COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
CHILDREN AND YOUTH COMMITTEE

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HARRISBURG, PENNSYLVANIA

PUBLIC HEARING
SENATE BILL 27

TUESDAY, APRIL 29, 2014
9:35 A.M.

BEFORE:

HONORABLE KATHARINE M. WATSON, MAJ. CHAIRWOMAN
HONORABLE STEPHEN BLOOM
HONORABLE GEORGE DUNBAR
HONORABLE KEITH J. GREINER
HONORABLE JOHN A. LAWRENCE
HONORABLE DAN MOUL
HONORABLE DONNA OBERLANDER
HONORABLE TARAH TOOHIL
HONORABLE JESSE TOPPER
HONORABLE MICHELLE F. BROWNLEE
HONORABLE DANIEL J. DEASY
HONORABLE STEPHEN MCCARTER
HONORABLE DANIEL L. MILLER
HONORABLE MARK ROZZI

ALSO PRESENT:

GREGORY GRASA, MAJ. EXECUTIVE DIRECTOR
MEREDITH SCHULER, MAJ. LEGISLATIVE
ADMINISTRATIVE ASSISTANT
DONTIE BROOKS, MAJ. RESEARCH ASSISTANT
ROSEANN CADAU, MIN. EXECUTIVE DIRECTOR
HEATHER WALSH, MIN. LEGISLATIVE ASSISTANT
VALERIE WHITNEY, MIN. RESEARCH ANALYST

BRENDA J. PARDUN, RPR
REPORTER - NOTARY PUBLIC

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P R O C E E D I N G S

MAJORITY CHAIRWOMAN WATSON: Good morning. Welcome to the hearing of the House Children and Youth Committee.

The hearing is being recorded, so, members and guests, please silence your cell phones or, as I say, just put them on stun, and that will be great.

We will begin by the secretary. If you would call the roll. This is an informational meetings, so the rules of quorum aren't quite the same, and some of our guests do have other meeting, so I want to get started and move along.

(Whereupon, roll call was completed.)

MAJORITY CHAIRWOMAN WATSON: All right. The roll having been called, this morning we are going to have the opportunity to take a closer look and a listen to Senate Bill 27. It is legislation that was sponsored or is sponsored by Senator Bob Mensch, who has joined us this morning. It is part of the child protection package of legislation that we have worked on, and this committee has done such an outstanding, let the record show, outstanding,

with all capitals, job in coming up with a policy and getting it forward, for which I have undying gratitude for the work that you have done.

This bill, Senate Bill 27, provides for the exchange of medical information between a licensed medical practitioner and a county Children and Youth services agency when it's in the investigation of a case of suspected child abuse. And notice I was careful when I read that, because that says what it's about. While the intent of the legislation is good, there have been some concerns that are raised about the bill as it's currently written. And as often is the case, certainly as the former high school English teacher, I know wordsmithing becomes important, so it could be that that's what this will be.

But we have -- there were concerns expressed with respect to privacy and parental rights, and we will -- first, I want to thank all the testifiers who are here today and took the time to be with us, and I would also like to say that our first testifier is the man who

authored the bill, and that would be Senator Bob Mensch, who, for most of this time, I had the opportunity to work with. We worked together, because he was my counterpart in the Senate. Now, I don't know if that means anything, but suddenly he changed positions and chairmanships, so I don't know if they do one of those games over there, you know, rock, paper, scissors, and whoever gets Watson is, you know, the loser. I don't know how that went. But Senator Mensch has moved on to another committee, but certainly we all owe him a great deal of thanks for the work that he did. He was good to work with. I appreciate that.

Senator, you have the 24th, if I'm right, senatorial district. We appreciate you taking the time to be here. Please, come up to the table and tell us everything we need to know about your bill, sir.

SENATOR MENSCH: Good morning, all. Thank you for the opportunity to be here.

Chairwoman Watson, it's indeed a pleasure to be here and to be able to offer

some testimony on Senate Bill 27.

To your comments a moment ago, it was my pleasure to work with this committee and working with the Aging Committee in the House as we worked -- I think this is now the fourteenth bill in the complete package of child protection, which represents an entire rewrite of the statute of child protection. This is a very important bill because it -- they all are interrelated, and they each, you know, of themselves are just a tile in the mosaic, which really does provide the entire package.

Yes, I did go to another committee. The resignation of Senator Waugh had made some movement necessary. And so, we did play a little bit of moving chairs. And I will tell you that when I first talked to Senator Scarnati about the possible move, I was torn, because I really enjoy the work in Aging and Youth Committee in the Senate and working with you and Representative Bishop and Tim Hennessey and his counterpart as well.

So, with that said, let me get to the heart. And I do apologize to the committee, because I will have to leave; I have my own committee meeting at 10 o'clock. So, with that,

let me start.

It's important to hear all sides of an issue, and it's my hope that by the end of this hearing, the committee will begin to understand better the importance of moving this bill forward. It is a vital part of the child abuse prevention package.

Senate Bill 27 will allow for the exchange -- will allow -- there is misinformation out there that says it requires, it mandates; it doesn't. It will allow for the exchange of information between a licensed medical practitioner and county agencies. What will trigger that allowance of the exchange of information is a hint of actual abuse.

It is not, as has been reported in some media, that it would be required regardless of whether or not there is a suspicion of abuse. There must be a suspicion or a credible case to be made that there's possible abuse in the family.

Senate Bill 27 will require medical practitioners to: one, provide medical information regarding the child's prior and current health; two, information from a subsequent examination; three, information regarding the treatment of the

child by the medical professional; and, four, relevant information regarding any other child in the child's household, relevant information to suspicion of abuse.

Senate Bill 27 will also require county agencies to provide the following information to a medical practitioner: information regarding the condition and well-being of the child and progress and outcome of an investigation; protective services records regarding the child or other child in the household, if the information relates to the medical evaluation of the child; three, the identity of the medical practitioners providing care to the child in order to get the child's medical records.

This bill is a direct line with the other child abuse task force recommendations, and you have some testifiers here that will talk about the task force itself. And it's important for the committee to recognize -- again, I know that you do -- but everything that we did legislatively evolved from the task force recommendations, which took about a year for them to prepare and to do that completely.

What we began to understand, as the

task force work unfolded, was that our existing set of statutes at that time was not adequate. We didn't have proper definitions. We didn't have proper exchange of information and so forth. This bill, the last bill in the remaining group of fourteen, will provide for the exchange of that information.

Without this law, physicians are unable to report child abuse without parental consent, and that often stops reporting from happening. There is also the fear that giving parental notice could cause the child even more harm because a parent may want to seek retribution. Three, the flow of information is necessary to help investigations and investigators of child abuse.

The bill contains tools that the licensed medical practitioners have been asking from us, the legislature, for years. This exchange of information is critical in child abuse cases, and, in my opinion, when a person that is charged with keeping a child healthy sees signs of abuse, guidelines need to be in place for medical practitioners and county agencies to exchange that information.

This exchange --

(Whereupon, the lights went dim.)

What have I done?

MAJORITY CHAIRWOMAN WATSON: I'm not sure.

(Whereupon, the lights were restored.)

MAJORITY CHAIRWOMAN WATSON: I do look better in that low light. But go ahead, it's okay.

SENATOR MENSCH: I noticed there was one right over you there, chairman.

MAJORITY CHAIRWOMAN WATSON: I was going with candlelight, but we'll go with this. Okay.

SENATOR MENSCH: Let's me restart with that thought.

This exchange of information is critical in child abuse, in my opinion, when a person that is charged with keeping a child healthy sees signs of abuse, the guidelines need to be in place for medical practitioners and county agencies to exchange information. The information should also be open both ways so that we can better protect our children.

You will hear testimony today that this bill is an invasion of privacy and in violation of

parental rights. I don't believe that's the case. And I believe that when you actually look at the bill and put aside some of the reporting that I think is a -- a mischaracterization of the intent of the bill, exaggerates a number of points, I think that you will find that this bill, along with the other thirteen bills, very complimentary, one to the other, and do, indeed, provide the total protection that we need to prevent children from abuse.

I have to ask you to think about back to what triggered this whole incident in Pennsylvania, and that was the situation with Second Mile and Jerry Sandusky and how the entire process was inhibited because there wasn't proper reporting. There wasn't proper definition. There weren't the right penalties. We didn't have the right exchange of information between different levels. I think it's incumbent on us to look at this in its totality and understand how completely it is that we can influence and protect positively children.

Nothing that we will do ever with child protection will stop child abuse. That's sad. But we have to have the right tools in place to be able

to deal with it effectively when incidents of child abuse do occur.

