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Joint Committee on Fair Practices and State Personnel Oversight
Tuesday March 1st, 2022

Testimony of Dr. Jessicah Ray

Testimony Final

Good afternoon and thank you for allowing me to speak today.

My name is Dr. Jessicah Ray. I was asked to share my experience as a whistleblower within the Maryland Department of Health, with the long-term hopes of preventing this from occurring again, but more importantly - to communicate that the state MobileVax sites continue to deliver unreliable vaccines, and that staff retaliation continues to occur because the MDH Recovery Program is a broken organization.

For a brief background, I am a Doctor of Health Sciences, specializing in global health, as well as a practicing physician assistant of 14 years. I am a published researcher, and have several years of experience as a subject matter expert for traumatic brain injury recovery.

I have been serving the COVID-19 response and recovery efforts since the pandemic onset, from the urgent care to an emergency staffing position with the Baltimore Convention Center Field Hospital where I transitioned to the Chief Safety Officer for Community Testing Sites. In September of 2020, MDH recruited me as a Clinical Advisor to lead testing operations with my first role as the ‘Community Testing and Infection Control Lead.’ My performance in this role promoted me to be the State Mass Vaccination Chief Clinical Advisor, providing clinical policy and oversight to all the state mass vax sites.

While in these clinical leadership roles, I created foundational training curriculum, operational guides, training tools, and clinical policies, that are still used for MDH testing and vaccine sites today. I protected the public with implementation of safety guidelines and assessments, and protected MDH by ensuring compliance with state and national requirements. I served as a mentor to clinical and non-clinical leaders, advised the government on requirements, developed quality improvement teams, and built

sustainable systems to mitigate incidents. I worked hard to create solutions that would meet operational goals so long as safety and compliance were met.

My direct supervisor granted me the authority to communicate directives at his level; he often told me he “trusted my judgment explicitly,” and referred to me often as the ‘moral compass’ of our group, since ethics are the foundation of my critical-decision making.

I worked long days and nights for over a year before taking one day of leave, viewing this phase as a deployment to serve my community, with my veteran Marine husband understanding this mode, and while sacrificing precious time with my five children to answer my call to serve. I still feel honored that I was provided an opportunity to help my community during such a critical time, but it should not have come at the cost of public health safety or at the disregard for staff rights.

When the state transitioned to the Recovery Program, the MDH vaccine and testing branches tried to merge into one cohesive program, but the merger was not successful and there was continuous dysfunction from alliances and subversive actions. I was assigned as the deputy director of the Prevention & Treatment Branch, which allowed me to provide clinical policy and oversight to all testing and vaccine operations in the Recovery Program. This aligned with my contract duties and my year long experience leading MDH covid operations. However, as I worked to address the usual issues of safety and compliance, I was progressively prevented from being able to execute the purpose of my job, because the program allowed clinical guidance to be disregarded in favor of production.

We were formally told that the Recovery Program goal was to meet the vaccine and testing gaps of the community, with the aim to empower communities to become progressively independent of state resources as we recovered from the Pandemic. Simply put, we were to support communities in a way that helped them eventually not need us anymore. This is the right aim, so that our very expensive state program can wind down operations and communities can return to self-reliance on their own health department and local resources.

However, the true aims of the Recovery Program became clear to me when I heard leaders casually say “the goal is to stay in business,” which is visible when you consider that MobileVax is sending 10 thousand dollar per site missions to locations where they know less than 25 vaccines will occur, which has been happening for months. These MobileVax sites are also often sitting right next to a local clinic offering the same vaccines.

Additionally, in the Recovery Program org chart, you can see that clinical staff are either a side-option, for as-needed approvals, or at the bottom of the org chart as execution-only staff. In fact, if clinical advisors give the wrong answer (such as no instead of yes), or if the clinical field staff are too critical in their compliance reports - operations staff will move to another clinician to do the job instead, which we internally refer to as ‘clinician shopping.’ The same practice occurs with internal legal advisors to get around consents and research concerns for example. This sends a clear message to clinical and legal staff how to maintain their job, and what would risk it; so staff that play by these rules are retained and promoted, and those that don’t are discarded. This maintains corrupt legal and clinical leadership.

