

Subject **Fw: Please support SB277**  
 From Ricardo Beas <ricardobeasv@hotmail.com>  
 To ricardo@cafepeyote.com <ricardo@cafepeyote.com>  
 Date 2019-02-10 7:33 am

**From:** Reiss, Dorit R. <reissd@uchastings.edu>  
**Sent:** Monday, August 15, 2016 9:46 AM  
**To:** Ricardo Beas  
**Subject:** Fw: Please support SB277

Apparently I didn't add Pan and Allen to all my letters, so I have even less correspondence than I thought - probably because they were sponsors. So I'm sending this in case you want it.

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**From:** Reiss, Dorit R.  
**Sent:** Monday, April 20, 2015 4:44 PM  
**To:** Senator.liu@senate.ca.gov; Senator.block@senate.ca.gov; Senator.hancock@senate.ca.gov;  
 Senator.leyva@seante.ca.gov; Senator.mendoza@senate.ca.gov; Senator.vidak@senate.ca.gov  
**Subject:** Please support SB277

Dear Madame Chair and Vice Chair, Dear Senators,

My name is Dorit Reiss. I am a law professor in UC Hastings College of the Law, a mom, a mom to be (baby due in June) and a vaccine advocate. I urge you to support SB277, to make schools safer for our children, prevent the interruption outbreaks of preventable diseases cause to their education, and prevent a misguided minority from imposing their choices on others. The desire of a minority of parents not to have to choose between vaccinating their child and homeschooling is not a good reason to make the community less safe for the rest of us.

**PBEs have placed Several Schools At Risk of Preventable Diseases:**

Abundant evidence shows that children who are unvaccinated are at a much higher risk of getting a preventable disease and communities with low vaccination rates are at higher risk of outbreaks. Here is a long list of studies with descriptions:  
<http://www.immunize.org/catg.d/p2069.pdf>

Here are a few examples of exemption rates in specific schools in California. These are taken from:  
<http://www.cdph.ca.gov/programs/immunize/Pages/ImmunizationLevels.aspx>

1. Jefferson Elementary, Berkeley – Rate of PBE: 16%. 77% immunized with MMR, 77% with DTaP, 77% with polio.
2. Berkeley Rose School – Rate of PBE: 87% (that is only 20 students, though). Rates of MMR, DTaP and Polio at 13%; only 13% of students got those.
3. Sky Mountain Charter (Public) -- Placerville (Lucerne Valley Unified) Kindergarten enrollment: 251 Students with PBEs = 115, or 45%. The school serves students in San Bernardino, Inyo, Kern, Los Angeles, Orange, and Riverside Counties."  
<http://www.skymountaincs.org/>
4. South Sutter Charter (Public) -- Placerville (Marcum-Illinois Union Elementary). Rate of PBE 46%; Rates of MMR, DTaP and Polio at 53%. The school serves students in Sutter, Butte, Colusa, Placer, Sacramento, Yolo, and Yuba counties.  
<http://www.sscs.cc/>

5. Edna Maguire Elementary in Marin county has 12% PBE rate and 85% of students with DTaP, 87% with MMR and Polio each.

This very small list of examples shows that some schools have very high rates of PBEs – and those children are not missing one or two vaccines: they are missing most or all of their basic vaccines. These schools are at high risk of outbreaks, and students who are immune compromised, or suffer vaccine failure are at risk – as are visitors who are not immune, including siblings too young to vaccinate.

#### **Education is a fundamental right, but school safety is a critical precondition**

California's courts have acknowledged that education is a fundamental interest in California. Courts stepped in to protect children from education barriers based on wealth or race.

But the courts have never prevented the state from regulating to increase the safety and health of children in school. We have multiple laws and regulations aimed at that. This is another one: the goal of SB 277 is to increase the schools' safety from disease. A higher risk of PBEs makes the school less safe. It's well within the state's power to act to protect children from disease and schools from the disruption disease outbreaks cause for everyone.

