

THE SWINE FLU REVIEW
North Carolina Addendum 2010

I. North Carolina's Emergency Health Laws

A. Statutory Law

North Carolina's religious exemption to immunizations applies to "the immunization requirements contained in this Chapter [Chapter 130A]" and pertains to attendance at "the college, university, school or facility..."¹ (North Carolina does not offer the philosophical or personal exemption that is available to the majority of other U.S. residents.) However, the State emergency management program in a different chapter, Chapter 166A, provides for the "allocation of immunizing agents and prophylactic antibiotics" and "Immunization procedures,"² but does not provide an exemption of any kind.

Next, the "Governor shall have general direction and control of the State emergency management program and shall be responsible for carrying out the provisions of this Article [within Chapter 166A]." Given North Carolina Governor Purdue's recent high-profile involvement in support of vaccine manufacturer Novartis' new flu vaccine manufacturing facility at Holly Springs, North Carolina, built with \$400 million of federal funding,³ it is reasonable to assume that she would exercise her authority in favor of the vaccine industry in any declared emergency vaccine decision. Since we now know that pandemics and emergencies can be declared whether or not they truly exist, and that the true harm caused by emergency vaccines adverse events is unknowable but substantial, North Carolina citizens desperately need legislative protection from potential government corruption and bias on this issue—the right to say "no" to emergency vaccines under any situation or circumstance in favor of the proven safer, more effective options, in consultation with the healthcare provider of our choice; and the right to choose our homes as our place of quarantine if we so desire.

Disturbingly, first responders deployed to disaster locations with "occupational exposure" may not refuse vaccines, even for medical reasons (includes terrorist incidents involving biological agents).⁴ This stands in direct opposition to the holding in the U.S. Supreme Court case Jacobson v. Massachusetts, which found a Constitutional right to a medical exemption to immunizations during emergencies.⁵ A better policy would be to allow all, including first responders, to choose between immunizations and homeoprophylaxis during a declared emergency.

B. State Policy and Legal Precedent

Government's endorsement of allopathic immunizations to the exclusion of viable means of addressing the risks and threats of infectious disease in other modalities raises an important state policy issue. The North Carolina Supreme Court has stated that "to limit progress by establishing allopathy as the state system of healing, and forbidding all others . . . would be as foreign to our system as a state church for the cure of souls."⁶ The standard set forth in this holding is directly violated by this state's mandating vaccines in any situation (where quarantine or other manner of prophylaxis are available), but perhaps most disturbingly by the recent distribution of seasonal and swine flu vaccines in

public schools. This would be equally egregious, given all of the above, if the state should ever mandate vaccines without exemptions in a future declared emergency. Each of these situations amounts to the State effectively establishing allopathy as a state system of healing, in violation of the State Supreme Court's holding. Schools should not be in the healthcare distribution business, and North Carolina citizens should have statutory protection from the inevitable future misdeeds of the pharmaceutical industry and bias of conflicted government agencies.

II. Pharmaceutical Corruption in North Carolina

“North Carolina's attorney general says the state will recover more than \$570,000 from a pharmaceutical company over allegations of improper marketing . . . as part of a \$37 million national settlement . . . In the last decade, North Carolina's Medicaid Investigations Unit has recovered more than \$361 million in various cases.”⁷ Clearly, corruption of the pharmaceutical industry is well documented within the borders of North Carolina, and its citizens desperately need legislative protection.

¹ N.C. Gen. Stat. § 130A-157.

² N.C. Gen. Stat. § 166A-5(3)b1.3, 6.

³ U.S. health-threat response to be reviewed, The Washington Post, December 2, 2009,

<http://www.washingtonpost.com/wp-dyn/content/article/2009/12/01/AR2009120101288.html>

⁴ N.C. Gen. Stat. 130A-485.

⁵ *Jacobson v. Massachusetts*, 197 U.S. 11, 25 S.Ct. 358, 49 L.Ed. 643 (1905).

⁶ *State v. McKnight*, 131 N.C. 717, 42 S.E. 580, <http://www.vaccinerights.com/StatevMcKnight.pdf>.

⁷ N.C. gets \$570,000 in drug marketing settlement, news-record.com (Greensboro, NC), http://www.news-record.com/content/2010/08/23/article/nc_gets_570000_in_drug_marketing_settlement.