



**LEGISLATION AND PUBLIC POLICY COMMITTEE (LPPC)  
MEETING NOTICE/AGENDA**

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**DATE:** May 28, 2015  
**TIME:** 10:00 a.m. to 3:00 p.m.  
**LOCATION:** State Council on Developmental Disabilities  
1507 21<sup>st</sup> Street, Suite 210  
Sacramento, CA 95811  
(916) 322-8481

**TELECONFERENCE SITES:**

**Silicon Valley-Monterey**  
2580 North First St. Suite 240  
San Jose, CA 95131  
(408) 324-2106

**Stadium Chiropractic Sports Rehab**  
2029 W. Orangewood Ave  
Orange, CA 92886  
(714) 385-9088

**Central Coast**  
200 East Santa Clara St., Suite 210  
Ventura, CA 93001  
(805) 648-0220

**The Help Group-Autism Center**  
13164 Burbank Blvd., Autism Train Rm  
Sherman Oaks, CA 91401  
(818) 779-5262

*Pursuant to Government Code Sections 11123.1 and 11125(f), individuals with disabilities who require accessible alternative formats of the agenda and related meeting materials and/or auxiliary aids/services to participate in the meeting, should contact Michael Brett at 916/322-8481 or [michael.brett@scdd.ca.gov](mailto:michael.brett@scdd.ca.gov) by 5 pm on Friday, May 22, 2015.*

1. **CALL TO ORDER** J. Lewis
2. **ESTABLISHMENT OF QUORUM** J. Lewis
3. **WELCOME AND INTRODUCTIONS** J. Lewis

*For additional information regarding this agenda, please contact Michael Brett, 1507 21<sup>st</sup> Street, Ste. 210 Sacramento, CA 95811, (916) 322-8481. Documents for an agenda item should be turned into SCDD no later than 12:00 p.m. the day before the meeting to give members time to review the material. The fax number is (916) 443-4957.*

4. **MEMBER REPORTS** Members

*This item is for committee members to provide a report on their legislative and/or public policy activities related to the agency or group they represent. Each person will be afforded up to three minutes to speak.*

- |   |                    |
|---|--------------------|
|   | <b><u>PAGE</u></b> |
| 5. <b>APPROVAL OF April 23, 2015 MINUTES</b><br>*ACTION ITEM* | J. Lewis <b>4</b>  |

6. **PUBLIC COMMENTS**

*This item is for members of the public only to provide comments and/or present information to the Council on matters **not** on the agenda. Each person will be afforded up to three minutes to speak. Written request, if any, will be considered first.*

7. **OLD BUSINESS (Standing Items)**

- |   |                             |           |
|---|-----------------------------|-----------|
| a. Budget (May Revise)  | B. Giovati/ N. Nieblas      | <b>17</b> |
| b. IHHS and CMS Updates   | J. Lewis                    | <b>21</b> |
| c. Federal & State Legislation Updates                                  | J.Lewis/B.Giovati/N.Neiblas |           |
| d. Update on Council decision regarding LPPC proposed 2015 bill package | All                         |           |
| e. Disparity Issues   | B. Giovati/All              | <b>33</b> |
| f. Self-Determination   | C. Lapin                    |           |
| g. Discussion of SB 277   | J. Lewis/ All               | <b>34</b> |

**8. NEW BUSINESS**

- a. Legislative/Committee Request Form J. Fernandez/B. Giovati
- b. Developmental Center Closures J. Lewis

**9. ADJOURNMENT**

J. Lewis

**Item 5**  
**APPROVAL OF April 23, 2015**  
**MINUTES**

**DRAFT**

**Legislative and Public Policy Committee Meeting Minutes  
April 23, 2015**

**Members Present**

April Lopez (FA)  
David Forderer (SA)  
Jennifer Allen (SA)  
Fedal Almaliti (FA)  
Connie Lapin (FA)  
Lisa Davidson (FA)  
Tho Vinh Banh  
Sandra Aldana (SA)

**Members Absent**

Janelle Lewis

**Others Present**

Bob Giovati  
Nelly Nieblas  
Karim Alipourfard  
Michael Brett  
Elizabeth Drake  
Anastasia Bacigalupo

**1. CALL TO ORDER/ESTABLISH QUORUM**

Chairperson April Lopez called the meeting to order at 10:05 a.m. and established a quorum present.

**2. WELCOME/INTRODUCTIONS**

Committee members and others present introduced themselves.

**3. PUBLIC COMMENTS**

None.

**5. APPROVAL of February 23, 2015 MEETING MINUTES**

It was moved/seconded (Forderer (SA)/Allen (SA)) and carried to approve the minutes of February 23, 2015 LPPC meeting.

**7. OLD BUSINESS**

A) Update on possible meeting and greet at Capitol

No new information was available on this topic.

B) Discussion about LPPC meeting schedule

The members said they preferred more frequent meetings, and planned to meet next on May 18.

C) Self-Determination Update

Connie Lapin discussed her experience with self-determination.

It was moved/seconded (Lapin (FA)/Davidson (FA)) and carried that DD Council establish a link to the DDS website all relevant information on self-determination once available.

Connie also provided information about the Autism Society Training conference in Los Angeles.

## **8. NEW BUSINESS**

### **A) DRC Presentation**

Andrew Mudryk of Disability Rights California (DRC) made a special presentation to the Committee on a planned transformation for employment services to people with intellectual and developmental disabilities. Collaborators include DRC, the California Department of Rehabilitation, the California Department Education, and the Department of Developmental Disabilities.

### **B) Discussion of RAC recommendations**

How regional advisory committees make recommendations to the full Council and/or Council committees was discussed.

### **C) SB 128 End of Life Legislation**

SB 128 (Wolk) would enact the End of Life Act, legalizing what is commonly referred to as physician-assisted suicide in California. Recommendation from staff was to remain neutral on this bill considering the strong points of view on both sides of the issue, and the committee concurred.

### **D) Detail Sheets/ Bill Review/ Recommendations**

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### ***Civil Rights***

**AB 918** (Stone) This bill updates reporting requirements regarding the use of seclusion and restraints of persons cared for in licensed facilities, to recognize that most people with developmental disabilities now live in community settings instead of state Developmental Centers.

**AB 918 – Support** This bill was discussed in detail and it was moved/seconded (Tho Vinh Banh [FA]/Lapin [FA]) and carried to recommend support of this bill to the Council. (please see attendance list for voting)

**AB 987 (Levine)** This bill advances California's fair employment laws by clarifying that employers are prohibited from retaliating against an employee for requesting reasonable accommodations.

**AB 987 – Support** - This bill was discussed in detail and it was moved/seconded (Lapin (FA)/Davidson (FA)) and carried to recommend support of this bill to the Council. (please see attendance list for voting)

**SB 492 (Liu)** This bill, the Coordinated Care Initiative (CCI) Consumer Bill of Rights, sets forth the rights afforded to individuals enrolled in CCI. These include, but are not limited to, consumer self-direction and choice and flexibility in access to quality services and supports. The bill requires the Department of Health Care Services to post the CCI Consumer Bill of Rights on the department website and to disseminate hard copies to consumers upon request.

**AB 492 - Support** - This bill was presented by staff and discussed and it was moved/seconded (Lapin (FA)/Forderer (SA)) and carried to recommend support of this bill to the Council. (please see attendance list for voting)

**SB 589 (Block)** SB 589 will protect the voting rights of disabled individuals under conservatorship by allowing them to retain their right to vote unless it is shown by clear and convincing evidence that the individual cannot communicate, with or without reasonable accommodations, a desire to participate in the voting process.

**SB 589 – Support** - This bill was discussed by staff and members and it was moved/seconded (Lapin (FA)/Davidson (FA)) and carried to recommend support of this bill to the Council. (please see attendance list for voting)

## ***Developmental Services and Supports***

**AB 563** (Lopez) would establish a 2 year pilot program to develop a means to address the service gap/unmet needs of aging adults with intellectual and developmental disabilities.

**AB 563 – Support** - It was moved/seconded (Lapin (FA)/Davidson (FA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained) (please see attendance list for voting)

**AB 662** (Bonilla) expands public restroom accommodations to meet the health and safety needs of the disabled community. This bill requires newly constructed commercial places of public amusement that serve over 1,000 people on a daily basis to install an adult changing station for people with physical disabilities.

**AB 662 – Support**- This bill was discussed by committee staff and members and it was moved/seconded (Lapin (FA)/Davidson (FA)) and carried to recommend support of this bill to the Council. (please see attendance list for voting)

**SB 638** (Stone) takes both short-term and long-term steps to sustain the promise that DD individuals can thrive in their own communities, by providing immediate reimbursement rate relief to supported employment providers, residential programs, and other services, providing fair reimbursement for state and local minimum wage mandates.

**SB 638 – Watch** - This bill was discussed by staff and members and it was moved/seconded (Lapin (FA)/Davidson (FA)) and carried to recommend watch of this bill to the Council. (please see attendance list for voting)

**SB 639** (Stone) This bill sets out target dates to close down Fairview Developmental Center and Sonoma Developmental Center, and expresses intent that funds generated by the closure of DCs shift to sustaining community services for the DD population. It also develops options for using the DC properties to benefit the community on an ongoing basis, such as by identifying on-going

revenues through agreements with private entities or local governments

**SB 638 - Watch** - This bill was discussed by members and staff and because of the generalities and lack of clarity they agreed to monitor on the side and to keep it on the list for discussion in future meetings.

### ***Employment***

**SB 644 (Hancock)** This bill allows a successful internship performance at a State agency as the indicator as to whether an individual with intellectual or developmental disability is eligible for State civil service employment.

**SB 644 - Watch** - After a lengthy discussion by members and staff, the Committee did not take action to support this bill.

### ***Health***

**AB 74 (Calderon)** will implement a phased in plan to require DSS to conduct annual unannounced inspections of all community care facilities by July 1, 2018. By July 1, 2016 DSS will inspect facilities no less often than once every 3 years with a 30% random sample to be subject to an annual inspection.

**AB 74 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Lapin (FA)) (Sandra (FA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained) (please see attendance list for voting)

**AB 648 (Low)** This bill offers a new, innovative strategy for making dental care more available.

**AB 648 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Lapin (FA)/Davidson (FA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained) (please see attendance list for voting)

**AB 796 (Nazarian)** This bill clarifies the definition of service providers to include other forms of evidence-based behavioral health treatment. Specifically, this bill modifies the minimum training required for “qualified autism service providers” and for “qualified autism service paraprofessionals.”

**AB 796 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Lapin (FA)/Davidson (FA)) and carried to recommend support of this bill to the Council. (The Vinh Banh abstained) (please see attendance list for voting)

**AB 1261 (Burke)** This bill preserves access to the adult day health care services that thousands of frail Californians and their families depend on through the Community-Based Adult Services (CBAS) program and gives providers a reliable rate structure to ensure program sustainability.