Home schooled children aren't in school buildings where others can see them on a daily basis, and mandated reporters aren't walking the halls of the homes these children are learning in. Sometimes the only person that would be able to catch abuse is the medical practitioner or the county agency.

Why wouldn't we, as legislators, give these practitioners all the tools they need to curb the child abuse in the home? Who is better equipped to decide if abuse, in fact, is occurring?

I remind you that abuse -- about 75 percent of all the child abuse, about 75 percent of all elder abuse occurs in the home. We all have a perception that it occurs with someone sitting on a park bench with a raincoat, but that's really not the case. We need to take the steps that we can to provide the adequate protections within the home.

We're not trying to characterize home schooling as bad. We are not trying to suggest that they are any more abusive than anybody else; they're not. Probably less so. But, nonetheless,

four years ago, had I asked any of you, Is Jerry Sandusky a nice guy, we probably all would have said yes, and we learned differently.

So, I don't think we can run the risk can of leaving someone undiscovered, someone who might be committing abuse.

I'd be happy to answer any questions that committee may have.

MAJORITY CHAIRWOMAN WATSON: And I think we will take questions. Normally I would say we'd go one testifier and we would do questions at the end, as we do, but I know Senator Mensch has to leave, so if you have a question for Senator Mensch.

SENATOR MENSCH: And let me briefly comment. I will leave with the chairwoman a excerption from HIPAA which talks about the federal overarching statute, which already exists, which enables this legislation, but also requires that legislation be in place for doctors and county agencies to exchange the actual information.

Yes, sir. Your question.

MAJORITY CHAIRWOMAN WATSON: Go ahead.

REPRESENTATIVE MILLER: Thank you, Madam Chairwoman.

Thank you, Senator, for your time today and all your work you've done on this important issue.

I did want to be sure I understood. I think in the beginning, some of your early comments that you made, and I guess what I just want to be sure, when I was reading this bill, I actually thought that there wasn't any discretion, that it actually was a mandate, that it was a "shall" versus a "may." I'm not quite sure that my reading of it was in line with what I thought I was hearing with your testimony. I wonder if you could help me out.

SENATOR MENSCH: I thank you for the clarity.

There is an article out there that mischaracterizes that if a doctor has a suspicion of child abuse, they would be required to report that, but the article goes on to say that then the doctor would be obligated to provide all information on children in that family. That is not the case. The -- the case would deal with the suspected abuse. If the doctor has reason to believe there's additional abuse within the family, then they would be required to provide that

information. But what I'm suggesting is that the characterization in the article would say that there is just this free flow of information, and the doctor can get any information that's going to go up and down the stream regardless of whether or not there's a suspicion of abuse. That is not the case. There must be a suspicion of abuse.

REPRESENTATIVE MILLER: Just so I have it then, suspicion of abuse triggers a bunch of mandatory actions that need to occur.

SENATOR MENSCH: Not a bunch, but several, yes.

REPRESENTATIVE MILLER: And I know you mentioned other children in the household. I'm looking at -- my apologies. I'm not quite sure if you -- there's one section, and you reference the children. I'm looking in Section A, number 4, where it says relevant medical information regarding any other child in the child's household. So, would relevant medical information, would that be of the same type of suspected child abuse information versus handing over everything to do with the other child?

SENATOR MENSCH: If the other children are suspected of being normal, there would be no

requirement for the doctor to turn over any information. It's dealing with the case of abuse.

REPRESENTATIVE MILLER: Thank you, Senator.

Thank you, Madam Chairwoman.

MAJORITY CHAIRWOMAN WATSON: And Representative Vice Chairman Moul.

REPRESENTATIVE MOUL: Thank you, Madam Chairman.

Thank you, Senator Mensch.

Let me start out by saying no one wants to protect children any more than you and I and this committee.

SENATOR MENSCH: I understand that.

REPRESENTATIVE MOUL: I've got to ask some questions that might make it seem otherwise, but one of the things that we're always worried about here is passing bills of unintended consequences.

Could this bill, in your opinion, possibly put liabilities on the physician? You know, if a physician suspects something and now he's opening up a can of worms by turning over information, and now you've got lawyers involved saying, "Wait a minute. That didn't happen." You

know, but he started this case, by turning this information over, and it turns out that he was wrong.

SENATOR MENSCH: An excerpt from the HIPAA law: The Federal Child Abuse Prevention and Treatment Act specifically authorizes the release of information to other entities or classes of individuals authorized by statute to receive information pursuant to a legitimate state purpose. I don't believe that it opens it to any liability for the doctor. It's already a federal statute.

It goes on to say, Dan, that the disclosure must be expressly authorized by statute or regulation -- which is what we're talking about today -- and the physician, in the exercise of professional judgment, must believe the disclosure is necessary to prevent serious harm to the individual, and continues. But, again, it's already federal statute. There are other states that are already doing this, and, no, they are not being exposed to any concerns of liability.

REPRESENTATIVE MOUL: Okay. And let's take it in reverse then. The doctor -- and I'm going to assume that this isn't just ER doctors,

this is all physicians.

SENATOR MENSCH: This is the family physician as much as anyone.

REPRESENTATIVE MOUL: And let's say that he knows the family and he truly believe in his heart that this is a great family and that all those bruises and maybe that broken bone came from rough play or riding the four-wheeler or whatever, and he doesn't report it, and they find out later on, somewhere down the line, can somebody come back on him for saying, "Wait a minute. You should have reported this back then."

SENATOR MENSCH: I'm looking to the experts for that answer.

REPRESENTATIVE MOUL: Yes, he can be held liable for believing in the family?

SENATOR MENSCH: That's already existing law.

MAJORITY CHAIRWOMAN WATSON: That can happen right now.

REPRESENTATIVE MOUL: Okay.

MAJORITY CHAIRWOMAN WATSON: That, I know.

REPRESENTATIVE MOUL: Thank you for educating me. Appreciate it.

Thank you, Madam Chair.

MAJORITY CHAIRWOMAN WATSON: You're welcome.

I think those are the questions that we had for you, Senator, and I think we get you to your meeting -- not by that clock -- but on time.

SENATOR MENSCH: That's always at 10:30.

Thank you all. Appreciate your consideration of what I consider to be one of the most important bills in this entire package. So, thank you very much.

MAJORITY CHAIRWOMAN WATSON: Thank you.

All right. Since we have been talking about physicians, it seems appropriate to get a physician's perspective on the issue. And so, this morning, we're pleased to have with us, and she has been here before, but Dr. Cindy Christian. She is the chair of the Child Abuse and Neglect Prevention and a professor of pediatrics at The Perelman School of Medicine at that wonderful institution the University of Pennsylvania.

Sorry. That's where I went to school, so we always throw the word "wonderful" in front of

it.

She's also the director of what's called Safe Place, and that's associated with the Center for Child Protection and Health at the Children's Hospital of Philadelphia.

Dr. Christian did, indeed, as we've seen you before, served on the Task Force on Child Protection.

And I must say at this point, you and your colleagues did such an outstanding job. You helped us immeasurably, because you really did do the work, created a blueprint that we could then follow, as I said, and get started and develop that legislative package which this committee did to a fare-thee-well. And, indeed, we have, with what has passed, strengthened laws in Pennsylvania.

We recognize there's probably more to be done. And this committee particularly has said that these laws are organic, that we need to go back and look at them, because, sadly, as was mentioned earlier, perpetrators change their behavior, and it's hard to keep up with people who want to do evil because you are looking at good people who don't know anything about that. So, sometimes it gets hard.

But I thank you, Dr. Christian.

I see the chairman of the task force is here, District Attorney Heckler. I thank you. That committee really did the children of Pennsylvania a huge, huge service.

But, please, begin your testimony on Senate Bill 27. That's the issue at hand. And you're going to give us the physician's perspective.

DR. CHRISTIAN: Well, slightly.

So, let me just say, good morning, Chairman Watson. It really is my pleasure being here. And good morning to all of you. Thank you for having me. And thank you for inviting me to provide testimony for Senate Bill 27, legislation that I believe is critical to improving outcomes for maltreated children.

My name is Cindy Christian, and I'm here this morning in my role as the medical director for the Department of Human Services in Philadelphia.

As you mentioned, Chairman Watson, I was honored to serve as an appointee by Governor Corbett to the Pennsylvania Task Force on Child Protection. And I am greatly appreciative of the

work that the legislature has done in response to the report of the task force.

In addition to my part-time role as the medical director for the Department of Human Services, the child welfare agency in Philadelphia, I am a board certified child abuse and general pediatrician at the Children's Hospital of Philadelphia, where I have worked for twenty-nine years. Personally, I have cared for thousands and thousands of abused and neglected children who have been treated at CHOP.

