



September 15, 2022

Governor Gavin Newsom
1021 O Street, Suite 9000
Sacramento, CA 95814

Dear Governor Newsom,

We are writing to ask that you veto AB 2098 (Low) as it will stifle scientific progress, harm public health, and violate doctors' First Amendment rights. While well intended, AB 2098 will result in an environment where doctors are afraid to speak out and challenge prevailing viewpoints. This will result in stagnation in the medical field. California's Medical Board does not enjoy a monopoly on truth. Indeed, history shows that the scientific consensus has frequently been incorrect and that today's heretics sometimes become tomorrow's heroes.

Several prominent doctors have spoken out against this bill for this reason, including Dr. Leana Wen who wrote in the Washington Post that "this legislation will have a chilling effect on medical practice, with widespread repercussions that could paradoxically worsen patient care."

The unintended consequence of the bill's poor definition of "misinformation" will also undermine the patient-doctor relationship by preventing doctors from offering truthful, candid advice that goes against the orthodoxy and therefore will harm public health.

Finally, but perhaps most significantly, the vague definition of "misinformation" is an unconstitutional violation of the First Amendment. Doctors have no way of reliably gauging what the medical board considers "false or misleading information" or contrary to the "contemporary scientific consensus." In practice, this will result in doctors who self-censor to avoid losing their job. This will manufacture artificial unanimity, a gravity well that draws science towards a false consensus and a black hole of ignorance.

Punishing ideas that defy consensus is an impermissible excuse to punish heretics and stifle dissent. Existing law already allows doctors who act

unethically or commit malpractice to lose their license. Going after doctors merely for disagreeing with the consensus on COVID-19 treatment is therefore both unnecessary and unconstitutional. Pacific Legal Foundation therefore urges you to veto the bill.

Sincerely,



ETHAN BLEVINS



DANIEL ORTNER

Pacific Legal Foundation