The goal of the recovery program is to continue operations, so guidance that appears to be against this, or even threatens to slow things, is considered an obstacle rather than an opportunity for improvement. The whole program is run by contractors who know that if the program ends, their job may end. The incentive to “invent need” is clear and very motivating, as well as very expensive and risky to the public.

As a contract run program, there are no clear expectations for process or behavior. Even though we sign acknowledgement of the ethics law, and several other state policies, we are not held to them. New employees show up unannounced, hired because they are a friend of someone, not because they are qualified. We are unable to fire people that are incompetent because their father is a judge, they are the daughter of the current deputy, or they are friends with an executive. Instead, they hire more expensive staff to support the incompetent staff, and remove people that point out these

problems. This instability contributes to the unwelcome environment for reporting issues, and the inability to gain legal backing if you do report.

The main red flag issue I reported to my leadership was the noncompliance of the MDH vaccine sites; how they were dangerous and illegal to operate because they were not CDC compliant, and not properly staffed or resourced. I provided this communication weekly, to over 80 staff members, as well as in other meetings, calls, and in-person. I was told by the director of the program “we don’t need a Cadillac, just a Honda.” I tried to reply clearly, telling him, “It’s a car that’s dangerous to drive and needs to be pulled off the road.” But nothing changed.

Leadership retaliatory actions spiked when I voiced these concerns again, as well as concerns about the push to operate outside of CDC guidelines and the ethics of the rushed antibody study. This expedited the removal of my oversight authority, and operations sped up faster than could be managed safely. There were alternatives offered, but leadership was not interested in options that did not meet the true program goal. Instead, leadership skipped key safety steps, such as required clinical staff training and certifications, and allowed my progressive removal of oversight - ignoring my alerts and giving special treatment and authority to leaders with important friends.

As an example, the first pediatric vaccine clinic for ages 5-11 was at a politically important location where the majority of the clients were expected to be undocumented families. I requested we push the date at least one day to allow for the staff to be properly trained in pediatric vaccines and to identify a qualified clinical lead from the vendor, or to switch to a higher quality vendor with better clinical compliance since this was a vulnerable population - but I was denied. The result was a clinic run by untrained staff, led by an unprepared leader, and with CDC violations; a huge disservice to our vulnerable children. My repeatedly raised concerns and attempted oversight of the pediatric clinics resulted in the new clinical lead banning me from visiting the sites or interacting further with the clinical team that I had built. Meanwhile our operations lead continued to report how successful the pediatric clinics were, based on number of missions per week. and shot counts.

You have likely heard about TrueCare, but they were not the state supported sites with the worst compliance, the MDH organic sites were - meaning the sites that MDH put together with their own staffing pools. As examples, these sites had operated with untrained staff, no clinical leader, no epi in case of an emergency, and no vaccine temperature tracking at all. People were getting unreliable vaccines continually, but since we were not allowed to cancel sites appropriately, and the goal was the number of shots, or the number of people vaccinated - it didn't seem to matter if we could rely on the vaccine itself or not. In the end, if they needed to get revaccinated, perhaps this just meant more business for the program.

This has still not been addressed by MDH. If MDH conducted an evaluation of their own sites with the same minimum standard it set for TrueCare, they would have to contact numerous clients for revaccination, starting from the Camden Yard sites last July. But MDH leadership has denied my requests for an internal investigation of our own sites, and the investigative lead who paused TrueCare has not been willing to hold MDH to the same standards.

When TrueCare was finally fully suspended, the MDH organic teams were forced to accommodate the scheduled sites with even less safety measures. Sites were severely understaffed, at times, only one or two clinical people, and with clinical staff who were non-CDC compliant. The MDH clinical advisors were made to provide clinical oversight of an unsafe clinic with no power to change the situation, compromising their licenses. They were forced to work continuous days and cancel leave. One nurse was bullied into canceling her anniversary plans and working 15 days in a row under these high stress conditions. Even if they had not yet been cleared to provide clinical oversight or had the required certifications, they were directed to perform the role anyway - and afraid to lose their jobs if they didn't accept.

