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To MPP France Gelin, NDP Critic for Health and Long-Term Care
Room 186, Main Legislative Building, Queen's Park
Toronto, Ontario M7A 1A5
By email: fgelin-q@NDP.on.ca

December 10, 2015

RE: Immunization of School Pupils Act and the Statement of Conscience or Religious Belief Affidavit 4897-64E (2013/08)

Dear MPP France Gelin, NDP Critic for Health and Long-Term Care,

It has been brought to the attention of Vaccine Choice Canada, that you have taken a “personal stand” to not witness your constituents’ signatures nor take their oaths or affirmations on the Government of Ontario issued *Affidavits of Personal Conscience or Religious Belief Exemption* to the requirements of Ontario’s *Immunization of School Pupils Act*.

This is particularly concerning since as the Critic for Health it is imperative that you understand the Act. And hence your duty to uphold the Act in its entirety, not just the portions of the act with which you may “personally” agree.

We would like to draw your attention to the website of the Ontario Commissioner of Integrity where it is stated:

- 1) Members are expected to act with integrity and **impartiality** that will bear the closest scrutiny.
- 2) A conflict of interest arises when an MPP allows their private interests to interfere with their ability to properly perform their duties of public office.

Whether you personally disagree with the portion of the Act that establishes your constituents’ rights to religious or personal belief exemptions from vaccination is really not germane to your duties as a public official. The Act is the law, which you are duty-bound to uphold. Also to be clear, you are not granting an exemption to the Act by witnessing a government issued form in your role as a Commissioner for Taking Affidavits (or Oaths). The exemption has been granted by the Act itself.

Your duties as a Commissioner for Taking Affidavits do not in any way entail your personal agreement with or judgment of the contents of any affidavit. As the Attorney General of Ontario’s website states: “A commissioner for taking affidavits is a person who can legally administer an oath, affirmation or declaration, for example, to a person making an affidavit,” a right you are granted by virtue of your holding public office.

The Service Ontario website <https://www.services.gov.on.ca/locations/serviceDetails.do?id=12620> is more specific about the duties of Commissioners of Oaths when it states [emphasis ours]:

A Commissioner of Oaths is a person authorized to take your oath or solemn affirmation when you sign an affidavit or a statutory declaration. **A Commissioner does not certify that the statements being made in the affidavit or statutory declaration are true**, but only certifies that an oath or solemn affirmation has been administered properly.

Section 9 (titled **Duty of commissioner, etc. in administration of oath**) of the *Commissioners for taking Affidavits Act*, R.S.O. 1990, c. C.17 <http://www.ontario.ca/laws/statute/90c17> makes clear that you are only witnessing a signature [emphasis ours]:

Every oath and declaration shall be taken by the deponent in the presence of the commissioner, notary public, justice of the peace or other officer or person administering the oath or declaration who **shall satisfy himself or herself of the genuineness of the signature of the deponent or declarant and shall administer the oath or declaration** in the manner required by law before signing the jurat or declaration.

A Commissioner of Oaths is a person authorized to take an oath or solemn affirmation when they sign an affidavit or a statutory declaration. **A Commissioner does not certify that the statements being made in the affidavit or statutory declaration are true**, but only certifies that an oath or solemn affirmation has been administered properly.

In other words, when a constituent asks you to witness any affidavit your **only duty** is to ask them if they swear or affirm that the statements contained in the affidavit are true, hear their response “I do” and then to confirm their signature.

The statements contained in the affidavit are written by the government in conformance with the Act. The parent adds only the identifying information for themselves and their child. When they say “I do” they are confirming they are the parent of the named child, they have sincerely held religious or personal belief that is in conflict with requirements of the Act and they are aware that their unvaccinated child may be excluded from school in the event of a disease outbreak.

By refusing to witness a signature and hear an affirmation due to your “personal beliefs” you throw into confusion what exactly it is that you do and do not believe in.

- 1) Do you not believe in Ontario’s Immunization of School Pupils Act itself? <http://www.ontario.ca/laws/statute/90i01>
- 2) Do you not believe in your constituents’ legal right to exemptions as stipulated in that Act?
- 3) Do you not believe in your constituents’ legal right to security of the person and to freedom of conscience and religion as guaranteed by the Canadian Constitution? <http://laws-lois.justice.gc.ca/eng/const/page-15.html>
- 4) Do you not believe in your constituents’ rights to voluntary and informed consent as stipulated in Ontario’s Health Care Consent Act? <http://www.ontario.ca/laws/statute/96h02#BK14>
- 5) Do you not believe that it is **discriminatory** to exclude your constituents from your services due to their sincerely held beliefs, whether those beliefs are religious or of personal conscience?

