

# Children's Healthcare Is a Legal Duty, Inc.

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*Equal rights for children under the law*



*Austin Sprout (1995-2011)*

## Oregon Church of the Firstborn parents sentenced in son's death

On September 18 Brandi and Russel Bellew of Creswell, Oregon, pled guilty to criminally negligent homicide in the death of Brandi's 16-year-old son, Austin Sprout.

Austin died of peritonitis after his appendix ruptured in December, 2011. The family belonged to the Church of the Firstborn, which has let scores of children die because of its beliefs against medical care. Fellow church members came to the home to pray, lay on hands, and anoint him with oil. His siblings and other relatives told investigators that Austin was offered the choice of medical care and preferred to rely on faith.

### Boy could not walk or talk

He was sick for about a week and a half with what the family characterized as "flu-like symptoms." The children told investigators that he appeared much better three days before his death (perhaps just after his appendix ruptured and the severe pain went away). For the last two days of his life, however, he could not walk or talk.

A junior at Creswell High School, Austin loved sports. In fact, he had gone to a doctor for a physical in order to play sports. He came to one basketball practice during his illness; the coach made him sit on the bench. Later he missed practices.

The coach knew Austin was sick but not how sick, and he might not have known the family had religious beliefs against medical care since Austin had gotten a physical exam from a doctor.

### Teen became a dependent person

The Bellews were charged with second-degree manslaughter, which carries a mandatory prison sentence of 75 months. The crime in Oregon is defined as causing the death of a child under 14 years old or a dependent person. The Lane County District Attorney charged manslaughter under the theory that Austin became a dependent person when he was too sick to make decisions for himself.

The Bellews lost custody of their six surviving children for a few months until the Department of Human Services set up a safety plan with a DHS-

### INSIDE

Methodists renew CP policy .....	3
Presbyterians oppose corporal punishment.....	4
Church terrorizes and assaults child .....	5
Spiritual care promoted as essential health benefit..	6
Right to be ignorant in California .....	8
Ultra-Orthodox sue over informed consent .....	9
Pediatricians honor CHILD president.....	10
On reporting, torture, and pain.....	10

approved monitor in the home plus electronic ankle monitoring. The Bellews were also prohibited from talking to each other, so Russel lived in another town and saw the children only when Brandi left their home.

The Bellews cooperated fully with DHS requirements, reporting even the most trivial illnesses to DHS.

### **Law requires community standard on care**

In August Assistant District Attorneys Erik Hasselman and Erin Zemper met with local Church of the Firstborn leaders and followed with a letter setting out Oregon laws, the 2011 change in the laws eliminating religious defenses, the state's expectations for how they should care for their children, and the penalties for neglecting to provide necessary medical care to a child or dependent person. (CHILD had a significant role in getting Oregon's religious defenses repealed.)

"The intent of these laws is obviously not to contradict any religious doctrine, but rather to hold all parents to the same standards, regardless of religion," Hasselman wrote.

He strongly recommended that they seek medical advice or care for a child or dependent person for all non-trivial illnesses and injuries.

Hasselman also pointed out that "after the fact, in a criminal case, whether medical attention was necessary or adequate, or whether or not it was withheld, will be decided by medical professionals and persons outside of your church community. *When in doubt, the best course is to consult a medical professional.*"

### **Followers and Firstborners react differently**

Later, church leaders told the prosecutors they distributed the letter to all church members of childbearing age or who had minor children and expressed their belief that most of the members would respect the state's expectations.

This was a contrast to the experience of the Clackamas County District Attorney John Foote who sent letters to over 400 members of the Followers of Christ warning them of the criminal liability they could incur for medical neglect. Those letters were "met with silence," his office reported.

In September, 2012, the Bellews pled guilty to criminally negligent homicide and were sentenced to five years probation. The DHS said prison terms

for them were not in the best interests of the children.

During their probation the Bellews must "seek professional medical advice and care" for any of their children or step-children "who suffer from an injury, illness, or ailment that is not resolving itself quickly, causes any form of incapacity to the child, if the child is suffering significant pain because of the illness or injury, or any illness or injury which requires the child to be absent from school for more than one day." They had to pay a \$500 fine and retain attorneys at their own expense. They must also "find and maintain gainful fulltime employment."

The parents are not required to get immunizations, other preventive measures, or health screens for their children.

