

MONTANA FAMILIES FOR HEALTH FREEDOM

EXHIBIT 11
11/26/2011
HB ~~33~~ 227

Our Right to Religious Exemption of Vaccination in Day care/Preschool Must be Preserved

Q. Why is the religious exemption to vaccination important?

A. This is a constitutional right. To practice one's religion is among the most cherished constitutional rights in our country. Many immigrated to America for religious freedom. Religious objections to vaccination include: prohibitions against eating unclean animals, taking into the body the blood of animals, as well as objections to the use of aborted fetal tissue in the culture of vaccines.

Q. What is the problem with the religious exemption in Montana?

A. For school attendance, there is no problem; however, for day care/preschool attendance an acute discrimination against the religious exemption exists due to Administrative Rules of Montana (ARM) created by the Department of Public Health and Human Services (DPHHS). ARM offers a medical exemption for school AND day care/preschool attendance to any unvaccinated or partially vaccinated child—but the same rules are silent on religious exemption for day care/preschool, EXCEPT for the Hib vaccine.

To clarify—Montana law (52-2-735, MCA) only requires a Hib immunization to attend day care/preschool, although offers both the medical and religious exemption for that one vaccine, Hib. While Montana law is silent about other vaccines and exemptions in day care/preschool, a reasonable interpretation of 52-2-735, MCA is that it implies an allowance for both medical and religious exemptions for any additional required vaccines.

Interpreting the law in light of the **Montana Constitution**, the **U.S. Constitution**, our Montana law that provides exemptions (20-5-405, MCA) and in harmony with the **exemption laws or rules of 48 other states** causes one to realize that **the Montana legislature must have intended for both the religious and medical exemption to be available to all vaccines required in administrative rules**. Offering a medical exemption to all vaccines while offering a religious exemption to only one vaccine is an irrational and discriminatory interpretation of Montana law. A clarification of Montana law is needed to end this discrimination.

Q. Can the operator of a non-profit day care/preschool run by a religious organization whose tenants are opposed to vaccination accept children into their day care/preschool using the religious exemption for all vaccines and not just the Hib?

A. No. DPHHS policy disallows all religious exemptions (except for the Hib vaccine) in all licensed facilities.

Q. Can't a parent just utilize a non-licensed day care/preschool for their child(ren)?

A. This is a discriminatory suggestion; un-vaccinated children whose parents hold strong religious tenants against vaccination deserve the same kind of safety and protection that vaccinated children get through the day care/preschool licensing process. licensed day care facilities, many of which are funded in part by taxpayer monies through the food program, subsidies for low income families, or both

Q. What are the undesirable results of the current administrative rules?

A. DPHHS fear of what could happen if religious exemptions are unrestricted, combined with DPHHS belief that the Montana legislature made a mistake when providing religious exemptions in day care/preschool has **resulted in the following**:

1. Unconstitutional and unlawful administrative rules.
2. Children are being denied admittance to day care/preschool.
3. Parents suffer burdensome financial costs in order to find alternatives to day care/preschool.
4. Day care/preschool operators suffer financial losses due to the necessity of turning away clients.
5. Montana children have been severely injured from vaccinations when parents faced with no other options for childcare are backed into a corner and must vaccinate when it is against their religious beliefs.
6. The State of Montana is paying hundreds of thousands of dollars in medical costs for vaccine injured children through the Medicaid program. Honoring parental choice can eliminate a portion of unnecessary injuries and expenses.

Q. Will vaccination rates be severely lowered by broadening the availability of exemptions?

A. No. The total of religious and medical exemptions combined seldom exceeds 1% of the population. High rates of vaccination have been maintained in states that maintain parental access to medical, religious and philosophical belief exemptions.

Q. What about herd immunity? Won't it be compromised in Montana because of religious exemptions?

A. No other state has suffered loss of herd immunity because of vaccination exemptions. According to the CDC's National Immunization Survey, there is no link between having exemptions or the type of exemption and lower vaccination coverage. Many states with both religious and philosophical exemptions have a higher vaccination rate than Montana. Herd immunity has never been threatened by exemptions in the 48 other states that allow this freedom. If vaccination coverage falls by 1%, that is not nearly enough to lose herd immunity.

Q. Won't religious exemptions in the day care/preschool setting be a death sentence for incompletely immunized or immunocompromised children?