These are all questions that must be considered by someone in public office who is prejudicially withholding their witness services from certain of their constituents.

Further as a former nurse, someone who worked in health for 25 years and as NDP Health Critic, we can only assume you are familiar with the reports of the Public Health Agency of Ontario. Their *2014 Immunization Report for School Pupils* has data for both vaccine coverage and vaccine exemption rates for students in Ontario schools. https://www.publichealthontario.ca/en/eRepository/Immunization_coverage_report_2012-13.pdf

Generally, the report states that exemptions account for between 1.5–2% of students. Specific exemption data is given only for 7-year olds. (See Figure 4 following.) Coverage data is given for all ages and all required vaccines. Coverage ranges between a low of 69% and a high of 95%. (See Figure 3(a) and (b) following.)

Looking at a couple of specific examples from the data in the report will perhaps clarify that it is not the pupils with exemptions that the main cause of low coverage rates. Rather it is the larger volume of unvaccinated children whose parents are not applying for exemptions that has the much larger effect on those rates.

The highest rate of exemptions in 7-year olds is for polio at 1.95% per Figure 4. The coverage rates for polio for 7-year olds is 74.2% per Figure 3(a). Adding these together accounts for 76.15% of 7-year olds. That means 23.85% are unvaccinated and their parents have not filed for exemptions. It seems apparent that it is these pupils who are by far the largest contributor to the lowered coverage rates for polio. If one considers the MMR vaccine, 1.54% of 7-year olds have exemptions for measles and the coverage rate for that age group is 88.3%. So 10.16% of 7-year olds are unvaccinated against measles, but their parents have not filed for an exemption.

To repeat, it is obvious that those who file vaccine exemptions and follow the intent of the Act have a very minor influence on vaccine coverage rates, although admittedly they are an easy group to target. By discriminating against the very small proportion of your constituents who wish to exercise their legal and Constitutional right to vaccine exemptions, you may be encouraging those who are not acting responsibly and therefore hope to remain outside your “scrutiny”.

Figure 4: Reasons for exemptions among children 7 years old in Ontario for diseases designated under the ISPA, 2012–13 school year