Hasselman states that public education was an important accomplishment of the prosecution. He described the Firstborn congregation as "very receptive" to learning what the state's expectations were and complying with them.

"We're certainly hoping given this resolution, the education piece, that we've done with this congregation, that this is unlikely to ever happen again," he said.

He added that if there is another death caused by avoiding or resisting medical care, his office will bring appropriate charges, including charges with lengthy mandatory minimum prison terms.

### **Previous spouses died of untreated infections**

CHILD appreciates the decisions of the prosecutors in this case. We are grateful the parents are cooperative and that the congregation has been receptive to the education the prosecutors have extended.

We would simply say, however, that the Firstborners are rather slow learners. Both of the Bellews lost their previous spouses to untreated infections. In 2007 Austin Sprout's father Brian died of sepsis after cutting his knee in a hunting accident. A middle-school teacher remembers seeing Austin "just sobbing" at his father's death. In 2010 the boy's grandmother died of untreated leukemia.

In 2000 Russel Bellew's daughter Elizabeth died at 15 months old after being hit by a car. (We do not know if medical neglect was a factor.) In 2008 his previous wife Randi felt her unborn infant

stop moving. A few days later on January 9 their daughter Emma Leigh was born dead without medical attention.

Some placenta and fetal contents were retained in Randi's uterus. Septicemia spread throughout her abdomen and she died of puerperal sepsis at age 31 on January 24 leaving her two surviving children motherless.

### **Were Firstborners unaware of prosecutions?**

Furthermore, it is impossible to believe that the Bellevue's local church was not aware of the four prosecutions 100 miles away in Clackamas County for religion-based medical neglect of children. Only seven weeks before Austin died Dale and Shannon Hickman had been sentenced to more than six years in prison for letting their premature infant die without medical care.

Sources include *The Eugene Register-Guard*, Feb. 16, March 28, April 17, and Sept. 19, 2012; KMTR, Sept. 19, 2012; and conversations with the prosecutor and medical examiner's office.

## **UMC renews policy against corporal punishment**

In 2003 my husband and I launched an effort to get the United Methodist Church to take a stand against corporal punishment of children. We considered this particularly important because the church's 18<sup>th</sup>-century founder, John Wesley, and his wife Susanna endorsed corporal punishment and articulated the then-common rationale that children were born as sinners and had to have their will subjugated by force.

In his landmark book, *Spare the Child: the Religious Roots of Punishment*, Philip Greven shows that the Wesleys' rationale is reiterated in that of modern-day fundamentalist writers.

### **Wesleys: corporal punishment necessary for salvation**

In 1732 Susanna wrote that she taught her babies "to fear the rod" at an early age. She said that "subjecting" the child's will had to be done almost at birth and "when a child is corrected, it must be conquered."

"Heaven or hell depends on this alone," she continued.

"Break their wills that you may save their souls," echoed John Wesley. He also said parents need "incredible firmness and resolution" to break the will of a child "for after you have once begun, you must never more give way."

Today's fundamentalists who advocate hitting children, such as Michael Pearl\*, have identical recommendations and rationales.

We and others felt it was important for the Methodist Church to separate itself from those ideas and not provide, even passively, a justification for them. Methodists honor John Wesley as a brilliant evangelist, administrator, teacher and reformer with many good insights on social policy for today, but he also gave Methodists a way to respond to the advance of knowledge. His Wesleyan quadrilateral sets forth four bases for analysis and decision-making: scripture, tradition, experience and reason.

### **Institutional CP should be illegal; other methods recommended for parents**

We prepared two resolutions, one calling on states to enact laws prohibiting corporal punishment (CP) in schools and child-caring facilities and the other encouraging parents to use other discipline methods.

The resolutions passed at the UMC General Conference in 2004, making the Methodist Church the first Christian denomination to take a stand against corporal punishment.

All resolutions must be passed again at General Conference eight years later to remain as the church's official social and political policy.

### **Prominent clerics support resolutions**

We submitted the resolutions for reauthorization at the 2012 General Conference. Prominent clerics joined us, including Bishop Joseph Sprague of Ohio and James Winkler, General Secretary of the church's General Board of Church and Society.

The resolutions passed easily. See "United Methodist Church renews policies against corporal punishment" in the News at CHILD's webpage, [www.childrenshealthcare.org](http://www.childrenshealthcare.org).