Let's also highlight: SB277 does not bar children from schools. Parents may choose to homeschool because they don't like the curriculum, because they want to protect their religious beliefs, because they distrust institutions, and for many more reasons. Or a parent may choose to homeschool because they fear vaccines, if the bill passes. The parent has a choice: follow the scientific consensus and protect the child from diseases. Or decide it is important enough to deprive the child of vaccines that the parent is willing to homeschool. We don't change the curriculum to prevent parents from having to choose between curriculum and homeschooling, to prevent parents from having to choose between following their religious beliefs and homeschooling, and so forth. If homeschooling is a legitimate choice for parents, it is for them to balance the universally applicable framework – including school immunization requirements – or rejecting it and homeschooling. Why waive requirements that protect children's health and life to prevent a minority of parents from facing that choice?

#### **California offers a variety of solutions for homeschooling**

Parents whose fear of vaccines goes so far they would rather homeschool than protect their children from disease have a range of options in California. California offers independent study options, online programs through charter schools, filing an affidavit as a private school, engaging an accredited tutor or acting as one. It may be challenging for some families, but they do have choices.

It may be necessary to tinker somewhat with the language of the bill to permit families the full range of options, but the availability of these options is a good reason to support the bill.

#### **The bill does not change the medical exemption**

California offers a medical exemption from immunization. If a physician is willing to sign that a child cannot be vaccinated for health reasons, the child can attend school without being vaccinated. The bill leaves that untouched. All that is needed is an MD's signature.

The medical exemption is at an MD's discretion. If a parent feels strongly that an MD who refuses to sign is wrong, the parent can demand or get a second opinion. That said, if a parent cannot get any MD to sign, that is probably pretty good indication that there is no valid medical reason not to vaccinate the child. The PBE is not a way to get around the medical exemption. It was not created for that reason.

Keeping the PBE in place just to allow parents to avoid having a professional examine if there is, indeed, a medical reason not to vaccinate is unjustified.

#### **A religious exemption is not a good idea**

Finally, a question was raised whether an exemption is needed for those with religious objections to vaccination. Let's make it clear: our constitution does not require a religious exemption. No court ever required one, and the claim has been rejected repeatedly, most recently in *Workman v. Mingo Cnty. Bd. of Educ.*, 419 F. App'x 348, 353–54 (4th Cir. 2011) (per curiam) and *Phillips v. City of New York*, (2015, 2<sup>nd</sup> circuit) (<http://law.justia.com/cases/federal/appellate-courts/ca2/14-2156/14-2156-2015-01-07.html>).

Adopting a religious exemption is a very bad idea. Most religions not only don't oppose, they support vaccines, and the evidence is that in states that use a religious exemption, most people's real reasons not to vaccinate are not religious: people are simply encouraged to lie and claim religious reasons, and such exemptions work, basically, for those who are better liars or can hire an attorney to help them make a case. A public policy that encourages and rewards lying is not a good idea.

Second, even for the minority with sincere religious objections, these arguments are not a good reason to allow parents to deny their children protection from disease and to impose the risk on others. In *Prince v. Massachusetts*, the Supreme Court

explained that "Parents may be free to become martyrs themselves. But it does not follow they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make that choice for themselves." Prince v. Massachusetts, 321 U.S. 158, 170 (1944).

Here, the risk is not just for the children, but also for children of other people. The same reasons apply whether the parents' view is religious or not: why should a minority be allowed to force the risk they are taking on others?

For these reasons, I urge you to vote for SB277.

I will be following up with a fax, but wanted to send in my thoughts early.

best,

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March 27, 2015

To:

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### Re: Andrew Wakefield's Letter to Senator Pan:

On March 20, 2015 Andrew Wakefield wrote a letter to Senator Pan attacking a tweet Senator Pan put up that stated:

@DrPanMD<sup>[1]</sup> #CDCwhistleblower is another Wakefield fraud.  
#VaccinesWork #WakefieldCon #vaxfax <http://fb.me/7c3GjqV5N>

Andrew Wakefield accused Senator Pan of libel, of corroborating with an alleged CDC fraud, and of misleading the people of California. None of these claims hold water – and their source is suspect. In short, while Mr. Wakefield relies upon his own interpretation of comments made by Dr. William Thompson, a CDC scientist, there is no evidence of fraud in Dr. William Thompson's claims. The only evidence of misrepresentation related to this issue is on the part of Andrew Wakefield and his co-complainer, Dr. Brian Hooker. Andrew Wakefield, in turn, has a history of ethical violations and misrepresentations – and a history of abuse of the legal process.

