

The Moral and Ethical Imperative for Vaccine Philosophical Exemptions

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Latest Revision: August 12, 2011

The enactment of vaccine philosophical exemptions is a moral and ethical imperative given the following facts:

I. Credit Give to Vaccines for 20th Century Childhood Infectious Disease Declines is Misplaced

Childhood infectious disease decline throughout the 20th Century is widely but erroneously attributed to vaccines. On average, about 90% of infectious disease decline preceded vaccines, while some diseases declined without any vaccines at all such as typhoid fever, scarlet fever, scurvy and tuberculosis.¹ In fact, some disease rates actually increased following the introduction of vaccines. For example, during 1962 U.S. Congressional hearings, Dr. Bernard Greenberg, Biostatistics Department Head at the University of North Carolina School of Public Health,² testified that cases of polio increased substantially after polio vaccines were introduced—50% from 1957-58, and 80% from 1958-59—and that the Public Health Service deliberately manipulated statistics to give the opposite impression.³ Meanwhile, polio declined in countries that didn't vaccinate.⁴ Therefore, 20th century disease declines do not support an absolute vaccine mandate.

II. A Reliable Vaccine-Disease Risk-Benefit Assessment is not Feasible

A. First, we do not have precise disease mortality data. For example, with regard to the recent H1N1 pandemic, the CDC reported U.S. laboratory confirmed flu deaths (both swine and seasonal) for the 2009-2010 flu season were 2,117.⁵ However, the CDC estimated U.S. swine flu deaths alone at 8870 – 18,300.⁶ In stark contrast, Flu Tracker (Rhiza Labs) estimated only 4642 fatal U.S. swine flu cases.⁷ Documenting disease deaths has been problematic historically as well. For example, in 1974, the CDC determined that there were 36 cases of measles in Georgia, while the Georgia State Surveillance System reported 660 cases.⁸ The truth is, we have only non-precise, widely varying “guesstimates” for disease mortality figures—we just don't know.

B. We know even less about the scope and severity of vaccine injury and death. The Vaccine Adverse Event Reporting System (VAERS) and National Vaccine Injury and Compensation Program (NVICP) have revealed irrefutably that vaccines cause permanent injuries and deaths, but they are inadequate measures of the scope of the problem. The FDA and CDC have admitted that reported adverse events represent as few as 1-10% of the events actually occurring.⁹ According to former FDA Commissioner David Kessler, reported events may be less than 1%.¹⁰ Furthermore, “No data get collected, and it remains unknown whether vaccination increases the incidence of most [chronic] diseases, particularly rare diseases.”¹¹ Where there are huge unknowns concerning how vaccines affect other disease rates, and when the actual number of vaccine injuries and deaths may be up to 100 times greater or more than the number documented by the federal government, governments are ethically compelled to allow informed choice, to provide a conscientious exemption.

C. While it may be impossible to draw definitive conclusions about the precise health risk posed by vaccines, there are some noteworthy correlations we should consider. For example, the CIA World Fact Book lists the U.S. at 46th in infant mortality for 2009,¹² despite the U.S. having the highest vaccination rate of any country in the world—twice the average of 30 western nations. If vaccines really work, the leading world power with the world's best medical technologies should have one of the very lowest infant mortality rates, but instead, the U.S. had a third-world infant mortality rate. The U.S. also has the highest under-5-mortality-rate of 30 Western countries.¹³ A recently published medical study examining the relationship between nations' infant mortality rates and vaccination rates found that “*nations that require more vaccine doses tend to have higher infant mortality rates*,”¹⁴ exactly the opposite of what we would expect if vaccines were

producing the intended outcome.

III. The Belief That Unvaccinated Persons Pose a Risk of Harm to Others is Without Merit

- A. If vaccines work, then unvaccinated persons pose no risk to vaccinated persons. Therefore, the persistent, widespread claim that unvaccinated people “put everyone else at risk” is baseless. The likely real basis for such claims is the enormous profit potential from vaccines. From the perspective of the pharmaceutical industry, every man, woman and child on the planet is a potential recipient of vaccines from the moment of birth until their last breath. The pharmaceutical industry, responding to this vast marketing opportunity, now has over 330 vaccines either in development or already on the market,¹⁵ despite the profound drop in disease rates across the last century suggesting the need for fewer, not more, vaccines. Citizens should have a conscientious exemption allowing them to opt out of this pharmaceutical feeding frenzy.
- B. A more specific concern is the claim that the tiny percentage of persons not vaccinated for medical reasons, perhaps along with those whose vaccines don't work, are put at risk by those exercising non-medical reasons. This belief is also without merit. It is based on the herd immunity theory, which states that if most of a population is immune, the entire population is protected. The presumed problem is that if too many people opt out of vaccines, the herd immunity effect will be compromised, and those not immune due to medical exemptions or failed vaccines are at risk.

