

To: Governor Newsom

Re: AB2098: Establishes that it is unprofessional conduct for physicians to provide COVID-19 information and treatment that contradicts then-current standard of care.

Governor Newsom,

PERK is a non-partisan, non-profit organization that advocates for children, families, and medical freedom. We consult with the most credible scientists and doctors in the country. In our consultations, we have found grave concerns and request for you to **VETO AB2098**.

*The Institute of Medicine has reported that it can take up to 17 years¹ for a new best practice to reach the average physician and surgeon. It is prudent to give attention to new developments, not only in general medical care, but in the actual treatment of specific diseases, particularly those that are not yet broadly recognized in California. The premise for introducing AB2098, in the COVID era, is to stop misinformation and disinformation. However, **“Counterfactual Information” is what actually drives science. The authors of AB2098 are mislabeling “misinformation”, which is really “counterfactual information.”** During the past two years, regulatory agencies have flip-flopped on care, protocols, recommendations, efficacy, treatments, and “science.”*

25 Reasons AB2098 is Flawed and Must be Vetoes

1. “Misinformation” and “disinformation,” as described in AB2098, sets a dangerous precedent to essentially make it *illegal* for doctors to treat patients to their discretion.
2. [There is a 17-year gap](#) between new treatments or best practices reaching the average physicians and becoming the Standard of Care.²
3. Malpractice Laws already exist. AB2098 will punish doctors even if the patient benefits from the care. This is unreasonable and unnecessary when there are already laws in place to reprimand doctors for malpractice. [California Code, Business and Professions Code - BPC 2234.1](#)³
4. If this bill is not vetoed, it will consequentially increase the doctor shortage in California. [California faces a projected shortfall of 4,100 primary care clinicians](#) over the next 10 years, so more providers, not less, are needed to meet demand. (p.5)⁴
5. The health-care sector has already [lost nearly half a million workers](#) since February 2020. AB2098 will cause California doctors to leave in a mass exodus, expediting the doctor shortage and further burdening the health care sector.⁵ Very few good doctors, dedicated to the patient (rather than following inconsistent government edicts) will be left in California.
6. **The Bill doesn’t address time.** For example, the United States recalled 800,000 Swine Flu Vaccines.⁶ The impractical and reckless nature of AB2098 would create a scenario where a doctor may be punished the day before the Swine Flu Vaccine is recalled, as it’s considered “safe.” However, one day, the day after it’s recalled, it’s “unsafe.” This places doctors in precarious situations to protect their medical license or the patient. AB2098 punishes competent physicians who recognize safety signals, including administering vaccines such as the Swine Flu Vaccine that may be inappropriately marketed as safe and effective, then subsequently recalled.⁷
7. No Doctor ‘hits the bullseye’ all the time. Will Doctors be subject to discipline for simple newsletters to patients?

¹ <https://www.universityaffairs.ca/opinion/in-my-opinion/closing-17-year-gap-scientific-evidence-patient-care/>

² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3241518/>

³ <https://codes.findlaw.com/ca/business-and-professions-code/bpc-sect-2234-1.html>

⁴ <https://futurehealthworkforce.org/wp-content/uploads/2019/03/MeetingDemandForHealthFinalReportCFHWC.pdf>

⁵ <https://www.bls.gov/news.release/pdf/empsit.pdf>

⁶ <https://www.npr.org/templates/story/story.php?storyId=121480816>

⁷ <https://static1.squarespace.com/static/5d49e2b300d396000117f616/t/62e08e80e489b20edfd2fcd5/1658883713699/History+of+Vaccine+Recalls.jpg>