I am a professor of Pediatrics at The Perelman School of Medicine at the University of Pennsylvania. I chair of the American Academy of Pediatrics' national committee on Child Abuse and Neglect. I'm a faculty member at the field center at the University of Penn.

I have the unique experience of having had a long career to protect the abused and neglected children and the experience of working as the medical director for the largest child welfare agency in the commonwealth. I understand the benefits of information sharing between Child Protective Services, or CPS, and health care providers. I understand the operational challenges

that proposed legislation such as Senate Bill 27 can have on county Children and Youth Agencies and the significance of such legislation for doctors who care for children.

I urge you to support Senate Bill 27 with some changes that the City of Philadelphia is proposing, because this bill will allow for the essential flow of information between child welfare agencies that serve children and the medical practitioners who care for them, both of whom are deeply invested in the health, safety, and well-being of children.

Improving the legal framework for the exchange of information is critical for many reasons. It will improve the identification of child abuse. It will result in better health care for children, including their long-term health, and will enhance the vital partnership between health care providers and child welfare professionals, consistent with federal mandates and the fundamental goal of improving the health, safety and well-being of children.

Each day in Pennsylvania, Child Protective Service workers are asked to make extremely difficult decisions about the potential

abuse and neglect of children. Some of the reports that are made to county Children and Youth Agencies involve serious injuries: intracranial hemorrhages, fractured bones, complex burns. Others involve what may appear to be minor trauma, a bruise, for example, that may, in fact, herald the abuse of an infant or a child. Some reports involve medical neglect of chronic, serious pediatric health issues like diabetes mellitus or congenital adrenal hyperplasia.

And each day in Pennsylvania, CPS workers do their best to make the right decisions during investigations and throughout the life of a case. Many work with the doctors who report abuse, reach out to medical providers as collateral contacts, and may collaborate with health care providers to understand the medical issues. But each day, due to legal barriers, CPS workers cannot get all of the information that they need from primary care providers about children who are the subjects of investigations, who are in the legal custody of county agencies, or who are being supervised by county agencies by court order.

And physicians cannot get information about a family's involvement with the child welfare

system except in the limited circumstances where they have been contacted for information or are the reporter of abuse.

And each day in Pennsylvania, children and families may be harmed because information is not shared, and child welfare workers and health care providers are not allowed to freely communicate under the existing law.

There is a profound need to strengthen the legal framework for information sharing between medical providers who are responsible for a child's health and Children and Youth Agencies. Some information sharing occurs already, but it is not enough. With some proposed changes, Senate Bill 27 can help change this, can help improve vitally important decision making, can help improve the safety of children, can help protect innocent families, and can begin to build a more robust, collaborative child welfare and health care system for abused and neglected children.

The importance of information sharing between professional partners in health and child welfare work cannot be overstated. During investigations, failure to share information can result in incomplete decision making, inaccurate

assessments of risk and danger, unnecessary placement of children out of their homes or unwarranted reassurance in keeping children in their homes, and in some instances, ultimately keeps some children in dangerous environments.

In the highest risk cases, families often don't share some of the most important information about their social and CPS history with their health care provider, for various reasons, and sometimes this information is vital to keeping children healthy and safe.

During treatment, doctors may miss issues because they do not have an accurate understanding of their patient's home environment.

The importance of a CPS worker obtaining information from the child's pediatrician or family physician and sharing information can't be overemphasized. For children who are not yet in school or not in school, the primary care physician is often the only professional who sees a child regularly. This physician may have observed the parent-child interaction on multiple occasions and may have significant insight into the family dynamics, in the case of a family practitioner, perhaps over several generations.

And, sometimes, the primary care physician can tell the CPS worker that the child is behind on immunizations, is not following up with certain medical needs, or that he or she has significant developmental concerns about a child.

To this end, DHS supports the provision that requires health care providers to share relevant medical information with CPS regarding the child's prior and current health status and other relevant medical information. It would be extremely helpful to all county child welfare agencies to have this information and could improve the quality of its investigations to ensure that all licensed medical practitioners are required by law to share medical information with DHS and other county agencies where there is suspected child abuse, not just those who are the reporters of child abuse, which is what the existing law allows for.

In addition, DHS is recommending that language be added requiring doctors to share this information if a child is in the legal custody of the county or if the county agency is providing court-ordered supervision, not just during an investigation. The counties can better meet the

needs of a child in its custody when it has complete medical information regarding a child in its care or under court-ordered supervision, without needing to seek parental consent or a court order.

At the Department of Human Services in Philadelphia, like some other county agencies across the commonwealth, we understand the importance of sharing information at the investigative stage. We hold special meetings at DHS when children have injuries that have been reported for investigation and the investigator cannot determine whether the injury represents abuse or, in some cases, who caused the injury.

At these meetings, child welfare workers and administrators, solicitors, and our medical team sit together to analyze both medical and investigative information so that our decision making is well informed. I know that decisions are better when we work together, because the information is more complete, complex injury mechanisms and medical diagnoses can be explained to child welfare workers, questions can be asked and answered, and alternative interpretations and perspectives can be discussed. But no other county

agency has a medical director, and few have nurses who are readily available for this type of collaboration.

Pediatricians are charged with improving and maintaining child health, the physical, developmental, behavioral and social health of their patients. And abused and neglected children often have poor health. Physicians can't effectively do their job without knowing whether their patients have been abused, neglected, or are living in unsafe environments.

Our present state laws do not allow pediatric providers to know about the child welfare history of their patients.

During our work on the task force, we heard testimony from primary care pediatricians who care for many maltreated children. Dr. Amy Nevin, a pediatrician in the Pittsburgh area, told us that she estimated that about 40 percent of her patients were involved with child welfare. The problem was, she didn't know which 40 percent and had no way of finding out.

Dr. Nevin needs to know which of her patients are child welfare involved, as these social problems in families often have permanent,

life-long negative effects on the health of children, even into their adulthood.

I recall reviewing medical records in a child fatality case a number of years ago, a case in which a child was murdered. The child's pediatrician was a well-trained, competent physician. The fatally abused child had previously been known to child welfare and there was a long history of domestic violence in the family, but, at some point, the case was closed because services were determined to no longer be necessary. When I reviewed the child's medical record, under social history, it was simply noted that the child lived at home with his mother and siblings. That was it. Nothing about domestic violence. Nothing about child welfare. And nothing to indicate that this child was at risk.

If the physician had known of the child's social history, perhaps that physician could have counseled the child's mother more effectively related to the domestic violence and child development and safety; provided anticipatory guidance around violence prevention; provided some resources for the family; ensured that the child was examined and seen regularly, watched for the

behavioral and developmental problems so common in maltreated children; and, perhaps, he could have provided a safety net when child welfare closed the family's case prior to the child's murder.

While DHS supports the principle of sharing information with medical practitioners even if they are not the reporter of the abuse, DHS believes that the current information shared should mirror the information that is currently shared with other mandatory reporters, authorizing the sharing of information about the final status of the child abuse report following the investigation, whether it be indicated, founded, or unfounded, and any services provided, arranged for, or to be provided by the county agency to protect the child.

DHS also agrees that it is beneficial to share the identity of other licensed medical practitioners providing medical care to the child, to obtain the child's medical records, and also to coordinate care with other medical providers. DHS has also added that those practitioners providing emergency treatment to children may seek information.

DHS' proposed language, which I've handed to you and handed in and have available, is

preferable to the present language in Senate Bill 27. Given that this provision appears to allow medical practitioners to receive this information at any point in time, regardless of whether the family is currently receiving services or not, the breadth of the information provided should be limited. This change may also help to alleviate the concerns of those who correctly want to protect the privacy of parents and other adults in the household.

In addition, DHS has some concerns about the provisions requiring the county agency to provide information on the condition and well-being of the child, protective service records, and the service plan developed for the family. This provision, as written, would create massive logistical and operational issues for county agencies, potentially interfere with family privacy by sharing Family Service Plans, and not necessarily result in better outcomes for children.

To highlight the operational challenge, in 2013, the City of Philadelphia's DHS conducted approximately thirty-eight hundred CPS investigations and ninety-four hundred GPS assessments. That means that DHS would need to

identify and contact over thirteen thousand primary care physicians as well as any other ongoing medical practitioners serving these children. These numbers only address the initiation of assessment and investigation requirements above. Moreover, county Children and Youth Agencies are already accomplishing the goal of sharing information with medical practitioners in many cases, following best practice as allowed by existing law and policy.

In addition, it is unclear to what end county agencies would be required to repeatedly notify multiple medical practitioners multiple times, that is during investigations, when services are provided, and possibly when new services are provided, of Children and Youth Agency involvement.