**AB 1261- Support** - This bill was discussed by committee staff and members and it was moved/seconded (Davidson (FA)/Lapin (FA)) and carried to recommend support of this bill to the Council. (please see attendance list for voting)

**AB 1369 (Frazier)** AB 1369 requires dyslexia screening for students in Grades K through 3, teacher training, evidence-based remediation, and the term dyslexia to be defined as it is by the International Dyslexia Association (IDA) and the National Institute of Child Health and Human Development (NICHD).

**AB 1369 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Davidson (FA)/Lapin (FA)) and carried to recommend support of this bill to the Council. (please see attendance list for voting)

**SB 190 (Beall)** This bill seeks to address a major issue facing the legislature this year: How to ensure that Californians with brain injuries receive the necessary treatment to facilitate their successful rehabilitation and recovery.

**SB 190 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Lapin (FA)/Forderer(SA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained). (please see attendance list for voting)

**SB 675** (LIU) This bill would (subject to the federal Health Insurance Portability and Accountability Act of 1996) require a hospital to take specified actions relating to family caregivers, including, among others, notifying the family caregiver of the patient’s discharge or transfer to another facility and providing information or instruction regarding the post-hospital care needs of the patient.

**SB 675** was tabled and removed from the list.

**H. R. 3717** (Murphy) The “Helping Families in Mental Health Crisis Act”.

**HR 3717 - Oppose** - This bill was discussed by committee staff and members and it was moved/seconded (Lapin (FA)/Tho Vinh Banh (FA)) and carried to recommend support of this bill to the Council. (please see attendance list for voting)

### ***Housing***

**SB 377** (Beall) This bill seeks to increase the impact of the state’s existing low-income housing tax credit with no fiscal impact to the state by structuring the credits in a way that is not subject to federal taxation.

**SB 377** was tabled and removed from the list.

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### ***Medi-Cal***

**AB 366** (Bonta) This bill repeals implementation of prior year Medi-Cal rate reductions, including the 10 % reduction for affected Medi-Cal providers.

**AB 366** was tabled and removed from the list.

**AB 763** (Burke) This bill increases the amount of income that is disregarded in calculating eligibility for purposes of the Medi-Cal aged and disabled (A&D) program which effectively increases the upper limit of financial eligibility to 138% of the federal poverty level (FPL). People age 65 plus or disabled and not eligible for the SSI program may be able to get Medi-Cal through the Aged & Disabled Federal Poverty Level (A&D FPL) program.

**AB 763 - Support** - This bill was discussed by committee staff and members and it was moved/seconded (Lapin (FA)/Davidson (FA)) and carried to recommend support of this bill to the Council. (The Vinh Banh abstained) (please see attendance list for voting)

### ***Miscellaneous***

**SB 490** (Beall & Huff) This bill reduces the fiscal impact of the unfunded mandate to small vendors providing services to the developmentally disabled and frees them to invest those dollars back into services. These adjustments create uniformity with state requirements for non-profit entities and reduce the financial burden for vendors with clean audits.

**SB 490 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Lapin (FA)/Davidson (FA)) and carried to recommend support of this bill to the Council. (The Vinh Banh abstained) (please see attendance list for voting)

### ***Parental Fees***

**AB 564** (Eggman) This bill requires the parental fee schedule to be adjusted for the level of annual net income. The bill also clarifies that DDS consider the same income and expenses in the appeal process as the process when determining a parent's ability to pay. It also provides that a parent has the right to file an appeal. This bill will amend Section 4784 of the Welfare and Institutions Code.

**AB 564 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Davidson (FA)/Lapin (FA)) and carried to recommend support of this bill to the Council. (The Vinh Banh abstained) (please see attendance list for voting)

## ***Public Safety***

**AB 643** (Nazarian) This bill increases opportunities to effectively utilize the existing Silver Alert System.

**AB 643 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Davidson (FA)/Lapin (FA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained) (please see attendance list for voting)

**AB 881** (Garcia) In relation to bullying, this bill would, for purposes of pupil suspension or recommendation for expulsion from a school, define “electronic act” as either the creation or transmission of that communication, as specified.

**AB 881- Support** - This bill was discussed by committee staff and members and it was moved/seconded (Davidson (FA)/Lapin (FA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained) (please see attendance list for voting)

**SB 11** (Beall) responds to the growing public concerns by mandating additional evidence-based behavioral training proven to reduce the negative interactions between peace officers and people suffering from a mental illness or intellectual disability.

**SB 11 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Davidson (FA)/Lapin (FA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained) (please see attendance list for voting)

**SB 29** (Beall) SB 29 is a companion bill to SB 11. Taken together, SB 29 and SB 11 responds to the growing public concerns by mandating additional evidence-based behavioral training proven to reduce the negative interactions between peace officers and people suffering from a mental illness or intellectual disability.

**SB 29 – Support** - A companion of SB 11 there was no discussion and it was moved/seconded (Davidson (FA)/Lapin (FA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained) (please see attendance list for voting)

### ***Tax Relief***

**AB 449** (Irwin) allows Californians with disabilities to access federally recognized Achieving a Better Life Experience (ABLE) savings accounts to save for future disability related expenses

**AB 449 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Lopez (FA)/Davidson (FA)) and carried to recommend support of this bill to the Council. (please see attendance list for voting)

**AB 571** (Brown) This bill would additionally authorize the transfer of the base year value of property to replacement property for persons who have a severely and permanently disabled child. This bill would apply this property tax relief to replacement dwellings that are purchased or newly constructed on or after January 1, 2016.

**AB 571— Support** - This bill was discussed by committee staff and members and it was moved/seconded (Lapin (FA)/Sandra (FA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained) (please see attendance list for voting)

**AB 1218** (Weber) would strengthen and enhance participation of the Disabled Veteran Business Enterprise (DBVE) program by providing greater access, more meaningful performance standards and better guidance to administering agencies. (please see attendance list for voting)

**AB 1218 — Support** - This bill was discussed by committee staff and members and it was moved/seconded (Lapin (FA)/Davidson (FA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained) (please see attendance list for voting)

**AB 1404** (Grove) This bill offers tax credits to businesses that employ I/DD individuals.

**AB 1404 –Tabled** - AB 1404 was tabled and removed from the list

**SB 324** (Pavley) This bill creates the infrastructure to implement the ABLE Act. This is the companion bill to AB 449 (Irwin.) The two bills are virtually – but not quite - identical.

**SB 324 – Support** - This bill was discussed by committee staff and members and it was moved/seconded (Sandra (FA)/Lapin (FA)) and carried to recommend support of this bill to the Council. (Tho Vinh Banh abstained) (please see attendance list for voting)

## **9. ADJOURNMENT**

Meeting was adjourned at 3:00 p.m.

Item 7  
**OLD BUSINESS**  
(Standing Items)

## Revised budget fails those with developmental disabilities: Opinion

Posted: 05/14/15, 1:17 PM PDT |

It's beyond disappointing that Gov. Jerry Brown's administration paid no heed to the call to rescue the failing state system that serves those with disabilities.

The May revision of Brown's budget that was released this morning does not include the 10 percent funding infusion called for by the Lanterman Coalition, a call that this editorial board supports.

We've detailed in previous editorials [in March](#) and [last week](#) how and why the agencies that serve those with developmental disabilities have come to teeter on the brink of collapse.

But the Brown administration was not swayed, despite having about \$3 billion more in state revenue available than was projected when the first go at the budget was put together in January. It would take about \$357 million to meet the Lanterman Coalition's request.

Tony Anderson, the Lanterman Coalition's president, was unsparing in his criticism of the governor's revised budget, calling it another broken promise "that shows a shocking callousness and disappointing indifference toward Californians with developmental disabilities."

As Anderson says, it will now be up to the Legislature to come to the rescue.

This editorial board fully understands and agrees with Gov. Brown's efforts to keep California's fiscal condition on an even keel and reduce its susceptibility to the next economic downturn.

But we draw the line where it comes to California's most vulnerable residents, those who have been dealt a difficult hand and cannot improve their lot in any way other than through state intervention.

We call on sympathetic lawmakers, as the budget process proceeds, to make the funding case for our fellow citizens with developmental disabilities.



IN CASE YOU MISSED IT:

## Los Angeles Daily News

**EDITORIAL: Revised budget fails those with developmental disabilities**

Published 5/14/2015

"It's beyond disappointing that Gov. Jerry Brown's administration paid no heed to the call to rescue the failing state system that serves those with disabilities."

"We call on sympathetic lawmakers...to make the funding case for our fellow citizens with developmental disabilities."

"The May revision of Brown's budget that was released [May 14] does not include the 10 percent funding infusion called for by the Lanterman Coalition, a call that this editorial board supports.

...

"But the Brown administration was not swayed, despite having about \$3 billion more in state revenue available than was projected when the first go at the budget was put together in January. It would take about \$357 million to meet the Lanterman Coalition's request."

...

"...we draw the line where it comes to California's most vulnerable residents, those who have been dealt a difficult hand and cannot improve their lot in any way other than through state intervention."

**The Lanterman Developmental Disabilities Act is a promise.**

It's a California law that guarantees people with developmental disabilities receive the quality services they deserve to help them reach their full developmental potential, while empowering them to live as independently as possible in integrated communities of their choice.

Press Release  
For Immediate Release  
May 14, 2015

Contact: Tony Anderson 916.770.0091  
[Tony@thearcca.org](mailto:Tony@thearcca.org)  
[marcey.brightwell@grayling.com](mailto:marcey.brightwell@grayling.com)

## Governor's May Revise More **#BrokenPromises**

Programs for People with Developmental Disabilities Still Grossly Underfunded  
Disability Rights Advocates - Including Dolores Huerta - Call On California Lawmakers to  
**#KeepThePromise**

Sacramento – The Lanterman Coalition and disability rights advocates released the following statements Thursday in response to Gov. Jerry Brown's May Budget Revise:

*"Governor Jerry Brown's May Budget Revise is another #BrokenPromise that shows a shocking callousness and disappointing indifference toward Californians with developmental disabilities. Despite mounting data that demonstrates how California's program funding is declining to the bottom of the nation, the Governor's budget offers no significant relief. It's now up to the State Legislature to protect California's most vulnerable residents and ensure we #KeepThePromise to people with developmental disabilities by providing adequate funding to help them live full and independent lives.*

--Tony Anderson, Lanterman Coalition President

*"Every single family in the United States has someone in their family who has a disability and they're not being taken care of as they should. We have to have more of an outcry. They deserve to have full lives – not only of happiness but also of opportunity. So it behooves all of us to make this a civil justice issue and demand that we get the financial resources that we need for people with developmental disabilities. It's time to #KeepThePromise.*

-- Dolores Huerta, Civil Rights Leader & Founder of the Dolores Huerta Foundation

*"The Governor's May Budget continues to grossly underfund services for Californians with developmental disabilities, jeopardizing their health and safety. The Legislature must act now to save these critical programs from collapse - and work to begin restoring needed services to California's growing population of people with developmental disabilities.*

-- Eileen Richey, Executive Director Association of Regional Center Agencies (ARCA)

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*"We appreciate the Governor's decision to begin closing California's outdated and inefficient state institutions, but his budget fails to give people with developmental disabilities the resources they need to live safe and independent lives. Community services have received one-rate increase since the turn of the century and are beginning to collapse. The lives of people with developmental disabilities are now in the hands of the State Legislature. It's up to lawmakers to save critically needed programs and #KeepThePromise to people with developmental disabilities.*

-- Chris Rice, Executive Director California Disability Services Association

### Background:

The Lanterman Coalition Thursday also released a compelling new video featuring civil rights leader Dolores Huerta, who calls on Governor Brown and California lawmakers to restore critically needed

funding to people with developmental disabilities. One of America's most respected, admired and successful social justice advocates, Dolores Huerta says disability rights have fallen to the bottom of the list in terms of priorities and says they are not receiving the attention and support they deserve. Huerta says disability rights ARE civil rights – and she is urging lawmakers to put people with developmental disabilities at the top of the State's budget priorities.