These resolutions have had an impact on public policy. We and others have used them to support bills prohibiting corporal punishment in institutions and indeed some states have enacted such bills since

2004. Today 30 states prohibit corporal punishment in public schools. Only two states, Iowa and New Jersey, prohibit corporal punishment in private schools as well as public schools.

### 25 years of work in Ohio

We especially salute Nadine Block, head of the Center for Effective Discipline, who worked for 25 years to persuade the Ohio legislature to ban school corporal punishment and finally succeeded in 2009.

\*See Pearl's book *To Train up a Child* and the CHILD newsletter #2, 2010 at our webpage.



*George Holden with children in Nepal*

## Presbyterian Church opposes corporal punishment

In July The Presbyterian Church USA became the second Christian denomination to adopt a policy against corporal punishment.

In 2011 I spoke at the Global Summit on Ending Physical Punishment of Children at Southern Methodist University in Texas. The conference organizer, Dr. George Holden, had long wanted to get his church to adopt resolutions like those of the Methodist Church (see above).

After we discussed strategy he submitted resolutions to his local church where they were passed by a vote of 180-112 and were sent to the General Assembly of The Presbyterian Church USA.

### Dignity of children affirmed

The resolutions were hotly contested on the Assembly floor with opponents saying they implied that parents who spank are bad Presbyterians and proponents saying that children are the only persons who can legally be hit. The General Assembly passed the resolutions by 334-306.

The rationale for the resolutions is based on the church's *Social Creed for the 21<sup>st</sup> Century*, which "asserts the basic dignity of every human being as created in the image of God, including and especially those most vulnerable, the world's children."

For the full text of this church's eloquent statement, see "Presbyterians pass resolutions against corporal punishment" in the News at CHILD's webpage, [www.childrenshealthcare.org](http://www.childrenshealthcare.org).

### Resources

For resources with a Christian rationale for discipline without corporal punishment see Glenn Latham's *Christlike Parenting* (2002), Teresa Whitehurst's *How Would Jesus Raise Your Child?* (2007), [www.parentinginjesusfootsteps.org](http://www.parentinginjesusfootsteps.org), and [www.olivebranchblog.blogspot.com](http://www.olivebranchblog.blogspot.com).

For scholarly books on the Bible's statements that may refer to corporal punishment see *Thy Rod and thy Staff They Comfort Me: Christians and the Spanking Controversy* by Samuel Martin (2006) and *Corporal Punishment in the Bible: a Redemptive-Movement Hermeneutic for Troubling Texts* by William J. Webb (2011).

### Why the resolutions are important

In CHILD's view it is important for religious bodies to speak out against corporal punishment and to provide a doctrinal rationale for their position.

Below is an article about treatment of children in a church whose webpage says its mission "is to raise the church body to be true disciples of Christ, meaning that if Christ would not think it, say it, or do it, neither will we." Read on and see what they think Christ would do to children.

### Boy terrorized and assaulted with church's discipline

In April a California pastor and two church members were charged with abuse of a 13-year-old boy whose mother had brought him for guidance and discipline to a group home run by the church.

Allegedly, the boy identified as "Jacob" in court documents had sexually assaulted his 7-year-old sister. There are also reports that the boy himself had been sexually abused before he abused his sister.

Pastor Lonnie Remmers of the Heart of Worship Community Church in Corona, California, allegedly ordered two church members, Nick Craig and Darryll Jeter, to drive the boy more than 100 miles north to the desert at night. Craig is Remmers' stepson.

### Sadistic punishments

There, police say, the pair told the boy they were going to kill him and ordered him to dig his own grave. Police say they made him get into the hole, threw dirt on him, and beat him with a belt.

Police say later back at the group home the two men tied the boy to a chair, pepper-sprayed him, rubbed salt into his wounds, and left him there for an hour. The pastor allegedly punched him in the face after covering the boy's face with a phone book to minimize bruising.

Remmers also took the boy to his own home and, during a men's Bible study, allegedly used a pair of pliers on his nipple while the boy screamed in pain and the men studied the Bible in a circle

around him. Remmers reportedly said, "If it was up to me, I'd rip off your nipple and take a chunk out of your dick."