The proposed legislation, as written, goes far regarding what information is being shared. A Family Service Plan contains detailed information not only about the child but about the parents as well, including mental health and drug and alcohol treatment information. This is personal information that doesn't need to be provided to all doctors in all cases where there has been the initiation of an assessment,

investigation, or the provision of services. Physicians and other health care providers do not require actual child welfare records and do not need Family Service Plans. They need to know that there are child welfare concerns about their patients that are being addressed by CPS. They need to know that they can share health care information and their concerns with the child welfare worker and know that they can have a meaningful conversation with the worker about the safety and the health of their patients.

The child's physician should be a resource for the CPS worker and the CPS worker should be a resource for a concerned physician.

Finally, DHS believes there is no need to add an additional requirement to consult a doctor at the outset of an investigation, because child county agencies should already be reaching out to medical providers as part of their investigations in cases where it is appropriate as required by state regulations. To the extent that current practice does not already comply with existing law, county Children and Youth Agencies must prioritize best practices in this area, given the high stakes involved.

The City of Philadelphia proposes that the legislation be amended to include the requirement for the county agency to notify a child's primary care physician when he or she is the subject of an indicated or founded CPS report or where a General Protective Services report has been accepted for service where there is a child age five or under in the family. This requirement would serve as an alert to the primary care physician that their patient was a victim of child abuse where a child five or under is in a family in need of General Protective Services.

In my work over many years, it is clear that infants and young children who sustain the most terrible outcomes, including fatal abuse, have often been known to child welfare prior to a final, tragic event. And most of these cases involved prior concerns of neglect, referred to child welfare under the GPS, not CPS law.

If we have any chance to reduce morbidity and mortality from child maltreatment in Pennsylvania, we need information sharing in GPS cases that involve young children. The other provision of the legislation would allow the physician to inquire and receive information about

the services that a child was receiving and the identities of other medical providers working with the child.

Finally, DHS is also proposing that the implementation date be one hundred eighty days from the date that the legislation is signed into law as, given the size of our system, it will take time to develop policies and systems to implement these changes.

DHS is, in fact, already sharing information with and consulting with medical providers in many cases, under the confines of existing law and regulation. Currently, I serve as DHS's medical director and oversee a staff of ten nurses who serve every day as liaisons between DHS and our medical community. DHS has a policy in place that requires mandatory consultation with nurses in all cases involving medical and other related health issues. This collaboration is the good result that can come from notifying the primary care physician that the child is a victim of abuse and developing relationships between the child welfare and health care communities.

Finally, I should note that sharing information with the goal of improving health

outcomes for children can have long-term benefits. Although child abuse is considered a social and legal problem, it is also a public health problem with life-long health consequences for its survivors. There is accumulating medical evidence that early adverse childhood experiences, including abuse and neglect, are strong contributors to many adult diseases. Adults who were maltreated as children have poor health outcomes and early mortality, and their health care costs billions of dollars annually.

A child's early life environment profoundly affects and influences their biological health, and these influences are inheritable from one generation to the next. It is not enough for physicians to work in their practices, ignorant of the social and family problems that can so greatly affect their patient's health, and it is not possible for CPS workers to evaluate and try to improve a child's well-being without partnering with the child's health care provider.

Exchanging information between health care providers and CPS workers is necessary to improve the well-being of children and their long-term health outcomes. Our goal, our goal should be

that children leave the child welfare system healthier than they arrive. It is only through collaboration and critical information sharing within a legal framework that this will be accomplished.

I urge you to support Senate Bill 27, with our proposed changes, as it is necessary legislation that will result in improved health, improved safety and well-being for children in the commonwealth.

Thank you.

MAJORITY CHAIRWOMAN WATSON: Dr. Christian, thank you very much. We appreciate your testimony.

If you have questions, I'd like you to save them so we might move through the rest, because you're able to stay, am I not correct?

DR. CHRISTIAN: Yes. I'll go back to my seat and come back later.

MAJORITY CHAIRWOMAN WATSON: All right. Very good.

And next, we would hear from someone else that we have heard from before and I believe the committee knows, and that would be the deputy secretary of DPW, Cathy Utz.

Cathy, you head up the Office of Children, Youth, and Family at DPW?

MS. UTZ: I do.

MAJORITY CHAIRWOMAN WATSON: And, therefore, your office works directly with the county Children and Youth Agencies across the commonwealth. So, we had hoped that then you can give us that perspective from speaking about the county and youth agencies and what is involved as proposed in Senate Bill 27.

Thank you very much for being here once again.

MS. UTZ: Thank you. It does feel like we're back home, right?

Good morning, Chairwoman. And, first, I want to echo the positive comments that folks have really said about the general assembly and, in particular, this committee and the House of Representatives, in really enacting legislation swiftly and, I think, with great thought and dedication as to how that would really help us improve our safety net for the children and families that we serve and that I think we're most concerned about.

And, really, those amendments, thus

far, have strengthened our ability to better protect children from abuse and neglect by amending the definition of "child abuse" and "perpetrator," which we've heard, streamlining and clarifying mandatory reporting requirements, increasing penalties for failure to report, promoting the use of multi-disciplinary investigative teams, and, also, ensuring that we have greater information and databases that provide the information that we need to do a better job of protecting our children.

Senate Bill 27 is yet one step toward assuring the safety of our children, and one of the things that I think we've really heard about is that it's imperative that physicians and county Children and Youth Agencies be able to communicate in a way that both ensures the safety of children but also protects the privacy of parents.

And so, what I'd like to do is also give you some information about what currently is required in statute. And under Section 6339 of the Child Protective Services law, the department and information that's in the possession of the department and county Children and Youth Agencies is confidential. It gives us the ability to protect parents' rights to privacy, but, also, it

can be released to a limited number of individuals in very specific circumstances. And so that we're permitted to release information, including summaries of child abuse, written reports, photographs, x-rays of children that were taken, to physicians when they are the person who is examining or treating the child and when they're the person who actually made the report of suspected child abuse.

And that's really limited, as we've heard, to when that investigation is being conducted. It doesn't include information after that investigation has been conducted or completed when we're receiving ongoing services, and that there's less clarity about information being released related to General Protective Services cases. So that Senate Bill 27 gives us some clarity around that information can also be released in General Protective Services cases.

Outside those current requirements, in order for a county Children and Youth Agency to receive medical information, they would have to really speak with the parent and explain why the medical information is necessary to support their work in providing ongoing services to a particular

child. A parent then is permitted to sign a release of information that would grant the county children and youth agency the authority to exchange information between the county and that physician who's examining and/or treating the child.

And if the parent refuses to sign that release of information, and the county believes that that medical information is critical to the case that they're providing services to, that they have the ability then to petition the court to request that the court order that that information and exchange of information be shared. And at times, that has proven to be, I think, a detriment, I think, from the perspective of that you have to sometimes act quickly to get the needed medical information, and you may not be able to get the ability to be in front of the court prior to those times. So, I think that this gives us the ability to share some additional information.

It also ensures that the medical practitioners providing information about the child's current or prior health and any subsequent or future examinations in the treatments, and this can be critical to the county Children and Youth Agency's ability to assure the safety of children.

It farther expands the exchange of information not only to the child who's alleged to be the victim of abuse but other children in that child's household, if it's relevant to that investigation and it could lead to additional services.

I think I want to make it clear that physicians are mandated reporters of suspected child abuse, and so they would still be required to make those reports, even without this legislation.

And I think that one of the areas that we need to make sure that we're taking in consideration is that the bill provides for the county to release information to the licensed physician or medical practitioner but that those same duties aren't extended where the physician has to provide information back to the county unless they have a reasonable cause to suspect child abuse.

So that as we begin to look at the bills, and we heard the offering of some amendments by the Philadelphia Department of Human Services, I think that we would be willing to, you know, engage in conversations in looking at how we could assure that there's that bilateral exchange of information

and it's not one directional, because, while the physician needs the information to really examine and treat the child, the county child welfare agency would need that same information to be able to ensure that we're providing appropriate services to the child and family.

And I think one of the things we also have to remember is that legislation is one piece. And if we have the ability to exchange the information, that we have to really look at and make sure that our practice is consistent with what the legislation requires. We've heard that we can exchange information, and that at times that it is being exchanged and at other times it may not be being exchanged. So, I think the onus is also on the county and the department to ensure that when we are permitted to exchange information, that we're doing a better job of that in giving us the ability to better protect children.

And, I think, as has been noted by the Philadelphia Department of Human Services, we want to be assured that the information that county children and youth agencies are providing to physicians, one, is relevant information that they need, that if they're providing -- if we're

providing copies of information, that it is actually then used. So, I'm not sure that there would always be the use of a Family Service Plan or some of the things that are articulated that are required to be provided to physicians. So, I'd want to make sure that anything that we are providing, it is something that a physician would find benefit and useful.

