



PANDEMICS - DATA & ANALYTICS

PANDA KNOWLEDGE FACTORY NPC

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Jo Arendse
Chief Director
Emergency & Clinical Support Services
Western Cape Government
BY EMAIL: [REDACTED]

Alan Winde
Premier
Western Cape
BY EMAIL: [REDACTED]

Dear Ms Arendse

CIRCULAR 172 OF 2021

1. PANDA is recognised globally as one of the foremost sources of independent information relating to COVID-19.
2. We note that in terms of Regulation 14 of the regulations published under the Disaster Management Act relating to the outbreak of COVID-19 in South Africa, any person who publishes any statement, through any medium, with the intention to deceive any other person about COVID-19 or any measure taken by the government to address COVID-19 commits an offence.
3. We refer to circular 172 of 2021 published by you on 18 October 2021.
4. In the final bullet point in the Circular, you state, in relation to children between the ages of 12 and 17, "These clients can provide consent to receive COVID-19 vaccination with/without parental consent according to the Children's Act."
5. The information contained in the final bullet point of the Circular is false and must be immediately corrected in order to avoid any harm being done and to avoid significant liability for taxpayers in the Western Cape.
6. Set out below is a direct quote of the law as set out in Section 129(2) of the Children's Act 38 of 2005 (the "**Act**").
7. The Act **does not** provide for any child aged 12-17 years to consent to vaccination. Only exceptional children who fill the two requirements set out in the Act are capable of consenting. All other children require parental consent.

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Directors Nick Hudson, Peter Castleden

8. The two requirements are that: (1) the child is of sufficient maturity; and (2) the child has the mental capacity to understand the benefits, risks, social and other implications of treatment.
9. The following are unavoidable consequences of the wording that you omitted from the Circular:
 - As noted in the Guidelines for Good Practice in the Health Care Profession, prior to vaccination someone with the competence to make a maturity and mental capacity assessment must see the "client" and make a determination that the child meets these two requirements. This competence is not generally found in a nurse who administers a vaccination. It requires specialised competence in psychology.
 - Evidence that the test was conducted and that the child passed the test needs to be recorded so that it is available should there be a challenge.
 - No patient can consent to any treatment unless the consent is informed. This entails the patient being given detailed information about the risks of the treatment. This means, amongst other things, informing the patient that the infection fatality rate for children in this age group is 0.0027% (1 in 50,000). It would, in our view, be rare to find a child who has the maturity and mental capacity to perform a risk analysis.
 - It seems impractical for the Western Cape Government to vaccinate any children without parental consent given the risks the government faces in proceeding without consent, even if you were to put in place a system for completing and documenting the test required by the Act. The potential liability for the government, and ultimately, taxpayers of an injury to a child would be massive.
10. If Circular 172 of 2021 is not immediately withdrawn, the vaccination programme for this age group will be tainted such that the entire programme would need to be halted to ensure that it did not breach the law.
11. We therefore require that you confirm, by close of business on Thursday 21 October 2021, that Circular 172 of 2021 has been withdrawn, failing which all of our rights are reserved including the right, without further notice to you, to bring an urgent application to court to have the programme suspended.

Yours faithfully,

Nick Hudson
Chairman