Passed in 1969, The Lanterman Act is a California law that promises people with developmental disabilities they will receive the resources necessary to live as independently as possible. But after decades of budget neglect and the recent great recession, California services for people with developmental disabilities are crumbling.

A recent report by the Association of Regional Center Agencies (ARCA) shows how cutbacks, underfunding and indifference have pushed service providers to the brink of collapse, forcing them to slash programs, lower standards or shut their doors to people with developmental disabilities – putting them at risk.

The Lanterman Coalition is asking Gov. Brown and the State Legislature to pass an urgent 10% budget increase to keep service programs afloat. The Coalition also wants lawmakers to reform funding formulas so that they are able to keep pace with California's growing rates of autism and other developmental disabilities.

**Lanterman Coalition:**

The Lanterman Coalition is dedicated to the preservation of the Lanterman Act, legislation that guarantees the basic right for Californians with developmental disabilities to live and work in their own communities. Lanterman Coalition members are The Arc and UCP California, the Association of Regional Center Agencies, Autism Society of California, California Disability Services Association, California Respite Association, California Supported Living Network, Disability Rights California, California Easter Seals affiliates, Family Resource Center Network California, EducateAdvocate, Infant Development Association, People First California, ResCoalition, State Council on Developmental Services, Service Employees International Union, California Association of Health Facilities, and the Alliance for People with Intellectual and Developmental Disabilities.

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# CDCAN

## BREAKING NEWS:

**NO NEW MAJOR FUNDING RESTORATIONS PROPOSED IN GOVERNOR BROWN'S BUDGET REVISIONS – BUDGET PROCESS NOW HEADS TO FINAL PHASE WITH FINAL ROUND OF SUBCOMMITTEE HEARINGS NEXT WEEK & BUDGET NEGOTIATIONS WITH GOVERNOR AND DEMOCRATIC LEGISLATIVE LEADERSHIP**

*Public Stakeholder Conference Call To Discuss Governor's Budget Revisions Scheduled By California Health And Human Services Agency Secretary Diana Dooley And Department Directors On Thursday Afternoon 1 PM*

SACRAMENTO, CA [CDCAN LAST UPDATED 05/14/2015 – 10:10 AM] – As expected, citing limited available revenue resources and the specter of a coming recession, Governor Brown released his

budget revisions this morning that contained no new major funding restorations including health and human services, beyond what he proposed in his 2015-2016 State Budget that he submitted to the Legislature January 9<sup>th</sup>. As reported by CDCAN earlier, the Governor's revisions however did contain a stunning major proposal for a multi-year goal of closure of the State's three remaining developmental centers, with the focus on Sonoma Developmental Center first, with a closure goal of 2018. The transition and closure process will be based on the recommendations by the stakeholder Developmental Centers Task Force.

The Governor's highly anticipated budget revisions – also known as the “May Revise”, required by State law, updates and adjusts spending and revenue numbers from the plan he submitted in January, including adding, changing or eliminating proposals from that original proposed budget.

The budget process for 2015-2016 heads now to its final phase, with the final round of budget subcommittee hearings next week, followed by Budget Conference Committee to resolve differences of actions taken by the Assembly and Senate – and then a final vote on the spending plan by June 15<sup>th</sup>, the State Constitutional deadline to pass and send a budget to the Governor. At the same time during that process, the Governor and the two top Democratic legislative leaders will be engaged in negotiations – with legislative Democrats pressing hard for some additional funding increases. The Governor's budget revisions, which contained no such additional restorations or increases, will force legislative Democrats to significantly limit and prioritize their long list of

proposals for funding restorations and increases for a wide range of budget items and issues, including many in health and human services.

CDCAN will issue report later today with more details on the specifics of the Governor's revisions.

The following focuses on health and human related programs and services

### DEVELOPMENTAL CENTERS

Proposes multi-year closure plan for all three remaining developmental centers, with focus first on Sonoma Developmental Center by 2018 and Fairview Developmental Center and non-secured treatment facility portion of Porterville Developmental Center by 2021. The transition and closure process would be different, according to the Brown Administration, from the closure process of recent centers, including Lanterman Developmental Center and Agnews Developmental Center, and instead would be based on the new ideas and transition recommendations made last year by the Developmental Centers Task Force composed of stakeholders and headed by the California Health and Human Services Agency Secretary Diana Dooley.

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### REGIONAL CENTERS

No major restorations or funding increases beyond what was proposed in the Governor's January proposed budget plan.

### IN-HOME SUPPORTIVE SERVICES (IHSS)

**7% SERVICE HOUR REDUCTION RESTORATION:** The Governor previously proposed in January restoration of service hours currently reduced by an across-the-board 7% reduction to all In-Home Supportive Services (IHSS) recipients, effective July 1, 2015. That restoration was tied to new federal dollars coming from a new proposal to “tax” or assessment on all managed health care organizations in California that requires approval by the federal government. The Governor’s revised budget still proposes to restore the IHSS service hours tied to this new funding.

**OVERTIME:** The Governor’s May Revision assumes that the federal lawsuit halting overtime for previously exempted home care workers, including In-Home Supportive Services workers in California, will be resolved, and assumes implementation of overtime sometime in the 2015-2016 State Budget year. His budget revisions maintain the cost of that overtime as proposed in his January budget plan. The unspent funding that was allocated for overtime that never was implemented due to the federal lawsuit, from January 1, 2015 to June 30, 2015, is proposed in his revisions to be used to cover cost increases related to increases in caseload this year and next year.

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### MEDI-CAL

No major restorations or funding increases beyond what the Governor proposed as part of his budget plan in January.

### SSI/SSP (SUPPLEMENTAL SECURITY INCOME/STATE SUPPLEMENTAL PAYMENT) GRANTS

The Governor's January proposed budget and his May 14<sup>th</sup> revisions did not propose any restoration of the cost of living adjustment for the state portion of the SSI/SSP grants, or a restoration of the cuts to the SSP portion of the grants.

### **PUBLIC STAKEHOLDER CONFERENCE CALL ON BUDGET REVISIONS BY CALIFORNIA HEALTH AGENCY SECRETARY**

As previously reported by CDCAN, California Health and Human Services Agency Secretary Diana Dooley, along with department directors, will host a public stakeholder conference call on Thursday, May 14<sup>th</sup>, at 1:00 PM, to discuss and answer brief questions on Governor Brown's budget revisions to his proposed 2015-2016 State Budget plan.

### **CALIFORNIA HEALTH AND HUMAN SERVICES AGENCY PUBLIC STAKEHOLDER CONFERENCE CALL ON GOVERNOR'S BUDGET REVISIONS**

**WHEN:** May 14, 2015 – Thursday afternoon

**TIME:** 1:00 PM Pacific Time [please call in 5 minutes prior to start of the conference call to allow enough time to register with operator]

**Call-In Number:** **(888) 658-8648**

**Passcode:** **4071494**

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# Modern Healthcare

## Judges hard to read in home care wage appeal

By [Lisa Schencker](#) | May 7, 2015

A federal three-judge panel gave few clues during oral arguments Thursday about which way they might lean in the battle over the Obama administration's effort to compel home healthcare providers to raise wages for many workers.

Lawyers for the government argued in court that boosting workers' pay would help workers and improve access to care. Attorneys for the home healthcare industry said the opposite: that requiring higher wages would destabilize the industry, leading to less in-home care and more institutionalization for the elderly and disabled.

The case centers on whether a U.S. Labor Department rule can require home-care providers to pay minimum wages and overtime to so-called companionship workers providing "fellowship, care and protection." Such workers have long been exempt from minimum wage and overtime pay protection.

The regulations issued last year, however, would significantly narrow the definition of companions to those who spend no more than 20% of their time providing actual care, such as feeding and bathing. It would also no longer exempt companionship workers employed by third parties, such as home healthcare providers, from wage protections. Those changes would likely mean wage and overtime protections for a majority of home healthcare workers.

A [U.S. district judge ruled in January](#) that the Labor Department's rule violated the 1974 legislation that extended wage and hour protections to "domestic service" workers but carved out exemptions for babysitters and companions for the elderly and infirm.

Alisa Klein, an attorney for the government, sought to counter that conclusion during oral arguments before the U.S. Circuit Court of Appeals for the District of Columbia.

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"The new rule would not merely help the workers, which is of course very important, but would also increase the availability and access to home care workers, and this is reiterating the type of reasoning that the congressional committees had in 1974 reports that accompanied the legislation," Klein said.

But attorney Maurice Baskin, representing industry groups, said Congress did in fact intend to include many home healthcare workers in the exemption.

"They've taken an industry that was a great success story, to achieve exactly what Congress wanted, which was to allow people to no longer be institutionalized, to stay in their homes and get help, and now they are threatening to destroy it," Baskin told the judges. Industry groups involved in the lawsuit include the National Association for Home Care and Hospice, the Home Care Association of America and the International Franchise Association.

The judges questioned both sides on a number of issues, including precedent set in other cases, the logic of the new rule and congressional intent. One of the legal issues in the case is whether the original law is clear or ambiguous and, if it's ambiguous, whether the Labor Department reasonably interpreted it when creating the disputed rule.

The judges also questioned the effect of the rule on live-in domestic workers. A lower court also vacated a part of the rule that would have required companies to pay overtime to live-in domestic workers.

William Dombi, co-counsel for the industry in the case and a vice president at the National Association for Home Care and Hospice, said the court gave both sides a full and fair opportunity to state their positions Thursday.

"In contrast to how things went at the district court level where it was pretty obvious where the judge was going ... I don't think we have a firm kind of forecast as to where this thing will end up," Dombi said. "Their questions indicated that they were exploring the case from top to bottom."

Dombi said the industry doesn't oppose higher pay over time but rather believes "better compensation doesn't happen by simply one federal agency changing its rule."

But Robert Espinoza, vice president of the Paraprofessional Healthcare Institute, which has been advocating for higher wages, said it's an important case because higher wages can lead to better employee retention and, in turn, better care.

