



March 23, 2018

**\*\*\*VIA Regulations.gov\*\*\***

U.S. Department of Health and Human Services  
Office for Civil Rights  
Attention: Conscience NPRM, RIN 0945-ZA03  
Hubert H. Humphrey Building, Room 509F  
200 Independence Avenue SW  
Washington, DC 20201

Re: Protecting Statutory Conscience Rights in Health Care; Delegations of Authority -  
Docket ID HHS-OCR-2018-0002

The National Vaccine Information Center (NVIC) submits this written public comment in response and support of the above referenced proposed rule.

As a 501(c)3 non-profit charity founded in 1982 to prevent vaccine injuries and deaths through public education, NVIC is the oldest and largest consumer led organization in America monitoring vaccine science, policy and law and advocating for the inclusion of vaccine safety and informed consent protections in U.S. vaccine policies and laws. <sup>1</sup> NVIC does not make vaccine use recommendations. NVIC is an independent clearinghouse for information on vaccines and diseases and advocates for the protection of natural (human) rights and civil liberties, including freedom of thought, speech, conscience and religious belief. <sup>2</sup> NVIC defends the legal right for all Americans to make fully informed and voluntary health care decisions, including vaccine decisions, for themselves and their minor children.<sup>3</sup>

NVIC's co-founders were responsible for securing vaccine research and informing, recording and reporting safety provisions in the National Childhood Vaccine Injury Act of 1986. <sup>4</sup> This historic law acknowledged that federally recommended and state mandated vaccines can and do cause injury and death and that vaccine safety and research should be made a priority in the U.S. However, after enactment, the law was systematically compromised by congressional amendments and rule making changes made by DHHS that culminated in a 2011 U.S. Supreme Court split decision ruling influenced by federal agencies urging the Court to effectively eliminate all product liability from vaccine manufacturers for injuries and deaths caused by federally licensed vaccines. <sup>5 6 7 8 9 10</sup>

In a series of reports on the safety of federally recommended childhood vaccines published between 1991 and 2013, the Institute of Medicine (IOM), National Academy of Sciences, highlighted the urgent need to make vaccine safety and research a priority in the U.S. <sup>11 12 13 14</sup> These reports by IOM physician committees confirmed that vaccines recommended by federal health agencies and mandated by state governments can cause acute and chronic brain and immune system dysfunction or death, especially for individuals more susceptible

to vaccine reactions for genetic, biological, environmental and other reasons that have not been fully identified by medical science.<sup>15</sup>

For the majority of serious health problems reported following vaccination, the IOM committees were unable to conclude whether or not a particular vaccine caused the disorder or disability because they found too few methodologically sound epidemiological and biological mechanism studies had been conducted to draw a definitive conclusion.<sup>16</sup> In a 2012 IOM report reviewing scientific evidence for the safety of eight federally recommended childhood vaccines, there were too few quality scientific studies for the committee to come to a definitive conclusion for 135 serious health problems reported after vaccination, which represented 85 percent of the vaccine adverse events reviewed.<sup>17</sup> In 2013, IOM determined that the federally recommended vaccine schedule for children between birth and age six had not been systematically scientifically evaluated and that significant gaps in knowledge about vaccine safety remain, particularly for children who may be at higher risk for experiencing serious vaccine reactions.<sup>18 19</sup>

National vaccine policies, which are not anchored in sound science and are turned into law at the state level for school aged children and adults in certain professions, fail to acknowledge the genetic, biological and environmental differences between citizens living in every state. The inclusion of religious and conscientious belief exemptions in federal vaccine policies and state laws helps to prevent discrimination against vulnerable children and adults, who are being unfairly penalized by one-size-fits-all vaccine policies that place an unequal risk burden on those with high risk factors that may or may not have been identified by medical science.

Respect for natural rights, including freedom of conscience and religious belief, is central to the ethical practice of medicine and humane implementation of public health policy and law.

Unfortunately, DHHS officials have criticized religious and conscientious belief vaccine exemptions and now publicly identify and shame private and public schools educating children, whose parents have filed a religious or conscientious belief exemption to vaccination for them.<sup>20</sup> Some of these children are physically at higher risk for vaccine injury but their parents cannot find a doctor to write a medical exemption because DHHS officials have narrowed vaccine contraindications to the point where almost no health condition qualifies for a medical exemption.<sup>21 22</sup> In some states, doctors are being threatened with removal of their medical licenses if they exercise independent professional judgment and conscience and give children medical exemptions that fall outside the very restrictive federal vaccine contraindication guidelines.<sup>23</sup> In these cases, the only recourse parents have to protect their children from vaccine injury or death is to file a non-medical exemption that allows them to obey their conscience and/or adhere to personal religious beliefs.