I think we know that Dr. Christian is an expert in her field and that there's a lot of folks who would be using that information, but we want to make sure that other physicians and primary care physicians will be using it as well.

And I will be happy to take any questions that you have at this time -- or I guess you're keeping those to the end. Sorry.

MAJORITY CHAIRWOMAN WATSON: No problem. Thank you.

I would ask if you would make a note of your question, and we will come back, because I would like to finish. And, again, I know that we're -- not that clock -- but we are, according to your watch, probably, or your phone, which is accurate, we're working against 11 o'clock start for session.

But next I'd like to welcome Thomas J. Schmidt.

Mr. Schmidt, you're the legal counsel for the Home School Legal Defense Association, based in Purcellville -- if that's correct to say -- Virginia. Mr. Schmidt, thank you for making that trip from Virginia to be with us this morning,

I know we reached out to you because, in the past, your association had some concerns about Senate Bill 27 and had written about those, so the committee looks forward to hearing your association's perspective.

MR. SCHMIDT: Thank you.

Thank you very much to the committee, the honorable chair and this committee, for allowing me to testify concerning the proposed changes to Child Protective Service Law of Pennsylvania.

My name as T.J. Schmidt, and I'm one of the staff attorneys at the Home School Legal Defense Association. HSLDA is a nonprofit association whose primary purpose is the protection of the right of parents to educate their children at home.

Our association currently has over

eighty-two thousand home schooling families in all fifty states, with almost three thousand member families here in Pennsylvania.

And, again, I appear before you today to speak in opposition to Senate Bill 27. However, I'm not here to testify against Senate Bill 27 not because this bill directly impacts the right of parents to teach their children at home. I'm also not here because home schooling family are investigated by county agencies any more or any less than in any other families. I'm here because HSLDA believes this bill will negatively impact all families in Pennsylvania.

As you know, Senate Bill 27 would require all licensed medical practitioners in the state to turn over the medical records of any child listed in an investigation by the county agencies without the consent of the parent. I want to repeat this concern. Senate Bill 27 would allow any county agency in Pennsylvania to obtain the medical records of any child under investigation, regardless of the allegation.

Now, under Senate Bill 27, these medical records would be required to be turned over to the county agency without the consent of the

child's parent or legal guardian.

HSLDA is opposed to the abuse and neglect of any child, but we believe Senate Bill 27 goes too far. Under this bill, the county agency would be able to access a child's medical records where the allegations are that the family is abusing their thirteen year old, who, on her own initiative, runs around the outside of the house for exercise.

A county agency would be able to obtain medical records where the source of the report previously informs the parents that they hate home schooling and they don't think the family has done enough to properly socialize their children.

The county agency would be able to get the medical records of the child where the allegation is that the sixteen-year-old son was not adequately supervised when he decided to swing off the family's trampoline on the spur of the moment with a rope swing he had rashly tied in a nearby tree. Should all his medical records be turned over to the county agency because a report is made when someone observes the resulting broken bones and inquires how he obtained them?

Under Senate Bill 27, Child Protective

Services would also be able to get these records where the allegations were that a toddler, for the first time, slipped out of the home and wandered four to five houses down the block when the parent stepped in to use the bathroom.

And when the allegations are that the family doesn't practice birth control or allow their children to drink milk -- the children happened to be lactose intolerant -- the county agency would be able to get access to the medical records of the children.

And, again, medical records could also be obtained, under Senate Bill 27, where it was reported that the family didn't send their children to school, instead they educated their children at home, in compliance with Pennsylvania law.

Now, in all of these situations, there were no allegations of a medical nature, except perhaps the allegations where the children were not given milk and the family didn't use birth control, and yet the county agency would be permitted, under Senate Bill 27, to get access to the medical records without the consent of the parents.

Now, I hope you find the potential release of medical records in all of these

situations as troubling as I do. All of these situations are real, and they either occurred here in Pennsylvania or in the past in nearby states that have similar definitions of abuse or neglect.

In addition to medical records being required, under Senate Bill 27, when there is no medical concern in the allegations, these records must be provided, regardless of the consent of the parent. Thus, any county agency will be able to obtain these records without any probable cause or court supervision.

Now, in 2012, according to the most recent statistics provide by the Department of Public Welfare, Pennsylvania received twenty-six thousand six hundred sixty-four reports of suspected abuse. Three thousand five hundred sixty-five of these reports, or 13.4 percent, were substantiated, meaning they were either indicated by the county agency or founded after appropriate court action. The remaining twenty-three thousand one hundred eight allegations, or 86.6 percent, were determined to be unfounded. Thus, these reports were found to have no indication of abuse or neglect.

Now, Pennsylvania does not classify

unfounded reports, so it is impossible to determine how many of these reports in 2012 were maliciously or intentionally false. However, one state that does a good job of classifying unfounded reports is Tennessee. In 2012, Tennessee reported that over 7.5 percent of all the reports they received were intentionally false.

Now, while I do not suggest that 7.5 percent of all the reports in Pennsylvania were false or malicious, it would appear that at least some of the twenty-three thousand one hundred eight unfounded reports are maliciously or intentionally false.

Again, HSLDA is opposed to the abuse and neglect of children, and all child abusers should be prosecuted to the fullest extent of the law. The county agencies across this state are needed to pursue allegations of abuse and neglect. But, under Senate Bill 27, hundreds, and even thousands, of families every year will be forced to have their medical records of their children turned over to the local county agency because someone made a false or even malicious allegation against them.

I understand that you have received

some written testimony from Dr. Rodger Sayre, a board certified family physician and on the board of directors of ParentalRights.org website, an organization. I hope you have a chance to read his testimony.

As you know, medical professionals are already required reporters under Pennsylvania law. If a doctor knows or suspects that a child has been abused or neglected, they must report this orally to the department and may report this information orally to the county agency. However, within forty-eight hours, the required reporter shall provide a written report of their suspicions of abuse to the county agency.

In addition, Pennsylvania law already obligates required reporters in the medical profession to provide medical summaries or reports of any photographs, x-rays, and relevant medical test be sent to the county agency.

When legitimate situations of abuse or neglect get reported, the appropriate records will be provided to the county agency. But Senate Bill 27 will allow the county agency to obtain the medical records of every child that is investigated, when their own doctor, a required

reporter, has no concerns about their well-being. Requiring that all medical records be turned over when there is no allegation of child abuse of a medical nature will cause a gross violation of the parents' and child's privacy.

In addition, we believe that Senate Bill 27 will violate the trust that the family has with their family doctor. Requiring medical records to be turned over to social services in all cases will subject medical decisions that the parents have made with their doctor to be second-guessed by caseworkers who have little or no medical training. Who is better suited to determine whether there is a concern in a particular child's life? A doctor who has known and treated a child for years, who is a required reporter, or a county agency caseworker who doesn't know the context of the child's unique health needs?

Now, we have occasionally assisted home schooling families here in Pennsylvania who have natural or adopted children who are medically fragile. These children routinely see multiple doctors and specialists, who coordinate together to treat and care for the needs of these children.

Under Senate Bill 27, these families would face the potential of having all of their child's medical records scrutinized by the county agency when an uneducated or perhaps well-meaning individual makes a report about the child due to their profound disability.

While some of these children hardly go a day without being seen by a required reporter, a person who would be mandated to file a report of any suspected abuse, a complete stranger, who has no context on the daily struggles that the child and the family go through, could force them to turn over all their child's medical records because of a false or uneducated allegation.

Now, while I have only mentioned the medical records of the children specifically mentioned in the report investigated by social services, Senate Bill 27 also allows the county agency to gain access to the medical records of any child living in the home.

Imagine with me a scenario where a couple with two children divorces. Several years pass and the primary custodian of the child remarries. The new spouse has a child that they bring into the family. In time, another child is

born to that new couple. Under Senate Bill 27, if an allegation were to be made by the first spouse concerning the treatment of their biological children in this home, the medical records of the child of the new spouse would be required to be turned over to the caseworker, as well as any children the new couple had together.

As I'm sure you know, reports involving divorced couples are frequently received by county agencies. Some of the reports involve legitimate concerns of abuse. Unfortunately, there are many times when these types of reporters make false and/or malicious reports in attempt to use the county agency as a tool to retaliate against the other spouse. Under Senate Bill 27, a family in this situation will be forced to have the medical records of all the children living within the home to be turned over to the county agency because of the retaliatory report.

Finally, under Senate Bill 27, the county agency will be required to provide certain information to a licensed medical practitioner who is providing ongoing medical care to a child who is the subject of a report of abuse. The county agency will be required to provide the reason for

the assessment, investigation, or provision of protective services to the child. The county agency will have to inform the medical practitioner of any service plan that is developed for the child and the child's family.