In addition to the unsupportable assumption that unvaccinated persons somehow are “disease magnets” that attract disease, this concern is erroneous because the herd immunity theory has been substantially disproved. For example, measles, mumps, small pox, pertussis, polio and Hib outbreaks have all occurred in vaccinated populations.^{16, 17, 18, 19, 20} In 1989, the CDC reported: “Among school-aged children, [measles] outbreaks have occurred in schools with vaccination levels of greater than 98 percent.²¹ [They] have occurred in all parts of the country, including areas that had not reported measles for years.”²² The CDC even reported a measles outbreak in a documented 100% vaccinated population.²³ A study examining this phenomenon concluded, “The apparent paradox is that as measles immunization rates rise to high levels in a population, measles becomes a disease of immunized persons.”²⁴ In other words, efforts to maximize immunization rates may actually be counterproductive. Recent outbreaks in California, New York and New Jersey also occurred in highly vaccinated populations.^{25, 26} Vaccines have actually caused outbreaks, such as occurred in Nigeria in 2007 when vaccine viruses mutated. Incredibly, officials said that the only remedy was to keep vaccinating!²⁷

- C. Official statistics for the recent swine flu pandemic show that the U.S. vaccinated 30% of the population against swine flu, yet had more than 8 times its proportional share of international swine flu deaths. England vaccinated 8% of its population and had 2 times its proportional share. But Poland, which refused to vaccinate for the swine flu, had only 1/10 of its proportional share of international swine flu deaths.²⁸ These data strongly suggest that swine flu immunization campaigns were counterproductive. Therefore, citizens should have the right, individually, to determine whether or not any given vaccine is appropriate for themselves and their children.

IV. Mandatory Vaccination Prevents Citizens From Choosing Proven Safer, Less Costly, More Effective Alternatives

- A. In the fall of 2008, Cuba used homeoprophylaxis to protect 2.5 million residents of Cuba from a Leptospirosis outbreak following tropical flooding. The protective effect profoundly exceeded that of conventional immunizations—10 infections and no deaths with homeoprophylaxis vs. thousands of infections with many deaths in prior years with conventional immunization. The cost was about 1/15th that of conventional immunization. This was achieved “with full scientific verification.”²⁹ [emphasis added] Numerous other instances of successful homeoprophylaxis have been documented around the world over the past 200 years, including here in the U.S.³⁰ With

homeoprophylaxis, adverse events are virtually non-existent; there is none of the resulting death and disability that inevitably occurs with the widespread use of conventional immunizations. For those who consider homeopathy unproven or believe that it can't work, the implications are even more dramatic. If that is really the case, the use of immunizations in Cuba prior to 2008 was necessarily profoundly counterproductive.

- B. A recent Japanese study found that “Vitamin D [is] better than vaccines at preventing flu,”³¹ and experts say that vitamin D toxicity fears are unwarranted.³² In a 2010 review, the esteemed Cochrane Collaboration, an independent, international consortium of medical researchers, issued a WARNING stating that “reliable evidence on influenza vaccines is thin but there is evidence of widespread manipulation of conclusions...”³³ The review found that “vaccine use did not affect . . . working days lost” and “had no effect on hospital admissions or complication rates.” State legislators would do better to mandate vitamin D supplements than to mandate flu vaccines. Meanwhile, the documented manipulation of scientific data in flu vaccine studies raises serious questions about the quality of studies on other vaccines, if not also about the reliability of medical research generally. Indeed, according to Newsweek, the new chief of Stanford University’s Prevention Research Center says that people are “being hurt and even dying” due to widespread errors in medical research.³⁴ It is no longer sufficient to base policy on study conclusions alone. We must scrutinize the studies’ methods, data, funding sources, potential conflicts of interest, etc., before accepting and acting on their conclusions.
- C. Vitamin C has been documented in the medical literature as having cured viral infections, rendering vaccines and their unpredictable adverse events unnecessary, according to Dr. Thomas E. Levy, MD, JD.³⁵ It has cured acute polio and acute hepatitis, which diseases are mistakenly still considered to be “incurable” by modern medicine. The withholding of vitamin C therapies raises serious questions, according to Dr. Levy.
- D. Surely it is not the intent of state legislatures to implement health policy based on erroneous information, or to prohibit citizens from accessing the most efficacious, cost-effective, and safest choices for disease prevention available. The serious questions concerning the reliability of vaccine medical research and the availability of proven alternatives to conventional immunizations compel state legislatures to provide citizens with the right to access the very best healthcare available, which necessarily means providing a conscientious exemption from immunizations.