Remmers is charged with inflicting bodily injury on a minor, assault with a deadly weapon, kidnapping, false imprisonment, and criminal threats. Craig and Jeter are charged with assault and kidnapping.

### Group home offered child "life and love"

Nevertheless, Jacob told the police that he liked staying at the group home because it "offered him life and love." In CHILD's view the boy's statement is dramatic evidence of a child accepting the world imposed on him because he doesn't know anything different and because a religious authority told him the punishments are done in love to save him from sin.

Corona police officer and fellow church member Margaret Bell has been charged with a misdemeanor for failure to report child abuse. She was allegedly told of the abuse by a church member but did not report it to state child welfare services or law enforcement.

Relatives and ex-members say Bell also abused her authority as a police officer in threatening persons who disagreed with Remmers. They also say



*Pastor Remmers and Police Corporal Bell*

she came into public schools and got children punished for things they had done or said in the church.

Jacob and his little sister have been taken into protective custody.

## Pastor controls family life and marriage

At a court hearing in June five parents confronted the defendants in the hallway accusing them of tearing their families apart. They said they hadn't been able to see their adult children for years. The parents can be reached by e-mailing [joinus19@yahoo.com](mailto:joinus19@yahoo.com).

Ex-members have also accused Remmers of tyrannical control over their personal lives. Reportedly, he chooses partners for them to marry legally and also requires them to have spiritual spouses. The photo of Remmers and Police Corporal Bell (p. 5) suggests that she was one of his spiritual wives. A relative of church members told us that Remmers had picked out spiritual spouses for everyone in the group except his own legal wife.

Remmers has run telemarketing investment fraud schemes and served time in prison for criminal contempt of court. He and his wife are named in ongoing civil suits for investment fraud schemes.

Sources include *The Press Enterprise*, May 15 and August 7, 2012; KABC-TV, April 4, 2012; and [www.heartofworshipchurch.org](http://www.heartofworshipchurch.org).

## Christian Science church asks states to mandate reimbursement for spiritual treatment

In June the U.S. Supreme Court upheld the federal Affordable Care Act as constitutional. States must therefore have a health insurance exchange in place by January, 2014. They also must select a "benchmark plan," a health insurance policy with "essential health benefits" that will serve as the template for all carriers. An insurance company must offer at least one policy with the same benefits as the benchmark plan if it wants to offer insurance policies through the state insurance exchanges.

### Federal GEHA plan pays for prayer

Unfortunately, one of the plans that the federal government allows states to select as the benchmark plan is the Federal Government Employee Health Association Plan, which includes payment for Christian Science prayer treatments.

## Money spent proves effectiveness?

That plan was one of three that Colorado decided to choose among for its benchmark, and the Christian Science church petitioned the legislature and governor to choose it. "Whether it's naturopathy, homeopathy, acupuncture, massage therapy, yoga, meditation, or prayer-based spiritual care (as practiced by Christian Scientists), 40% of the adult population (nationally) spend \$30 billion annually (out-of-pocket) for such health care because they find it EFFECTIVE," church lobbyist Peter Van Vleck wrote.

"It's only fair," he continued that the model plan "provide options that work for all Coloradans."

CHILD disputes the claim that a practice is effective because the public spends a lot of money on it and wrote the governor's office in opposition.

CHILD opposes insurance reimbursements for prayers because they encourage parents to rely on prayer and religious ritual instead of medical care for sick children. They send a message that policymakers have endorsed prayer as a legal substitute for medical care of children, and churches have used those reimbursements as a rationale for obtaining religious exemptions in our child neglect laws.

### State lets insurance industry determine child neglect

For example, in 1989 Colorado enacted a strange exemption in its child neglect law at Col. Revised Statutes 19-3-103. It stated, "No child who in lieu of medical treatment is under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing shall, for that reason alone, be considered to have been neglected or dependent within the purview of this article."

One criterion for determining "a recognized method of religious healing" is that "fees and expenses incurred in connection with such treatment are generally recognized as reimbursable health care expenses under medical policies of insurance issued by insurers licensed by this state. . . ." The exemption also applies to criminal non-support at CRS 14-6-101.

In other words Colorado legislators have delegated to the insurance industry the authority to determine what child neglect is.

CHILD's full response is posted at our web-page. See "CHILD letter to Colorado governor" in News at [www.childrenshealthcare.org](http://www.childrenshealthcare.org).