The county will also have to provide the medical practitioner of the final determination of a child abuse report after the investigation is complete. Under Senate Bill 27, this is required in every report, not just reports involving abuse of a medical nature that may properly concern a licensed medical practitioner who is providing ongoing medical care to a child. The county agency is required to provide this information in every report of abuse.

Think of the additional strain that this will put on medical practitioners. What are they to do with the information when a family is reported for failing to send their child to school and, instead, are home schooling them? Will this cause some medical practitioners to terminate their relationship with a family simply because someone made a false report of child abuse?

For these concerns, HSLDA strongly opposes Senate Bill 27. I ask that the committee

oppose this bill.

And I really appreciate your time and allowing me to testify. And I will be available for questions after.

Thank you.

MAJORITY CHAIRWOMAN WATSON: All right. Thank you very much.

Members of the committee, it's your turn. Number one, I thank you -- we have one more testifier? Who do we have?

Oh, yes, of course. I'm sorry. I guess I'm looking at the clock and trying to worry.

Mr. Freeman. Where are you? Mark Freeman, counsel for the Pennsylvania Family Institute.

There you are. All right. And do I apologize. We're rushing along to get to the members and their questions, but we need to hear what you have to say first.

MR. FREEMAN: Just to clarify, I'm not counsel for the Pennsylvania Family Institute. I've been invited to speak here today.

MAJORITY CHAIRWOMAN WATSON: Okay. Very good. So, you're telling us you're not an

attorney, sir.

MR. FREEMAN: Well, I am an attorney.

MAJORITY CHAIRWOMAN WATSON: Oh, okay. Just checking.

MR. FREEMAN: So, let me get right to my remarks, because I really would welcome your questions more than my remarks, to be honest.

Madam Chairman, members of the committee, thank you for the opportunity to share my experience regarding an important issue to Pennsylvania families.

My name is Mark Freeman. I live in Delaware County. My remarks today are offered as a father of three natural children. I also have a Brady Bunch. I have three daughters that are not my wife or I's, and we have custody of them as a foster father. And I've represented a number of families that have been falsely accused of child abuse.

Two of my three natural children actually have a genetic disease that causes bruising that is oftentimes mistaken as child abuse. So, I come to you from several different angles.

I share the concern the committee and

all Pennsylvanians have that children in our commonwealth are abused by parents and caregivers. We all have a zero tolerance policy towards child abuse.

But, you know, as most of life is, there's usually a competing consideration. In this case, the competing consideration to the protection of children is the fundamental right of a parent to the care, custody, and control of their child. The complicating fact, you know, the tough nut to crack for this committee is what do we do when there's a report of suspected child abuse and the parent, who's supposed to be the protector, is the suspected abuser? And that is clearly an issue we all want to address.

The provisions in this bill are triggered by a report of suspected child abuse. It's really important for the committee to keep in mind the definition of "suspected." Suspicion is the state of mind of a third party. It's not evidence or proof of abuse.

And in my experience, once there's a suspicion, that is mistaken as proof positive of abuse, as all these events start to unfold and this family gets wrapped up in this juggernaut.

So, what about the case of obvious abuse, right? I would suggest that you talk to Samuel and Elizabeth Glick. They had a four-month-old who had seizures and was rushed to the hospital. She had the intracranial hemorrhage that Dr. Christian talked about. She had retinal hemorrhage. She had bruising about a good part of her body. And there was the immediate suspicion that it was abuse.

This Amish family had their children placed -- their seven other children were placed in non-Amish foster homes. The Glick family was facing possible criminal charges. And their family was torn apart and their lives were turned upside down.

What the doctors at Geisinger Medical Center missed was that Sarah Glick had a vitamin D deficiency. And the Glick family was able to obtain the services of Dr. Holmes Morton of the Clinic for Special Children in Strasburg, Pennsylvania, and an attorney who advocated on their behalf and was able to get the children back and reunite the family. Ultimately, criminal charges were never filed. But, really, all innocent parents are not as fortunate as the Glick

family was.

It's been alluded to by the last witness -- I would point out that 85 percent of reports of suspected child abuse are not supported by the evidence; they're unfounded. I think you need to keep that in mind. It's six times more likely that a report of suspected child abuse is not founded than that it becomes indicated or founded.

And it's in that context that this Senate bill is triggered. It's triggered by a report of suspected child abuse. And once that report of suspected child abuse that is six times more likely to be false than to be true, this bill provides that a doctor can secretly, and unknown to the child's parent, now communicate confidentially with county investigators.

There are important physician-patient relationships that this breaches. The physician-patient relationship includes a fiduciary duty to maintain confidentiality and a contractual duty of good faith and fair dealings.

In its essence, this bill transforms physicians into child abuse investigators for the county without any notice to the parents, while the

parents are believing that that doctor is genuinely looking for what may be wrong with their child, and the parents aren't told.

This committee should not lightly impair a parent's fundamental right to the control of their children, as this bill does, in the name of protecting children without carefully considering the impact on Pennsylvania families.

While a parent's right to the care, custody, and control of their children is a fundamental right, it is not an absolute right. A parent does not have a right not to be investigated for child abuse. That is clearly admitted. But just like free speech where we have free speech but we can't run into a movie theater and scream "fire" when there's no fire, the same is true of the county. The county has the right and obligation to investigate child abuse, but we, in our society, we value this thing called due process of law.

Ms. Utz, the deputy secretary, she talked about how there is a provision that if you need that medical information and the parents don't consent to it voluntarily, there is a provision that provides parents due process. It's called go into court and ask them to order the parents to

turn it over. It's called a petition to compel cooperation with a child abuse investigation.

And the last one I had, the petition was denied. The report was from a reporter that had reported multiple times false information to the county, and they just kept harassing this family and wouldn't go away. And, finally, we just said, "That's enough. We are not voluntarily cooperating with you any more. If you want it, you go get a court order."

And when we went into court. The court said, "I agree. You don't have enough to go get this information."

This bill really, by not requiring even the barest minimum of due process, which is simply notice to parents, I don't think it satisfies what we value as a society as due process of law.

This bill seeks to deprive a parent of the doctor-patient confidentiality. It breaches the duty of good faith and fair dealing between a doctor and a patient.

I would encourage you -- I brought a copy of a paper that was published just in March by the Family Defense Center in Chicago, Illinois. And it addresses the confidentiality, medical

ethics issues between a doctor and a patient, and in particular, a doctor and a minor patient, because minors can't -- don't have the capacity to contract with doctors.

So, I would urge -- I know we don't have a lot of time here, so I would urge the committee to really take a look at that. It's a hundred fifteen pages long. It does have an executive summary, so you can read that quickly. If you're interested in the detail, it's buried in the other one hundred fifteen pages.

But I would say that, aside from the obvious breach of the confidentiality, it's very hard to reconcile this bill with a doctor acting in good faith regarding treatment of a child.

Now, I know parents who abuse their children are going to lie and say "I didn't do anything." But there are cases where those parents are accused of abusing their child that are not true. And in that case, that doctor is -- what this bill does is it allows the doctor to lead the parent to believe that they're still treating and looking for what happened to that child while they're secretly and covertly cooperating with the county agency in a child abuse investigation. And

I think this bill really just transforms the doctors into child abuse investigators with the county.

Again, I've already addressed this, so if a parent refuses to consent -- and oftentimes I advise parents, just consent, get them the medical records. If there's concerns, let's get them. But there are times when the county agency is being unreasonable in what they do, and what do you do in that situation? This bill mandates it if there's a report. But if a parent says, "Hey, I think you've gone above and beyond, it's not reasonable," they should have to go into court and ask the court for a court order. You need a third party to supervise the county agency. This gives them a blank check to just start asking for medical records and doing whatever they want to this family, without any third party that the parents can appeal to to supervise.

There's absolutely no reason that, as part of this bill -- I mean, I don't think this bill is necessary, because, again, in my practice, if the county agency receives a report of suspected abuse, they'll come to the parents and they'll say, "Hey, we've heard there's some problems. Would you

consent to having a release of medical records?" And, most of the time, I advise my parents to consent, because it's a heck of a lot easier just to give them what they want. They'll see that there's no problem, and they'll go away.

But I've seen times when these county agencies are very unreasonable. And you say, "Look, there's no justification for what you're asking for." What this does is, this simply says they can do it without the parents having any say in where the agency goes in getting medical information, which, in my opinion, can cross a line and become harassment. And the only protection that we have in our society is this due process. Due process is the only counterbalance and protection innocent parents have against false accusations of abuse.

