

The following are excerpts from a conversation I had with a practicing North Idaho physician on July 25, 2020. I am sharing this with you, the reader, because it is important to know all sides of an issue so you can become an informed and educated citizen and voter.

A physician's concerns and opinions regarding forced face masking to treat or prevent SARS CoV2 and Covid-19: Mask Mandates

On Thursday July 23, 2020, in a 4 to 2 vote, the board of the Panhandle Health District voted in favor of mandating that Idaho's Kootenai County residents wear face masks when not able to maintain six feet of distance in public to help prevent the spread of the novel coronavirus, SARS Co-V2, and its disease, Covid-19. ([LINK to Meeting](#)) ([LINK to Order](#)) This mandatory mask policy appears to violate Idaho state laws including who can practice medicine, a person's natural right to self-determination regarding their medical treatment and well-established medical guidelines regarding the expectations of informed, voluntary consent to said medical treatment.

Points of concern:

1. When a facial covering (i.e. mask) is used to treat or prevent any disease (i.e. Covid-19), it can be classified as a medical "device" and falls under Federal Drug Administration (FDA) and the Federal Food, Drug & Cosmetic Act (FD&C) guidance. ([LINK to Guidance](#))
2. When a person/patient is instructed to wear or use a face mask, a device or an "instrument", to treat or prevent a disease (i.e. Covid-19), it falls under the "practice of medicine" and is considered "medical treatment" by the Idaho Board of Medicine ([LINK to Board of Medicine](#)). Based on this new mask policy, who now is allowed to practice medicine or prescribe medical treatments in Idaho? Committees, boards, individuals?

To provide the best care and to clearly avoid complications and adverse effects of treatment or mask wearing, a **doctor** should establish a relationship with that patient. Committees should not be prescribing treatment to a general population in which no patient relationship exists.

Idaho Code 54 Chapter 18, Section 04 addresses unlicensed practice of medicine and the associated penalties ([LINK to Code](#)). Without first obtaining proper informed consent regarding mask wearing via shared decision-making between a doctor and their patient, and by first discussing risks, benefits and alternatives to proposed treatment, any, if not all, of the following legal recourse should apply to such committees, boards or individuals who force such treatments: civil negligence; criminal battery; or gross negligence, if forced. What if there were to be an adverse effect, permanent injury or death as a direct result of forcing an individual to wear a mask either to themselves or someone else? Malpractice?

3. Idaho common-law recognizes the right of a person to self-determination regarding a person's own medical treatment. See "*Idaho Law Review 2008 Symposium Edition Volume 44 Law and Healthcare: Bridging the Divisions*" for more details. ([LINK](#))

The Federal Code of regulation [42 CFR § 482.13\(b\)\(1\)](#) 2007 **Conditions of Participations: Patient's Rights**, states:

"The patient has the right to participate in the development and implementation of his or her plan of care. **(2)**has the right to make informed decisions regarding his or her care. The patient's rights include being informed of his or her health status, being involved in care planning and treatment, and being able to request or refuse treatment. This right must not be construed as a mechanism to demand the provision of treatment or services deemed medically unnecessary or inappropriate. **(3)** ...the right to formulate advance directives and to have hospital staff and practitioners who provide care in the hospital comply with these directives..."

Where are the controls and checks and balances necessary to hold members of Committee, Boards and non-licensed individuals civilly and criminally accountable to the same standards as licensed doctors must adhere to?

4. Instructing the general public to wear a face mask to prevent the spread of a virus (i.e. SARS CoV2) or a disease (i.e. Covid-19), could be considered human medical experimentation since this has never been done before. The science is not settled, and there is no consensus of "standard of care" to refer to. MANDATING mask wearing to prevent the spread of SARS CoV2 or Covid-19 or any other known contagious disease, could be a violation of human rights established in the Nuremberg Code which states, 'VOLUNTARY (emphasis added) human consent is essential' for human medical experimentation ([LINK](#)). **Can these universal human rights be suspended by a government, board or committee in a pandemic like Covid-19? If so, what other human rights can be suspended?**

One example of medical advice that was initially given regarding treatment of Covid-19 patients was that physicians were advised on early intubation and use of ventilators. As it turns out that recommendation was going to cause more harm and death than less invasive breathing treatments and oxygenation. After more information was gathered, physicians learned this was not good practice and made appropriate changes to medical treatment and try to delay intubation as long as possible ([LINK](#)). Is it possible that in the coming months we find out that mandating masks to the general population may cause more harm than good once more time passes and more data is analyzed?

Will/can the Panhandle Health District board be held individually responsible and to the same standards as a physician would be?