When my oversight and protection was removed from the Clinical Advisor Program, they were put under the management of a nonclinical person so that their schedules and assignments could be dictated, regardless of the risks. I tried to impress upon the branch director the need to stop the staff abuse, the severe and increasing public safety

concerns, and to please communicate to the secretary our limitations. But our leadership was often afraid to tell the secretary disappointing news, and would manipulate reports to provide a more positive picture. So, he was ultimately not willing to relay this information and was angry I would not comply with his dangerous demands. It was during this escalated crisis that I finally filed my whistleblower report to the MDH OIG on Sept 23rd, and the branch director informed me of my planned demotion 4 days later.

When I was demoted from my position, I was given 4 hours to find another office space. My colleagues' jobs were threatened if they associated with me or stepped into my office again. I was sent to a non-existent administrative role where my supervisor was instructed to restrict my work, and relayed that I was not allowed overtime because I was overqualified for the role and therefore expensive - even though they were still trying to hire three more clinical advisors. I was instructed to cancel all team meetings, including meetings all team members are allowed to attend, and blocked from team files. The worst part is that the clinicians I worked with witnessed this clear message, and now encourage each other to protect their jobs by quote: “keeping quiet” and “avoiding trouble.” They are not in a safe place to report concerns. Many have reached out to me discreetly in agreement with the issues, but are rightfully afraid to lose their jobs, and have chosen to protect their careers and families by suppressing their responsibility as compliance officers. Also, some clinical leads are more interested in their near 200 dollars per hour pay with occasional double time, and get special treatment and pay for hiding problems.

Even though I am now ostracized to a non-team administrative role, the story repeats itself with our remaining senior compliance officer, who last week was removed of her authority to supervise Spartan. Spartan is the current MDH MobileVax vendor assigned the most sites and with the worst compliance issues.

Our senior compliance officer has also been legally threatened by state entities, and her office was given to a new employee with no explanation or apology. She requested I not give her name today, but she is the most proficient compliance officer MDH has, and if

given the power she deserves to have, she would be instrumental in fixing the safety issues by setting the right bar. The retaliation she is experiencing today is completely uncalled for, solidifies the clinical advisor's fear of reporting, and it does not demonstrate the Secretary’s vow to prevent and address retaliation. Many other staff have also quit or been fired within the last month, and likely they would be able to attest to the examples I have given today. Instead, the current compliance leads are not qualified in compliance, and the clinical team lead assists in suppressing safety reports and authorizes non-clinical staff to conduct clinical roles; unnecessarily increasing risks to public safety. This clinical team lead is also the silo for the new escalation process, filtering reports before they escalate in awareness.

The state reporting process is also a mess. Since July of 2021, well before my OIG report, I attempted alerting my command regularly through all the proper channels. I also sought guidance from state legal contacts and EEO representatives. But I was u-turned and dead-ended before my own research brought me to the MDH OIG, where on their main page, the purpose bullets highlight several areas I needed to report. The OIG initially pushed my Sept 23 complaint to the Audits and Compliance Office, who later told me my complaint should stay with the OIG, and/or add the EEO office by reporting again to the Department of Budget and Management. The EEO office then clarified that their job would be to try to refute my complaint and defend MDH, rather than investigate an area that needed to be addressed. I submitted this additional complaint to the DBM office anyway.

It wasn’t until the EEO prompted the OIG, that I finally got a response 93 days after my initial report, where they then stated that my complaint was not in their purview and to try the HHS. And they did not reply to my requests for clarity on why my report did not qualify, or provide a copy of their assessment.

Every step of the way, each office seemed to find a reason why they were not the right office, and were not willing to address the portion that applied to them. I even went to the State Ethics Commission, who told me that contract employees are not held to state employee laws, even though we signed acknowledgement of it.