A. No. All 50 states allow the medical exemption to vaccination in day care/preschool and 48 of 50 states allow a religious exemption to vaccination in the day care/preschool setting. These policies have existed in either statute law or states' administrative rules for 30 years or longer. AND...Immunized children are protected, period. In fact, that is the whole reason for vaccinating: to prevent a child from catching a disease from other people (whether they are vaccinated or not vaccinated). If vaccines work, there is nothing to fear.

Q. Will immunocompromised children, who cannot be vaccinated for medical reasons, catch diseases from exemptors?

A. The greatest danger to immunocompromised children is exposure to children who have been recently vaccinated with live-virus vaccines (measles, mumps, rubella, polio, varicella and some flu vaccines are live-virus). These infectious individuals are not quarantined and there is no need to "quarantine" healthy non-vaccinated individuals by denying them access to day care/preschool.

Q. Will exemptions cause formerly eradicated diseases to return?

A. No. The 48 states that allow religious exemptions in day care/preschool have never seen a return of diseases because of exemptions. Periodically, a few, small isolated outbreaks have occurred, but more often than not, these occur in **fully** vaccinated populations, as well as unvaccinated ones. It is unscientific and discriminatory to single out unvaccinated children as more of a public health threat than vaccinated children who get the same disease.

Q. Isn't public health *more* important than individual rights?

A. Public health is made of individual health. Vaccines are marketed without adequate testing for either effectiveness or safety. Exemptors provide an essential service to the community by providing scientific control groups that yield information about vaccine effectiveness and safety that vaccine pre-license trials do not. Exemptions are a scientific necessity in order to promote public health. Unfortunately these benefits are seldom appreciated and exemption benefits motivate opposition from those who derive either money or power from vaccine mandates.

Our country has a strong 30 year history of allowing exemptions in 48 states **without** compromising public health.

If other states can protect *both* public health and individual rights, why can't Montana?

Q. Are there any doctors opposed to vaccine mandates?

A. The Association of American Physicians and Surgeons has unanimously called for a moratorium on vaccine mandates. www.aapsonline.org/testimony/vacresol.htm

Q. Can we dispense with the religious exemption and have only medical exemptions to vaccination?

A. There are several reasons the religious exemption to state mandated vaccinations must be protected:

1. Religious practice is protected by both the U.S. Constitution and Montana's Constitution, whereas medical freedom is implied but it receives less protection due to not being implicitly stated in law.
2. The medical exemption to vaccination is "broken". Commonly, doctors will only give a medical exemption to vaccination if there has been a medically documented adverse reaction to a previous vaccine and often not even then.
3. Doctors are conflicted by financial rewards for administering vaccines, treating vaccine injuries and by pressures from employers, insurance companies and licensing boards to maintain high vaccination rates.
4. Parents are responsible for the consequences including the financial and long term obligations of their child if injured by vaccines; thus, parents must also have the power to make the health care decisions that affect their children's lives.

Q. Who is eligible for a religious exemption?

A. Religion includes "*moral or ethical beliefs about what is right and wrong that are sincerely held with the strength of traditional religious views.*"
29 CFR §1605.1

Q. Based upon deeply held beliefs, and within their Constitutional rights, families choose to not vaccinate based on a variety of religious objections including, but not limited to: prohibitions against contact with unclean animals; taking into the body the blood of animals; and the opposition to supporting abortion. Why do these objections affect the decision to vaccinate?

A. Because key vaccine ingredients include bovine extract; monkey kidney and lung cells; egg albumin; guinea pig embryo cells; mouse serum proteins; chick embryo fibroblasts and human diploid cells from aborted fetal tissue.

Q. How does science relate to the medical and religious exemptions?

A. Anytime a parent becomes aware that their child has been vaccine damaged or potentially may become vaccine damaged (science), it is **ethically imperative and a religious duty to protect the child from further potential adverse effects of vaccination** using either the medical or religious exemption.

Q. If public health is not at stake, then why do we have vaccine mandates?

A. **Money provides the overwhelming impetus for vaccine mandates.** State governments receive money from federal funds for vaccine purchase and vaccination tracking.

- Secretary Joseph Califano, Department of Health and Human Services (HHS), wrote to the governor of every state in April, 1977, urging them to enact and enforce **compulsory** vaccination laws. The CDC, a branch of HHS, advocated the establishment and universal enforcement for immunization before school entry. **All states were asked to review their immunization laws and enforcement policies and were reminded of the annual receipt of federal funds to purchase vaccines and support vaccine infrastructure.** The effect of this "green encouragement" was that by 1980, all 50 states had laws that linked vaccination with school entrance.
- State officials want to be in a position to say that vaccinations are "voluntary" in order to avoid the enormous legal liabilities that otherwise arise if a child is harmed or killed by mandatory vaccinations. Exemptions provide both legal and scientific benefits to the state. The perception that vaccination is mandated benefits financial programs that reward based on high rates of vaccination.
- This requested clarification of Montana law will not result in smaller federal grants to Montana.