The judges are expected to rule by the end of June. Dombi said if the industry groups lose, they will likely appeal to the U.S. Supreme Court.

Nation

Blacks, Latinos lag behind whites; 'leaving so many behind,' report says

Urban League, contributed an essay to the league's 2015 Equality Index. (Jason Lenhart / Associated Press)

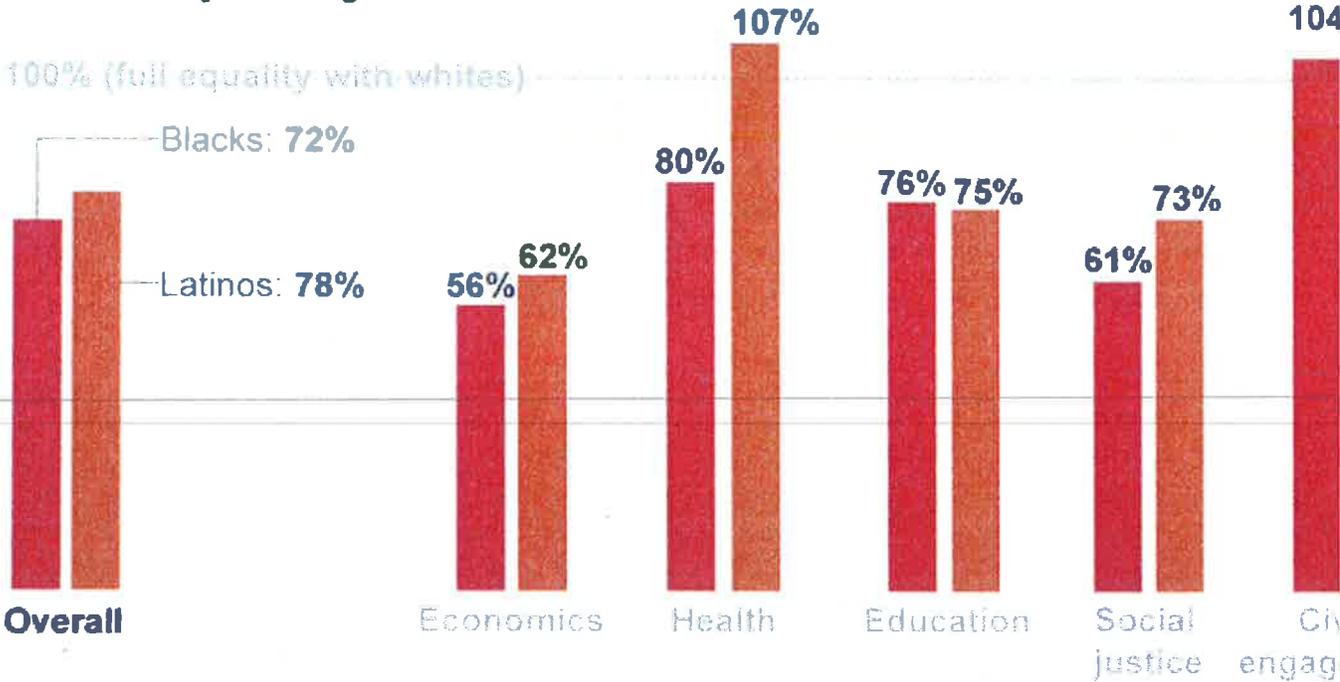
By **MICHAEL MUSKAL** *contact the reporter*

Urban League index finds blacks improved to 72.2% while Latinos went up to

Fueled by improvements in social justice and healthcare, African Americans and Latinos did better last year but are still behind when compared to whites, according to the latest comparison released Thursday by the National Urban League.

In its 2015 Equality Index, the organization developed the rankings by comparing a host of data from federal agencies, including the Census Bureau and the Centers for Disease Control and examined factors including income, education, unemployment rates, arrest rates, prison sentences and being targeted by hate crimes.

## 2015 Equality Index



Source: National Urban League

@latimesg

Using a scale that placed full equality with whites at 100%, the group found that African Americans improved when compared to last year's index, from 71.5% to 72.2% while Latinos went up from 75.8% to 77.7%. Though both groups improved their standing when compared to whites, both lagged overall when compared to whites, the index found.

The “findings are a clarion call that a more comprehensive, inclusive and on-the-ground recovery is necessary to ensure a healthy future for our nation and that we cannot expect to successfully move forward when we are leaving so many behind,” said Marc H. Morial, president and chief executive of the National Urban League.

The report is the 39th edition of the “State of Black America – Save Our Cities: Education, Jobs + Justice,” and was published along with essays by leading experts.

Improved health factors are generally the result of better healthcare insurance as mandated by Obamacare. Blacks went from 78.2% to 79.8%, helped in part by statistics showing a decrease in unhealthy life factors such as binge drinking. Latinos experienced a lower death rate and better health care coverage, improving their standing from 102.4% to 106.9% when compared to whites at 100%.

A ranking of less than 100% means that blacks or Latinos were doing less well than whites, but a figure larger than 100% meant that the groups were doing better than whites.

Perhaps the key change was in area that the report defines as social justice issues, which includes homicide rates, average prison sentences, arrest rates, hate crime rates and the number of youths carrying weapons.

# Income comparison between blacks and whites

(For select metro areas)

1. Riverside-San Bernardino-Ontario, CA	Blacks <b>\$42,782 (71%)</b>	Whites <b>\$60,376</b>
2. Nashville-Davidson-Murfreesboro-Franklin, TN	<b>\$37,757 (67%)</b>	<b>\$56,673</b>
3. San Diego-Carlsbad, CA	<b>\$46,524(66%)</b>	<b>\$70,302</b>
43. Los Angeles-Long Beach-Anaheim, CA	<b>\$40,865 (53%)</b>	<b>\$77,133</b>
70. San Francisco-Oakland-Hayward, CA (last)	<b>\$39,902 (42%)</b>	<b>\$95,000</b>

Source: National Urban League, Census

@latimesg

The overall social justice component for African Americans increased from 56.9% to 60.6% because of factors including fewer blacks being victims of violent crimes. In addition, the Urban League said there were fewer black high school students carrying weapons compared with white high school students.

The social justice improvements come despite a year marked by a series of deadly confrontations between African Americans and white police officers, touching off a national debate over police powers and race across the nation.

Michael Brown, who was black and unarmed, was killed in Ferguson, Mo., in August 2014 by then-police officer Darren Wilson, setting off demonstrations that sometimes turned violent. A grand jury declined to indict Wilson in November, setting off more demonstrations.

The U.S. Justice Department cleared Wilson of criminal civil rights charges in a report released this month. A separate Justice Department report found widespread racial bias in the city's policing and in its municipal court system driven to earn needed money by fining mostly black residents and motorists.

Top officials in Ferguson, including a judge and the key court clerk as well as the police chief and other top cops, have stepped down or been fired.

On Staten Island, New York, Eric Garner, an African American, died in July 2014 while a white officer was restraining him. A grand jury declined to charge the officer, touching off demonstrations in New York.

In Cleveland, authorities are investigating the shooting a 12-year-old boy, Tamir Rice, by a white officer in November 2014. Rice, who was black, had a toy gun. The officer was responding to a call at a playground.

“Police accountability for taking black lives was reaching a modern-day low – and that the widespread and dangerous mistrust between law enforcement and too many communities of color in America was reaching a new high,” Morial wrote in his essay.

Areas with slight decreases for African Americans were found in education — from 76.7% to 76.1% — and civic engagement — from 104.7% to 104%.

Civic engagement also declined for Hispanics to 71% from 71.2%, the only area among Hispanics that decreased.

In past years, the index has found that blacks and Latinos have seriously lagged in economic areas and the latest findings confirm that trend.

Blacks placed at 6% and Latinos at 7% in overall wealth when compared to whites. Blacks had a median wealth of \$6,314 and Latinos \$7,683 compared to whites’ median wealth of \$110,500. Wealth includes earnings and assets. The median is the figure in the middle.

In terms of income, black median household income is about 60% of whites, or \$34,815 compared to \$57,684. Latinos were at 72% of whites, or \$41,508.

The black unemployment rate was at 11.3% while whites are at 5.3%, as ranked by the index. The Latino unemployment rate was 1.3 times higher than whites at 7.4%.

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## HEALTH CARE EXPERIENCES VARY FOR LIMITED-ENGLISH SPEAKERS

Thursday, May 14, 2015

Experiences among limited- and non-English speakers seeking health care in California can vary significantly, Capital Public Radio's "KXJZ News" reports.

### Background

Under California law, hospitals and insurers are required to offer translation services to provide "meaningful access" to health care for limited-English speakers.

However, the experiences of such individuals, particularly among Spanish speakers, can be irregular, according to "KXJZ News."

### 'Uneven' Experiences

Some non-English speakers attend appointments with hired translators, while others rely on relatives to translate what their physicians are saying. However, some individuals who use relatives to translate have concerns that they might not be receiving the complete message.

David Hayes-Bautista, director of the Center for Latino Health and Culture at the UCLA School of Medicine, said that such practices are not perfect, but they can improve timely access to care.

Meanwhile, some limited-English speaking patients who seek care at facilities with Spanish-speaking providers might not fully comprehend all of the information they are given. Experts say that could be the result of language barriers or the complexity of medical terminology.

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### Potential Solutions

According to Hayes-Bautista, the root of the problem is a shortage of Latino physicians in California.

He noted that the issue could be remedied in part by:

- Recruiting more physicians from Mexico or Latin America; and
- Training more Latino and Spanish-speaking medical students (Bartolone, "KXJZ News," Capital Public Radio, 5/11).

# **Inland Regional Center Disparity Assurance Plan 2015-2016**

## **Issues Identified by POS Data and Stakeholders Meetings**

- Purchase of service usage by Spanish speaking ethnicities is lower than other language speakers and Hispanics are the largest percentage of population in Riverside and San Bernardino Counties.
- Age, diagnosis, and residence also affects the use of services
- Limited understanding of public/generic services vs IRC paid services
- Transportation in rural communities may be a major barrier to access of services
- Lack of other services in rural communities can be an issue
- Lack of knowledge of services available
- Feelings of intimidation when Intake or CSCs say they can't get those services (Hispanic Community doesn't want to PUSH or be AGGRESSIVE)
- "Other" category includes Early Start that are not diagnosed as yet?