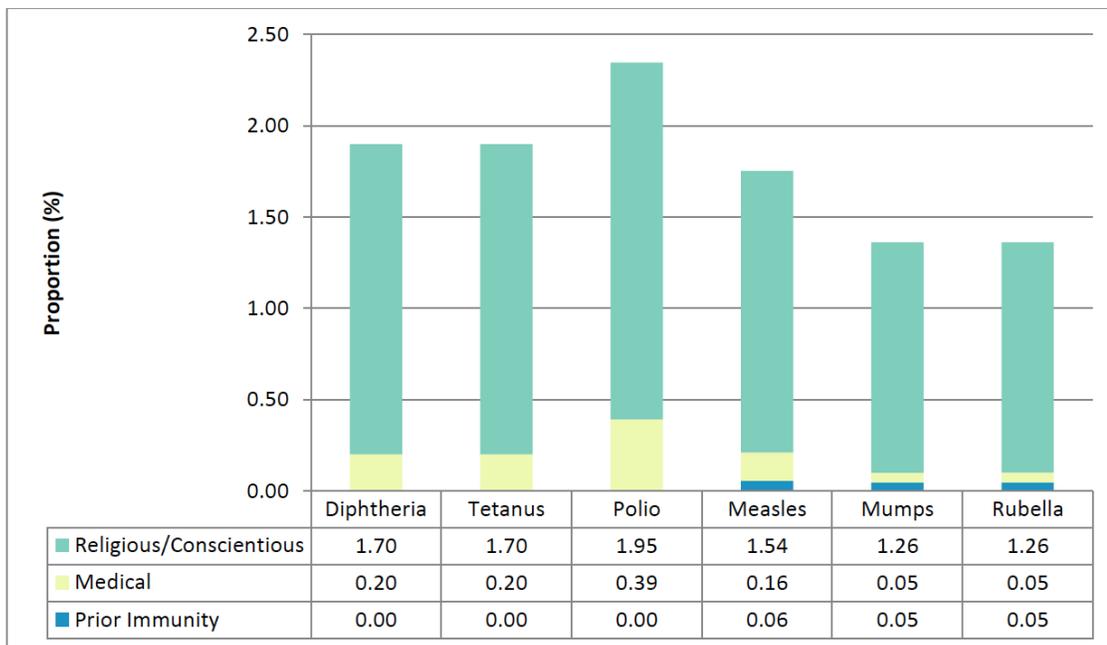
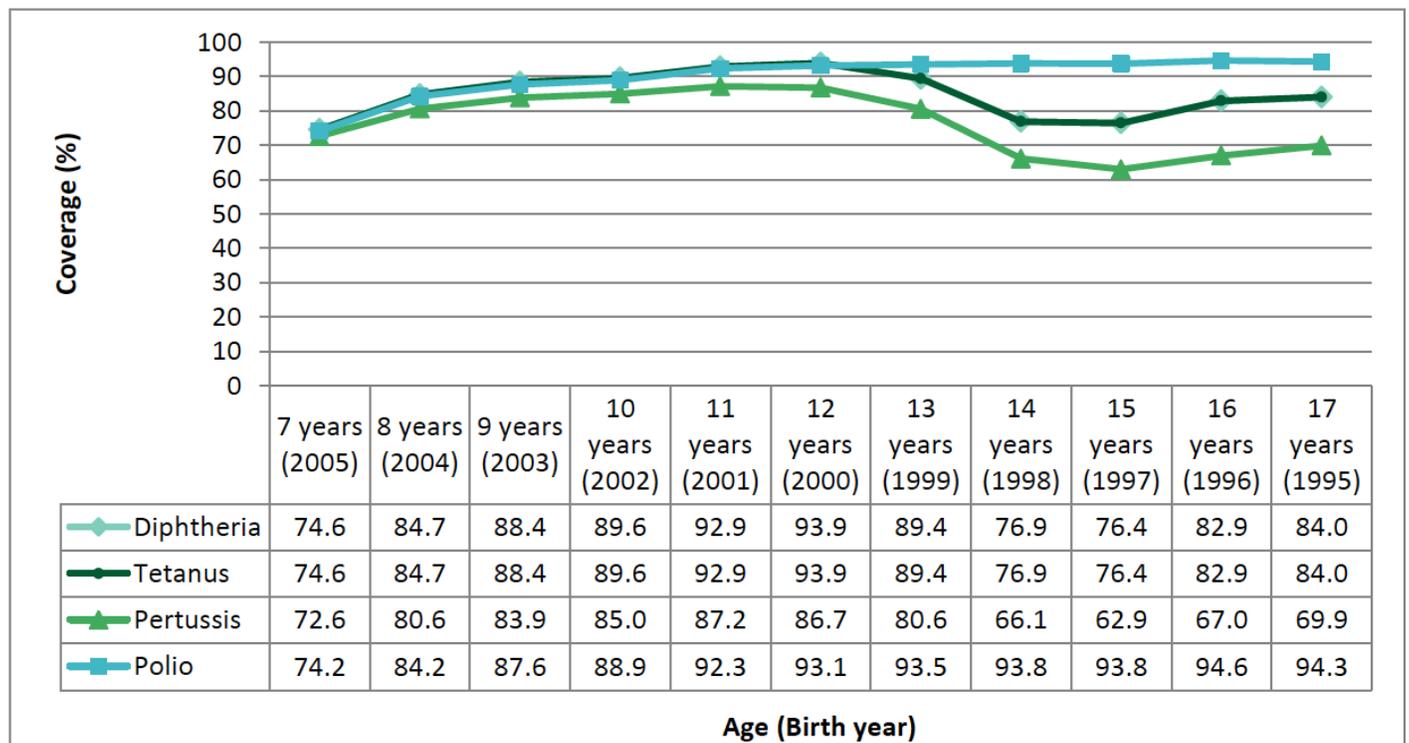
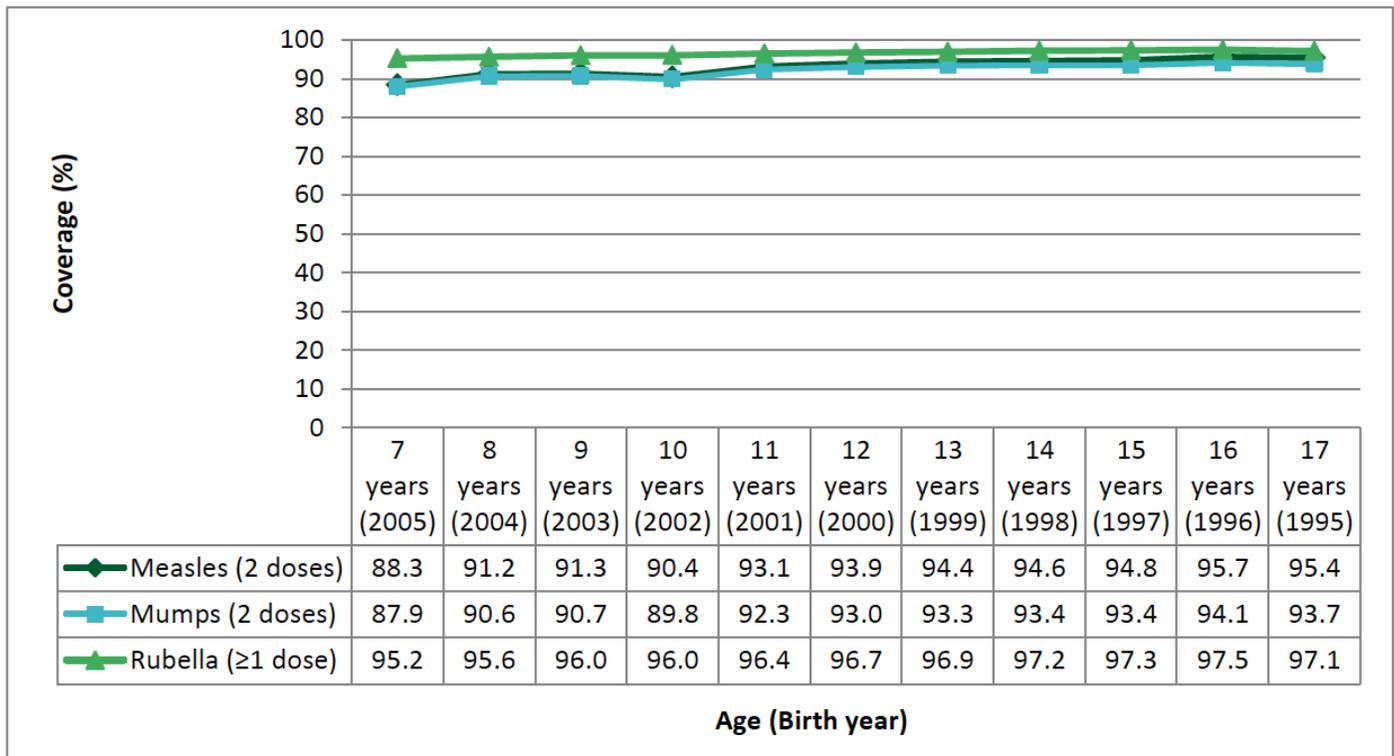