Protecting religious exemption choices promotes health and freedom for the entire community.

For more information or to join our cause, our mailing address is:

Montana Families for Health Freedom • PO Box 7784 • Missoula, MT 59807 • Phone: 406-728-8401

Our email address, other information and a link to our Facebook page may be found at: www.MTFamiliesForHealthFreedom.com

Mr. Chairman, members of the Committee, thank you for the opportunity to testify today. And thank you to Rep. Wagner for sponsoring this legislation.

My name is Edna Kent and I am here on behalf of Montana Families for Health Freedom. We are a statewide, bi-partisan group advocating for, and educating people about, informed health care choices.

You have before you for consideration **HB227**, a bill to revise Montana laws relating to religious exemptions for immunizations.

In April, 1977, Secretary Joseph Califano, of the then Department of Health, Education and Welfare, wrote to the governor of every state urging them to enact and enforce compulsory vaccination laws. Known as the National Childhood Immunization Initiative, and backed by the CDC, all states were asked to review their immunization laws and enforcement policies and were reminded of the annual receipt of federal funds to purchase vaccines and support vaccine infrastructure. The effect of this monetary encouragement was that by 1980, all 50 states had laws that linked school entrance to vaccination.

While the Federal Government leaves with the states the authority to require vaccination through its conveyance of general police powers as a matter of public safety, the United States Supreme Court has stated that state laws regarding vaccination are at the discretion of the state as long as they do not contravene the Constitution of the United States or infringe any right granted or secured by that instrument.

Religion in Montana is defined as moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.

Fundamentally, and in case law, the only basis for denying a constitutionally protected right such as free exercise of religion is if it can be proven that it is for the good of the whole. While the State might be able to mandate vaccines for the good of the whole, they have not at any time, through due process of law, proven that denying religious freedom from vaccines is for the good of the whole.

Present Montana laws do not provide a distinction or basis in law for discrimination between religious exemptions to immunizations and medical exemptions to immunizations. DPHHS, however, has adopted Administrative Rules pertaining to children under the age of 5 years in the pre-school and daycare settings that allows for a medical exemption to any immunization, but allows a **religious** exemption to only one immunization. These Administrative Rules are contrary to the intent of Montana law, and in violation of both the United States and State of Montana Constitutional right to the free exercise of religion.

Based upon deeply held beliefs, and well within their Constitutional rights, families choose to not vaccinate based on a variety of religious objections including, but not limited to: prohibitions against contact with unclean animals; taking into the body the blood of animals; and opposition to abortion. These objections affect the decision to vaccinate because key vaccine ingredients include: bovine extract; monkey kidney tissue and lung cells; egg albumin; guinea pig embryo cells; mouse serum proteins; insect cell protein; chick embryo fibroblasts; and human diploid cells from aborted fetal tissue.

Many of these non-vaccinating families are *working* families that, by necessity, require childcare services. At 52-2-702, MCA, known as the Montana Child Care Act, the State declares that part of the purpose of the act is to promote the availability and diversity of quality child-care services for all children and families that need such services, and to ensure that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child-care facility.

ARM 37.95.108 further states that a registrant or licensee (of a day care facility) shall not discriminate in child admissions...on the basis of race, sex, **religion**, creed, color, national origin, or disability. Juxtaposed against that is the position of DPHHS, as spelled out in a letter signed by the Director on December 8, 2010, that "...while school attendance is required by law...enrollment in day care is not required." DPHHS seems to have decided that the Montana Child Care Act does not apply to families that have chosen to not vaccinate because of their religious beliefs.

That same letter goes on to say that vaccine requirements in the day care setting give parents of young children, who have not been fully vaccinated because of their age, "...an assurance that they are not putting their children at risk of vaccine-preventable disease." This statement is assumptive. DPHHS is not able to make any such assurance since Montana day cares are already allowed by law and Administrative Rule to admit unvaccinated children who have the medical exemptions.

Lastly, DPHHS states that, "Montana's childhood immunization rates are well below the national average, increasing our susceptibility to outbreaks of vaccine preventable disease. An additional exemption to vaccination may result in even lower coverage rates and increase our vulnerability to outbreak of disease."