## **Plans to Implement a Disparity Assurance Plan**

- Advanced review the Disparity Report and determine key areas on which to focus resources
- Continue to develop additional parent/family training to Increase outreach efforts in diverse (ethnic and geographic) communities based on feedback from POS & disparity data town hall meetings and surveys. Through Community Engagement and case management staff involvement.
- Train all staff in cultural sensitivity by showing uniqueness of each represented ethnicity; reviewing traditions and courtesies in various cultures that staff must understand—thus allowing increased comfort between IRC and its culturally diverse constituents
- Review consumer ethnicity and match staff with identified diversity needs
- Ensure Board of Trustees recruitment represents ethnic and geographic groups as well as train for cultural sensitivity
- Seek and train providers that accommodate and embrace cultural sensitivity
- Comply with all statutes and regulations that apply to cultural sensitivity and linguists as directed by DDS, the Department of Education and other such agencies
- Establish benchmarks for performance efforts and create system for reporting for the areas listed in the plan
- Recruit transportation vendors in rural areas to balance the service needs
- Encourage advocacy of self and loved ones
- Train on principles of Self Determination—especially on rural and remote areas
- Improve Communication of Information and Announcements
  - CSC Direct Info to Families and Consumers
  - Mailing (USPS) to all
  - Flyers at churches, schools, through CSCs,
  - More involvement with Support Groups
  - Information through Spanish Radio Stations (PSA)
  - Hire Bilingual training staff
  - List services on website (services listed in in Title 17)

## COUNCIL AGENDA ITEM DETAIL SHEET

**BILL:** SB 277, as amended, Pan. Public health: vaccinations.

**ISSUE:** Should vaccinations be mandatory?

**SUMMARY:** This bill eliminates the personal belief exemption from the requirement that children receive vaccines for certain infectious diseases prior to being admitted to any public or private elementary or secondary school or day care center.

**BACKGROUND/ISSUES/ANALYSIS:** From the senate analysis: Author's statement. According to the author, in early 2015, California became the epicenter of a measles outbreak which was the result of unvaccinated individuals infecting vulnerable individuals including children who are unable to receive vaccinations due to health conditions or age requirements.

According to the CDC, there were been more cases of measles in January 2015 in the U.S. than in any one month in the past 20 years. Measles has spread through California and the U.S., in large part, because of communities with large numbers of unvaccinated people. Between 2000 and 2012, the number of PBEs from vaccinations required for school entry that were filed rose by 337 percent. In 2000, the PBE rate for kindergartners entering California schools was under one percent.

However, as of 2012, that number rose to 2.6 percent. From 2012 to 2014, the number of children entering kindergarten without receiving some or all of their required vaccinations due to their parent's personal beliefs increased to 3.15 percent (a 25 percent increase over the previous two years). In certain pockets of California, exemption rates are as high as 21 percent which places our communities at risk for preventable diseases. Given the highly contagious nature of diseases such as measles, vaccination rates of up to 95 percent are necessary to preserve herd immunity and prevent future outbreaks.

**DISCUSSION:** This bill is highly emotionally charged to say the least. Thus, a short detail sheet cannot possibly do justice to both sides of the debate.

Worries about how this bill might impact the right to a public education aside, it could reasonably be said SB 277 essentially comes down to two competing visions of what constitutes "the public good".

Vaccination advocates assert the public good is best served by vaccinating as many people as possible, and there is virtually no compelling medical evidence suggesting an autism/vaccine link. In fact, just the opposite is true.

Those opposed to mandatory vaccinations assert that such evidence does exist, though they feel it is ignored. They further contend the testimony of many parents who observed adverse changes in their children immediately after a vaccination cannot be discounted. They argue the collective public good is best served by allowing parents the right to make health decisions for their children.

**RECOMMENDATION:** None.

**COUNCIL STRATEGIC PLAN OBJECTIVE:** Goal 10: Health.  
Individuals with developmental disabilities understand their options regarding health services and have access to a full range of coordinated health, dental and mental health services in their community.

**ATTACHMENTS:** None.

**PREPARED:** Bob Giovati

# Senate California Legislature

Dr. Richard Pan  
Senator, Sixth District

SB 277- Pan, Allen

## PURPOSE

Since 2000, the number of families requesting a Personal Belief Exemption (PBE) from vaccinations required for school entry have risen by 337%. In 2000, the PBE rate for Kindergartners entering California schools, was under 1%.(0.77%) However, as of 2012 that number rose to 2.6%. From 2010 to 2012, the number of children entering Kindergarten without receiving some or all of their required vaccinations rose by 25%.

To reduce the incidence of vaccine-preventable diseases, protect those who cannot receive vaccine due to age or medical condition, and protect those at greater risk of severe complications if they do become infected and ill, this bill seeks to eliminate the personal belief exemption option from school immunization law and require the governing board of a school district to notify parents or guardians of school immunization rates.

## BACKGROUND

High vaccine coverage, particularly at the community level, is extremely important for people who cannot be vaccinated, including people who have medical contraindications to vaccination and those who are too young to be vaccinated. Protecting the individual and the community from communicable diseases such as measles, mumps and pertussis, is a core function of public health.

States that easily permit personal belief exemptions to immunizations have significantly higher rates of exemption than states that have more complex procedures.<sup>1</sup>

Immunizations are recognized as one of the most beneficial and cost effective public health measures.<sup>2</sup> School and child care immunization requirements have been shown to effectively increase immunization coverage and provide an important

public health benefit by reducing rates of vaccine-preventable diseases.

## NEED FOR THE BILL

California is in the midst of a measles outbreak which is the result of unvaccinated individuals infecting vulnerable individuals including children who are unable to receive vaccinations due to health conditions or age requirements. According to the CDC, there have been more cases of measles in January 2015 than in any one month in the past 20 years.

In 2000, the United States declared that measles was eliminated from this country, however, more measles cases than usual have been occurring in some countries to which Americans often travel (such as England, France, Germany, India, the Philippines and Vietnam), and therefore more measles cases coming into the US, and/or more spreading of measles in U.S. communities with pockets of unvaccinated people.

Measles has spread through California and throughout the U.S. because of these communities with pockets of unvaccinated people

It is possible that diseases such as measles could once again become endemic (constant presence of a disease in an area) in the United States, especially if vaccine coverage levels drop. This can happen when people

- Refuse vaccines for religious or personal reasons
- Forget to get vaccinated on time

Research shows that people who refuse vaccines tend to group together in communities. When measles gets into communities with pockets of unvaccinated people, outbreaks are more likely to occur. These communities make it difficult to control the spread of disease and make us vulnerable to having the virus re-establish itself in our country.

## CONTACTS

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## Vaccine Safety

### Vaccines Do Not Cause Autism

*Autism spectrum disorder (ASD) ([/ncbddd/autism/facts.html](http://ncbddd/autism/facts.html)) is a developmental disability that is caused by differences in how the brain functions. People with ASD may communicate, interact, behave, and learn in different ways. Recent estimates from CDC's Autism and Developmental Disabilities Monitoring Network ([/ncbddd/autism/addm.html](http://ncbddd/autism/addm.html)) found that about 1 in 68 children have been identified with ASD in communities across the United States. CDC is committed to providing essential data on ASD, searching for causes of and factors that increase the risk for ASD, and developing resources that help identify children with ASD as early as possible.*

There is no link between vaccines and autism.



Some people have had concerns that ASD might be linked to the vaccines children receive, but studies have shown that there is no link between receiving vaccines and developing ASD. In 2011, an Institute of Medicine (IOM) report (<http://www.iom.edu/Reports/2011/Adverse-Effects-of-Vaccines-Evidence-and-Causality.aspx>) [i6](http://www.cdc.gov/Other/disclaimer.html) (<http://www.cdc.gov/Other/disclaimer.html>) on eight vaccines given to children and adults found that with rare exceptions, these vaccines are very safe.

A 2013 CDC study ([http://www.jpeds.com/article/S0022-3476\(13\)00144-3/pdf](http://www.jpeds.com/article/S0022-3476(13)00144-3/pdf)) [i6](http://www.cdc.gov/Other/disclaimer.html) (<http://www.cdc.gov/Other/disclaimer.html>) added to the research showing that vaccines do not cause ASD. The study looked at the number of antigens (substances in vaccines that cause the body's immune system to produce disease-fighting antibodies) from vaccines during the first two years of life. The results showed that the total amount of antigen from vaccines received was the same between children with ASD and those that did not have ASD.

Vaccine ingredients do not cause autism.

One vaccine ingredient that has been studied specifically is thimerosal ([/vaccinesafety/Concerns/thimerosal/thimerosal\\_faqs.html](http://vaccinesafety/Concerns/thimerosal/thimerosal_faqs.html)), a mercury-based preservative used to prevent contamination of multidose vials of vaccines. Research shows that thimerosal does not cause ASD. In fact, a 2004 scientific review (<http://www.iom.edu/Reports/2004/Immunization-Safety-Review-Vaccines-and-Autism.aspx>) [i6](http://www.cdc.gov/Other/disclaimer.html) (<http://www.cdc.gov/Other/disclaimer.html>) by the IOM concluded that "the evidence favors rejection of a causal relationship between thimerosal

–containing vaccines and autism.” Since 2003, there have been nine CDC-funded or conducted studies  [PDF - 316 KB] ([/vaccinesafety/oo\\_pdf/CDCStudiesonVaccinesandAutism.pdf](/vaccinesafety/oo_pdf/CDCStudiesonVaccinesandAutism.pdf)) that have found no link between thimerosal-containing vaccines and ASD, as well as no link between the measles, mumps, and rubella (MMR) vaccine and ASD in children.

Between 1999 and 2001, thimerosal was removed or reduced to trace amounts in all childhood vaccines except for some flu vaccines. This was done as part of a broader national effort to reduce all types of mercury exposure in children before studies were conducted that determined that thimerosal was not harmful. It was done as a precaution. Currently, the only childhood vaccines that contain thimerosal are flu vaccines packaged in multidose vials. Thimerosal-free alternatives are also available for flu vaccine. For more information, see the Timeline for Thimerosal in Vaccines.

([/vaccinesafety/Concerns/thimerosal/thimerosal\\_timeline.html](/vaccinesafety/Concerns/thimerosal/thimerosal_timeline.html))

Besides thimerosal, some people have had concerns about other vaccine ingredients (</vaccines/vac-gen/additives.htm>) in relation to ASD as well. However, no links have been found between any vaccine ingredients and ASD.



([/vaccinesafety/oo\\_pdf/CDCStudiesonVaccinesandAutism.pdf](/vaccinesafety/oo_pdf/CDCStudiesonVaccinesandAutism.pdf))

Featured Resource: Vaccines and Autism: A Summary of CDC Conducted or Sponsored Studies  [PDF - 316 KB] ([/vaccinesafety/oo\\_pdf/CDCStudiesonVaccinesandAutism.pdf](/vaccinesafety/oo_pdf/CDCStudiesonVaccinesandAutism.pdf))

## More Information

- Facts About Autism Spectrum Disorders (</ncbddd/autism/index.html>)
- Fact Sheet: Understanding Thimerosal, Mercury, and Vaccine Safety  [PDF - 300 KB] (</vaccines/hcp/patient-ed/conversations/downloads/vacsafe-thimerosal-color-office.pdf>)
- IOM Report: Adverse Effects of Vaccines: Evidence and Causality, 2011 ([/vaccinesafety/Concerns/adverse\\_effects\\_iomreport.html](/vaccinesafety/Concerns/adverse_effects_iomreport.html))
- Timeline: Thimerosal in Vaccines (1999-2010) ([/vaccinesafety/Concerns/thimerosal/thimerosal\\_timeline.html](/vaccinesafety/Concerns/thimerosal/thimerosal_timeline.html))
- Frequently Asked Questions about Thimerosal ([/vaccinesafety/Concerns/thimerosal/thimerosal\\_faqs.html](/vaccinesafety/Concerns/thimerosal/thimerosal_faqs.html))

## Related Scientific Articles

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Division of Healthcare Quality Promotion (DHQP)

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30329-4027, USA  
800-CDC-INFO (800-232-4636) TTY: (888) 232-6348 - Contact CDC-INFO



# Measles Vaccine Not Linked with Autism, Even in High-Risk Kids

by Agata Blaszczyk-Boxe, Contributing Writer | April 21, 2015 11:34am ET

Another study has found no link between autism and the vaccine against measles, mumps and rubella (called the MMR vaccine). This time, the finding comes from a study of children at high risk of developing autism.

