March 20, 2015

TO: The North Carolina Legislature

Re: S.B. 346, Enact Stricter Immunization Requirements

Dear Legislators:

For the reasons cited below, I am respectfully requesting that you opposed S.B. 346, and introduce a bill providing North Carolinians the right to make informed vaccine choices.

S.B. 346 sponsor Senator Tarte is misleading the public with claims that North Carolinians are abusing NC’s religious exemption, § 130A-157, because few religious oppose immunizations. Federal courts have upheld vaccine religious exemptions whether or not the exemption applicant is a member of an organized religion at all, and regardless of what religion the applicant belongs to if they do belong to one, so long as they meet federal Constitutional “free exercise” of religion requirements. In fact, the Supreme Court has held that the First Amendment even protects religious beliefs that do not include a belief in ‘God’ in the western theological sense of that word.

North Carolina’s vaccine religious exemption has struck a healthy balance between the religious freedom granted by the state and federal Constitutions and public health. Removing North Carolina’s religious exemption would take us down a slippery slope—what religious freedom is next for the chopping block? Our State Constitution states:

All persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience.

N.C. Const. art. I, § 13. Religious liberty. We must continue to respect this sacred right by keeping North Carolina’s vaccine religious exemption.

In fact, we must go further and provide parents the right to make informed vaccine choices by providing a personal or philosophical exemption right that over ½ of parents in the U.S. already have. S.B. 346, and similar bills around the U.S. were inspired by misinformation about a California measles outbreak. 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 the

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MMR (measles, mumps, rubella) vaccine—and childhood infectious disease deaths had already declined 90-95% before vaccines were ever introduced. Moreover, the CDC has reported that vaccines are only 85% to 95% effective, while exemption rates are less than 2%. This means there are 5 times more non-immune vaccinated children than exempt children, which is why the CDC has stated that most outbreaks occur in vaccinated children. Furthermore, the National Vaccine Injury Compensation Program pays out more than $220 million/year (5 year ave) for vaccine injuries and deaths. So, if there is a problem with childhood infectious disease in North Carolina, it is that vaccine manufacturers—who have no liability for the harm caused by their products—are not held to a strict enough standard for vaccine safety and effectiveness, and not that there are too many exemptions.

For the reasons cited and itemized below with references, we must not only keep North Carolina’s religious exemption, we must add a personal or philosophical exemption that allows parents and other adults to make informed vaccine decisions, as a “check and balance” against the influence of private industry marketing goals on state health policy and law.

Respectfully,

[Signature]

Alan G. Phillips
NC State Bar No. 30436
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).\(^1\)

2. National Vaccine Injury Compensation Program (NVICP) vaccine injury and death payouts:\(^2\):
   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.\(^3\) CDC: Only about 10% are reported.\(^4\) Congress: Has heard testimony that medical students are told not to report suspected adverse events,\(^5\) despite federal law requiring doctors to report suspected adverse events.\(^6\) National Vaccine Information Center (VIC) survey: 1 out of 40 doctor’s offices (2.5%) in New York report a death or injury following vaccination.\(^7\) Association of American Physicians and Surgeons (AAPS): Only 10% of serious vaccine adverse events are reported.\(^8\)

4. The Federal Court of Claims lists about 140 attorneys that accept vaccine injury and death cases.\(^9\) 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.\(^10\)

6. 90-95% of 1900’s infectious disease decline preceded the vaccines.\(^11\) 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.\(^12\)
   b. The median vaccine exemption rate in the U.S. is 1.8%.\(^13\) 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.\(^14\) 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.\(^15\)

9. The pharmaceutical industry is the biggest defrauder of the federal government under the False Claims Act.\(^16\) 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).\(^17\)

10. In 8 years (2004-2012), there were twenty pharmaceutical company settlements in the $345 million to $3 billion range.\(^18\) 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.\(^19\)

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.

4 American Association of Physicians and Surgeons, Fact Sheet on Mandatory Vaccines at http://www.aapsonline.org/.
7 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 See the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. § 300aa-1 et seq., and Bruesewitz v. Wyeth, LLC, supra.
12 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
13 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_e
14 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/terminology/glossary.htm