Montana has no higher incidence of vaccine preventable diseases than any other state. At present, 48 other states already allow a religious and/or philosophical exemption to vaccinations in day care facilities and they have shown no greater increases in outbreaks of vaccine preventable diseases.

DPHHS suggesting that an additional exemption, meaning the religious exemption, may result in even lower vaccine coverage rates and increased vulnerabilities is simply conjecture. There is no proof that children with religious exemptions to vaccines, allowed into day care settings, present any higher risk of

contracting and then spreading a vaccine preventable disease, than do medically exempt children, or even fully vaccinated children.

Factually and scientifically, immunization and vaccination are NOT synonymous terms since one can be vaccinated against a pathogen and still not have immunity to that same pathogen. The recent pertussis outbreak in Flathead County is proof of that with the health department reporting that **all** of the children with pertussis **had been vaccinated**, including a pre-schooler.

We understand that this one recent letter received from DPHHS is not reflective of their entire position, which you will hear from them today.

As members of this legislative committee, you have the opportunity to stop this discriminatory practice by a governmental agency that has placed its Administrative Rules appositively to constitutional rights. DPHHS has infringed upon the free exercise of religion by families objecting to vaccinations by denying their children admission to licensed day care facilities, facilities funded in part by the tax monies collected from these very families and then distributed via the food program, subsidies for low income families, or both. Again, this has been done without due process of law.

I ask you today to support the Constitutional rights of families by supporting HB227 and restoring to Montana families their free exercise of religion in the matter of vaccines and childcare services.

Thank you for your time.

Edna Kent PO Box 1443 Florence, MT 59833 728.8401

Vaccine Excipient & Media Summary, Part 2

Excipients Included in U.S. Vaccines, by Vaccine

Includes vaccine ingredients (e.g., adjuvants and preservatives) as well as substances used during the manufacturing process, including vaccine-production media, that are removed from the final product and present only in trace quantities.
In addition to the substances listed, most vaccines contain Sodium Chloride (table salt).

Vaccine	Contains
Anthrax (BioThrax)	Aluminum Hydroxide, Amino Acids, Benzethonium Chloride, Formaldehyde or Formalin, Inorganic Salts and Sugars, Vitamins
BCG (Tice)	Asparagine, Citric Acid, Lactose, Glycerin, Iron Ammonium Citrate, Magnesium Sulfate, Potassium Phosphate
DTaP (Daptacel)	Aluminum Phosphate, Ammonium Sulfate, Casamino Acid, Dimethyl-beta-cyclodextrin, Formaldehyde or Formalin, Glutaraldehyde, 2-Phenoxyethanol
DTaP (Infanrix)	Aluminum Hydroxide, Bovine Extract, Formaldehyde or Formalin, Glutaraldehyde, 2-Phenoxyethanol, Polysorbate 80
DTaP (Tripedia)	Aluminum Potassium Sulfate, Ammonium Sulfate, Bovine Extract, Formaldehyde or Formalin, Gelatin, Polysorbate 80, Sodium Phosphate, Thimerosal*
DTaP/Hib (TriHIBit)	Aluminum Potassium Sulfate, Ammonium Sulfate, Bovine Extract, Formaldehyde or Formalin, Gelatin, Polysorbate 80, Sucrose, Thimerosal*
DTaP-IPV (Kinrix)	Aluminum Hydroxide, Bovine Extract, Formaldehyde, Lactalbumin Hydrolysate, Monkey Kidney Tissue, Neomycin Sulfate, Polymyxin B, Polysorbate 80
DTaP-HepB-IPV (Pediatrix)	Aluminum Hydroxide, Aluminum Phosphate, Bovine Protein, Lactalbumin Hydrolysate, Formaldehyde or Formalin, Glutaraldehyde, Monkey Kidney Tissue, Neomycin, 2-Phenoxyethanol, Polymyxin B, Polysorbate 80, Yeast Protein
DtaP-IPV/Hib (Pentacel)	Aluminum Phosphate, Bovine Serum Albumin, Formaldehyde, Glutaraldehyde, MRC-5 DNA and Cellular Protein, Neomycin, Polymyxin B Sulfate, Polysorbate 80, 2-Phenoxyethanol,
DT (sanofi)	Aluminum Potassium Sulfate, Bovine Extract, Formaldehyde or Formalin, Thimerosal (multi-dose) or Thimerosal* (single-dose)
DT (Massachusetts)	Aluminum Hydroxide, Formaldehyde or Formalin
Hib (ACTHib)	Ammonium Sulfate, Formaldehyde or Formalin, Sucrose
Hib (Hiberix)	Formaldehyde or Formalin, Lactose
Hib (PedvaxHib)	Aluminum Hydroxyphosphate Sulfate
Hib/Hep B (Comvax)	Amino Acids, Aluminum Hydroxyphosphate Sulfate, Dextrose, Formaldehyde or Formalin, Mineral Salts, Sodium Borate, Soy Peptone, Yeast Protein
Hep A (Havrix)	Aluminum Hydroxide, Amino Acids, Formaldehyde or Formalin, MRC-5 Cellular Protein, Neomycin Sulfate, 2-Phenoxyethanol, Phosphate Buffers, Polysorbate
Hep A (Vaqta)	Aluminum Hydroxyphosphate Sulfate, Bovine Albumin or Serum, DNA, Formaldehyde or Formalin, MRC-5 Cellular Protein, Sodium Borate
Hep B (Engerix-B)	Aluminum Hydroxide, Phosphate Buffers, Thimerosal*, Yeast Protein