Subsequently, Colorado chose a Kaiser HMO plan, which does not reimburse for "spiritual care."

### **Utah rejects Christian Science lobbying**

In August Utah announced its choice of a benchmark plan, Utah Basic Plus. We were glad to see that spiritual care was not included as a covered benefit. In 2011 several Christian Scientists called for its inclusion at the state Health System Reform Task Force hearing.

The church public relations manager pointed out that Utah law already provides some reimbursement of bills for Christian Science prayers. Utah Code § 31A-22-307(3), for example, states that medical expenses covered in automobile insurance "include expenses for any nonmedical remedial care and treatment rendered in accordance with a recognized religious method of healing."

The manager also argued that covering spiritual care would not raise costs.

Paul Rolly responded in a *Salt Lake Tribune* column:

"Kneel down and pray, my child, and whatever ailments you feel will flee from your body and you will feel healthy and vibrant. Just give me a \$10 co-pay for the spiritual advice and I'll bill your insurance carrier for the rest."

If you think that statement is a joke, it's not. I'm not making this up.

### **Mormons give spiritual care without charge**

Rolly said legislators seemed skeptical of the Christian Science position. "The majority of the committee members, like the full Legislature, are members of the LDS Church, which believes in providing lay spiritual service without charge," he wrote.

"One lawmaker joked, however, that if such a plan passed in Utah, it might make home teaching a more popular assignment for church members if they could charge for the spiritual care and pass it on to an insurance plan," Rolly reported.

CHILD took no chances. We wrote lengthy letters to both legislators co-chairing the task force opposing the designation of spiritual care as a covered benefit.

### **CHILD wrote to state legislators**

The task force was required by law to do "a cost-benefit analysis" of a long list of treatments and procedures, including "spiritual care," so we focused heavily on costs. Below are excerpts from our letters.

"The church founder Mary Baker Eddy directed practitioners to 'make their charges for treatment equal to those of reputable physicians in their respective localities.' (*Miscellany*, 237) The church says most charge between \$20 and \$50 a day for a prayer, but if they get insurance coverage, they might very well raise their rates.

Eddy also says that 'the patient who pays whatever he is able to pay for being healed, is more apt to recover than he who withholds a slight equivalent for health.' (*Miscellaneous Writings*, 300) She is telling her followers that the more they pay for these prayer treatments, the more likely they are to get a healing. . . ."

### **Cost-benefit analysis on prayer**

"In your cost-benefit analysis, you should consider the cost of possible lawsuits against the state from all sorts of people wanting their 'spiritual care' paid for. . . ."

In your cost-benefit analysis of spiritual care, you should include the cost of preventable deaths and injuries. In 1989 Christian Science child Ian Lundman died of diabetes without medical care. A Christian Science practitioner billed the family \$447 for two days of prayer.

Well, that's a lot less money than the cost of lifetime care for a diabetic, but you should consider the loss of these children to our society."

It will be very difficult for us to monitor what all fifty states are doing. We'd be grateful for more volunteer watchdogs.

Sources include Paul Rolly, "Be healed, thou art covered by insurance," *Salt Lake Tribune*, Sept. 25, 2011; Elizabeth Beall, "Overview of Spiritual Care Benefits in the Utah Health Exchange;" Peter Van Vleck, "Public Comments Re: Essential Health Benefits and the Benchmark Plans," July 27, 2012; Letter of Rita Swan to Katherine Blair, Aug. 14, 2012; Letter of Rita Swan to Representative James Dunnigan, Oct. 5, 2011; and Letter of Rita Swan to Senator Wayne Niederhauser, Oct. 5, 2011.

## Religious groups fight for the right to be ignorant

The following two articles illustrate two very different religious groups insisting on their right not to receive or give out information.

### No informed consent needed for religious objectors

The number of children with non-medical exemptions to immunization laws has increased exponentially in recent years, in part because of unfounded fears generated by the National Vaccine Information Center and Andrew Wakefield, whose medical license has been revoked.

Simultaneously measles, pertussis and other vaccine-preventable diseases are returning. Policy-makers wrestle with ways to bring down the number of non-medical exemptions.

Rather than trying to repeal religious and conscience exemptions—which in CHILD’s view would be the best solution—some states are trying to make the exemptions harder to obtain.

