

Children's Healthcare Is a Legal Duty. Inc.

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May 31, 2013

To: Senator Robert Mensch, Chairperson, and Members of the Senate
Aging and Youth Committee

Children's Healthcare Is a Legal Duty is a national membership organization with Pennsylvania members. We work to stop child abuse and neglect related to religious or cultural practices. We oppose all religious exemptions from child health and safety laws.

Pennsylvania's religious exemption to child abuse at 23 §6303(b)(3) has contributed to harms and substandard protection for children in faith-healing sects. Furthermore, we see no good purpose that it serves. We urge the committee to repeal the exemption from SB20.

A heartbreaking example of harm is the 2002 death of a Philadelphia child. DHS received a report that 9-year-old Benjamin Reinert was sick and not getting medical care. A worker visited the next day. The father called the problem "a sore foot." The worker advised him to seek medical care. He replied that his Faith Tabernacle beliefs prohibited it. Seeing that the boy's foot was "not bruised or swollen," the worker thought the problem was not life-threatening. She told the father that the agency would seek a court order for medical care if the boy got worse.

"You do what you need to do," the father replied.

Another worker visited two days later and thought Ben looked "about the same." The next day Ben died of leukemia. His aunt, also a Faith Tabernacle member, said Ben had been unable to walk and, on the last day of his life, unable to talk or eat. The medical examiner found severe anemia and a swollen brain. A pediatric oncologist told us that Ben's "sore foot" was likely pain from inflammation caused by the cancer in the bone.

The DHS used the words of 23 §6303(b)(3) to justify its handling of the case, saying it had "closely monitor[ed] the situation, but could not obtain a court order because the boy's injuries did not appear life-threatening."

They probably did not appear life-threatening to the DHS workers because the workers are not health care providers.

Pennsylvania's religious exemption to child abuse says to parents in faith-healing sects that they have no duty to get medical care for a child and instead DHS workers will determine if medical care is needed and get it.

Surely such a scheme is transparently substandard protection for children. Social workers cannot "monitor" a child as "closely" as parents can and should do. Furthermore, social workers do not have medical training.

The intervention allowed by Pennsylvania's religious exemption was worse than none at all in the Benjamin Reinert case. For the worker to come in, look at the child, and then leave without attempting to get medical care confirms the parent's claim that the problem is not serious. When the father told the worker, "You do what you need to do," he might have wanted the state to get a court order and save him the responsibility of making a decision to break with his faith.

The religious exemption law also compromised investigation in the Schaible case. Two days after Kent Schaible died of bacterial pneumonia, DHS asked the family to let them check on the health of surviving siblings. Their pastor said it would be o.k. to check their "vitals and temperature." So a DHS worker and a nurse came to the home and checked for symptoms of bacterial pneumonia, i.e. fever. Finding none, DHS closed the case though the Schaibles publicly stated they would withhold medical care when the next child got sick. The DHS report says their staff "all agreed that DHS has to adhere to the rights of the family's religion. The case is based on religious reasons and the case was closed."

We see so many ways in which the religious exemption is harmful, and we see no useful purpose for it. Of course we do not think every instance of medical neglect should result in parents being adjudicated as abusive, but Pennsylvania does not need a law absolutely prohibiting such adjudications of the religious objectors in order to handle them through dependency proceedings. In the classic Jehovah's Witness case where the child is under medical care and the parent's religious objection is only to the blood transfusion, the sensible thing to do is have the child declared dependent and obtain a court order for the transfusion without adjudicating the parent as abusive or negligent. With parents who have religious objections to virtually all medical care, a different procedure may be better.

On our website we have a page entitled [IN FOCUS: Pennsylvania child deaths](#) where you will find articles about the Pennsylvania faith deaths, a list of 31 of them, and an *Inquirer* op-ed calling for repeal of the religious exemption. With so many Pennsylvania children being harmed by religion-based medical neglect, we feel it is very important to send a clear, consistent message in both the civil and criminal codes that all parents have a legal duty to obtain medical care for their children when needed to prevent substantial harm.

In addition to recommending repeal of the religious exemption from abuse, CHILD also recommends that a statute direct DHS workers to consult with health care providers in medical neglect cases and provide authority for a court to order a medical diagnosis if the provider is not certain the illness is trivial and self-limiting.

Thank you for your public service on behalf of Pennsylvania's children.

Sincerely,



Rita Swan
President