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TO: The Honorable California Legislature
Sacramento, California

Re: S.B. 277, Repeal of Non-Medical Vaccine Exemptions

Dear Legislators:

I am a nationally recognized legal expert on vaccine exemption and waiver law.¹ I am writing at the request California citizens to respectfully request that you oppose S.B. 277.

This bill and others around the U.S. are in response to a measles outbreak at Disneyland. However, critical facts have been omitted from mainstream media. According to the CDC, no one in the U.S. has died from measles in the past 10 years, but the federal Vaccine Adverse Event Reporting System (VAERS) has received reports of over 100 deaths from measles vaccines in that same time period.² These vaccine deaths are not a necessary cost for a disease-free society, because childhood infectious disease deaths in the 1900's declined 90-95% *before* vaccines were introduced—97% with measles.³

The CDC has stated that vaccines work only 85 – 95% of the time, and that the median exemption rate nationally is 1.8%, and that this is why most outbreaks occur in *vaccinated* children.⁴ There are five times more *non-immune vaccinated* children than exempt children. Moreover, the National Vaccine Injury Compensation Program pays out over \$220 million/year for vaccine injuries and deaths (5 year average 2009-2014).⁵ So, if there is a problem with childhood infectious disease in California, it is that the vaccine manufacturers—who have no liability for the harm caused by their vaccines, and thus no financial motive to improve them—are not held to a strict enough standard for vaccine safety and effectiveness.

Claims that “herd immunity” is threatened by non-medical exemptions are contradicted by medical science. The majority of residents in California and across nation are “baby-boomer” adults who were last vaccinated as children. Their vaccine protection, which is temporary, wore off decades ago. The majority of the U.S. population consists of adults with no immunity to childhood infectious diseases, but this has not led to massive outbreaks in adults. Clearly, lack of immunization does *not* necessarily lead to

¹ www.vaccinerights.com

² NVIC MedAlerts Home, Search the VAERS Database, <http://www.medalerts.org/vaersdb/index.php>

³ Immunization Graphs prepared by Raymond Obamsawin, M.Sc., Ph.D., 2009, <http://www.theoneclickgroup.co.uk/documents/vaccines/Immunization%20Graphs%20PPT%20-%20RO%202009.pdf>

⁴ 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>

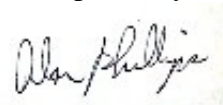
⁵ NVICP Statistics Report, February 2015, <http://www.hrsa.gov/vaccinecompensation/statisticsreport.pdf>

outbreaks. To the contrary, numerous peer-reviewed, published medical studies document disease outbreaks in highly and even fully vaccinated populations.⁶ A 1994 meta-study reviewing measles outbreaks in highly and fully vaccinated populations concluded: "The apparent paradox is that as measles immunization rates rise to high levels in a population, measles becomes a disease of immunized persons."⁷ Herd immunity may apply to wild diseases, but it apparently does not apply reliably to vaccinated people.

Why is the above information not common knowledge? Money. The pharmaceutical industry, despite all the wonderful things it has given us, has lost control of its marketing. It has become the biggest defrauder under the federal False Claims Act.¹ In the last 5 years, it returned \$19.2 billion from attempts to defraud federal health programs, more than double the previous 5 years.² Over 8 years, there were twenty pharmaceutical company settlements ranging from \$345 million to \$3 billion. *Criminal* fines in the \$100's of millions are common, and have been as high as \$1 billion (Pfiser 2009, Glaxo 2012, Johnson & Johnson 2013).⁸ This behavior has become routine business practice, as the bottom line has taken priority over ethics, morality, and even criminal boundaries.

California's non-medical vaccine exemptions provide a necessary "check and balance" against the vaccine industry's overreaching marketing. Perhaps even more importantly, though, is the principle of freedom, which by definition allows for disagreement. If we are to remain a free society, we must have the right to choose. We who support vaccine freedom of choice respect the choice to vaccinate. Given the above, the choice to refuse vaccines must also be retained, and equally respected.

Respectfully,



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⁶ Studies are numerous, but include the following:

(a) Measles vaccine failures: lack of sustained measles specific immunoglobulin G responses in revaccinated adolescents and young adults. Department of Pediatrics, Georgetown University Medical Center, Washington, DC 20007. *Pediatric Infectious Disease Journal*. 13(1):34-8, 1994 Jan. (b) Measles outbreak in 31 schools: risk factors for vaccine failure and evaluation of a selective revaccination strategy. Department of Preventive Medicine and Biostatistics, University of Toronto, Ont. *Canadian Medical Association Journal*. 150(7):1093-8, 1994 Apr 1. (c) Haemophilus b disease after vaccination with Haemophilus b polysaccharide or conjugate vaccine. Institution Division of Bacterial Products, Center for Biologics Evaluation and Research, Food and Drug Administration, Bethesda, Md 20892. *American Journal of Diseases of Children*. 145(12):1379-82, 1991 Dec. (d) Sustained transmission of mumps in a highly vaccinated population: assessment of primary vaccine failure and waning vaccine-induced immunity. Division of Field Epidemiology, Centers for Disease Control and Prevention, Atlanta, Georgia. *Journal of Infectious Diseases*. 169(1):77-82, 1994 Jan. 1. (e) Secondary measles vaccine failure in healthcare workers exposed to infected patients. Department of Pediatrics, Children's Hospital of Philadelphia, PA 19104. *Infection Control & Hospital Epidemiology*. 14(2):81-6, 1993 Feb. (f) *MMWR (Morbidity and Mortality Weekly Report)* 38 (8-9), 12/29/89. (g) *MMWR "Measles."* 1989; 38:329-330.