8. AB2098 infringes on a doctor's right to make educated and individualized decisions about their patient's health and treatment, with the constant worrying that they will be subject to disciplinary action for thinking outside the box.
9. This bill is [The Semmelweis reflex, a reflex-like tendency](#) to reject new evidence or new knowledge because it contradicts established norms, beliefs, or paradigms.⁸ This was coined from a Hungarian physician, who discovered in 1847 that handwashing between patients and surgery reduced infections and deaths. He was rejected and persecuted for this discovery.
10. AB2098 allows the government to interfere in the doctor-patient relationship by regulating professionals who undergo extensive training and education that gives them the knowledge and ability to act in the best interest of their individual patients with differing needs and concerns.⁹
11. For example, a physician may believe a particular patient's risk of experiencing [myocarditis](#) (heart inflammation)¹⁰ and [waning efficacy](#) is not worth getting the COVID-19 vaccine. The provisions of this bill could result in such a physician being punished, even if the doctor is right.¹¹
12. There are technical flaws in the bill. Will it apply to misinformation for all things?
13. Patients can send in complaints that have a reverse impact of the bill.
14. AB2098 will jeopardize development of medical practice in new areas, such as COVID, that are not up-to-date or widely accepted in standards of care. Furthermore, your ability to get a second opinion from a doctor will be disrupted.
15. California must not create an environment where doctors are punished and disciplined for giving treatments that regulatory agencies are often delayed in recommending. On August 11th, 2022, the CDC, reversed its controversial position related to children K-12 and COVID 19 guidelines.¹² Doctors treating patients with Ivermectin were said to be promoting misinformation and disinformation because they were “going against the government narrative.” Now, that same “misinformed treatment,” Ivermectin¹³, has 88,000 subjects in a peer-reviewed study published in a medical journal and studies show promising results.¹⁴
16. Drugs, including vaccines, are recalled. Products once thought safe and effective are removed, no longer viable treatments, and withdrawn. This list is only a small example of products brought to the market that are no longer viable. AB2098 is detrimental as it would prevent doctors from identifying faulty, dangerous products, and reactions.
17. The 17-year gap will create decades of disconnection from effective current medicine/treatments and what doctors can do.
18. The very idea of “disinformation/misinformation” will stop doctors from treating patients.
19. Patients are all different. All patients don't need the same medicine for the same thing. Patients deserve to hear and have all the options, but won't have that if this bill passes. Patients won't be able to trust their doctor to give his or her best opinion, as the doctor will be restricted in what they can say.
20. Patients trust their doctors' opinions. Whether you agree or disagree, you want to hear ALL of what your doctor has to say, including all the treatment options.
21. The bill will prevent doctors from prescribing effective treatments for COVID-19 and other illnesses.
22. It will silence doctors from brainstorming solutions and ideas with their patients. Patients want to hear their choices, therapy, and treatment options. This removes options.
23. **Legal Problems:** AB2098 is unconstitutional on its face.
24. History of medicine shows why we must hear dissenting opinions of current protocols. **Vioxx** resulted in nearly 28,000 cardiac deaths before it was withdrawn. **Accutane** was recalled **after 30 years of use**, thousands of lawsuits, and millions of dollars paid out in verdicts. **Raptiva:** In early 2009, the FDA announced a Public Health Advisory, notified the healthcare community of these risks associated with

⁸ <https://pubmed.ncbi.nlm.nih.gov/31837492/>

⁹ <https://www.indeed.com/career-advice/career-development/how-many-years-does-it-take-to-become-a-doctor>

¹⁰ <https://www.google.com/url?q=http://paracom.paramountcommunication.com/ct/60645860:Wy2aVwhNK:m:1:2339212153:5923CF007C74E37404AC30F4A6F52301:r&source=gmail&ust=1663118601347000&usg=AOvVaw1wQS5wsJpXjHtfuUipZome>

¹¹ <https://www.cidrap.umn.edu/news-perspective/2022/08/study-pfizer-covid-vaccine-efficacy-wanes-27-days-after-dose-2-teens>

¹² <https://www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-childcare-guidance.html>

