

1. I am an adult of sound mind and make this statement voluntarily, based upon my knowledge, education, and experience.

2. I submit this declaration to supplement my original declaration, dated October 31, 2022, submitted in support of my motion for preliminary injunction.

3. In order to provide clarification, I wanted to mention specific instances in which I have given advice to patients that I firmly believe to be correct, but would feel hesitant about saying now due to the threat of losing my license under AB 2098. In fact, I am fearful of providing the below examples in my declaration. I am willing, however, to risk repercussions to demonstrate the extent to which AB 2098 is interfering with my ability to perform my job.

4. I have counseled a healthy college-aged male, previously infected with COVID-19, that I did not believe there were data to suggest the benefits of a booster outweighed the risks to him.

5. I also counseled a young adult male patient in the winter of 2021, who had previously been infected with COVID-19 and had mild symptoms, that he could wait for more data on safety before getting vaccinated, or simply receive only one dose for the present instead of two.

6. As another example, in response to a patient's questions about the mask policy in his private club, I stated that requiring members to wear either cloth or surgical masks may give a false sense of security to any club members who are at high risk for severe disease. I discussed the highest quality data we have on cloth and surgical masking from randomized studies conducted in Denmark and Bangladesh finding no significant benefit of cloth masks and no to minimal (and that minimal amount being questionable) benefit of surgical masks against COVID-19 transmission.

7. In all three cases, the data absolutely supported my position, but CDC and other public health authorities, as well as the media, have insisted upon a "one size fits all" approach requiring everyone to get vaccinated and boosted, and everyone to mask. I suspect, at least at the time, under AB 2098 I could have been disciplined in all three instances.

8. Now, when I receive questions about bivalent boosters, I am hesitant to state that we have no high-quality data thus far demonstrating a benefit against infection with or severe disease from COVID-19. The data available to the public thus far on the effectiveness of the BA.4/5 bivalent boosters against infection and hospitalization from COVID-19 have a high risk of being confounded due to their design. In other words, the data are highly uncertain. I do not know if I am permitted to express this uncertainty with my patients under AB 2098.


9. Given that, as discussed in my previous declaration, several doctors have threatened to use AB 2098 in order to silence me, I live in continuous fear that I will be disciplined for giving accurate information.

10. As stated, I am reluctant to even write this declaration, but am willing to risk it because I believe it is in the interests of patients and doctors in the state of California.

11. I swear or affirm under penalty of perjury that the foregoing is true and correct.

Dated: December 20th, 2022

Signed:

Handwritten signature of Tracy Hoey in black ink.