

September 29, 2009

Letter Petition for Redress of Grievances to the Governor of New York:

Dear Governor Paterson,

The undersigned Citizens, healthcare workers and health freedom civil rights advocates support the efforts of the Rally delegates who are meeting with your Deputy Secretary of Health Saunders at the Capitol today. We have asked Secretary Saunders to deliver this message to you. Our primary concern is that the new regulations¹ mandating the flu vaccines are not authorized by the cited statutes and do not comport with medical ethics or fundamental principles of law and justice. The mandate imposed by this regulation is the same mandate rejected by the Legislature. This type of imposition is neither democratic nor transparent.

The assertion that there is a “public health emergency” in New York is simply not true; for example three weeks after the regulations were promulgated there were only 68 confirmed cases of seasonal flu in a state population of nearly twenty million people, according to the Department of Health web site. The “flu season” is over in the Southern Hemisphere and there has been no pandemic.

The practice in New York has always been that the annual flu vaccine is voluntary. HHS Secretary Sebelius testified before the US Congress on September 15, 2009 that seasonal flu vaccines were “voluntary” throughout the country. That has always been the case in New York. To change a long-standing practice upon which people rely by mere regulation, rather than direct legislation, is suspect at best. When the change puts people at known risk for serious adverse reactions, without any provision for compensation in the event of harm, the government bears a serious burden that seems to be ignored here. We decry the lack of transparency and public hearings.

We are particularly concerned that the exemption section is insufficient to protect significant civil rights. Title VII of the 1964 Civil Rights Acts requires employers to make reasonable accommodations for employees' religious beliefs. The regulations fail to address this and we want you, as Governor, to make it clear that the religious exemption is not being abrogated.

By "religious" we mean to include all sincerely held conscientious objections to vaccination that hold in an individual's belief system the same place that specific church teachings may hold in the beliefs of a member of such church. Discriminating against people based on non-church conscientious objections has never been permitted by the courts.

Furthermore, the exemption provided is far too narrowly drawn. There is significant scientific evidence that vaccination always compromises immune systems and that a much larger portion of the population are, upon grounds of health, not appropriate persons for repeated, multiple vaccinations that have never been tested together. Anyone who reports a prior reaction to any vaccine should never be forced to take any vaccine. No one should be required to "prove" such prior reaction by medical evidence since often such reactions cannot be verified after the fact; yet the individual is still at greater risk. For example, a preliminary Canadian study suggests that persons who receive the seasonal flu vaccine are at greater risk for catching "Swine Flu."²

Additionally by providing that the mandate shall apply to all flu vaccines "recommended" by the CDC, the un-safety tested "Swine Flu" vaccines that were licensed by the FDA two weeks ago will also be mandatory. This regulatory provision surrenders the state's obligations to a federal agency and is beyond the authority of the Department.

Our message to the Governor is that the public outcry against this mandate is such that the Governor needs to rethink his position and needs to meet and accommodate the sincerely held objections of the healthcare workers.

In 1905 the Supreme Court, prior to the era of Federal preemption of vaccine licensing and recommending, deferred to the states in decisions about vaccine mandates. This was the case of *Jacobson v. Commonwealth of Massachusetts*, 197 U.S. 11 (1905).

But that court clearly understood that there was a point beyond which no government could go in exercising the police power to mandate vaccinations. It held:

"We are not to be understood as holding that the ... judiciary would not be competent to interfere and protect the health and life of the individual ... "All laws," this court has said, "should receive a sensible construction. General terms should be so limited in their

application as not to lead to injustice, oppression or absurd consequence. ... we are not inclined to hold that the statute establishes the absolute rule that an adult must be vaccinated if it be apparent or can be shown with reasonable certainty that he is not at the time a fit subject of vaccination or that vaccination, by reason of his then condition, would seriously impair his health or probably cause his death."

Given the uncertainty of a match between the strains used in the vaccines and the natural viral strains, and the paucity of evidence of benefit, there is no reason to violate the healthcare workers' right to make their own health decisions.³

We, the Citizens present at the No Forced Vaccination Rally held today at the Capitol petition the Governor of the State of New York for redress of grievances.⁴

We call upon the Governor to protect our basic civil rights: suspend the new regulation and re-write it to meet these reasonable concerns.

Ad Hoc Organizing Committee

<http://groups.yahoo.com/group/NY-Vaccine-Strategy-Forum/>

Heather Walker, Moderator