

ASSEMBLY FLOOR ALERT, MONDAY, MAY 23

AB 2098 (Low) -- OPPOSE

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

Unconstitutional regulation of speech

By targeting doctors for Covid-related "misinformation or disinformation," AB 2098 unconstitutionally targets professional speech. As the Ninth 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." The author of AB 2098 knows his bill might be unconstitutional: On April 20, he amended AB 2098 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 blatantly violates the Hippocratic Oath of doctors to "do no harm or injustice" to patients. Because if certain 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 an honest second opinion.

Unnecessary; fails to define legal terms

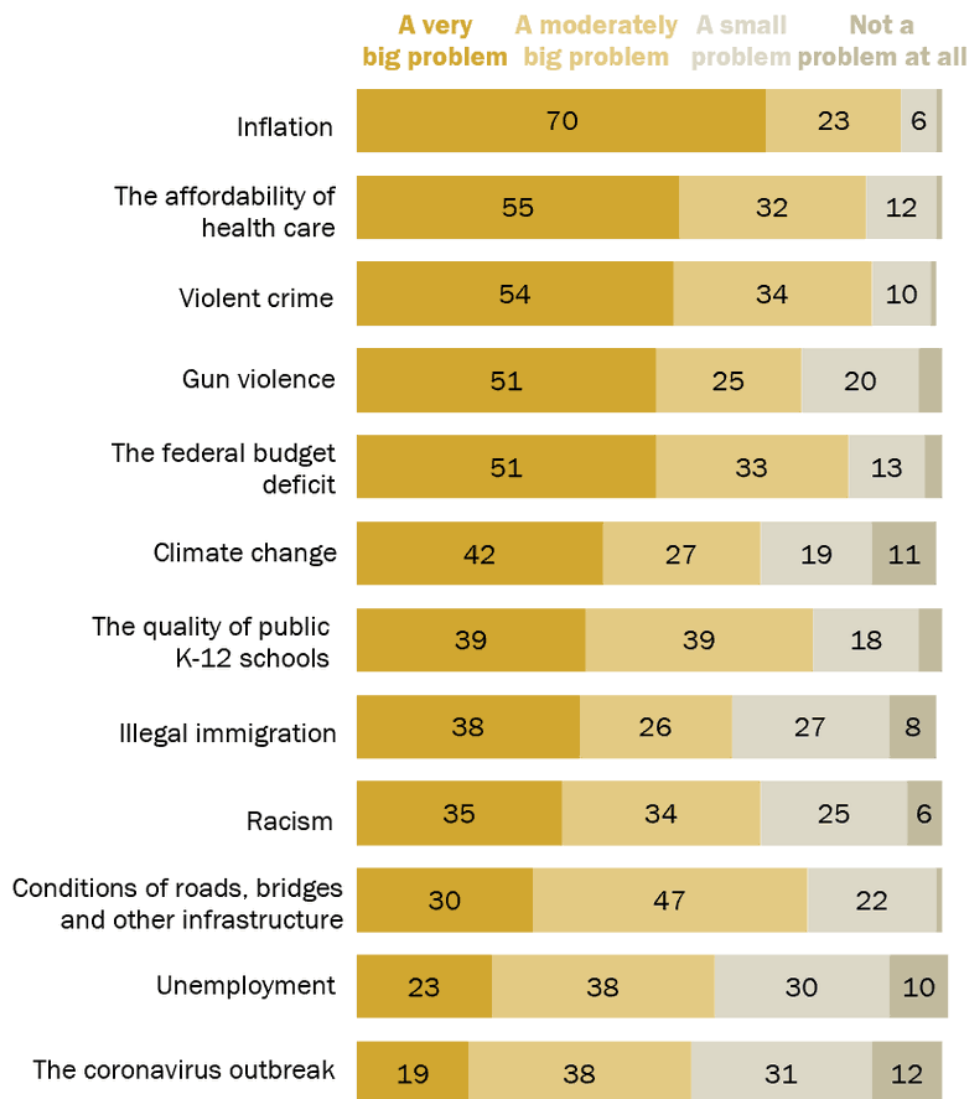
As reported in the April 19 analysis of the Business and Professions Committee: *A Voice for Choice Advocacy* opposes this bill, writing: "While we agree that physicians and surgeons should be disciplined for maliciously sharing misinformation and disinformation, there are already measures in place for the California Medical Board to discipline for such offenses. Furthermore, AB 2098 is overly broad and would be impossible to implement because there is no definition and no established 'standard of care' or 'contemporary scientific consensus' for treating SARS-COV-2/COVID-19."

Many no longer view Covid as "a very big problem"

AB 2098's heavy hand is out of step with the public. Pew Research, in a nationwide survey conducted April 25 to May 1, found only 19% of Americans viewed Covid as "a very big problem." In contrast, the three top issues respondents identified as "a very big problem" were inflation (70%), the affordability of health care (55%), and violent crime (54%).

Inflation tops Americans' list of biggest problems facing the country

% who say each of the following is _____ in the country today



Note: No answer responses not shown.

Source: Survey of U.S. adults conducted April 25-May 1, 2022.

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