

ASSEMBLY FLOOR ALERT, MONDAY, AUG. 29

AB 2098 (Low) on Concurrence -- OPPOSE

Don't squash medical independence
Preserve Californians' right of a second opinion

Unconstitutional regulation of speech

Targeting doctors for Covid-related “misinformation or disinformation,” AB 2098 radically and unconstitutionally targets professional speech. As the 9th Circuit Court of Appeals noted in *Pickup v. Brown* (2013), “...*doctor-patient communications about medical treatment receive substantial First Amendment protection.*” The appellate court also stated, “*where a professional is engaged in a public dialogue, First Amendment protection is at its greatest. Thus, for example, a doctor who publicly advocates a treatment that the medical establishment considers outside the mainstream, or even dangerous, is entitled to robust protection under the First Amendment—just as any person is.*” AB 2098’s author knows his bill might be unconstitutional, so he amended AB 2098 on April 20 to make its provisions “severable ... if any provision of this act or its application is held invalid.”

Infringes on medical independence

Not only does AB 2098 infringe on freedom of speech guaranteed in both the U.S. and California constitutions, it violates the Hippocratic Oath of doctors to “do no harm or injustice” to patients. Because if facts inform physicians that certain recommendations of the medical establishment are unnecessary, ineffective, or harmful, doctors will be punished for doing good, patients will be denied informed consent, and the doctor-patient relationship will be shattered. A vote for AB 2098 is a vote against medical independence, and against patients receiving a second opinion.

The perceived need for this bill has evaporated

Much has changed in the last six months since AB 2098 was introduced. In February, both the author and Twitter deemed it “misinformation” to publicly state the Covid vaccines did not work as advertised; that they did not prevent infection or transmission.

This is why, on August 28, 2021, Twitter “permanently suspended” former New York Times science reporter Alex Berenson after he posted, in part: “It doesn’t stop infection. Or transmission. Don’t think of it as a vaccine,” the tweet read.

<https://nypost.com/2021/08/28/covid-vaccine-doubter-alex-berenson-permanently-banned-from-twitter>

Yet, nine months earlier, on December 28, 2020, Soumya Swaminathan, Chief Scientist at the World Health Organization, said in an interview, “I don’t believe we have the evidence on any of the vaccines to be confident that it’s going to prevent people from actually getting the infection and therefore being able to pass it on.” Was this misinformation?

<https://medium.com/molyneuxpost/who-chief-believes-covid-vaccine-doesnt-prevent-infections-and-spread-of-virus-3383e7dd76c9>

Then, on January 10, 2022, CDC Director Rochelle Walensky, in a CNN segment discussing the novel mRNA Covid vaccines, said, “What they can't do anymore is prevent transmission.” Was this misinformation? <https://www.msn.com/en-us/health/medical/cdc-director-covid-vaccines-cant-prevent-transmission-anymore/ar-AASDndg>

More recently, on July 12, 2022, Dr. Anthony Fauci, in an interview with Neil Cavuto, said the Covid “vaccines ... don't protect overly well, as it were, against infection.” Was this misinformation? <https://www.msn.com/en-us/health/medical/fauci-admits-that-covid-19-vaccines-do-not-protect-overly-well-against-infection/ar-AAZvCn8>

Fortunately, for the sake of both free speech and scientific integrity, in late June 2022, Twitter settled out of court in response to Berenson’s lawsuit, and reinstated his Twitter account. Said Berenson, “The parties have come to a mutually acceptable resolution. I have been reinstated. Twitter has acknowledged that my tweets should have not led to my suspension at that time.” <https://alexberenson.substack.com/p/alexberenson>

Is it “misinformation or disinformation” to question the safety of Covid vaccines? On August 19, 2022, the U.S. Vaccine Adverse Events Reporting System (VAERS) reported it has received, so far, 1,390,594 reports of adverse reactions to the Covid vaccines (this data includes 30,479 deaths). <https://www.openvaers.com/covid-data>. On its website, VAERS says it "receives reports for only a small fraction of actual adverse events," meaning deaths and injuries from the novel mRNA vaccines are actually greater than are being reported. <https://vaers.hhs.gov/data/dataguide.html>

The lesson of this one-year history is this: What is accused of being “misinformation” at one time might eventually be proven as fact. AB 2098 is falsely charging doctors with Covid vaccine “misinformation or disinformation,” whereas, here in mid-2022, science has proven physicians who doubted the efficacy of the Covid vaccines to be scientifically correct.

Ironically, AB 2098 is itself engaging in “disinformation” to charge “unprofessional conduct” for honest doctors who have questioned the effectiveness and safety of Covid vaccines. It is scientific to ask questions and weigh the evidence; it is unconstitutional to suppress medical free speech.

For fairness, free speech, and the right of a second opinion, oppose AB 2098