⁷ Failure to reach the goal of measles elimination. Apparent paradox of measles infections in immunized persons. Review article: 50 REFS. Dept. of Internal Medicine, Mayo Vaccine Research Group, Mayo Clinic and Foundation, Rochester, MN. *Archives of Internal Medicine*. 154(16):1815-20, 1994 Aug 22.

⁸ See, e.g., (a) "Public Citizen Study: Pharmaceutical Industry Is Biggest Defrauder of the Federal Government Under the False Claims Act," <http://www.pharmpro.com/news/2010/12/public-citizen-study-pharmaceutical-industry-biggest-defrauder-federal-government-under-false-claims-act>, (b) "GlaxoSmithKline to pay \$3 billion fine after pleading guilty to healthcare fraud - the biggest in U.S. history," MailOnline, <http://www.dailymail.co.uk/news/article-2167742/GlaxoSmithKline-pay-3b-fine-pleading-guilty-healthcare-fraud.html> and (c) "Johnson & Johnson to pay \$2 billion for false marketing," CNN Money, <http://money.cnn.com/2013/11/04/news/companies/johnson-and-johnson-settlement/>

Vaccine Fact Summary

1. In 2011, the U.S. Supreme Court ruled that vaccines are “unavoidably unsafe.” *Bruesewitz v. Wyeth LLC*, 131 S. Ct. 1068, 179 L.Ed.2d 1 (2011).³
2. National Vaccine Injury Compensation Program (NVICP) vaccine injury and death payouts⁴:
 - a. Total to date (1989-2015): \$ 3.1 Billion
 - b. Average annual payout 2005-2009: \$ 75,630,051 per year
 - c. Average annual payout 2010-2014: \$221,822,386 per year
 - d. Cases pending: 1,943
3. There is vast underreporting of vaccine adverse events. FDA: As few as 1% of serious adverse reactions are reported.⁵ CDC: Only about 10% are reported.⁶ Congress: Has heard testimony that medical students are told not to report suspected adverse events,⁷ yet, federal law requires doctors to do so.⁸ National Vaccine Information Center (NVIC) survey: 1 out of 40 doctor's offices (2.5%) in New York report a death or injury following vaccination.⁹ Association of American Physicians and Surgeons (AAPS): Only 10% of serious vaccine adverse events are reported.¹⁰
4. The Federal Court of Claims lists about 140 attorneys that accept vaccine injury and death cases.¹¹ This number has been steadily increasing in recent years.
5. The National Childhood Vaccine Injury Act of 1986 (NCVIA) shields vaccine manufacturers from liability for the death and disability caused by their vaccines. There is no financial incentive for manufacturers to produce safer vaccines.¹²
6. 90-95% of 1900's infectious disease decline preceded the vaccines.¹³ Absence of vaccination will not bring back infectious disease rates of pre-vaccine days.
7. According to the CDC:
 - a. Vaccines are 85 – 95% effective (5 - 15% of children do not develop immunity from their vaccines), and most outbreaks start in vaccinated children.¹⁴
 - b. The median vaccine exemption rate in the U.S. is 1.8%.¹⁵ There are more than 5+ times more non-immune *vaccinated* children than exempt children.
 - c. Exempt children can get natural immunity, without even developing symptoms.¹⁶ You can't tell a child's immune status based on their immunization status.
8. The American Medical Association Code of Medical Ethics recommends “medical, religious, or philosophic” exemptions to immunizations for medical doctors.¹⁷
9. The pharmaceutical industry is the biggest defrauder of the federal government under the False Claims Act.¹⁸ In the last 5 years, \$19.2 billion were returned from attempts to defraud federal health programs, more than double that of the previous 5 years (as of February 2014).¹⁹
10. In 8 years (2004-2012), there were twenty pharmaceutical company settlements in the \$345 million to \$3 billion range.²⁰ Criminal fines in the \$100's of millions are common, and have been as high as \$1 billion (Pfizer 2009, GlaxoSmithKline 2012). This is routine business practice.
11. Merck, manufacturer of the mumps vaccine, is going to trial in two separate lawsuits for allegedly falsifying the efficacy rate of its mumps vaccine. One suit was filed by former employee-whistleblowers, the other by pharmaceutical competitors.²¹

Conclusions:

1. Childhood infectious diseases have extremely low mortality rates in developed nations. Vaccines kill and permanently disable far more children than the diseases, and the mortality decline from the diseases preceded the introduction of vaccines.
2. There is insufficient data available to determine whether or not vaccines provide a net benefit, and no way to determine the risk of vaccine injury or death for any given child or adult.