#### New Washington law for philosophical objectors

Last year Washington State enacted a law requiring parents to listen to risk-benefit information from certain health care providers before they can obtain a “personal/philosophical” exemption from immunizations. But the law did not impose a similar requirement for the religious objectors.

#### California’s informed consent bill

This year California Assemblyman Richard Pan, D-Sacramento, a pediatrician, introduced AB2109 with a similar informed consent requirement. California law does not distinguish between philosophical and religious objections; anyone can have an exemption from immunizations by claiming “personal beliefs” against them.

Pediatricians and other providers worked hard for the bill. Scores drove from around the state and testified at the Assembly hearing. The providers all said they would be willing to sign the form. Nevertheless, opponents continued to claim they would not be able to find a provider who would sign it.

Pan allowed naturopaths to be added to the list of providers the parents could get their information from. This was an unfortunate concession since many naturopaths oppose vaccines.

Chiropractors were not on the list and opposed the bill. One testified that the bill was “medical fascism backed by voodoo science.”

#### Should faith healers be on the list?

Some Republican legislators fronted for the Christian Scientists. Assemblyperson Linda Halderman, R-Fresno, herself a medical doctor, argued that Christian Science practitioners should be on the list of providers since they are reimbursed by CalPERS and MediCal and are “the only practitioner[s] someone who actually observes that faith could go to.”

Dr. Halderman voted against the bill because of its “discrimination against the religious faith of one particular community.”

Dr. Pan responded that Christian Science practitioners were not put on the list because they are not licensed to administer vaccines. CHILD could have added that these practitioners believe disease is unreal and that information about disease causes disease.

#### Some members oppose church’s compromise

Pan’s staff said the Christian Science church at first did not oppose the bill itself, but later conditioned its neutrality on having school nurses added to the list of providers. Though the school nurses did not appreciate that extra assignment, they were added to the bill.

Meanwhile, a group of Christian Scientists organized to oppose the compromise version. They had a more confrontational style of lobbying than the official church. They called the bill unconstitutional and tyrannical and threatened a lawsuit against the state. See their webpage at [www.christiansciencerights.com](http://www.christiansciencerights.com).

#### Brown excuses religious objectors from getting information

Governor Jerry Brown signed the bill but directed the Health Department to allow religious objectors an exemption from immunizations without receiving information from a provider.

CHILD questions whether the bill will accomplish much to reduce the number of non-medical exemptions. The National Vaccine Information



Center fought the bill to the very end, even holding a rally on the Capitol steps nearly a month after the legislature passed the bill. Surely people who feel so strongly against listening to a health care provider will now claim “religious beliefs” instead of “personal beliefs.”

CHILD’s officers and members wrote many letters to Governor Brown and legislators in support of AB2109. The bill had passed the legislature after a long struggle. Brown has chosen to make it nearly meaningless.

## Ultra-Orthodox sue city over informed consent policy

On October 11 three ultra-Orthodox Jewish organizations and three rabbis filed suit against the New York City Department of Health for requiring informed consent for “direct oral-genital suction” of circumcised infants.

The ritual known as *metzitzah b’peh* involves the *mohel* (a ritual circumcisor) placing his mouth on the infant’s newly circumcised penis and sucking blood from the wound. Most branches of Judaism do not practice the ritual.

### Babies have died and suffered brain damage

The Health Department states that since the year 2000, eleven New York City infants have contracted herpes after the suction ritual. Ten of the infants were hospitalized. Two babies died and at least two developed brain damage.

The herpes simplex virus I is present in an estimated 70% of New York City’s adult population and can cause fatal infections in babies. Highly contagious, it is spread through contact with infected saliva, even by sharing drinks or towels.

“There is no safe way to perform oral suction on an open wound in a newborn, said Dr. Jay K. Varma, the city’s deputy commissioner for disease control. Doctors explain that newborns have immature immune systems.

The Health Department therefore adopted the requirement that *mohelim* inform parents that the sucking ritual has a risk of herpes simplex virus I infection and that the Department believes it “should not be performed.” Parents must give written consent for it.

## Government-compelled speech, denigration and targeting of ritual denounced

The plaintiffs complain that it is unconstitutional to force them “to undermine the tenets of their faith and discourage compliance with religious law by transmitting [the Health Department’s] opinion.” The regulation requires them “to denigrate a religious ritual they believe to be mandated by Jewish law,” they charge. They also dispute the validity of the Health Department’s data.