Now 5 months after my initial report, the EEO within the DBM, and the Audits and Compliance office are continuing investigations. However, the Audits and Compliance office report will not be provided to me, and is internal, meaning it may be dismissed completely. My federal reports to CDC, FDA, and HHS entities were ignored or declined; except for one report to the HHS Pandemic Hotline. But they informed me that their investigation will take between 3 to 5 years to complete.

To conclude; please hear me when I say: this is not a TrueCare issue, an individual issue, or a past issue. It is an active MDH issue.

The MDH Recovery Program will remain unsafe for the public and their staff, so long as it continues to operate off a production model that overrides safety and permits retaliation.

Thank you for hearing my testimony today.

List of Relevant News Articles for SB 708.pdf
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List of Relevant News Articles for SB 708

Baltimore Sun:
December
January – Sandy Point
January – Prisons
February
March

WYPR:
March

Maryland Matters:
March

WBAL:
January
January – Lawmakers Question MDH

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Chair, Environment Subcommittee

Executive Nominations Committee

Joint Committee on Ending Homelessness

Senate Chair
Joint Audit and Evaluation Committee
Joint Committee on Fair Practices and State Personnel Oversight

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Baltimore County Senate Delegation
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Chair
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Support SB 708:
Maryland Department of Health - Office of the Inspector General and Emergency Procurement Audits

Background:

- Throughout the COVID-19 pandemic, the state of Maryland has had to work quickly to secure critical medical equipment and life-saving contractual services.
- To secure these essential contracts, the state awarded many large emergency procurement contracts to third-party entities, some of whom did not have the appropriate experience in providing the services they were contracted for.
- A concerning number of entities contracted by the state during the pandemic struggled to follow Maryland Department of Health (MDH) and Centers for Disease Control (CDC) guidelines relating to the delivery and storage of COVID-19 vaccines.
- TrueCare24, one of these third-party contractors, improperly managed vaccines and delivered hundreds of potentially compromised doses to Marylanders.[1][2]
- Despite the existence of an internal Office of Inspector General (OIG) within MDH, the OIG chose to not investigate the allegations of vaccine misuse at the time.

Why SB 708 is Needed:

- Third-party contractors that do not follow CDC and MDH guidance relating to the handling and delivery of vaccines put Maryland's public health in jeopardy.
- Without proper oversight of the emergency procurement contracts, there is a higher risk for the misuse, mismanagement, and misallocation of taxpayer funds to third-party contractors.

[1] Baltimore Sun (December, 2021)
[2] Baltimore Sun (February, 2022)

- The current statute can be strengthened to ensure that the OIG within MDH has the explicit authority to investigate operations that threaten public safety and to ensure that instances related to incompetence, malfeasance, and negligence can be addressed by an entity within this unit.
- Without strong financial oversight of emergency procurement contracts, the state cannot adequately ensure that taxpayer dollars are not being wasted by third-party contractors.

What SB 708 Does:

- SB 708 establishes the position of a "Compliance Officer" within the Office of the Inspector General in MDH with designated education and experience requirements for the position.
- SB 708 directs the Inspector General and the Compliance Officer to investigate any fraud, waste, abuse, and behavior within MDH that threatens public safety or otherwise is indicative of negligence, incompetence, or malfeasance.
- SB 708 clarifies that the Inspector General and the Compliance Officer have the necessary authority to execute investigations within MDH operations to scrutinize concerns that do not solely relate to the misuse of Department funds.
- SB 708 requires that the Board of Public Works submit public, independent audits of all emergency procurement contracts to the Secretary of Health within 90 days of the date that the contracts are awarded.

What SB 708 Accomplishes:

- SB 708 protects the health and safety of Marylanders by creating the position of "Compliance Officer" to ensure that there is a dedicated entity within the MDH OIG to investigate negligence, incompetence, and malfeasance.
- SB 708 ensures that there is strong oversight over the execution of contracts awarded by MDH to third-party entities.
- SB 708 improves the ability of MDH to protect Maryland's public health through expanded supervision of third-party contractors.
- SB 708 improves the stewardship of taxpayer dollars by requiring independent audits for emergency procurement contracts which will make sure these funds are spent appropriately.