3. Individual freedom of choice provides a necessary “check and balance” to the pharmaceutical industry’s overreaching, no-liability, marketing influence over vaccine policy and law.

4. Young adults are not required to risk their lives with mandatory military service, but newborn infants are required to risk their lives with a Hep B vaccine, for a disease they are not at risk of acquiring or spreading unless the mother is a carrier. This is unconscionable!

5. Parents for their children, and adults for themselves, must be allowed to make vaccine decisions, in consultation with the healthcare professional of their choice. No one should ever be required, absolutely, to take a product from an industry that routinely engages in large-scale criminal behavior.

¹ “Public Citizen Study: Pharmaceutical Industry Is Biggest Defrauder of the Federal Government Under the False Claims Act,” Dec. 20, 2010, <http://www.pharmpro.com/news/2010/12/public-citizen-study-pharmaceutical-industry-biggest-defrauder-federal-government-under-false-claims-act>

² False Claims Act Whistleblowing Blog, February 2014 archive, <http://www.fraudwhistleblowersblog.com/2014/02/>

³ *Bruesewitz v. Wyeth LLC*, <http://www.supremecourt.gov/opinions/10pdf/09-152.pdf>

⁴ NVICP Statistics Report, February 2015, <http://www.hrsa.gov/vaccinecompensation/statisticsreport.pdf>

⁵ Less than 1%, according to Barbara Fisher, citing former FDA Commissioner David Kessler, 1993, JAMA, 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.

⁶ American Association of Physicians and Surgeons, Fact Sheet on Mandatory Vaccines at <http://www.aapsonline.org/>.

⁷ Jane Orient, M.D., Director of the American Association of Physicians and Surgeons, “Mandating Vaccines: Government Practicing Medicine Without a License?” 1999.

⁸ 42 U.S.C. § 300aa-25.

⁹ National Vaccine Information Center (NVIC), 512 Maple Ave. W. #206, Vienna, VA 22180, 703-938-0342; “Investigative Report on the Vaccine Adverse Event Reporting System.”

¹⁰ Statement of the AAPS to the Subcommittee on Criminal Justice, Drug Policy and Human Resources of the Committee on Government Reform U.S. House of Representatives, Re: Hepatis B Vaccine, Jane Orient, MD, June 14, 1999, <http://www.aapsonline.org/testimony/hepbcom.htm>

¹¹ <http://www.uscfc.uscourts.gov/sites/default/files/20141208%20Vaccine%20Attorneys.pdf>

¹² See the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. § 300aa-1 *et seq.*, and *Bruesewitz v. Wyeth, LLC*, *supra*.

¹³ See, e.g., graphs here: <http://www.theoneclickgroup.co.uk/documents/vaccines/Immunization%20Graphs%20PPT%20-%20RO%202009.pdf>, <https://childhealthsafety.wordpress.com/graphs/>

¹⁴ Centers for Disease Control and Prevention, Vaccines and Immunizations, Misconception #2. The majority of people who get disease have been vaccinated. The original link, <http://www.cdc.gov/vaccines/vac-gen/6mishome.htm>, is now directed to a new CDC page that does not state these facts (but does not state contrary facts). The original CDC page can be viewed here: <http://web.archive.org/web/20150120055820/http://www.cdc.gov/vaccines/vac-gen/6mishome.htm>

¹⁵ Vaccination Coverage Among Children in Kindergarten – United States 2012-2013 School Year, Morbidity and Mortality Weekly Report (MMWR), CDC, http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6230a3.htm?s_cid=mm6230a3_eThe

¹⁶ Centers for Disease Control and Prevention, Vaccines and Immunizations, Glossary, “Asymptomatic infection: The presence of an infection without symptoms. Also known as inapparent or subclinical infection.” <http://www.cdc.gov/vaccines/about/terms/glossary.htm>

¹⁷ American Medical Association, Opinion 9.133 Routine Universal Immunization of Physicians, <http://www.ama-assn.org/ama/pub/physician-resources/medical-ethics/code-medical-ethics/opinion9133.page>

¹⁸ “Public Citizen Study: Pharmaceutical Industry Is Biggest Defrauder of the Federal Government Under the False Claims Act,” Dec. 20, 2010, <http://www.pharmpro.com/news/2010/12/public-citizen-study-pharmaceutical-industry-biggest-defrauder-federal-government-under-false-claims-act>

¹⁹ False Claims Act Whistleblowing Blog, February 2014 archive, <http://www.fraudwhistleblowersblog.com/2014/02/>

²⁰ List of largest pharmaceutical settlements (2004 – 2012), Wikipedia, http://en.wikipedia.org/wiki/List_of_largest_pharmaceutical_settlements

²¹ Lawsuits claiming Merck lied about mumps vaccine efficacy headed to trial, Fierce Vaccines, September 9, 2014, <http://www.fiercevaccines.com/story/lawsuits-claiming-merck-lied-about-mumps-vaccine-efficacy-headed-trial/2014-09-09>