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By email on September 5, 2016

To: Dr. Isra Levy: Medical Officer of Health, Isra.Levy@ottawa.ca
Dr. Carolyn Pim: Associate Medical Officer of Health,
Community Health Protection, carolyn.pim@ottawa.ca

RE: Comments of Dr. Carolyn Pim quoted in a CBC news article published on Sept. 4, 2016, titled *Undervaccinated children exposed to outbreak will be kept out of school, says OPH.* (1)

Dear Sir and Madame,

This letter is to inform you that Ottawa Public Health is exceeding their legal mandate as set out in the Ontario *Immunization of School Pupils Act (ISPA)* in attempting to bar unvaccinated or undervaccinated children from attending school if they have been exposed to measles. There are no legal grounds for such action.

According to the ISPA (2) children may only be barred from attending school under specific circumstances as follows:

Order by M.O.H.

12. (1) A medical officer of health, in the circumstances mentioned in subsection (2), by a written order may require a person who operates a school located in the health unit served by the medical officer of health to exclude from the school a pupil named in the order. R.S.O. 1990, c. I.1, s. 12 (1).

Grounds for order

(2) The circumstances mentioned in subsection (1) are,

(a) that the medical officer of health is of the opinion, upon reasonable and probable grounds, that there is an outbreak or an immediate risk of an outbreak of a designated disease in the school at which the pupil attends; and

(b) that the medical officer of health has not received,

(i) a statement of immunization signed by a physician or a member of the College of Nurses of Ontario showing, or is not otherwise satisfied, that the pupil has completed the prescribed program of immunization in relation to the designated disease, or

(ii) a statement of medical exemption in the prescribed form signed by a physician or a registered nurse in the extended class stating that the prescribed program of immunization in relation to the designated disease is unnecessary in respect of the pupil by reason of past infection or laboratory evidence of immunity. R.S.O. 1990, c. I.1, s. 12 (2); 2007, c. 10, Sched. E, s. 5.

In plain language, the legal grounds for excluding a pupil from school can only be based on the following circumstances occurring:

First, that there is an **actual** outbreak of a designated disease in the school the pupil attends.

Second, that the pupil is not immunized against the designated disease.

Third, that the pupil is not immune to the disease by reason of past infection (natural immunity) or laboratory evidence of immunity.

The statements by Dr. Pim, as published in the CBC news story (1), explicitly state that there is **no outbreak in any school, nor is there even a risk of such an outbreak**. Dr. Pim's exact quote is reproduced below:

“We have no particular schools in which there are cases of measles. We don't have any particular schools that we feel are at risk.”

Therefore, there are **no legal grounds for issuing an order to exclude an unvaccinated pupil from attending school** on the basis of their having possibly been exposed to a case of measles.

Further, Dr. Pim is quoted as saying, “But by excluding individuals that have been exposed, we're trying to prevent the introduction of any cases into those schools.” On this point, we can only suggest that if Ottawa Public Health is truly concerned about the introduction of measles cases into schools, their first action should be to immediately test the exposed pupil(s) to determine whether they are immune or whether they have in fact contracted the disease. The earliest exposures from August 22 through August 25 are reaching the 10-12 day period in which symptoms of measles would appear if the exposed person actually had contracted the illness (which of course is not always the case).

There are many other public health issues we could comment on including primary and secondary MMR vaccine failure (i.e., from 2-10% of those vaccinated are not immune to measles) (3), shedding of viruses by those vaccinated with live virus vaccines (4) (5), and so forth, that should be considered by public health officials who are concerned about measles outbreaks in their communities.

However, in the interest of brevity we will simply reiterate that regardless of the understood desire to prevent cases of measles in schools, Ottawa Public Health has no legal grounds for excluding pupils from school who are unvaccinated with the MMR vaccine or who have not received their age 4 to 6 year MMR booster simply because they have been exposed to a case of measles. If an outbreak does occur in a specific school then the legal grounds for a notice of expulsion would be in place and Ottawa Public Health could proceed accordingly.

Sincerely,

Edda West, President on behalf of the VCC Board of Directors

References:

- (1) <http://www.cbc.ca/beta/news/canada/ottawa/health-officials-investigate-3-related-measles-cases-1.3747908>
- (2) <https://www.ontario.ca/laws/statute/90i01>
- (3) <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3905323/> The Re-Emergence of Measles in Developed Countries: Time to Develop the Next-Generation Measles Vaccines? Gregory A. Poland, MD, MACP, Editor-in-Chief, VACCINE and Robert M. Jacobson, MD, FAAP, Professor of Pediatrics
- (4) <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3381670/> Differentiating the wild from the attenuated during a measles outbreak Lindsay Nestibo, BN RN,1 Bonita E Lee, MD FRCPC MSC (Epi),2 Kevin Fonseca, PhD D(ABMM),3 Jennifer Beirnes,4 Marcia M Johnson, MD MHSc FRCPC,5 and Christopher A Sikora, MD MSc MPH CCFP FRCPC6
- (5) <http://www.eurosurveillance.org/ViewArticle.aspx?ArticleId=20649> Murti M, Krajden M, Petric M et al. Case of Vaccine Associated Measles Five Weeks Post-Immunisation, British Columbia, Canada, October 2013 Eurosurveillance, Dec. 5, 2013; 18(49).