Vaccine	Contains
Hep B (Recombivax)	Aluminum Hydroxyphosphate Sulfate, Amino Acids, Dextrose, Formaldehyde or Formalin, Mineral Salts, Potassium Aluminum Sulfate, Soy Peptone, Yeast Protein
HepA/HepB (Twinrix)	Aluminum Hydroxide, Aluminum Phosphate, Amino Acids, Dextrose, Formaldehyde or Formalin, Inorganic Salts, MRC-5 Cellular Protein, Neomycin Sulfate, 2-Phenoxyethanol, Phosphate Buffers, Polysorbate 20, Thimerosal*, Vitamins, Yeast Protein
Human Papillomavirus (HPV) (Cerverix)	3-O-desacyl-4'-monophosphoryl lipid A (MPL), Aluminum Hydroxide, Amino Acids, Insect Cell Protein, Mineral Salts, Sodium Dihydrogen Phosphate Dihydrate, Vitamins
Human Papillomavirus (HPV) (Gardasil)	Amino Acids, Amorphous Aluminum Hydroxyphosphate Sulfate, Carbohydrates, L-histidine, Mineral Salts, Polysorbate 80, Sodium Borate, Vitamins
Influenza (Afluria)	Beta-Propiolactone, Calcium Chloride, Neomycin, Ovalbumin, Polymyxin B, Potassium Chloride, Potassium Phosphate, Sodium Phosphate, Sodium Taurodeoxychoalate
Influenza (Agriflu)	Cetyltrimethylammonium Bromide (CTAB), Egg Protein, Formaldehyde or Formalin, Kanamycin, Neomycin Sulfate, Polysorbate 80
Influenza (Fluarix)	Egg Albumin (Ovalbumin), Egg Protein, Formaldehyde or Formalin, Gentamicin, Hydrocortisone, Octoxynol-10, α -Tocopheryl Hydrogen Succinate, Polysorbate 80, Sodium Deoxycholate, Sodium Phosphate, Thimerosal*
Influenza (Flulaval)	Egg Albumin (Ovalbumin), Egg Protein, Formaldehyde or Formalin, Sodium Deoxycholate, Phosphate Buffers, Thimerosal
Influenza (Fluvirin)	Beta-Propiolactone, Egg Protein, Neomycin, Polymyxin B, Polyoxyethylene 9-10 Nonyl Phenol (Triton N-101, Octoxynol 9), Thimerosal (multidose containers), Thimerosal* (single-dose syringes)
Influenza (Fluzone)	Egg Protein, Formaldehyde or Formalin, Gelatin, Octoxinol-9 (Triton X-100), Thimerosal (multidose containers)
Influenza (FluMist)	Chick Kidney Cells, Egg Protein, Gentamicin Sulfate, Monosodium Glutamate, Sucrose Phosphate Glutamate Buffer
IPV (Ipol)	Calf Serum Protein, Formaldehyde or Formalin, Monkey Kidney Tissue, Neomycin, 2-Phenoxyethanol, Polymyxin B, Streptomycin,
Japanese Encephalitis (JE-Vax)	Formaldehyde or Formalin, Gelatin, Mouse Serum Protein, Polysorbate 80, Thimerosal
Japanese Encephalitis (Ixiaro)	Aluminum Hydroxide, Bovine Serum Albumin, Formaldehyde, Protamine Sulfate, Sodium Metabisulphite
Meningococcal (Menactra)	Formaldehyde or Formalin, Phosphate Buffers
Meningococcal (Menomune)	Lactose, Thimerosal (10-dose vials only)
Meningococcal (Menveo)	Amino Acid, Formaldehyde or Formalin, Yeast
MMR (MMR-II)	Amino Acid, Bovine Albumin or Serum, Chick Embryo Fibroblasts, Human Serum Albumin, Gelatin, Glutamate, Neomycin, Phosphate Buffers, Sorbitol, Sucrose, Vitamins