By approving a measure that permits treating doctors to secretly collude with county investigators, in dereliction of their duty of confidentiality and duty of good faith and fair dealing, without any notice or due process to the parent, you will be participating in a violence on Pennsylvania families.

Those statistics, if you look at them,

over the next five years there's going to be a hundred thousand Pennsylvania families that will be subjected to a false report of suspected child abuse. And if you approve this bill, you will subject that hundred thousand families to this kind of harassment that may not be warranted.

And I would just urge the committee to review that document that I provided, the paper about the ethical duties of confidentiality that a doctor has. There's reasons for that. And I would urge the committee that if you're -- we all share the value of protecting children, but we can protect children without trampling all over the rights of a parent to the care, custody, and control of their children.

Thank you very much for your attention. I appreciate it.

MAJORITY CHAIRWOMAN WATSON: Thank you, Mr. Freeman. And, again, I apologize for just skipping over there. I was -- sometimes I get overeager.

But, now, I am sure this is the committee's turn to ask questions of anyone.

I see Mr. McCarter, you've been patiently waiting. You had a question?

REPRESENTATIVE MCCARTER: Yes, I do, Madam Chair. Thank you very much.

I just want to clarify one point that has been raised -- two points, now, in the testimony.

Under the current law -- and this is for Ms. Utz. Under the current law, if, in fact, suspicion is that of child abuse and we go to the parents and they refuse to turn over the records, at that point we go into court for a petition. If the family moves out of the county at that particular time to another county, what happens to that petition?

MS. UTZ: The county agency investigates the case where the abuse occurred. So, all of the proceedings will occur in the county where the abuse initially occurred. So, if they move from one county to another during the investigation, it would still be back to the county where the abuse occurred.

If the abuse occurred, the family moved to another county and it got reported, what we do is we work between those two counties to make a determination on who is going to do that investigation, if it's the county where the family

resides currently or where the abuse occurred, but we would have those two county Children and Youth Agencies talking, at a minimum.

REPRESENTATIVE MCCARTER: Okay. I remember at some point in the past we had testimony to that being a problem, however, and, obviously, causing delay, number one, or, number two, actually having the petitions dismissed and having to start the entire process over again as well.

MS. UTZ: Yes.

REPRESENTATIVE MCCARTER: Does Senate Bill 27 address any of that issue?

MS. UTZ: So, I think it helps with that. It doesn't necessarily address the petitioning piece, but it does -- if we have the ability to exchange information with medical practitioners, then I think it does give us a better ability to do that.

I think Senate Bill 27 is limited to medical practitioners. It's not extended to all other individuals who may be providing service to that particular child. So, you could still have an issue where you need information from someone outside of a licensed medical practitioner, and we would still have to go through the process of

petitioning the court and going forward.

So, I think we've heard testimony that it just does away with parents' rights entirely, and I don't know that it does that as it's written.

REPRESENTATIVE MCCARTER: Thank you for the clarification.

MAJORITY CHAIRWOMAN WATSON: And Representative Topper, you had a question?

REPRESENTATIVE TOPPER: Yes. Thank you, Madam Chair.

Dr. Christian, if I could, please. And then just a statement after that.

But if I could call your attention to page two of your testimony.

DR. CHRISTIAN: Sure.

REPRESENTATIVE TOPPER: The third paragraph.

DR. CHRISTIAN: Yep.

REPRESENTATIVE TOPPER: The importance of Child Protective Service worker obtaining information. And you said at the end, the last sentence, not following up with certain medical need or that he or she has significant developmental concerns about the child.

Can you help me understand what those

developmental concerns -- the physical, educational, mental, what does that encompass? All of it?

DR. CHRISTIAN: So, sure. A physician -- wait. I wasn't -- mine is in large font. I've got to get to the right paragraph that you're on.

REPRESENTATIVE TOPPER: Okay. Sorry.

DR. CHRISTIAN: That's okay. That's my eyes.

Sure. You know, there's federal law, okay, the Fostering Connections and improving outcomes act, that mandates now that child welfare agencies across the United States not only provides for safety and permanence for children who are victims of abuse and are in foster care, but also for their health and well-being. Okay? And doctors are in charge of a child's health and well-being, including, for example, the development of a child. So, a child whose motor development, who -- you know, children walk and run and jump and skip and talk and understand and learn. That's child development.

And if -- if a child is in, let's say, child welfare custody or foster care and this

child's got significant developmental delays, it means that that child needs some intervention. That's things that pediatricians follow, that developmental pediatricians assess, and that is important for the child welfare agency to know, so that they can ensure that the child gets into the appropriate therapies.

So, it's all about the health and the well-being of children.

And while I'm up here, may I make one clarification? The way the Senate bill reads, it doesn't mandate that physicians send Children and Youth Agencies all the medical records for the children. It says that they share relevant medical information. And, you know, not only about a bruise but, again, if Children and Youth is trying to ensure the health and the well-being of children and understanding what their risks are, knowing that the child is healthy is important. A physician can help a Children and Youth worker understand what they're looking at, because, you knee, every day in Pennsylvania, Children and Youth workers are making decisions without the proper medical input.

And if they are allowed to have

conversations and work with physicians who know the child and physicians who know medicine and injury mechanisms, we'll have better outcomes and better decision making, and we'll leave families alone who don't need to be involved in child welfare but will be better able to protect children who require protection.

REPRESENTATIVE TOPPER: I just wanted to --

DR. CHRISTIAN: Sorry. I'm sorry. I went off.

REPRESENTATIVE TOPPER: -- be clear that the "significant developmental" could also include a little more broadly than just physical.

DR. CHRISTIAN: Correct.

REPRESENTATIVE TOPPER: Just a comment, Madam Chair, because I can look at this a little different, I'm sure, than some people.

When we talk about home schooling and people who are being home educated, I know that there are some eyes that roll back in the head when they think there's nobody who would actually target somebody who home schools, but let me say, as one home school graduate who serves in the legislature, I can speak well that that is not the case, that

you do have people out there who can imply that home school children are somehow being abused simply by being home schooled.

I was -- I had heard all the comments about that I would be socially awkward, that I couldn't put two sentences together, which I think we've pretty much put some of those thoughts to rest, or that I would be a momma's boy -- which maybe my wife would agree with at this point. But -- so I've lived that, and I have been through that. So, I think we should just all keep that in mind, that even though, to us, saying that somebody who is home schooled or who is being home educated, well, that would -- that no physician, no family physician, no county worker, nobody would ever specifically target somebody for being home schooled, I think we do need to walk in those shoes for a little bit and make sure that this law does not have unintended consequences.

Thank you.

MAJORITY CHAIRWOMAN WATSON: Thank you very much.

Representative Moul, you had a comment?

REPRESENTATIVE MOUL: Thank you, Madam

Chair. Yes, I do.

And Representative Topper just grazed across what I'm going to say. And that's what I said earlier, bills of unintended consequences.

What scares me to death when I hear testimonies like I heard today is that there are going to be parents, once the word gets out that their children's medical records are so easily shared with other people, county agencies, so forth -- and where it will stop after that, I don't know -- how many will withhold medical care from their children for fear that they could be falsely accused of doing something?

I, myself, a few years back, did the world's dumbest thing by cutting myself right here (pointing). And I went into the hospital, and the third degree that they gave me -- it took me about five to ten minutes to figure out why they're asking me all these questions. It was to make sure it wasn't an act of domestic violence.

Now, if we are willing to do that to an adult that walked in and said, "I did the world's dumbest thing to myself a half an hour ago. Can you patch this up," what are we willing to do to children when they don't know -- and how many

parents are going to say, "You know something, I don't want to get caught up in the same thing that happened down there. That will heal. We're not going." That's my fear.

Thank you, Madam Chairman.

MAJORITY CHAIRWOMAN WATSON: Okay. And we'll have a talk about that after, because I want to talk to you but I don't like to use the chairmanship to do it.

Representative Miller, you had something to say, too.

REPRESENTATIVE MILLER: Thank you, Madam Chairwoman. And I appreciate the attempt to try and get this big topic done in a short period of time. My feeling is we probably need a little bit more.

But just a couple quick things, and, respectfully, the type of questions raised about if a parent would not seek care because of a fear of doing so is the actual way that they would get in trouble by not seeking care.

I wanted to say a quick comment back to the senator where he said it's not an invision or not something that impacts parental rights. It totally is. That's what this area of law is.

Anything to do with child custody, of course it's a balancing act between the state's obligation to make sure the kids are safe and the parents' rights and making those decisions based on moral, ethic, religious, whatever they want to do. Of course it is. In my opinion, everything along in this world is that decision, and it's our job to find that balancing act.