Although numerous studies have shown that [vaccines do not cause autism](#), some parents still believe that vaccines and autism are related, and thus choose to not vaccinate their kids, researchers say.

In the new study, researchers examined health data and vaccination records of about 96,000 children who all had older siblings. The researchers found that there was no link between receiving the MMR vaccine and developing autism, even for the children who had an [increased risk of autism because their older siblings](#) had been diagnosed with the condition. Other studies have shown that having an older sibling with autism is a risk factor for developing the condition.

The researchers wanted to look at more data on the MMR vaccine and autism risk because "despite the research that shows no link between the MMR vaccine [and autism], [parents continue to believe that the vaccine is contributing to autism](#)," said study author Dr. Anjali Jain, of The Lewin Group, a health care consulting firm in Falls Church, Virginia. "Parents who already have a child with autism seem especially prone to this belief," Jain added.

Indeed, the researchers also found that the MMR vaccination rates were lower among the children whose older siblings had autism than among children whose older siblings did not have the condition. [[Video: Why Vaccinate Your Child Against Measles?](#)]

Although the new study did not examine the reasons for the difference in these MMR vaccination rates, previous surveys have shown that some parents who have a child with autism blame the vaccine for the condition, the researchers said. These parents may choose to not vaccinate their younger kids.

Still, the new study shows that, even in high-risk families, there is no increased risk of autism related to the MMR vaccine, said Dr. Thomas Frazier, director of Cleveland Clinic Center for Autism, who was not involved in the new study.

Many large studies have shown that the MMR vaccine does not cause autism. For example, in a review of studies published by the [Cochrane Library in 2012](#), which included a total of nearly 15 million children, researchers found no relationship between the vaccine and autism.

In another review, published in [2014 in the journal Vaccine](#), researchers analyzed the results of previous studies that included more than 1.26 million children, and again found no link between the vaccine and autism. In a review of 67 studies, published in [2014 in the journal Pediatrics](#), the authors concluded, "There is strong evidence that the MMR vaccine is not associated with autism."

Frazier explained why some parents might believe that vaccines cause autism, despite the scientific evidence that shows otherwise. "Unfortunately, it is a psychological problem; it is not a data problem," Frazier told Live Science. "So we could probably do a hundred more of these studies, and you would not actually change parents' behavior."

One reason parents might believe there's a cause-and-effect relationship between vaccines and autism is that the onset of autism symptoms often coincides with the time when kids get vaccinated, Frazier said. However, "in reality, they just happen to occur at the same time in development," he said. Still, it is tough to get this type of correlation out of people's minds, he added.

Parents who fear vaccinations may choose to not vaccinate their kids based on the argument that they don't want to actively hurt their children, Frazier said. "I think this is the exact reason why the vaccination debate never goes away: It is because it is not about data; it is about fear," he said.

"And so [parents] end up opting for 'I am going to decline vaccination,' which, unfortunately, has led to the place where, actually, it is more common now to have these diseases," such as measles, that can be prevented through vaccination, Frazier added.

The study was published today (April 21) in the Journal of the American Medication Association.



Dear Elected Official:

The nearly 2000 California members of Weston A. Price Foundation would like you to stand against any effort to restrict vaccine exemption rights. Physicians and public health officials know that recently vaccinated individuals can spread disease and that contact with the immunocompromised can be especially dangerous. For example, the Johns Hopkins Patient Guide warns the immunocompromised to “Avoid contact with children who are recently vaccinated,” and to “Tell friends and family who are sick, or have recently had a live vaccine (such as chicken pox, measles, rubella, intranasal influenza, polio or smallpox) not to visit.”<sup>1</sup>

A statement on the website of St. Jude’s Hospital warns parents not to allow people to visit children undergoing cancer treatment if they have received oral polio or smallpox vaccines within four weeks, have received the nasal flu vaccine within one week, or have rashes after receiving the chickenpox vaccine or MMR (measles, mumps, rubella) vaccine.<sup>2</sup>

“The public health community is blaming unvaccinated children for the outbreak of measles at Disneyland, but the illnesses could just as easily have occurred due to contact with a recently vaccinated individual,” says Sally Fallon Morell, president of the Weston A. Price Foundation. The Foundation promotes a healthy diet, non-toxic lifestyle and freedom of medical choice for parents and their children. “Evidence indicates that recently vaccinated individuals should be quarantined in order to protect the public.”

Scientific evidence demonstrates that individuals vaccinated with live virus vaccines such as MMR (measles, mumps and rubella), rotavirus, chicken pox, shingles and influenza can shed the virus for many weeks or months afterwards and infect the vaccinated and unvaccinated alike. <sup>3,4,5,6,7,8,9,10,11,12</sup>

Furthermore, vaccine recipients can carry diseases in the back of their throat and infect others while displaying no symptoms of a disease.<sup>13,14,15</sup>

Both unvaccinated and vaccinated individuals are at risk from exposure to those recently vaccinated. Vaccine failure is widespread; vaccine-induced immunity is not permanent and recent outbreaks of diseases such as whooping cough, mumps and measles have occurred in fully vaccinated populations.<sup>16,17</sup> Flu vaccine recipients become more susceptible to future infection after repeated vaccination.<sup>18,19</sup>

Adults have contracted polio from recently vaccinated infants. A father from Staten Island ended up in a wheel chair after contracting polio while changing his daughter’s diaper. He received a 22.5 million dollar award in 2009. <sup>20,21</sup>

“Vaccine failure and failure to acknowledge that live virus vaccines can spread disease have resulted in an increase in outbreaks of infectious disease in both vaccinated and unvaccinated individuals,” says Leslie Manookian, producer of The Greater Good. “CDC should instruct physicians who administer vaccinations to inform their patients about the risks posed to others by those who’ve been recently vaccinated.”

According to the Weston A. Price Foundation, the best protection against infectious disease is a healthy immune system, supported by adequate vitamin A and vitamin C. Well-nourished children easily recover from infectious disease and rarely suffer complications.

The number of measles deaths declined from 7575 in 1920 (10,000 per year in many years in the 1910s) to an average of 432 each year from 1958-1962.<sup>22</sup> The vaccine was introduced in 1963. Between 2005 and 2014, there have been no deaths from measles in the U.S. and 108 deaths reported after the MMR vaccine. <sup>23</sup>

Sincerely, The 1988 members of the Weston A. Price Foundation in the State of California



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2. <http://www.stjude.org/stjude/v/index.jsp?vgnextoid=20206f9523e70110VgmVCM1000001e0215acRCRD> (This document was taken down since this press release was issued, see image four, above)
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*The Weston A. Price Foundation is a 501(c)(3) nutrition education foundation with the mission of disseminating accurate, science-based information on diet and health. Named after nutrition pioneer Weston A. Price, DDS, author of Nutrition and Physical Degeneration, the Washington, DC-based Foundation publishes a quarterly journal for its 15,000 members, supports 600 local chapters worldwide and hosts a yearly international conference. The Foundation phone number is (202) 363-4394, [www.westonaprice.org](http://www.westonaprice.org), [info@westonaprice.org](mailto:info@westonaprice.org).*

## **An Open Letter to Legislators Currently Considering Vaccine Legislation from Tetyana Obukhanych, PhD**

April 17, 2015

Dear Legislator:

My name is Tetyana Obukhanych. I hold a PhD in Immunology. I am writing this letter in the hope that it will correct a few common misperceptions about vaccines and help you formulate a fair and balanced understanding that is supported by accepted vaccine theory and new scientific findings.

### **Do unvaccinated children pose a higher threat to the public than the vaccinated?**

It is often stated that those who choose not to vaccinate their children for reasons of conscience endanger the rest of the public, and this is the rationale behind most of the legislation to end vaccine exemptions currently being considered by federal and state legislators country-wide. You should be aware that the nature of protection afforded by many modern vaccines – and that includes most of the vaccines recommended by the CDC for children – is not consistent with such a statement. I have outlined below the recommended vaccines that cannot prevent transmission of disease either because they are not *designed* to prevent the transmission of infection (rather, they are intended to prevent disease symptoms), or because they protect from non-communicable diseases. People who have not received the vaccines mentioned below pose no higher threat to the general public than those who have, implying that discrimination against non-immunized children in a public school setting may not be warranted.

1. **IPV (inactivated poliovirus vaccine) cannot prevent transmission of poliovirus** (see appendix for the scientific study, Item #1). Wild poliovirus has been non-existent in the USA for at least two decades. Even if wild poliovirus were to be re-imported by travel, vaccinating for polio with IPV cannot affect the safety of public spaces. Please note that wild poliovirus eradication is attributed to the use of a different vaccine, OPV or oral poliovirus vaccine. Despite being capable of preventing wild poliovirus transmission, use of OPV was phased out long ago in the USA and replaced with IPV due to safety concerns.
2. **Tetanus is not a contagious disease**, but rather acquired from deep-puncture wounds contaminated with *C. tetani* spores. Vaccinating for tetanus (via the DTaP combination vaccine) cannot alter the safety of public spaces; it is intended to render personal protection only.
3. While intended to prevent the disease-causing effects of the diphtheria toxin, **the diphtheria toxoid vaccine** (also contained in the DTaP vaccine) **is not designed to prevent colonization and transmission of *C. diphtheriae***. Vaccinating for

diphtheria cannot alter the safety of public spaces; it is likewise intended for personal protection only.

4. The acellular pertussis (aP) vaccine (the final element of the DTaP combined vaccine), now in use in the USA, replaced the whole cell pertussis vaccine in the late 1990s, which was followed by an unprecedented resurgence of **whooping cough**. An experiment with deliberate pertussis infection in primates revealed **that the aP vaccine is not capable of preventing colonization and transmission of *B. pertussis*** (see appendix for the scientific study, Item #2). The FDA has issued a warning regarding this crucial finding. [\[1\]](#)

Furthermore, the 2013 meeting of the Board of Scientific Counselors at the CDC revealed additional alarming data that **pertussis variants (PRN-negative strains) currently circulating in the USA acquired a selective advantage to infect those who are up-to-date for their DTaP boosters** (see appendix for the CDC document, Item #3), meaning that people who are up-to-date are *more* likely to be infected, and thus contagious, than people who are not vaccinated.