V. Conflicts of Interest Raise Serious Questions About Vaccine Policy

- A. The Advisory Committee for Immunization Practices (ACIP) develops written immunization recommendations that are adopted by the CDC. These become CDC recommendations that in turn are substantially enacted into law by the states. However, some ACIP members reportedly have conflicts of interest; some are right out of the vaccine industry or otherwise in a position to profit from the policies they create.
- B. There are conflicts of interest in the CDC as well. In 2008, Glaxo hired former FDA Chief Counsel Dan Troy as senior vice president and general counsel, a man “notorious for being supportive of the pharmaceutical industry.”³⁶ In December of 2009, Julie Gerberding, M.D., M.P.H., announced her job change from CDC Director (where she promoted vaccines) to President of Merck Vaccines.³⁷ Given the revolving door between agencies and industry, we cannot presume that agency decisions and recommendations are necessarily always objective.
- C. Conflicts of interest exist at the international level as well. On June 3, 2010, the British Medical Journal (BMJ) revealed the existence of undisclosed, serious conflicts of interest in the World Health Organization along with scientifically unsupportable distortions of information from the WHO concerning the swine flu pandemic.³⁸ BMJ’s Editor in Chief advised: “The current

leadership of WHO may need to resign . . . We must create a world in which the best experts are those that are free from commercial influence...³⁹ The WHO did not volunteer any conflict of interest information until August 11, 2010, after the pandemic was declared to be over,⁴⁰ and no one at the WHO resigned.

- D. Dr. Marcia Angell of Harvard Medical School has said: "It is simply no longer possible to believe much of the clinical research that is published, or to rely on the judgment of trusted physicians or authoritative medical guidelines. I take no pleasure in this conclusion, which I reached slowly and reluctantly over my two decades as an editor of the *New England Journal of Medicine*."

Angell reviewed three new books that detail the workings of this vast, corrupt system. The use of "off-label" prescriptions — perhaps as many as half of all prescriptions are written for off-label purposes," she writes — is endemic, and has proved a source of corruption. Universities have also been corrupted: "A recent survey found that about two thirds of academic medical centers hold equity interest in companies that sponsor research within the same institution," and "[a] study of medical school department chairs found that two thirds received departmental income from drug companies and three fifths received personal income."⁴¹

Given that conflicts of interest exist throughout federal and international vaccine policy-making agencies, states are morally and ethically compelled to scrutinize meticulously the recommendations of those agencies, and to base state immunization policy on the findings of their own, independent analyses. Unless and until that occurs, and unless such analyses dictate otherwise, states are morally and ethically obligated to provide citizens the right to informed choice, by way of a conscientious exemption to mandatory vaccines.