#### *The Claims that the CDC Committed Fraud:*

At the base of this claim are statements made by Dr. William Thompson from the Centers for Disease Control and Prevention (CDC), referred to on occasion as the "CDC whistleblower." Thompson issued a statement in 2014 about a decade-old CDC study he coauthored that had



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been published in the journal *Pediatrics*.<sup>1</sup> The claims made include 1) the study suggested that children who received the MMR vaccine before age 36 months had a higher rate of autism compared to those receiving MMR at a later age, and this was especially true for African-American boys; 2) the team of scientists omitted a subset of African-American children which was a violation of the study's protocol; and 3) the removal of that subset obscured the finding of higher rates of autism in African American boys, partly by including an analysis of a subset of children for whom birth certificate data could be included purportedly to exclude African Americans, and the study with altered findings was then published as an argument for the safe administration of MMR vaccine at an earlier age. Those quick to claim this as a cover-up also have pointed to phone conversations between Dr. Brian Hooker and Dr. Thompson, recorded without Dr. Thompson's knowledge, of which edited segments were released in a series of videos narrated by Andrew Wakefield, and from a statement from Dr. William Thompson addressing the issues.<sup>2</sup>

What exactly are the facts behind those claims?

- A. No data were omitted in the final paper. Contrary to claims, the published article included both the data for the full group and for the group with birth certificates; see table 2 in the article. The birth certificate analysis was conducted for all groups to control for cofounders (e.g., other potentially causal factors). For example, low birth weight is associated with autism. There is no evidence of fraud, wrongdoing, or hiding of data.
- B. Andrew Wakefield claims that the final study protocol was not followed. That after finding problematic results, the CDC team revised the protocol. But the protocol (titled "revised plan") he uses to make this claim is dated September 5, 2001; while the first analysis is dated November 7, 2001. In other words, the plan appears to have been revised – but long before any data was analyzed. It's not surprising that researchers revise and reconsider their methodological choices. There may even be good reasons to do so after data analysis. When it's done before data analysis, there is certainly no wrongdoing – just a professional process of aiming for the best possible methodology.<sup>3</sup>

<sup>1</sup> "Age at First Measles-Mumps-Rubella Vaccination in Children With Autism and School-Matched Control Subjects: A Population-Based Study in Metropolitan Atlanta," *Pediatrics* 2004;113:2, 259-266.

<sup>2</sup> [www.morganverkamp.com/august-27-2014-press-release-statement-of-william-w-thompson-ph-d-regarding-the-2004-article-examining-the-possibility-of-a-relationship-between-mmr-vaccine-and-autism/](http://www.morganverkamp.com/august-27-2014-press-release-statement-of-william-w-thompson-ph-d-regarding-the-2004-article-examining-the-possibility-of-a-relationship-between-mmr-vaccine-and-autism/)

<sup>3</sup> Screenshots of the changes and supporting documentation can be found here: <http://leftbrainrightbrain.co.uk/2014/10/17/a-new-autism-media-channel-video-a-chance-to-watch-some-sleight-of-hand/>



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- C. As in all papers, not all research results, including the many sub-analyses that are performed, are shown in the final report. Results indicating statistically-significant associations were in fact published in the paper and an explanation for these associations was discussed. Dr. Thompson's concerns centered on one sub-analysis focused on rates of autism in African-American males. Right now, the evidence that there was any real connection between age of MMR vaccination and autism in this group relies on Dr. Thompson's comments and a fatally flawed, retracted paper by Brian Hooker.<sup>4</sup> Even if the scientific decision not to include this result was in error, and several points strongly suggest it wasn't, this kind of professional disagreement is not an ethical lapse on anyone's part.
- D. The CDC study did include and explain a higher rate of MMR vaccination among children with autism who received MMR between 24 and 36 months, and the study authors may have had such a result for African-American children. But even if that were the case, it would not be evidence that MMR caused autism. It is evidence that autism caused a subset of unvaccinated children to get MMR vaccine. In other words, African-American children in the Atlanta area represent a relatively underserved population. They are less likely to get vaccines, including MMR, than their Caucasian counterparts. When African-American children who were diagnosed with autism, and therefore qualified for services and were eligible for special education at age 3, part of the arrangement for receiving those services was that those children had to be vaccinated. Therefore, as the paper explained, African-American children with autism were more likely to be vaccinated than those who didn't have autism. And the paper discussed this explanation. Nothing hidden, nothing omitted.
- E. There is abundant evidence, the results of many large-scale studies by different teams of researchers, that there is no link between receiving the MMR vaccine and autism. These problematic, inaccurate claims do not undermine them.