5. Among numerous types of *H. influenzae*, the Hib vaccine covers only type b. Despite its sole intention to reduce symptomatic and asymptomatic (disease-less) Hib carriage, **the introduction of the Hib vaccine has inadvertently shifted strain dominance towards other types of *H. influenzae* (types a through f)**. These types have been causing invasive disease of high severity and increasing incidence in adults in the era of Hib vaccination of children (see appendix for the scientific study, Item #4). The general population is more vulnerable to the invasive disease now than it was prior to the start of the Hib vaccination campaign. Discriminating against children who are not vaccinated for Hib does not make any scientific sense in the era of non-type b *H. influenzae* disease.
6. **Hepatitis B is a blood-borne virus**. It does not spread in a community setting, especially among children who are unlikely to engage in high-risk behaviors, such as needle sharing or sex. Vaccinating children for hepatitis B cannot significantly alter the safety of public spaces. Further, school admission is not prohibited for children who are chronic hepatitis B carriers. To prohibit school admission for those who are simply unvaccinated – and do not even carry hepatitis B – would constitute unreasonable and illogical discrimination.

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**In summary, a person who is not vaccinated with IPV, DTaP, HepB, and Hib vaccines due to reasons of conscience poses no extra danger to the public than a person who is. No discrimination is warranted.**

#### How often do serious vaccine adverse events happen?

It is often stated that vaccination rarely leads to serious adverse events. Unfortunately, this statement is not supported by science. A recent study done in Ontario, Canada, established that **vaccination actually leads to an emergency room visit for 1 in 168 children following their 12-month vaccination appointment and for 1 in**

**730 children following their 18-month vaccination appointment** (see appendix for a scientific study, Item #5).

When the risk of an adverse event requiring an ER visit after well-baby vaccinations is demonstrably so high, vaccination must remain a choice for parents, who may understandably be unwilling to assume this immediate risk in order to protect their children from those diseases that are generally considered mild or that their children may never be exposed to.

**Can discrimination against families who oppose vaccines for reasons of conscience prevent future disease outbreaks of communicable viral diseases, such as measles?**

Measles research scientists have for a long time been aware of the “measles paradox.” I quote from the article by Poland & Jacobson (1994) “**Failure to Reach the Goal of Measles Elimination: Apparent Paradox of Measles Infections in Immunized Persons.**” *Arch Intern Med* 154:1815-1820:

*“The apparent paradox is that as measles immunization rates rise to high levels in a population, measles becomes a disease of immunized persons.”[2]*

Further research determined that behind the “measles paradox” is a fraction of the population called LOW VACCINE RESPONDERS. Low-responders are those who respond poorly to the first dose of the measles vaccine. These individuals then mount a weak immune response to subsequent RE-vaccination and quickly return to the pool of “susceptibles” within 2-5 years, despite being fully vaccinated.[3]

Re-vaccination cannot correct low-responsiveness: it appears to be an immuno-genetic trait.[4] The proportion of low-responders among children was estimated to be 4.7% in the USA.[5]

Studies of measles outbreaks in Quebec, Canada, and China attest that **outbreaks of measles still happen, even when vaccination compliance is in the highest bracket** (95-97% or even 99%, see appendix for scientific studies, Items #6&7). This is because even in high vaccine responders, vaccine-induced antibodies wane over time. Vaccine immunity does not equal life-long immunity acquired after natural exposure.

It has been documented that vaccinated persons who develop breakthrough measles are contagious. In fact, two major measles outbreaks in 2011 (in Quebec, Canada, and in New York, NY) were re-imported by previously vaccinated individuals.[6][7]

**Taken together, these data make it apparent that elimination of vaccine exemptions, currently only utilized by a small percentage of families anyway, will neither solve the problem of disease resurgence nor prevent re-importation and outbreaks of previously eliminated diseases.**

**Is discrimination against conscientious vaccine objectors the only practical solution?**

The majority of measles cases in recent US outbreaks (including the recent Disneyland outbreak) are adults and very young babies, whereas in the pre-vaccination era, measles occurred mainly between the ages 1 and 15. Natural exposure to measles was followed by lifelong immunity from re-infection, whereas vaccine immunity wanes over time, leaving adults unprotected by their childhood shots. Measles is more dangerous for infants and for adults than for school-aged children.

Despite high chances of exposure in the pre-vaccination era, measles practically never happened in babies much younger than one year of age due to the robust maternal immunity transfer mechanism. The vulnerability of very young babies to measles today is the direct outcome of the prolonged mass vaccination campaign of the past, during which their mothers, themselves vaccinated in their childhood, were not able to experience measles naturally at a safe school age and establish the lifelong immunity that would also be transferred to their babies and protect them from measles for the first year of life.

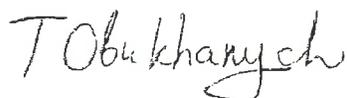
Luckily, a therapeutic backup exists to mimic now-eroded maternal immunity. Infants as well as other vulnerable or immuno-compromised individuals, **are eligible to receive immunoglobulin, a potentially life-saving measure that supplies antibodies directed against the virus to prevent or ameliorate disease upon exposure** (see appendix, Item #8).

In summary: 1) due to the properties of modern vaccines, non-vaccinated individuals pose no greater risk of transmission of polio, diphtheria, pertussis, and numerous non-type b *H. influenzae* strains than vaccinated individuals do, non-vaccinated individuals pose virtually no danger of transmission of hepatitis B in a school setting, and tetanus is not transmissible at all; 2) there is a significantly elevated risk of emergency room visits after childhood vaccination appointments attesting that vaccination is not risk-free; 3) outbreaks of measles cannot be entirely prevented even if we had nearly perfect vaccination compliance; and 4) an effective method of preventing measles and other viral diseases in vaccine-ineligible infants and the immuno-compromised, immunoglobulin, is available for those who may be exposed to these diseases.

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Taken together, these four facts make it clear that discrimination in a public school setting against children who are not vaccinated for reasons of conscience is completely unwarranted as the vaccination status of conscientious objectors poses no undue risk to the public.

Sincerely Yours,



Tetyana Obukhanych, PhD

## Appendix

Item #1. The Cuba IPV Study collaborative group. (2007) **Randomized controlled trial of inactivated poliovirus vaccine in Cuba.** *N Engl J Med* 356:1536-44

<http://www.ncbi.nlm.nih.gov/pubmed/17429085>

The table below from the Cuban IPV study documents that 91% of children receiving no IPV (control group B) were colonized with live attenuated poliovirus upon deliberate experimental inoculation. Children who were vaccinated with IPV (groups A and C) were similarly colonized at the rate of 94-97%. High counts of live virus were recovered from the stool of children in all groups. These results make it clear that IPV cannot be relied upon for the control of polioviruses.

**Table 3. Isolation of Poliovirus in Stool Samples 1 Week after Oral Poliovirus Vaccine Challenge According to Study Group and Poliovirus Type.<sup>a</sup>**

Group <sup>b</sup>	No. of Infants	Type 1		Type 2		Type 3		Any Type of Poliovirus		Mean Log <sub>10</sub> Titer in Fecal Sample (95% CI) <sup>c</sup>
		No.	% (95% CI)	No.	% (95% CI)	No.	% (95% CI)	No.	% (95% CI)	
A	52	10	19 (10–33)	45	87 (74–94)	3	10 (3–21)	49	94 (84–99)	3.46 (3.17–3.75)
B	54	9	17 (8–29)	48	89 (77–96)	3	6 (1–15)	49	91 (80–97)	3.89 (3.64–4.14)
C	72	13	18 (10–29)	67	93 (85–98)	10	14 (7–24)	70	97 (90–100)	3.37 (3.14–3.60)

<sup>a</sup> All stool samples taken from study participants just before the challenge dose were negative for poliovirus. Exact confidence intervals (CIs) are based on the binomial distribution.

<sup>b</sup> Group A received a combination of diphtheria–pertussis–tetanus vaccine, *Haemophilus influenzae* type b vaccine, and inactivated poliovirus vaccine (DPT-Hib-IPV) at 6, 10, and 14 weeks of age. Group B, the control group, received a combination of DPT vaccine and Hib vaccine at 6, 10, and 14 weeks. Group C received the DPT-Hib-IPV combination at 8 and 16 weeks.

<sup>c</sup> Mean values are given for excretions of poliovirus.

Item #2. Warfel *et al.* (2014) **Acellular pertussis vaccines protect against disease but fail to prevent infection and transmission in a nonhuman primate model.** *Proc Natl Acad Sci USA* 111:787-92

<http://www.ncbi.nlm.nih.gov/pubmed/24277828>

“Baboons vaccinated with aP were protected from severe pertussis-associated symptoms but not from colonization, did not clear the infection faster than naïve [unvaccinated] animals, and readily transmitted B. pertussis to unvaccinated contacts. By comparison, previously infected [naturally-immune] animals were not colonized upon secondary infection.”

Item #3. Meeting of the Board of Scientific Counselors, Office of Infectious Diseases, Centers for Disease Control and Prevention, Tom Harkins Global Communication Center, Atlanta, Georgia, December 11-12, 2013

[http://www.cdc.gov/maso/facm/pdfs/BSCOID/2013121112\\_BSCOID\\_Minutes.pdf](http://www.cdc.gov/maso/facm/pdfs/BSCOID/2013121112_BSCOID_Minutes.pdf)

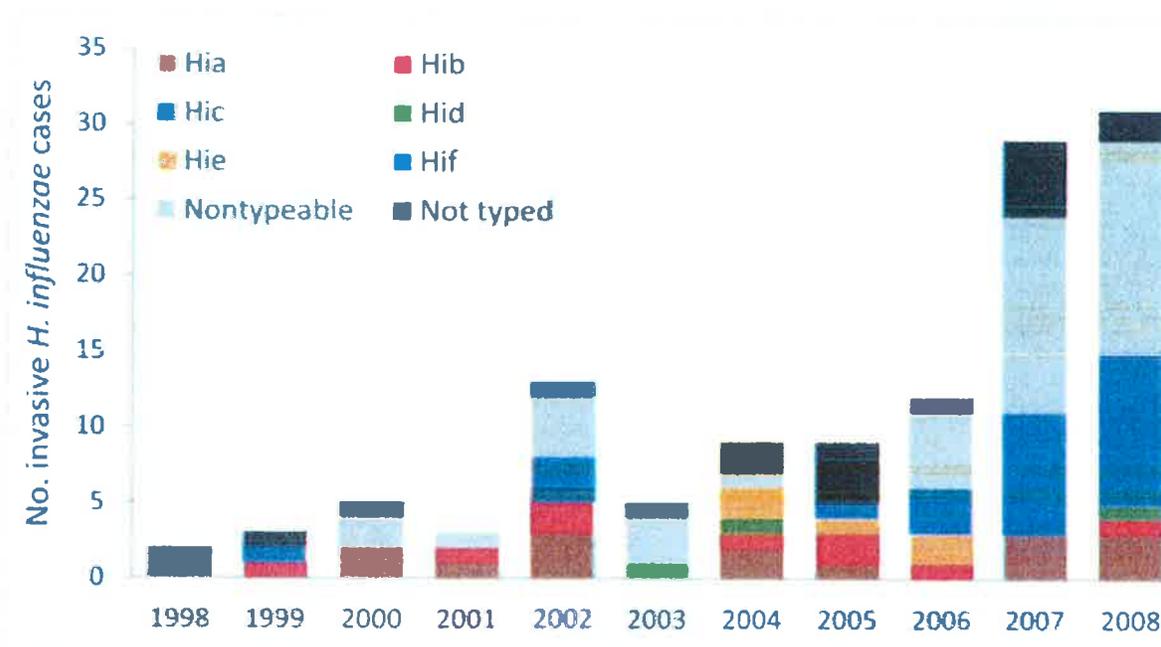
Resurgence of Pertussis (p.6)

“Findings indicated that 85% of the isolates [from six Enhanced Pertussis Surveillance Sites and from epidemics in Washington and Vermont in 2012] were PRN-deficient and vaccinated patients had significantly higher odds than unvaccinated patients of being infected with PRN-deficient strains. Moreover, when patients with up-to-date DTaP vaccinations were compared to unvaccinated patients, the odds of being infected with PRN-deficient strains increased, suggesting that PRN-bacteria may have a selective advantage in infecting DTaP-vaccinated persons.”