To be honest, I was a little bit confused on one of the testifiers' comments, because I really felt that the gentleman was merging neglect with child abuse. And in my opinion, we're looking at, when I first read this bill, it's a physical and sexual issue, typically, that involves a doctor, not a neglect. If you have a neglect case where a toddler wanders off, you're going to do a safety check when you get the kid in, but you're not going to really be getting into -- it would be additional information that would bring up elements of what we are talking about, unless the reading is that this is supposed to apply to every child, no matter what the cause is for how they come into the dependency system or may come in to the dependency system.

If it's just a sexual or physical bill,

which I think, again, was my reading of where we were going with it, the reality for the situation would be that examples like a toddler wandering off would not be relevant to this bill. I think there were a couple other examples that I just -- I did not -- again, I found it to be confusing.

So, I do agree that there are elements here that I would clarify. Like I asked the senator when he said "relevant medical information," I still would debate that. That comes up twice in the text. I'm not exactly sure what it means. It comes up when it talks about the possible child who was the victim of abuse, and then it comes up with children who were not but could be because they live in the household. And I find that to be a little bit grayer, to which attorneys would debate certain things with it

I also would agree with aspects of testimony regarding notice. One of the questions that we didn't really hear about is that -- I would agree that -- I forget the number -- statistically, a lot after the abuse matters are happening within the home; that's true. But there's a lot of people in the home. So, you could have a mom, say, bring a child in because of a bruise of something that

comes up there, but also in the home is a cousin, an uncle, a father, an adult kid, a minor sibling, who is abusing that kid.

And I think one of the questions that we should be at least debating when you're looking at the parental consent, and it really doesn't say -- it says parental consent is not required. I didn't read it to actually address notice. To be honest, it would say -- when I'm looking at that, it would say, you don't have to tell the parent or you do have to tell the parent. I think that that's a real question that one should ask is that you may find that, by not telling the parent that something's going on in the house, you do risk -- at least it's something that we should debate -- the further harm by the child if you've not reached a threshold to remove the child and you're sending the child back home to the same environment while you're doing your investigation now to see if you want to pull the child. So, I do question the notice aspect.

I also think that one can say, in relation to parental rights, I appreciate the information. It's something to debate to say, what is due process in this regard? And in the first

matter, I think notice and connection seems to be the issue.

When you're looking at this bill, it seems to be talking about how can you best connect doctors into the process? How can you be sure that a caseworker is reviewing information.

By the way, I've never seen a physical or sexual case that would proceed without a doctor saying that, Yes, I believe something reasonably happened. So, I think, in some ways, we're overstating the caseworkers role in that, because I've just never had a case where if a doctor can't tell me that a physical abuse happened of substantial nature that I would rely on the caseworker to somehow prove what the doctor could not.

But I also think that we're missing the main point or one of the key questions of what this is trying to do. We keep talking about 86 percent, roughly, that are unfounded -- or I forget the word that was used. The question, I think, at the heart of this bill is, are we doing enough job or providing enough information that would, perhaps, say that out of that 86, 86 were not supposed to be unfounded. If you connected the dots in the

beginning, you would have had it be 72 percent or 81 percent or 32 percent, but because we are not connecting the system in a way that that would be maybe how people would connect the people who show up in an airport and trying to connect, you know, things up there with the Patriot Act, we are trying to say that if you have signs of something that come up in the emergency room, how do you connect it with the doctor or the primary care physician who would say, you know what, this happened six months ago. And that information may never get to the doctor who was there in the emergency room but would have gotten to the primary care physician if you connected the dots.

So, my point being is that, that, to me, is the target of where I thought we were trying to go, was to say, yes, we have a couple concerns we have to balance out. But we clearly are missing something in relating to how everything gets brought to a review. And I have no problems with talking about the issues of notification. I have no problems with talking about how the medical records should be transferred. But to say in something that what -- that not connecting the dots from a primary care physician and still keeping our

children safe, we've recognized a problem. It is -- I can tell you in a courtroom, it is an issue that needs clarification.

I would agree that some of this could have been done perhaps regulation absent, maybe an entire bill unto itself, but I think the discussion is something that is very much consistent with this body's last year and a half, two years of debate and deliberation. And I would urge that we spend a little more time on a couple of the issues.

But I would say that the Family Service Plan doctor, your Family Service Plan recommendation, to me, is very on point. Those family service documents will provide too much information, information that would never matter to a primary care physician's review. To be honest, I was thinking more of like a safety plan scenario, maybe with medical information that accompanied it, versus a typical Family Service Plan that would be related.

The only question I had -- and I know I'm out of time -- is for you, Doctor, is that you said that you would stop the -- you would mandate at five and under. And I wonder why you would draw the line at five versus ten versus twelve.

DR. CHRISTIAN: Yeah. Well, again, I think what I was trying to do is balance kind of the logistics for a large child welfare agency where the majority of families that they work with are really under the GPS system, under the neglect issues and not really the child abuse issues. But my experience, the experience of my colleagues who are here with me in spirit today, I know would testify with me, when we see children who are -- who are victims of fatal and near-fatal abuse, many of those children have been known to child welfare previously, and in some cases, there have been multiple reports, GPS report after GPS report after GPS report, and then a child's murdered. And so -- and most of the children who have fatal abuse are very young children.

So that if the pediatrician or the family physician knows that a family is receiving services from the child welfare agency when children are young, that's the highest risk time. They'll have a flag in their head. They'll know to keep an eye on these children.

REPRESENTATIVE MILLER: Doctor, if I may interrupt you, because I know I'm way over my time.

DR. CHRISTIAN: Okay. Sorry.

REPRESENTATIVE MILLER: Are you just saying you would go with five because, administratively, you believe it's easier to manage versus do you think that --

DR. CHRISTIAN: And because they're at the highest risk. Because that's really where kids are at the highest risk. So, if you're going to put your efforts somewhere, put them in those situations where the children are truly at the highest risk.

REPRESENTATIVE MILLER: Thank you, Doctor.

Thank you, Madam Chairwoman.

MAJORITY CHAIRWOMAN WATSON: All right. We're going to stop the questioning there. I do have, and because he nicely raised his hand, two minutes for the chairman, because he's here, of the Task Force on Child Protection. He wasn't technically on your schedule, someone with that much import -- he's also the DA were I'm from. Okay? It could get really tricky when I go home. So, we're going to give him two minutes.

MR. HECKLER: The least of my concerns.

I happen to have had a personal

experience that I think may relate, perfectly meshes, really, with what you've related.

Let me just point out, you know, some of what you've heard here talks about -- and you picked it up -- the number of unfounded complaints or reports of protection from abuse. We only have that number because we're assuming the system works to unfound many complaints. We don't know. That's what -- if there's one message I'd leave with you today, it is that the truth shall make us all free, and, hopefully, protect our children.

It's not comfortable to be questioned, and I have seen it in various situations. Now, Representative Watson knows my wife; I don't think any of the rest of you do. A less likely abuser of children or anybody else you would not find. If she had an abusive bone in her body, I'd have been gone to the emergency room repeatedly.

Years ago, our then eleven-year-old daughter was having a lot of bruises, and now she sort of took after her father, was a little bit klutzy, but my wife -- and I can remember her, I come home at the end of the day, she says, "You know, the doctor," pediatrician, "I think he suspects that I'm abusing Betsy." And this, as I

recall it, that doctor had been her pediatrician. And she got questioned very closely, because she had had a lot of bruises. Now, he kept doing what he needed to do as a doctor to get to the truth, and, sadly, what he found out was that she had leukemia, and, ultimately, after a ten-year battle, she lost her fight.

So, she was having bruises because her blood wasn't clotting properly. And he followed that through, as a physician. But, you know what, if she'd have kept having bruises and he had reported us, as a prosecutor, somebody who's been involved in law enforcement, I'm confident that one way or another that would have got sorted out. She wasn't pushing that kid down the stairs or doing anything else to her.

The truth tends to come out. What is essential about this legislation is that we create the channel so that information -- the truth can come out. Ultimately, the folks at the hospital turned you loose because they concluded that, no, you weren't being abused. And I'm saying, the truth shall set you free.

And thank you for the work you've done.

MAJORITY CHAIRWOMAN WATSON: All

right. Ladies and gentlemen, I believe we're on the floor. This informational meeting is concluded. And we may just see this again. And we'll certainly listen.

You do have a meeting next week on the 7th, and you'll get an informational hearing. It's in conjunction with the Aging Committee. And it's all about the rights of grandparents and grandparents raising grandchildren. That's May 7th.

(Whereupon, the hearing concluded at 11:10 a.m.)

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REPORTER'S CERTIFICATE

I HEREBY CERTIFY that the foregoing is a true and accurate transcript, to the best of my ability, produced from audio on the said proceedings.

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BRENDA J. PARDUN, RPR
Court Reporter
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