

# Q&A: What's at stake with the U.S. Supreme Court case on misinformation?

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Concerns over medical misinformation are not new, but the COVID-19 pandemic magnified long-simmering tensions over two fundamental concepts: Freedom of speech and the federal government's responsibility to protect people from what it considers false and dangerous claims.

These are the core issues in a landmark case, *Murthy v. Missouri*, on which the Supreme Court of the United States is expected to issue a decision this summer.

During the initial oral arguments, which took place in March, government physicians and [public health officials](#) sounded the alarm that the proliferation of false claims about COVID-19 measures, treatments, and vaccines on [social media](#) and elsewhere poses a grave threat to public health, and broadly to public safety, while opponents argue that the government's attempt to remove certain content from social platforms amounts to suppression of free speech.

The plaintiffs in the case, including the attorneys general of Missouri and Louisiana, allege that [federal officials](#) engaged in censorship when they asked [social media companies](#) to remove or downgrade certain posts on their platforms.

The petitioners, including several federal agencies and the Biden administration, counter that the government has a compelling interest to protect the public through scientific evidence and facts about the proven effectiveness of vaccines while also safeguarding First Amendment rights.

The American Academy of Pediatrics (AAP), the American Medical Association (AMA), and three other organizations support the petitioners' position in the case and have filed an amicus curiae brief on behalf of U.S. Surgeon General Vivek Murthy.

To better understand the central arguments and the possible impact of the court's decision, Harvard Medicine News turned to Rebecca Brendel, director of the HMS Center for Bioethics and HMS associate professor of psychiatry and global health and social medicine at Massachusetts General Hospital.

## **Help us understand the central arguments in this case and what SCOTUS needs to weigh in on. What is at stake here in either outcome?**

At stake in *Murthy v. Missouri* is whether the White House and other federal government entities, including the FBI and the CDC, violated First Amendment free speech protections in their communications with social media companies regarding removing posts related to COVID-19 and other [misinformation](#).

The case turns both on the nature of government communications with social media companies—did they constitute coercion rather than just discussion?—and the legitimacy of the government's interest in seeking to combat misinformation on social media. The case has come to particular attention within the [medical community](#) because one of the key types of misinformation in the case relates to COVID-19 vaccines.

For example, the single issue addressed in the AAP/AMA amicus brief argues that the government has a compelling interest in combating vaccine misinformation due to the proven health benefits of vaccines. Because social media has become such a central source of information for the public, the ability of the government to act to protect individual and public health, including through combating misinformation, is critical for the health of the country, they argue in the brief. Limiting the ability to combat public misinformation could have serious negative consequences for health and science, and for medicine more broadly.

**Legal arguments aside, misinformation poses an existential threat to our collective well-being and health. What can individual physicians, researchers, and health care workers do to counter it?**

As physicians, we have responsibilities to the health of our patients and to advance health and public health more broadly. As individuals and in our local institutions, we must make critically important health information available to our patients and communities in clear, understandable, accessible, and culturally informed ways. How we present information matters. It's not just about putting forward one view that we know to be correct from the science and the practice of medicine. Instead, we must also inform ourselves about opposing views, even, and perhaps especially, if they are false, to explain why this misinformation is wrong and potentially or actually harmful.

## **As a clinician, have you seen the effects of misinformation in patients firsthand?**

Unfortunately, as a psychiatrist, I have encountered the effects of misinformation all too often. While we have made great strides in our understanding of mental illness as biologically based in the brain, like physical illness in the body, there are still misconceptions about mental illness itself as a moral problem rather than a medical condition, and about the efficacy and side effects of psychiatric treatment.

At the end of the day, the best that we can do as clinicians is to care, to be human. In practice, what this means is meeting our patients and the public where they are. It means listening to what the patient brings and why they believe what they do, learning what is motivating and important to them, and aligning their personal values with valid information and recommendations.

This approach applies not just to psychiatry. The approach can also work with other forms of misinformation, as in vaccine hesitancy and in denialism of other medical interventions. But it takes time and energy, both of which are at a premium in the current practice environment and

in the setting of frontline health care worker burnout.

## **What are some long-term strategies we should consider as a society to start chipping away at the problem of misinformation?**

We need to reestablish and strengthen trust in science. On a basic level, this trust begins with integrity, rigor, and high standards for our research and our data in biomedicine.

We, as clinicians and [research scientists](#), must be clear both about what we know, what we think we know, and the strengths, and especially the weaknesses, of existing data. We must be even clearer about what we don't know to not overstep the legitimacy of our expertise and scientific authority in ways that will only undermine public confidence in our work as scientists and healers.

Of course, how we do this is a much larger question. One thing that is abundantly clear is that only dialoguing in rare journals, even if open access, is not the solution. Working together in broad coalitions of scientists, physicians, and the public across institutions and organizations will be critical.

## **If you had to make a prediction, which way do you think the court will go?**

It's hard to predict exactly how the Supreme Court will thread the needle here. Given the current climate, the composition of the court, and the direction the court has seemed to be going in, it is hard to imagine that SCOTUS would endorse a broadly permissive view of federal governmental authority in regulating social media content.

On the other hand, the alternative view that any government engagement with social media companies around content is impermissible seems unlikely after the oral arguments. Regarding compelling state interest, I think we can similarly expect that the court will not dismiss the importance of public health in general as a compelling state interest but will be cautious regarding the bounds of permissible governmental intervention to limit free speech.

Whatever the decision, one thing remains clear: We as physicians and scientists must continue to advance research and practice to improve health and we must do better in engaging the public in this mission to establish trust and partnership.

Provided by Harvard Medical School

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