Item #4. Rubach *et al.* (2011) **Increasing incidence of invasive *Haemophilus influenzae* disease in adults, Utah, USA.** *Emerg Infect Dis* 17:1645-50

<http://www.ncbi.nlm.nih.gov/pubmed/21888789>

The chart below from Rubach *et al.* shows the number of invasive cases of *H. influenzae* (all types) in Utah in the decade of childhood vaccination for Hib.



Item #5. Wilson *et al.* (2011) **Adverse events following 12 and 18 month vaccinations: a population-based, self-controlled case series analysis.** *PLoS One* 6:e27897

<http://www.ncbi.nlm.nih.gov/pubmed/22174753>

“Four to 12 days post 12 month vaccination, children had a 1.33 (1.29-1.38) increased relative incidence of the combined endpoint compared to the control period, or at least one event during the risk interval for every 168 children vaccinated. Ten to 12 days post 18 month vaccination, the relative incidence was 1.25 (95%, 1.17-1.33) which represented at least one excess event for every 730 children vaccinated. The primary reason for increased events was statistically significant elevations in emergency room visits following all vaccinations.”

Item #6. De Serres *et al.* (2013) **Largest measles epidemic in North America in a decade--Quebec, Canada, 2011: contribution of susceptibility, serendipity, and superspreading events.** *J Infect Dis* 207:990-98

<http://www.ncbi.nlm.nih.gov/pubmed/23264672>

"The largest measles epidemic in North America in the last decade occurred in 2011 in Quebec, Canada."

"A super-spreading event triggered by 1 importation resulted in sustained transmission and 678 cases."

"The index case patient was a 30-39-year old adult, after returning to Canada from the Caribbean. The index case patient received measles vaccine in childhood."

"Provincial [Quebec] vaccine coverage surveys conducted in 2006, 2008, and 2010 consistently showed that by 24 months of age, approximately 96% of children had received 1 dose and approximately 85% had received 2 doses of measles vaccine, increasing to 97% and 90%, respectively, by 28 months of age. With additional first and second doses administered between 28 and 59 months of age, population measles vaccine coverage is even higher by school entry."

"Among adolescents, 22% [of measles cases] had received 2 vaccine doses. Outbreak investigation showed this proportion to have been an underestimate; active case finding identified 130% more cases among 2-dose recipients."

Item #7. Wang *et al.* (2014) **Difficulties in eliminating measles and controlling rubella and mumps: a cross-sectional study of a first measles and rubella vaccination and a second measles, mumps, and rubella vaccination.** *PLoS One* 9:e89361

<http://www.ncbi.nlm.nih.gov/pubmed/24586717>

"The reported coverage of the measles-mumps-rubella (MMR) vaccine is greater than 99.0% in Zhejiang province. However, the incidence of measles, mumps, and rubella remains high."

Item #8. Immunoglobulin Handbook, Health Protection Agency

[http://webarchive.nationalarchives.gov.uk/20140714084352/http://www.hpa.org.uk/webc/HPAwebFile/HPAweb\\_C/1242198450982](http://webarchive.nationalarchives.gov.uk/20140714084352/http://www.hpa.org.uk/webc/HPAwebFile/HPAweb_C/1242198450982)

HUMAN NORMAL IMMUNOGLOBULIN (HNIG):

Indications

1. To prevent or attenuate an attack in immuno-compromised contacts
2. To prevent or attenuate an attack in pregnant women
3. To prevent or attenuate an attack in infants under the age of 9 months

## Footnotes

[1] <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm376937.htm>

[2] <http://archinte.jamanetwork.com/article.aspx?articleid=619215>

[3] **Poland (1998) *Am J Hum Genet* 62:215-220**

<http://www.ncbi.nlm.nih.gov/pubmed/9463343>

“ ‘poor responders,’ who were re-immunized and developed poor or low-level antibody responses only to lose detectable antibody and develop measles on exposure 2–5 years later.”

[4] *ibid*

“Our ongoing studies suggest that seronegativity after vaccination [for measles] clusters among related family members, that genetic polymorphisms within the HLA [genes] significantly influence antibody levels.”

[5] **LeBaron et al. (2007) *Arch Pediatr Adolesc Med* 161:294-301**

<http://www.ncbi.nlm.nih.gov/pubmed/17339511>

“Titers fell significantly over time [after second MMR] for the study population overall and, by the final collection, 4.7% of children were potentially susceptible.”

[6] **De Serres et al. (2013) *J Infect Dis* 207:990-998**

<http://www.ncbi.nlm.nih.gov/pubmed/23264672>

“The index case patient received measles vaccine in childhood.”

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[7] **Rosen et al. (2014) *Clin Infect Dis* 58:1205-1210**

<http://www.ncbi.nlm.nih.gov/pubmed/24585562>

“The index patient had 2 doses of measles-containing vaccine.”



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Senators on the Judiciary Committee  
California State Senate  
State Capitol, Room 2032  
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May 12, 2015

Dear Senators:

Thank you for having given me the opportunity to address the California Senate Judiciary Committee on April 28, 2015 regarding Senate Bill 277 to restrict childhood vaccination exemptions to medical ones alone. I promised to revert to you regarding California law on informed consent; I do so now, and seek to clarify my comments regarding enforcement, should SB 277 become law.

California law fully embraces the doctrine of informed consent to medical decision-making. The California Supreme Court has upheld the doctrine of informed consent and the right to refuse nonconsensual invasions of bodily integrity in *Thor v. Superior Court*, 5 Cal. 4<sup>th</sup> 725 (1993). There, the unanimous Court reviewed the federal common law and California precedents on bodily integrity and self-determination, noting, “we respect human dignity by granting individuals the freedom to make choices in accordance with their own values.” *Id.* at 737. *Thor* regards the right of a prisoner to refuse life-sustaining treatment. The Court notes that there are countervailing considerations in determining the scope of autonomy, including protecting innocent third parties. *Id.* at 738. In that case, however, the Court found no compelling countervailing reasons and required that the prison respect the inmate’s desire to refuse medical treatment. Many courts have cited the case with approval since.

While there are no California precedents specifically on informed consent and vaccination, there is a provision in the California Code of Regulations regarding informed consent and medical interventions for children in juvenile detention. Under 15 CCR § 4733, even wards of the state must be provided consent “for all medical or dental treatment.” The section states “informed consent is defined as consent which is obtained without duress or coercion and which clearly and explicitly manifests consent to the proposed medication, treatment or procedure in writing.”

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If SB 277 becomes law, parents will not have the ability to consent to vaccination without coercion. As so many parents testified at the hearing, medical exemptions are not available for most families, including those with serious contraindications to vaccination, and homeschooling is an illusory option, especially for those of limited means. Indeed, the intent of SB 277 would seem to be precisely to coerce parents into vaccinating according to the state vaccine schedule, under the banner of paternalism. While protection of other schoolchildren from infectious disease outbreaks is unquestionably an important consideration regarding SB 277, the state has at its disposal the ability to suspend unvaccinated children during outbreaks.

This has worked for decades, and the state did not even choose to employ it during the much-publicized Disneyland measles outbreak. In a legal challenge, the state would be required to prove that the consideration of other schoolchildren requires the exclusion of those with exemptions. Dr. Tetyana Obukhanych's analysis, attached, explains clearly why such exclusion of healthy children is unnecessary and irrationally discriminatory outside the context of disease outbreaks.

Despite coercion, a substantial percentage of the parents of the estimated 225,000 children with exemptions in California out of a total of 6.2 million would likely not vaccinate their children, because to do so would violate their most deeply held religious and conscientious beliefs. Some will be able to get medical exemptions; others will be able to homeschool; but thousands of families will be unable to do either.

I asked rhetorically how the state would enforce SB 277, and whether it would engage in forced vaccination or imprisonment of parents. Unfortunately, neither of these questions is hyperbolic. "Medical neglect" is a consideration in child removal proceedings, and California's Department of Children and Family Services has noted that a mother was "behind on [the children's] immunizations" as one consideration among many in a proceeding to terminate parental rights. *Brenda H. v. Superior Court of Contra Costa County*, 2003 WL 21054769. Similarly, under California Penal Code Section 270.1(a) a parent or guardian of a child six years old or older may be subject to a fine or imprisonment up to a year, or both, if a child is a "chronic truant...[and the parent] has failed to reasonably supervise and encourage the pupil's school attendance." In this context, I believe my questions accurately reflected the concerns of thousands of families who oppose SB 277.

All vaccination decisions, like decisions about all invasive medical procedures, carry the risk of severe injury or death. Congress acknowledged this risk in its 1986 National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-1 to 300aa-34. By preserving California's personal belief exemption, you ensure a modicum of consent for those parents and guardians who cannot vaccinate their children in good conscience. If the state deprives them of that right, pressuring them into making decisions with potentially permanent consequences without free consent, the state would violate their most basic human rights.

Many peer countries with excellent healthcare outcomes have no vaccination mandates, only recommendations, including the United Kingdom, Canada, Ireland, Australia, Sweden, Germany and Japan. California should consider these impressive examples.

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I deeply appreciate your efforts to craft an ethical and effective law to protect children. Please feel free to contact me at [mary.holland@nyu.edu](mailto:mary.holland@nyu.edu) or at (212) 998-6212 if I can be of any assistance.

Sincerely yours,



Mary S. Holland

Attachment: Letter from Dr. Tetyana Obukhanych, Ph.D.