In pursuit of a nearly 100 percent vaccination rate with all federally recommended vaccines, the federally funded National Vaccine Advisory Committee (NVAC) created under the National Childhood Vaccine Injury Act of 1986 has recommended that state health departments and legislatures restrict or eliminate religious and conscientious belief vaccine exemptions for children and adults.<sup>24 25 26</sup> DHHS officials have instituted federal grant funding incentives to states to maintain high vaccination rates with all federally

recommended vaccines and federal grant funding is reduced in states that do not maintain very high vaccination rates.<sup>27 28 29</sup>

The call for elimination of the legal right to exercise freedom of conscience and religious belief by DHHS has been echoed by private medical trade associations receiving federal funding and advocating for ‘no exceptions’ mandatory vaccination laws, such as the American Academy of Pediatrics, whose members are shielded from civil liability for vaccine injuries and deaths under the 1986 Act.<sup>30 31 32 33</sup> Today, many pediatricians are refusing to provide medical care to children who are not vaccinated according to federally recommended vaccine schedules.<sup>34 35</sup> Other federally funded non-governmental groups promoting ‘no exceptions’ vaccine laws, such as Immunization Action Coalition<sup>36</sup> and Every Child by Two,<sup>37</sup> also actively oppose the legal right for Americans to follow their conscience and religious beliefs when making vaccination decisions for themselves and their minor children.<sup>38 39</sup>

The attack by government health agencies, medical trade associations and pharmaceutical companies on the legal right for Americans to exercise freedom of conscience and religious belief when making vaccine decisions has created a hostile and coercive health care environment.<sup>40 41</sup> Children, who do not receive every one of the 69 doses of 16 federally recommended vaccines,<sup>42</sup> and adults, who do not agree to get an annual flu shot or other federally recommended vaccines, are threatened with loss of medical care, health insurance, education and employment.<sup>43 44 45</sup> This oppressive implementation of government vaccine policy has led some families to avoid medical care because they are afraid of being bullied and sanctioned by doctors for following their conscience.

President Thomas Jefferson, who co-authored the Virginia Act for Religious Freedom (1786)<sup>46</sup> that served as the foundation for the Bill of Rights in the U.S. Constitution, stated in his first inaugural address:

*“All too will bear in mind this sacred principle, that though the will of the majority is in all cases to prevail, that will, to be rightful, must be reasonable; that the minority possess their equal rights, which equal laws must protect, and to violate would be oppression.”<sup>47</sup>*

The moral and legal right for individuals to exercise freedom of thought and conscience when making decisions about medical risk taking, which is embodied in the informed consent principle that has guided the ethical practice of medicine since 1947, is a human right.<sup>48 49 50 51</sup> It is imperative for the U.S. government to acknowledge that Americans have the moral and legal right to obey the judgment of their conscience and hold personal religious beliefs regarding use of government recommended vaccines without being sanctioned.

This proposed rule addresses, in part, exercise of freedom of conscience and religious belief when individuals administer or receive vaccines in certain circumstances. NVIC respectfully requests the proposed rule include and clarify guidance for federal agencies regarding the following:

- That funds from the Public Health Service Act Section 317, which are used in government operated programs to vaccinate children and adults, include informed consent and freedom of conscience and religious belief protections for those

receiving federally funded vaccines and/or the parents or legal guardians making vaccine decisions on behalf of minor children;<sup>52</sup>

- That there is inclusion and affirmation of freedom of conscience protections by the EEOC in preventing discrimination, with acknowledgment of Title VII rulings that have protected the rights of adults in the work place to make voluntary vaccine decisions in accordance with conscience and religious beliefs.<sup>53 54 55 56</sup>
- That this proposed rule affirms the right to freedom of conscience and religious belief as it relates to CMS Meaningful Use and Merit-based Incentive Payment System (MIPS). Currently, the proposed rule is silent on the protection of freedom of conscience related to the incentivizing or penalizing of doctors required to meet vaccination quotas within their practices. Without strong freedom of conscience protections, this incentivization program promotes an environment of coercion and discrimination in the delivery of well patient care and is in conflict with the intent of this rule-making process.<sup>57</sup>

NVIC supports this proposed rule to affirm and protect the legal right of Americans to exercise freedom of conscience and religious belief when making voluntary decisions about health care. We respectfully request that there be clarification that this protection includes the legal right for all Americans to exercise freedom of conscience, religious belief and informed consent when administering or receiving federally funded licensed and recommended vaccines.

Sincerely,



Barbara Loe Fisher  
President & Co-founder



Theresa Wrangham  
Executive Director

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