**Additional Information** about these claims can be found in this summary and the blogs and article it links to: <http://www.harpocrateesspeaks.com/2014/09/mmr-cdc-and-brian-hooker-media-guide.html>

The CDC's statement:

<http://www.cdc.gov/vaccinesafety/Concerns/Autism/cdc2004pediatrics.html>

<sup>4</sup> Measles-mumps-rubella vaccination timing and autism among young African American boys: a reanalysis of CDC data" Brian Hooker's Retraction available from [www.translationalneurodegeneration.com/content/3/1/22#sec1](http://www.translationalneurodegeneration.com/content/3/1/22#sec1) or <http://www.translationalneurodegeneration.com/content/3/1/22>



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### *Andrew Wakefield's Past Makes him an Unreliable Source*

Andrew Wakefield is a former British surgeon who, among other things, published a small scale paper claiming the discovery of a new syndrome connecting autism with certain ill-defined gastronomical issues. Although the paper itself did not find a connection between autism and MMR, it raised the question of such an association and in multiple press announcements after it Andrew Wakefield claimed such a connection exists. Large scale epidemiological studies found no such link and a multisite study specifically aimed at biologically testing the Wakefield hypothesis found no association. And later developments cast further doubt on Wakefield's claims.

In 2010, the British General Medical Council struck Andrew Wakefield from the Medical Register – equivalent to revoking a doctor's license in the United States – for, among other things, the management of medical care for disabled children, hiding conflicts of interests related to the paper and falsely claiming in the paper that he had ethics committee approval (and other charges).<sup>5</sup> In a series of articles in the British Medical Journal Journalist Brian Deer documented misrepresentation of data and other shady practices by Andrew Wakefield.<sup>6</sup>

In short, Andrew Wakefield has a history of bad science and ethical violations.

### *Andrew Wakefield's Past Use of Litigation Tactics:*

Andrew Wakefield has used libel suits, or threats of libel suits, in an attempt to silence critics in the past. Andrew Wakefield sued Journalist Brian Deer several times for libel in the U.K., earning strong criticism from a judge for misusing the process.<sup>7</sup> He later sued Deer and the BMJ in a Texas Court, a claim dismissed for lack of jurisdiction –since the Texas forum was not the appropriate one for a British citizen to sue other British citizens over events in Britain.<sup>8</sup>

Andrew Wakefield threatened an autism parent with a lawsuit over a blog post.<sup>9</sup>

Andrew Wakefield is currently producing a video documentary of his "CDC Whistleblower" study, and keeping the story in the public's eye is certainly in his own interest.

### **Conclusion:**

In short, Andrew Wakefield has a history of threatening litigation over statements he does not like. He has a history of problematic statements and unethical practices. There is no evidence his comments to Senator Steiner Haywood had anything to do with the bill being withdrawn.

<sup>5</sup> <http://briandeer.com/solved/gmc-charge-sheet.pdf>.

<sup>6</sup> <http://www.bmj.com/content/342/bmj.c7452>.

<sup>7</sup> <http://briandeer.com/wakefield/cady-judgment.htm>

<sup>8</sup> See: <http://www.skepticalraptor.com/skepticalraptorblog.php/litigating-debate-tactic-andrew-wakefields-appeal-denied/>

<sup>9</sup> <http://www.ageofautism.com/2014/05/andrew-wakefield-responds-to-emily-willingham-and-forbes.html>.



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He is attempting to use a single tweet to threaten Senator Pan and pressure the California legislature to withdraw a legislative bill. He shouldn't be allowed to.

Please let us know if you have any questions or would like further information on any of these points.

Sincerely Yours,

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