VI. Blind Reliance on the Pharmaceutical Industry and Federal Agencies is Severely Misplaced

- A. In December of 2009, the WHO reported: "Corruption in the pharmaceutical sector occurs throughout all stages of the medicines chain, from research and development to dispensing and promotion."⁴² Thus, a high level of scrutiny is required when considering products, claims and recommendations coming from this industry.
- B. The pharmaceutical industry regularly engages in criminal behavior. In 2008, Merck was fined \$650 million under the False Claims Act. In 2009, Pfizer was assessed a \$1 billion criminal fine, along with a \$1.3 billion civil fine, in its fourth settlement since 2002 over illegal marketing. In 2009, Ely Lilly was assessed a \$515 million criminal fine and a \$900 million civil fine. In 2010, GlaxoSmithKline was assessed a \$150 million criminal fine and \$750 million civil fine. Over the past 10 years, these and other companies including TAP, Tenet Healthcare, HCA, Serono, AstraZenica, Abbott Labs, Bristol Myers Squibb, SmithKline Beecham, Shering-Plough, and Bayer Corporation were assessed criminal and/or civil fines for unlawful acts in the hundreds of millions of dollars. The pharmaceutical industry has become the biggest defrauder of the federal government under the False Claims Act, and the problem has gotten consistently worse over the past few years.⁴³ It is critical to understand that criminal behavior, by definition, means that the perpetrator had knowledge of the unlawfulness of the acts committed. These companies knew exactly what they were doing each and every time. We can't know how many crimes were committed that were not caught and prosecuted, but based on those that were, we know that criminal behavior in the pharmaceutical industry is routine, presumably because it is, on the whole, profitable. Since this behavior has gotten worse in recent years, we know that it is substantially likely to continue to occur in the foreseeable future. Given that the pattern of behavior has been widespread and decades in the making, it is absolutely fair—indeed, necessary—to factor this pattern of behavior into an overall assessment of the character of this industry.

The point is this: NO ONE SHOULD EVER BE REQUIRED ABSOLUTELY TO TAKE A PRODUCT FROM AN INDUSTRY THAT ROUTINELY ENGAGES IN CRIMINAL BEHAVIOR.

The right to say 'NO' to career criminals is a moral and ethical imperative.

- C. On April 13, 2011, Poul Thorsen, the principal coordinator of multiple studies funded by the CDC used to deny a vaccine-autism link was indicted on 13 counts of fraud and 9 counts of money-laundering. These charges related to funding for work Thorsen conducted for the CDC that claimed to disprove associations between the mercury-based vaccine preservative, thimerosal, and increased rates of autism.⁴⁴ More recently, former senior pharmaceutical scientist Helen Ratajczak reported, "Documented causes of autism include . . . encephalitis following vaccination."⁴⁵ Another recent study found that "a mere 1% increase in vaccination rates is associated with an additional 680 children having autism."⁴⁶ If the CDC can be so egregiously misled, state governments cannot blindly enact into law vaccine requirements based on its recommendations.

VII. Philosophical Exemptions Are Time-Tested and Safe

Currently, about 20 states containing a majority of U.S. citizens have philosophical exemptions to immunizations. If these exemption rights were causing serious problems, these exemption laws would either not have been enacted in the first place, or would have been quickly repealed. However, this has not happened. Apparently, philosophical exemptions have had no significant adverse effect on infectious disease rates.

Furthermore, all states have authority under the U.S. Constitution to mandate vaccines in the event of an emergency,⁴⁷ regardless of citizens' religious or philosophical objections, and to quarantine unvaccinated persons when necessary. So, if the unvaccinated should ever prove to pose a serious risk of harm in the future, there is authority for the state to act as it deems necessary to protect its citizens.

VIII. Medical Experts Disagree Over Vaccine Safety and Effectiveness

There is a growing body of medical experts who are speaking out with concerns about vaccines.⁴⁸ Independent medical research contradicts pro-vaccine research funded by the pharmaceutical industry. The question, then, is whether or not government should assume the role of deciding who is correct, and impose its opinion in a one-size-fits-all policy on constituencies that consist of individuals with varying needs. The far better healthcare policy is one where individuals have the flexibility to make a customized risk-benefit analysis for themselves and their children in consultation with their personal health care providers. Some may choose vaccines, but others may find that for them, the risks outweigh the benefits. Whatever the choice, all should have the right to make that assessment without government interference. However, with herd immunity having been disproved, there is no scientific basis for government imposing its will on the people, collectively, usurping the rights of the individual, because unvaccinated people do not pose a significant health risk to anyone else.

IX. Vaccine Mandates Raise a Serious Fundamental Rights Question

Vaccination carries a risk of permanent injury and death. That risk is presently neither quantifiable nor preventable. In a society where the vast majority of disease decline preceded vaccines, where in some instances vaccines caused a reversal of prior disease declines, where in some instances vaccines have proven to be counterproductive, where policy and law are based on a disproven herd immunity theory, and where policy is substantially driven by an industry that routinely engages in criminal behavior and that profits handsomely by the policy it drives, such a mandate is contrary to the very essence of what it means to be a democratic republic.