Figure 3: Age-specific immunization coverage (%) in Ontario for vaccines started in infancy and early childhood, 2012–13 school year

(a) Diphtheria, tetanus, polio and pertussis



(b) Measles, mumps and rubella



We also note that your much publicized refusal to sign an affidavit for an exemption to the MMR vaccine for a 16 year old makes very little sense considering the high and stable rate of coverage for the MMR vaccine as shown in Figure 3(b) above. 16 year olds actually have the highest coverage rates of any age group in 2013.

The final point we would like you to consider is in regard to your suggestion to the parent requesting your services as a Commissioner of Affidavits that they take the form to a doctor for signature. We can only remind you, doctors are not Commissioners unless they have applied for this position and paid the requisite fees. We sincerely doubt many, if any, have done so. While doctors are qualified to sign a medical exemption, notarizing religious or personal belief affidavits is outside their purview.

In your leadership role as Heath Critic you have influenced at least one other MPP with your confusion about your role as a Commissioner of Affidavits. While we do not doubt your sincerity in wishing to see increased vaccine coverage rates for Ontario school children, disenfranchising your constituents of their legal right to exemptions under the Act is hardly a route to your goal we would recommend.

We hope that our concerns regarding your personal stance on witnessing exemption affidavits will lead to more sober reflection on this highly charged issue, and that you will be able to separate your personal beliefs from your legislative and public duties.

We respectfully request your acknowledgement of receipt of this letter and your thoughtful responses to the points we make and the questions we ask above.

Very sincerely,

Edda West, President of Vaccine Choice Canada on behalf of the VCC Board of Directors.

Cc: NDP Leader Horwath, MPP Cheri DiNovo