

## **Submission to Public Health and Wellbeing Amendment (No Jab, No Play) Bill 2015**

This submission **objects** to the proposed policy changes.

### **Summary**

The proposed policy seeks to make access to childcare and early childhood education conditional to compliance with a medical procedure.

The following submission **recommends the rejection of the proposed legislation**. This is based on several factors;

- The negative impact this will have on hard- working families
- The level of coercion involved to compel families from lower socioeconomic groups to submit to a medical procedure against their conscientious objection
- The barriers it will place on children's access to education
- Medical procedures come with risks, and when there is a risk there must be a free choice
- It violates several aspects of human rights as outlined by the United Nations Declaration of Human Rights and the Victoria Equal Opportunity and Human Rights Commission

## Human Rights Concerns

### Parents' Right to Work

This policy seeks to make access to childcare conditional. For families who are entrenched in their stance against vaccination for religious, personal or ethical reasons this will not result in them changing their decision not to vaccinate. What it does mean is that many families will be forced to resign from work in order to stay home with their children.

Article 23a of the United Nations Universal Declaration of Human Rights (UNDR) sets out:

*(1) Everyone has the right to work*

Denying parents access to childcare and early childhood education will infringe on this right.

This policy will unfairly burden families from low socioeconomic backgrounds such as single parents and low income earners who must be employed to earn an income as a matter of survival.

The Victoria Equal Opportunity and Human Rights Commission guarantees:

*Your right to recognition and equality before the law (section 8)*

*Everyone is entitled to equal and effective protection against discrimination, and to enjoy their human rights without discrimination.*

Making access to childcare conditional violates this right and discriminates against these families.

## **Failure to acknowledge Freedom of Thought, Conscience, Religion and Belief**

According to the Victoria Equal Opportunity and Human Rights Commission:

### *14 Freedom of thought, conscience, religion and belief*

*(1) Every person has the right to freedom of thought, conscience, religion and belief, including—*

*(a) the freedom to have or to adopt a religion or belief of his or her choice; and*

*(b) the freedom to demonstrate his or her religion or belief in worship, observance, practice and teaching, either individually or as part of a community, in public or in private.*

*(2) A person must not be coerced or restrained in a way that limits his or her freedom to have or adopt a religion or belief in worship, **observance, practice** or teaching.*

The policy fails to take into account the variety of ways religious, personal and spiritual beliefs manifest and infringes on the rights of people to uphold these beliefs. Forcing parents to choose between their religious/personal beliefs and granting their children the right to early childhood education is coercive and undermines their freedom. Many people, myself included, have strong religious beliefs which vaccination is incompatible with. Issues may arise from the use of aborted foetal tissue in vaccines (which many Catholics object to although this ingredient isn't widely publicised), inclusion of pig products (incompatible with Islam), inclusion of animal products (incompatible with Buddhism, vegetarianism).

The current policy also fails to provide an adequate mechanism to opt out for families who have experienced adverse vaccine reactions.

Many children experience severe adverse reactions to vaccination (see Appendix A). If an adverse event occurs, such as anaphalaxis, then parents are then advised to just get it done in hospital with a shot of adrenalin administered. This is extreme. If a child dies or is permanently disabled after vaccination their siblings are not exempt. Adverse reactions occur much more frequently than 1 in 1 million doses, a quick glance at the Immunise Australia website provides reaction rates for a range of adverse events and a selection of these are listed in Appendix A.

## **Failure to act in the Best Interest of ALL Children**

According to the UN Rights of the Child which has been ratified by Australia and implemented through Early Childhood Australia:

*Article 2 (Non-discrimination): **No child should be treated unfairly on any basis.***

*Article 28: (Right to education)*

[http://www.earlychildhoodaustralia.org.au/wp-content/uploads/2014/08/Rights\\_overview.pdf](http://www.earlychildhoodaustralia.org.au/wp-content/uploads/2014/08/Rights_overview.pdf)

The proposed policy would treat children unfairly for parental decisions (often based on religious, cultural and personal beliefs). It is also a reversal of Victoria's commitment under the National Partnership Agreement on Early Childhood Education:

*The first National Partnership Agreement on Early Childhood Education was signed by the Council of Australian Governments on 29 November 2008. Under this agreement, **all governments committed to work together to ensure that all children have access to a quality early childhood education programme, delivered by a qualified early childhood teacher for 600 hours of preschool education in the year before they attend full-time school.***

<https://education.gov.au/national-partnership-agreements>

The policy will unfairly discriminate against unvaccinated or partially vaccinated children by restricting their access to childcare and early childcare education, something the government and the UN has said should be accessible to ALL children.

The policy also fails to take into account the negative effect this would have on many children's home lives if their parents are forced to quit their jobs in order to look after their children full time. The loss of income will put some children at risk for homelessness, poverty and further undermine their rights.

## **Violates the rights of parents and children to privacy**

According to the Victoria Equal Opportunity and Human Rights Commission:

*Your right to privacy and reputation (section 13)*

*Everyone has the right to keep their lives private. Your family, home or personal information cannot be interfered with, unless the law allows it.*

And according to the UN Rights of the Child:

*Article 16 (Right to privacy): Children have a right to privacy. The law should protect them from attacks against their way of life, their good name, their families and their homes.*

The policy violates the right to privacy by making someone's medical history public knowledge through their exclusion from basic public services and facilities. By passing this into legislation it would also cement the idea that certain children can be treated unfairly and discriminated against because of their medical status and/or parental decisions. I have already seen this happen in practice where children are bullied by other students or teachers for their medical status, which is a private matter.

