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February 12, 2012

To: Vermont Legislature

Re: SB 199

Honorable Legislators and Concerned Others:

I am a licensed attorney and nationally recognized expert in vaccine exemption and waiver law. I have counseled clients and other attorneys around the country and worked with vaccine legislative matters in several states.

Regarding the proposed language in SB 199, § 1122(a)(3) provides for vaccine exemptions for religious or philosophical reasons. § 1122(c) would require the signature by a licensed primary care provider on an exemption form indicating that the exemption applicant has been presented information about immunization benefits and exemption risks by the provider. Respectfully, this language is problematic for several reasons.

First, the cost for exemption applicants to get information and a signature from a licensed healthcare provider may discriminate against prospective low income applicants.

Next, with regard to religious exemptions, the licensed provider signature requirement violates the Constitution. A religious exemption to immunizations requires only that the applicant have a sincerely held religious belief.<sup>1</sup> Any further requirement would violate the applicant's First Amendment "free exercise" rights.

Regarding philosophical exemptions, requiring a provider's information and signature is also inappropriate. Philosophical exemptions concern a moral and ethical human rights issue, not a medical one. First, vaccines are known to cause permanent disability and death.<sup>2</sup> Second, authorities report that only 1% to 10% of vaccine adverse events are reported.<sup>3</sup> Therefore, vaccine mandates require vaccine recipients to incur an unknown risk of permanent disability or death for a presumed net benefit to society which presumed net benefit is, respectfully, only speculative, as the data needed to assess the net benefit is simply not available. However, even if vaccines could be shown to provide a definitive net benefit, current medical practice does not enable providers to determine whether or not any given child is likely to have a serious vaccine adverse reaction. Philosophical exemptions, then, address these concerns by allowing parents to refuse vaccines based on sound, moral and ethical objections.

In sum, religious and philosophical exemptions address religious, moral and ethical issues that fall outside of the scope of medical providers' knowledge and expertise. For this reason, and because the cost of involving a provider would

discriminate against prospective low income applicants, the provision requiring a physician's participation in the exercise of religious and philosophical exemptions should be removed.

Respectfully Submitted,

A handwritten signature in black ink that reads "Alan Phillips". The signature is written in a cursive style and is positioned above the printed name.

Alan Phillips  
N.C. Bar No. 30436

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<sup>1</sup> See, e.g., Sherr and Levy vs. Northport East-Northport Union Free School District, 672 F. Supp. 81, 98 (E.D.N.Y., 1987)(holding that the state “must offer the exemption to all persons who sincerely hold religious beliefs.”)

<sup>2</sup> HRSA, Vaccine Injury Compensation Program, Data and Statistics. Compensation payments to date exceed \$2 billion. <http://www.hrsa.gov/vaccinecompensation/data.html>

<sup>3</sup> (a) Less than 1%, according to Barbara Fisher, citing former FDA Commissioner David Kessler, 1993, JAMA, in the Statement of the National Vaccine Information Center (NVIC), Hearing of the House Subcommittee on Criminal Justice, Drug Policy and Human Resources, “Compensating Vaccine Injuries: Are Reforms Needed?”, September 28, 1999;

(b) Less than 10% according to KM Severyn, R. Ph., Ph.D. in the Dayton Daily News, May 23, 1993;

(c) Only 10% according to the CDC as reported by the Association of American Physicians and Surgeons, Fact Sheet on Mandatory Vaccines, <http://www.aapsonline.org/testimony/mandvac.htm>