



**To:** Senate Public Health and Welfare Committee

**From:** Rachelle Colombo; Executive Director

**Date:** February 15, 2024

**Subject:** SB 391; Constitutional Right to Health Freedom Act

The Kansas Medical Society (KMS) appreciates the opportunity to offer comments on SB 391 which makes several changes to the statutes regarding the authority of local health officers and the KDHE Secretary to take actions designed to protect the public from infectious and contagious disease threats, including revoking the authority of the Secretary to order isolation or quarantine.

As we have noted in other legislation regarding the rights of patients and the responsibilities of the KDHE Secretary which this committee has considered recently, the provisions of this act are no doubt well-intentioned. They reflect the understandable concerns of many Kansans over some policies and actions which were taken as a result of the COVID pandemic. It is important to remember that in the early stages of the pandemic, much was unknown about the virus and how we should respond as a society in order to protect the public. As we have emerged from the pandemic our understanding of what worked from a public health perspective, and what did not, continues to be discussed and debated, as it should.

Our concern with this bill, and others like it, is that it risks going too far in response, an unnecessary and unwise over-correction. For example, revoking the authority of local health officers and the KDHE Secretary to order isolation or quarantine to prevent the spread of potentially catastrophic diseases swings the pendulum too far back the other way. With the notable exception of the tuberculosis statutory provisions which would apparently remain in effect, this bill substantially weakens the ability of state and local health officials to respond to known public health threats from other infectious and contagious diseases. It limits their role to that of just adopting policies and making recommendations, neither of which have any legal force or effect.

It is certainly appropriate to have a debate about the role of government, both state and local, in responding to public health threats. However, to just tie the hands of those officials charged with protecting the public health is an over-simplistic response to a complex problem, and it will likely increase the possibility of unintended consequences when we are faced with a future pandemic. For these reasons, we cannot support this legislation. Thank you.