The international debate about vaccine safety and effectiveness is anything but resolved. Indeed, a fair and open conversation is, if ultimately inevitable, still yet to be had, and adamantly resisted by those who stand to lose the most from an open, transparent discussion—those who profit from the status quo. Pending a final outcome of this debate, and given the high stakes involved and problems cited above, citizens in a free society should have the right to decide for themselves what is in their own best interests. Those who believe in vaccines are welcome to have them, and if vaccines really work, they have nothing to fear from the unvaccinated. In the meantime, state governments have authority under the U.S. Constitution to require unvaccinated children to stay home during outbreaks, and to impose vaccines or quarantine on unvaccinated citizens in declared emergencies. So, governments have nothing to fear by granting their citizens the right to informed choice. Indeed, given the above, such rights are not simply justified: Governments have nothing less than a moral and ethical imperative to provide that right.

CONCLUSIONS

1. Credit given to vaccines for 20th century infectious disease declines is misplaced. Vaccine history does not support an absolute mandate for vaccines.
2. Data for accurate vaccine-disease risk-benefit is not available. Therefore, government cannot reasonably assert a risk-benefit basis for opposing a conscientious objection. Further underscoring this assertion is the availability of proven alternatives that are more effective, safer, and less costly.
3. Claims that the unvaccinated pose a risk of harm to the vaccinated are unfounded (if vaccines work, how could an unvaccinated person harm a vaccinated person?). Claims that the unvaccinated pose a risk of harm to those who can't be vaccinated or whose vaccines don't work are based on the disproven "herd immunity" theory. Therefore, the unvaccinated do not present a legitimate risk to others, and the claim that they do is not a legitimate bar to the enactment of a conscientious exemption right. Furthermore, those who can't be vaccinated or whose vaccines don't work have viable alternatives that may work better than vaccines and that are safer and less costly.
4. Vaccines were actually counterproductive in some instances. Therefore, government should allow a conscientious exemption so that citizens can assess the merits of individual vaccines independently.
5. There are viable, proven alternatives to immunizations. Homeoprophylaxis is far less expensive, more effective, and safer with no risk of injury or death. Vaccines carry a risk of permanent injury or death, are more costly, and are of questionable efficacy when scrutinized objectively. Therefore, citizens should have the right to choose from among all of the available options. Absent this option, government is endorsing only one of many legitimate healthcare modalities, to the exclusive profit of one industry, thereby substantially interfering with the free market.
6. Where conflicts of interest exist with those setting policy, there is a moral and ethical imperative for citizens to have and retain the right to evaluate and disagree with—and more importantly, to freely stray from—the resulting policy. Immunization policy is driven by the industry that manufactures the vaccines, and that industry routinely engages in criminal behavior. NO ONE SHOULD EVER BE REQUIRED TO USE PRODUCTS CREATED BY AN INDUSTRY THAT REGULARLY ENGAGES IN CRIMINAL BEHAVIOR.
7. Conscientious exemptions are time-tested. About 20 states representing a majority of the U.S. population currently have philosophical exemptions. If these exemptions caused serious problems, these exemption laws would have been repealed long ago. Clearly, philosophical exemptions have not created serious health problems, and if they ever should pose a problem, states retain the authority to impose emergency vaccines and/or quarantines as needed. A conscientious exemption poses no significant health threat to the state.

8. There is a growing body of lay persons and professionals, including credible medical professionals and researchers, who are speaking out about problems with the conventional thinking on immunizations. There is a valid vaccine controversy. Given this reality, individuals should have and retain the right to make informed decisions.
9. Vaccines carry a risk of permanent injury or death. (Is avoiding the measles or chicken pox really worth that?!) That risk may vary substantially from individual to individual, and the medical community has no gauge by which to assess that risk for healthy individuals. The herd immunity theory is flawed, so individual citizens cannot be said to have a responsibility to vaccinate for the sake of the community. Therefore, by definition, our being a democratic republic requires that we grant citizens the right to decide for themselves, as individuals, whether or not vaccines are right for them and their children.

In view of the above, and the scientific, legal, moral and ethical imperatives presented and supported therein, we respectfully request that the Honorable Senators and Representatives of the Great State of New Hampshire support and pass House Bill 416, adding an exemption from immunizations for conscientious beliefs.

¹ For one of many sources, see Immunization Graphs at <http://www.theoneclickgroup.co.uk/documents/vaccines/Immunization%20Graphs%20PPT%20-%20RO%202009.pdf>

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