

March 27, 2015

To: The Honorable Connecticut State Legislature

Re: H.B. 6949, An Act Concerning Childhood Vaccinations

Dear Honorable Legislators:

H.B. 6949's requirement that parents exercising a vaccine religious exemption to immunizations for their child in school review "and understand evidence-based instructional material provided by the Department of Public Health" substantially violates the U.S. Constitution.

1. Violation of the First Amendment "free exercise" of Religion

H.B. 6949 violates the First Amendment "free exercise" of religion. In Sherr and Levy vs. Northport East-Northport Union Free School District, 672 F. Supp. 81, 98 (E.D.N.Y., 1987), the court held that the state "must offer the exemption to all persons who sincerely hold religious beliefs. . ." In Lewis v. Sobel, 710 F. Supp. 506, 511 (S.D.N.Y. 1989) (quoting Mason v. General Brown Central School Dist., 851 F.2d 47, 54 (2d Cir. 1988)), the court held that the state must provide "a general exemption for any person who opposes immunization of their child based on a sincerely held religious belief." There are only two substantive requirements for a religious belief to immunizations to have First Amendment protection: the beliefs must be "religious in nature" and "sincere." As Constitutional law is a higher legal authority than state law, U.S. Const. art. VI, § 2, cl. 2,¹ the State may not add additional substantive requirements. H.B. 6949 also fails the "sniff" test—the only reason to present parents with religious objections to vaccines with "instructional material" would be to try to convince them to violate their religious beliefs, but religious beliefs have nothing to do with the State's opinion about the scientific necessity of immunization.

2. Violation of 14th Amendment "due process"

H.B. 6949 violates the 14th Amendment "due process" clause. Parents have a 14th Amendment Constitutional due process right to parent their children which includes medical decision-making. In Troxel v. Granville, 530 U.S. 57 (2000), the U.S. Supreme Court states:

The Fourteenth Amendment's Due Process Clause has a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests," Washington v. Glucksberg, 521 U.S. 702, 720, including parents'

¹ The Supremacy Clause: "This Constitution, and the Laws of the United States . . . shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding." U.S. CONST. art. VI, § 2, cl. 2.

fundamental right to make decisions concerning the care, custody, and control of their children, see, e. g., *Stanley v. Illinois*, 405 U.S. 645, 651. Pp. 63-66.

The *Troxel* Court further explains:

There is a presumption that fit parents act in their children's best interests, *Parham v. J. R.*, 442 U.S. 584, 602; there is normally no reason for the State to inject itself into the private realm of the family to further question fit parents' ability to make the best decisions regarding their children, see, e. g., *Reno v. Flores*, 507 U.S. 292, 304.

The *Troxel* "fit parents" presumption may be rebutted only by a showing that a parent is unfit. Such requires a case-by-case analysis. In requiring a vaccine "education," the State unlawfully presumes that all parents wishing to exercise the exemption are unfit. To pass Fourteenth Amendment scrutiny, the vaccine education requirement could only be applied to individual parents who have each, individually, been first shown to be unfit to make the exemption decision without the state's education.

3. Violation of First Amendment "free speech"

H.B. 6949 violates First Amendment "freedom of speech." The U.S. Supreme Court has held that the right to free speech includes the right to be free from being compelled to speak. The requirement to "understand . . . instructional material" amounts to requiring exemption applicants to agree with the States' views on vaccination and infectious disease, thereby "compelling them to speak" and violating their First Amendment rights. See, e.g., *Wooley v. Maynard*, 430 U.S. 705 (1977). To pass First Amendment scrutiny, a vaccine education would have to meet the approval of each individual parent, and not the State. Again, this requirement fails the "sniff test." Other states that unconstitutionally impose a vaccine "education" fail to include critical facts such as the \$220 million paid out annually by the Vaccine Injury Compensation Program,² the fact that most outbreaks occur in vaccinated children because there are 5 times more non-immune vaccinated children than exempt children (vaccines work only 85-95% of the time),³ or that 90-95% of infectious disease mortality decline in the 1900's preceded the introduction of vaccines,⁴ to name just a few of many, many more.

H.B. 6949 should be withdrawn, and parents allowed to make immunization decisions under Constitutional rights and boundaries.

Respectfully Submitted at the
Request of Residents of Connecticut,



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² NVICP Statistics Report, February 2015, <http://www.hrsa.gov/vaccinecompensation/statisticsreport.pdf>

³ Centers for Disease Control and Prevention, Vaccines and Immunizations, Misconception #2. The majority of people who get disease have been vaccinated. The original CDC page stating this can be viewed here: <http://web.archive.org/web/20150120055820/http://www.cdc.gov/vaccines/vac-gen/6mishome.htm>

⁴ See, e.g., graphs of government data here: <http://www.theoneclickgroup.co.uk/documents/vaccines/Immunization%20Graphs%20PPT%20-%20RO%202009.pdf>, <https://childhealthsafety.wordpress.com/graphs/>