## **Freedom to Choose Medical Treatment**

The Victoria Equal Opportunity and Human Rights Commission states:

*Your right to protection from torture and cruel, inhuman or degrading treatment  
(section 10)*

**People must not be subjected to medical treatment or experiments  
without their full, free and informed consent.**

As outlined in the immunisation handbook:

*For consent to be legally valid, the following elements must be present:*<sup>6,8</sup>

1. *It must be given by a person with legal capacity, and of sufficient intellectual capacity to understand the implications of being vaccinated.*
2. *It must be given voluntarily in the absence of undue pressure, coercion or manipulation.*
3. *It must cover the specific procedure that is to be performed.*
4. *It can only be given after the potential risks and benefits of the relevant vaccine, risks of not having it and any alternative options have been explained to the individual. (see next page)*

- According to WHO and the Office of the UN High Commissioner for Human Rights:

*"The right to health contains freedoms. These freedoms include  
the right to be free from non-consensual medical treatment"*

<http://www.ohchr.org/Documents/Publications/Factsheet31.pdf>

Making access to childcare and early childhood education conditional to compliance with several medical procedures **IS** coercion. Any parents who vaccinate their children under these circumstances **are not doing so freely.**

I have additional concerns regarding “informed consent” as scant information is given to parents regarding adverse reaction rates and there is a lack of transparency surrounding this issue which has eroded parental confidence in the government. This is something which I think must be addressed as I feel few parents who vaccinate give “informed consent.”

## **Unfair Discrimination**

Ultimately, this policy is about bringing about unfair discrimination against children and their families based on non-compliance with a medical procedure. This contravenes the stated rights of people to make “free” choices regarding the medical decisions of the family.

Some would argue that the policy is attempting to uphold children’s right to health, **but you cannot attempt to uphold one right while denying others. This would effectively deny some parents the right to work, children the right to access early childhood education**

Under the Victoria Equal Opportunity and Human Rights Commission the following are guaranteed:

*Your right to recognition and equality before the law (section 8)*

*Everyone is entitled to equal and effective protection against discrimination, and to enjoy their human rights without discrimination.*

*Your right to protection of families and children (section 17)*

*Families are entitled to protection. Children have the same rights as adults with added protection according to their best interests.*

This policy will put some families at financial risk in what amounts as unfair discrimination.

## **Conclusion**

I implore you to reject the proposed changes as it contravenes a number of basic human rights as set out under the UNDHR and unduly trespasses on several freedoms.

The bill does not consider the rights of families to work and be financially secure.

The bill does not support the right of children to have free access to education.

The bill does not support the right of families to observe their religious and personal beliefs.

The bill does not uphold the right of parents to make medical decisions for their children free from coercion.

Thank you for your time in considering this submission.

## Appendix A

The risk of a serious reaction is way more than the popularly quoted figure of “1 in 1 million.” Please below for a list of some of the rare reaction rates as given by the Immunise Australia website, the FDA, CDC, vaccine clinical trials and post-marketing surveillance data available from Pubmed.

Following the Australian schedule of 151 vaccines (inc annual flu shot) over 80 years (life expectancy in Aus is 82), in a birth cohort of 10,000 people there would be about 1500 serious adverse events. That is a reaction rate of 15%. This includes only serious reactions (inc developing the disease vaccinated for, encephalitis, anaphalaxis, intussusceptions, ITP, SSPE, GBS. See doc. Vaccine Reaction Rates for more info), not just malaise or fever. (NB. Rates given per million doses or p/m)

- Anaphalaxis (severe, life-threatening allergic reaction) 3.6 p/m for DTaP; 12 x DTaP = 43.2 in 1 million lifetime risk. 1.6 p/m Hep B; 3 x Hep B = 6.4 in 1 million lifetime risk. 26 p/m for HPV; 3 x HPV = 78 in 1 million lifetime risk. 1.5 p/m for Influenza; 80 x I = 120 in 1 million lifetime risk. 1 p/m for Men C; 1 x Men C = 1 in 1 million lifetime risk. 12.5 p/m for MMR; 2 x MMR = 25 in 1 million lifetime risk. 1.1 p/m for Rotavirus; 3 x Rotavirus = 3.3 in 1 million lifetime risk.
- Brachial neuritis (arm paralysis), 10 p/m for IPV (polio); 4 x IPV = 40 in 1 million lifetime risk. 10 p/m for DTaP (tetanus component); 12 x DTaP = 120 in 1 million lifetime risk.
- Guillan-Barre Syndrome (paralysis, death) 1.7 p million doses after influenza vaccination. 80 x I = 136 in 1 million lifetime risk. According to NSW data, 2.7 p/m risk after HPV, 3 x HPV = 8.1 in 1 million lifetime risk.
- Idiopathic thrombocytopenic purpura (blood clotting disorder, uncontrolled nose/gum bleeding, often needs a transfusion) after MMR = 40 in 1 million doses. 2xMMR = 80 in 1 million lifetime risk.
- Intussusception (bowel folds in on itself, surgery, death) after rotavirus vaccine = 13.6 per million doses. 3 x R = 40.8 per million lifetime risk.