¹³ https://www.cureus.com/articles/111851-regular-use-of-ivermectin-as-prophylaxis-for-covid-19-led-up-to-a-92-reduction-in-covid-19-mortality-rate-in-a-dose-response-manner-results-of-a-prospective-observational-study-of-a-strictly-controlled-population-of-88012-subjects?email_share=true&expedited_modal=true#article-information-publication-history

¹⁴ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8088823/>

Raptiva, a psoriasis treatment, that was eventually found to onset a brain infection called leukoencephalopathy. **Lipobay** was recalled after 11 years on the market, 52 deaths, and the product leading to renal failure. **Darvocet and Darvon** are now banned throughout the U.S. and the U.K. and were once a popular pain treatment.¹⁵ **Opioids** and forms of Birth control are not viable anymore.¹⁶ **Fenphen** was used for decades until the realization was undeniable that it caused [heart valve](#) problems and was eventually withdrawn after over \$13 billion in legal damages.¹⁷ Doctors were right when assessing risks prior to the recall of many of these products.

25. The point is; it's the doctors on the frontline of healthcare, who first see these problems. Doctors should be protected, not disciplined, as they protect patients. Manufacturers who create faulty products¹⁸, that stay on the market for decades, are the ones who deserve punishment and discipline for misinformation, disinformation, and in many cases¹⁹ fraud.²⁰

We have heard from doctors who express grave concerns. A medical doctor, with a license to practice in New York and California, has expressed to us that he will be forced to stop practicing in California, if this bill is signed into law. He cannot, in good conscience, serve his patients if he cannot freely share information with them, in California, with treatments that are working for his patients in New York. An epidemiologist spoke about the delays in research to practice and how this leads to the standard of care in need of consistently being updated- exactly what we are seeing from year to year and, in some cases, month to month.

An immunologist spoke about how research is constantly being conducted in different areas of the world, and what may be known in one area may not yet be known across the board. It appears a doctor's ability to research medical literature and share findings with their patients will be compromised, unlike any other practice of medicine. Cancer patients, for example, can seek second opinions and doctors are able to share varied medical advice based on research they have found that may be novel or contrary to standard practices.

Two final examples to illustrate the danger of AB2098. **Hand Washing:** [Hand washing before delivering a baby](#) was first vilified before it became the standard of care.²¹ **Septic Ulcers:** Dr. Barry Marshall and septic ulcers. People thought that spicy foods caused ulcers. Instead, Dr. Barry Marshall discovered you treat peptic ulcers with an antibiotic, which was later understood because it's a bacteria issue. Dr. Barry Marshall was considered crazy, misinforming his patients, and yet 10 years later his medical treatment theory was correct, and he was awarded the [Nobel Prize in 2005 for his "pioneering" work](#).²²

AB2098 creates a slippery slope in the practice of medicine in California and will be detrimental to doctors, harm patients, and prevent Californians from seeking effective medical care. Governor Newsom, you must veto this bill.

Sincerely,

Amy Bohn
President of Protection of the Educational Rights of Kids



¹⁵ <https://www.biospace.com/article/6-major-drug-recalls-in-the-past-for-health-concerns/>

¹⁶ <https://www.fiercepharma.com/pharma/merck-gsk-pfizer-j-j-among-top-10-u-s-pharma-settlements-all-time>

¹⁷ <https://en.wikipedia.org/wiki/Fenfluramine/phentermine>

¹⁸ <https://www.statnews.com/2021/04/06/fibrogen-admits-false-heart-safety-data-for-experimental-anemia-pill-shared-with-fda-investors/>

¹⁹ <https://www.cbc.ca/news/science/studies-allege-drugmaker-manipulated-data-on-painkiller-vioxx-1.699404>

²⁰ <https://www.fiercepharma.com/pharma/merck-gsk-pfizer-j-j-among-top-10-u-s-pharma-settlements-all-time>

²¹ <https://www.nationalgeographic.com/history/article/handwashing-once-controversial-medical-advice>

²² <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2661189/>