dictating how physicians are to complete such examinations.

- Be completed within twelve months prior to entering kindergarten or grade six, as applicable. (p. 1)
- Be completed in accordance with the health guidelines for preventative care screenings and well-child visits established by the American Academy of Pediatrics. (p. 1)

The United States Supreme Court has recognized on numerous occasions that "the relationship between parent and child is constitutionally protected" *Quilloin v. Walcott*, 434 U.S. 246 (1978). In *Troxel v. Granville*, 530 U.S. 57 (2000), the Court asserted that "the liberty interest at issue...the interest of parents in the care, custody, and control of their children is perhaps the oldest of the fundamental liberty interests recognized by this Court...In light of this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children...The Due Process Clause does not permit a State to infringe on the fundamental right of parents to make childrearing decisions simply because a state judge believes a 'better' decision could be made."

Simply put, it is not enough to make broad assertions that the state should ensure the wellbeing of children (thus implying that parents do not) as justification for enacting legislation that infringes upon the right of parents to direct the upbringing of their children. As asserted in the case *Parham v. J. R.*, 442 U.S. 584 (1979), "the statist notion that governmental power should supersede parental authority in all cases because some parents abuse and neglect children is repugnant to American tradition."

2) The state should not be promoting laws that are unnecessarily invasive. The Declaration of Rights found in Article I of our state constitution addresses citizens' right to privacy:

every person shall be secure in his person, property, communications, houses, papers, and effects against unreasonable searches, seizures, or invasions of privacy (§5)

The wellness guidelines (called Bright Futures) required in this law are designed to address not only physical wellness but also, according to the Bright Futures handbook, **cognitive, emotional, social, and moral** competencies. One goal of Bright Futures, for example, is to "promote desired social, developmental, and health outcomes of infants, children, and adolescents"

(p. v). Who will decide what defines *desired outcomes*?

https://brightfutures.aap.org/bright%20Futures%20Documents/BF3%20pocket%20guide_final.pdf

The wellness guidelines direct physicians to address safety issues which includes guns in the home. The American Academy of Pediatrics actively advocates for **gun control laws**. According to an AAP policy brief, doctors should be allowed to inquire about guns in the home:

...pediatricians should have no deterrents to ask whether a gun is in the home....The Bright Futures guidelines for well-child visits include anticipatory guidance regarding whether firearms are in the home. Given the importance of such a question to a child's health and their quality of care, we respectfully request HHS to issue clarification to ensure pediatricians do not interpret the 2717 (c) provision to mean they may not follow the Bright Futures guidelines. One way to accomplish this would be to explicitly exclude Bright Futures from the definition of a "wellness and health promotion activity" as set forth in sec. 2717(a)(1)(D). (p.3)

The Bright Futures parent handout includes the statement: *Remove guns from your home. If you must keep a gun in your home, make sure it is unloaded and locked with ammunition locked in a separate place.*

(https://www.aap.org/en-us/advocacy-and-policy/federal-advocacy/Documents/AAPGunViolencePreventionPolicyRecommendations_Jan2013.pdf)

The anticipatory guide for twelve year olds (sixth grade) include questions regarding social and sexual behavior, mental health, and family relationships (https://www.healthychildren.org/English/family-life/health-management/Documents/11-14-Year-Old_Previsit_Questionnaire.pdf)

3) Rules for meeting federal reporting guidelines and collection of data for federal programs should not be promoted through legislation, compromising already fragile data protections.

Title V of the Social Security Act (Medicaid) requires states to develop reporting systems that meet National Health Goals and Standards and provide National Performance Measures (NPM). According Louisiana's Medicaid State Action Plan, the state would address NPM #6 by increasing the number of physicians utilizing the AAP wellness guidelines, which will be codified into law by this bill (p. 6), and increasing the number of children receiving wellness visits (p. 8). To meet goals for NPM #10, the state would "develop the ability to monitor and report on the utilization of adolescent level visits by parish, payer, and provider" (p. 9). School-based health centers that provide wellness exams may be counted toward total.

(<http://mchb.hrsa.gov/programs/titlevgrants/sap/LAStateActionPlanpdf.pdf>)

Measure W34-CH for the Child Core Set requires reporting of the percent of children who have had well-child visits as well as specific medical records documentation to include the following:

Documentation must include a note indicating a visit to a PCP, the date when the well-child visit occurred and evidence of all of the following: health history, physical developmental history, mental developmental history, physical exam, health education/anticipatory guidance (Bright Futures) (p. 81)

(<https://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Quality-of-Care/Downloads/Medicaid-and-CHIP-Child-Core-Set-Manual.pdf>)

The USDOE is aggressively promoting data linkage between health and education agencies:

"Many of the best practices of community-based partnerships are closely aligned with those of school-based health centers. This is unsurprising, given their similar missions. These include designating school leaders/staff to participate in local community-health partnerships; collecting, examining, and sharing school-level data on student health and wellness" (p. 4).

(https://safesupportivelearning.ed.gov/sites/default/files/1953_Schools%20Affordable%20Care%20Brief_d3%20lvr.pdf)

Louisiana already engages in significant amounts of data sharing across agencies using Medicaid (e.g., Vital Statistics, Department of Corrections) so promising parents and students will not have to provide medical records when Medicaid already provides both avenue and opportunity for data collection is not reassuring. Louisiana has engaged in data linkage between health and education records through School-based Health Centers (SBHCs).

"As a part of the Louisiana Office of Public Health's (LOPH) policies and procedures for continuous quality improvement in SBHCs, the state mandates that SBHCs track academic standing for all students who receive mental health therapy from the SBHC and are at risk for poor academic performance. To satisfy this mandate (and because of their own interests in improving academic outcomes for EBR students), the EBR school system issued a business agreement with HCS, attached to their contract, that allows SBHC staff to access and extract academic data from students' education records for those students who receive mental health therapy from a SBHC in EBR.

This relationship overcomes one of the most fundamental and pressing barriers to linking data – FERPA's restrictions on access to academic data by health practitioners. To analyze the relationship between mental health therapy and student grades, for example, the HCS social workers pull students' nine-week academic reports from the EBR cumulative folder (student education folders)."

(<http://scha-mi.org/wp-content/uploads/2015/03/KresgeCaseStudies-FINAL.pdf>)