The plaintiffs also charge that the law is unconstitutional because it specifically targets a religious practice. However, University of Texas constitutional law professor Scot Powe commented that the regulation does have general applicability in that anyone else would also be prohibited from doing direct oral suction on a newborn’s wound.

Two hundred ultra-Orthodox rabbis issued a statement that “there is not even an iota of blame or danger in this ancient and holy custom.” They accused the Health Department of spreading “lies. . . in order to justify their evil decree.”

### Original purpose was health promotion

As distinguished from a divine law or a rabbinic law, the *metzitzah b’peh* ritual was a rabbinic injunction meant to prevent infection as understood at the time. Health is very important in the Jewish faith. More than a third of the 613 commandments in the Torah deal with health, and all but three of the 613 can be broken to save a life.

Beginning in around the 18<sup>th</sup> century, *Wikipedia* states, it was known that sucking on a wound could spread infection. Rabbinic statements about health have long been regarded as non-binding when modern medical science contradicts them and therefore most rabbis today use a safe method such as a sterilized glass tube or sterile gauze for the ritual.

Nevertheless, the Health Department estimates that direct oral-genital suction is performed on 3600 baby boys each year in New York City.

Some Jewish leaders support the Health Department’s requirement. Rabbi Gerald C. Skolnik, the president of the Rabbinical Assembly, the international association of conservative rabbis, said direct suction was not required by Jewish law and that the serious risks of the practice were “inconsistent with the Jewish tradition’s pre-eminent concern with human life and health.”

The practice is another example of believers clinging to a ritual long after its original meaning or purpose has been forgotten.

### Should direct oral suction be allowed?

Today we know that sucking blood from a wound has no health benefit, and the New York City Department of Health says there is no safe way to perform direct oral suction on a newborn's wound. It would be unethical for a medical doctor to do it. An informed consent form is a very modest imposition on this religious practice.

Sources include "Brit milah" in *Wikipedia*, *The New York Times*, Sept. 12, 2012; *New York Post*, Sept. 2, 2012; and *Jewish Week*, Oct. 11, 2012.

### Pediatricians honor CHILD president

In March the American Academy of Pediatrics honored CHILD President Rita Swan at its chapter advocacy summit in Schaumburg, Illinois.

AAP President Dr. Robert Block presented the plaque to Swan "in recognition of outstanding service and personal dedication to the mission and goals of the Academy, and to the health, safety and well-being of children."



Swan's talk on "Persistence in Advocacy" at the chapter advocacy summit is posted on CHILD's webpage at [www.childrenshealthcare.org](http://www.childrenshealthcare.org).

### Thoughts on reporting, torture, and pain

This issue reports on a California police officer charged with failure to report child abuse. The crime is only a misdemeanor in California. More offensive is that California has an exemption from a duty to report when the child is deprived of medical care on religious grounds at Calif. Penal Code § 11165.2(b).

Furthermore, even states with strong reporting laws such as Oklahoma have not always enforced them as described in the previous CHILD newsletter 2012 #2.

Some have wondered why torture was not charged in the California case. The answer is that the state's law on torture requires that "great bodily injury" be inflicted. See Calif. Penal Code § 206.

The pastor and church members perpetrating the abuses of "Jacob" seemed to have a strategy of causing maximum pain and terror without "great bodily injury." For example, the boy's face was reportedly covered with a phone book when they whipped him in the face.

It is a reminder of Michael Pearl's advice to hit babies and children with thin plumbing supply line because, he claims, it will cause maximum pain without leaving bruises.

In Delaware prosecutors were frustrated with the challenge of proving child abuse without strong evidence of physical injury. In response Delaware enacted SB234 this year which defines "physical injury" to a child as "any impairment of physical condition or pain" in its criminal child abuse law.

Some fundamentalist groups are outraged and claim that Delaware has made criminals of parents who spank their children. The bill does not do that, however. The law defines abuse as causing "physical injury to a child through unjustified force." Some corporal punishment is considered justified force.

**NOTE:** CHILD has a new address of 136 Blue Heron Place, Lexington KY 40511 and a new phone of 859-255-2200.