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September 21, 2026

Via email

Secretary Debra L. Bogen
Pennsylvania Department of Health
RA-DHCHAPTR27PROPREG@pa.gov

Independent Regulatory Review Commission
irrc@irrc.state.pa.us

RE: Legislative Comment in Opposition to Proposed Regulation #10-242

Dear Secretary Bogen and Commissioners:

I write as State Senator for Pennsylvania's 31st District to submit formal legislative comment opposing Proposed Regulation #10-242. I have reviewed the Department of Health's extensive proposed revisions of 28 Pa. Code Chapter 27. This package is not a narrow public-health update. It is an attempt by the executive to reclaim, through regulation, emergency-style power that Pennsylvania voters and the courts took away after COVID-19.

I add to that official objection a personal one. I am a mother of children who have been, and are now, in the public school system. That fact does not change the legal standard IRRC must apply. It does sharpen my duty to examine what this proposal would do to parents, students, and schools. The concerns I raise as a lawmaker are serious on their own. As a mother, I find several of them unacceptable.

The Constitution is not suspended for disease control. Pennsylvanians retain the right to be secure in their persons, houses, and papers. Parents retain the right to direct the upbringing and medical care of their children. Churches retain the free exercise of religion. The people retain the liberty to earn a living and to send a child to school without an open-ended administrative veto. The Disease Prevention and Control Law of 1955 never authorized the Department to govern ordinary life by rule. The Regulatory Review Act does not permit an agency to enlarge itself past the statute or past the Constitution.

COVID proved what happens when those limits are ignored. The Governor empowered the Secretary of Health to set aside Department laws and rules for as long as the Administration saw fit. Businesses were closed, schools were shut, worship was constrained, and families were told that liberty would return when bureaucrats allowed it. Pennsylvanians answered at the ballot box to stop

exactly this kind of executive and administrative encroachment. If the Department may impose prevention, containment, or mitigation whenever it deems the measure appropriate, the Governor need not declare an emergency and the Legislature need not pass a law.

The Supreme Court has already rejected that method. In *Corman v. Acting Secretary of the Pennsylvania Department of Health* (2021), the Court held that existing regulations confined school disease-control measures chiefly to surveillance and that the Department lacked authority for a statewide school mask mandate. Only a formal amendment to the regulations could lift that limit. This draft supplies that amendment. Adding prevention, containment, or mitigation would restore, and then widen, the school-wide mandates the Court set aside—with fewer checks from the Legislature and the judiciary.

The same expansive design runs through the package. A voluntary immunization registry would become the default unless a patient declines in writing, widening government custody of private medical data and shifting cost onto patients. Reportable lists would grow by seventy-three items for providers and facilities and fifty-three for laboratories, pulling clinicians from care and inflating cost. Investigators could enter an apartment, clinic, school, or other building for contact tracing or partner services, and interference would be unlawful—an entry power hard to square with constitutional protections against warrantless search, including those reaffirmed in *Punxsutawney Hunting Club*. Schools would have to produce students for private interviews without parental consent. Those conversations can reach vaccination, reproductive health, mental health, and sexual history. They belong with the family. Exclusion rules would make it easier to remove children from class under evolving departmental standards and to squeeze lawful exemptions. A religious-healing accommodation that already requires sanitation, isolation, or quarantine would be deleted because it is not “evidence-based,” burdening free exercise. Every pregnant woman would face a new third-trimester testing mandate. The draft also strikes “pregnant woman” and “mother” and substitutes “pregnant individual” and “postpartum individual,” erasing sex and motherhood from a public-health code. Animal and food restrictions would rest on suspicion rather than a declared emergency, giving the Department new power to restrict farms without legislative action.

Together these provisions create a standing public-health apparatus that does not need an emergency declaration, a statute, or a warrant to reach the home, the classroom, the pew, the clinic, and the farm. The timing makes the design plainer still. The Department has moved to expand public reporting of school-level vaccination rates. Joined with broader exclusion, campus-access, and mitigation powers, that raises a legitimate concern that individual schools will become targets for administrative compliance campaigns the voters never approved.

The amendments of 2021 were not an abstraction in my house. They were a promise that no agency would again treat a child’s classroom as an emergency zone and a parent as an obstacle. A rule that lets a health officer take a child aside without a parent’s knowledge or consent, orders the school to make the meeting happen, and treats objection as interference breaks that promise. In the Senate I am obliged to stop the Executive from governing household life by regulation. At home I am obliged to protect the children in my care. This proposal asks parents to surrender that duty at the classroom door. I will not.

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The Department should withdraw Proposed Regulation #10-242 and start over with the General Assembly and with limited, constitutional text. If it does not, IRRC should disapprove the regulation as proposed.

Respectfully,

A handwritten signature in black ink, appearing to read "Dawn Keefer". The signature is fluid and cursive, with the first name "Dawn" written in a larger, more prominent script than the last name "Keefer".

Dawn Keefer
PA State Senator
31st Senatorial District