Where "thimerosal" is marked with an asterisk () it indicates that the product should be considered equivalent to thimerosal-free products. This vaccine may contain trace amounts (<0.3 mcg) of mercury left after post-production thimerosal removal, but these amounts have no biological effect. *JAMA* 1999;282(18) and *JAMA* 2000;283(16)

Adapted from Grabenstein JD. *ImmunoFacts: Vaccines & Immunologic Drugs*. St. Louis, MO: Wolters Kluwer Health Inc.; 2009 and individual products' package inserts.

All reasonable efforts have been made to ensure the accuracy of this information, but manufacturers may change product contents before that information is reflected here.

This document can be found on the CDC website at:

<http://www.cdc.gov/vaccines/pubs/pinkbook/downloads/appendices/B/excipient-table-2.pdf>

DEPARTMENT OF
PUBLIC HEALTH AND HUMAN SERVICES



BRIAN SCHWEITZER
GOVERNOR

ANNA WHITING SORRELL
DIRECTOR

STATE OF MONTANA

www.dphhs.mt.gov

December 8, 2010

Edna Kent
Montana Families for Health Freedom
1015 Ronan St
Missoula MT 59801

Dear Ms. Kent:

Thank you for your letter, sent on behalf of Montana Families for Health Freedom, regarding childcare facilities and Montana's immunization rules. As per your request, staff of the department met to review our current immunization rules, specifically those relating to religious exemptions and childcare centers.

After review, it was the consensus of our staff that the present Administrative Rules of Montana outlining immunization requirements in childcare centers are consistent with state law. In addition, we feel that the current rules are consistent with the department's mandate to protect the health of children enrolled in childcare centers. Therefore, we must decline your request to change our administrative rules.

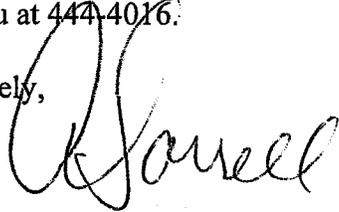
Our decision was made after careful consideration and based on several factors- both legal and public health related. As stated in your letter, state immunization rules allow for religious exemptions in schools but, with the exception of *Haemophilus influenzae type b*, not in childcare settings. The department's approach outlined in rule is consistent with **20-5-405 MCA, Medical or religious exemption**, which allows religious exemptions in *school* settings, but not in licensed or registered childcare centers.

It is the department's position that this difference is reasonable and important. Children in daycare centers, some of whom are one year or less in age, have a high risk of severe illness from vaccine-preventable infections and the likelihood of disease transmission in daycare aged children is high. Importantly, while school attendance is required by law which also allows religious exemption, enrollment in day care is not required. Very young children cannot be fully vaccinated because of their age. Parents who enroll these very young children in day care expect a safe, healthy environment in licensed settings. Vaccination requirements give these parents an assurance that they are not putting their children at risk of vaccine-preventable disease.

Lastly, Montana's childhood immunization rates are well below the national average, increasing our susceptibility to outbreaks of vaccine preventable diseases. An additional exemption to vaccination may result in even lower coverage rates and increase our vulnerability to outbreaks of disease.

We hope that the information above provides a clear rationale for our approach in this area. If you would like to discuss this issue further or need additional information, please contact Jim Murphy, Bureau Chief of the Communicable Disease Control and Prevention Bureau at 444-4016.

Sincerely,

A handwritten signature in cursive script, appearing to read "A. Sorrell".

Anna Whiting Sorrell
Director

cc: Jane Smilie, MPH Public Health and Safety Division Administrator
Steven D. Helgerson, MD, MPH State Medical Officer
Jim Murphy, Bureau Chief, Communicable Disease Control and Prevention Bureau
Shannon McDonald, Public Health and Safety Division Legal Counsel

Exhibit 6.

State	Day Care Exemptions			Current 31 August 2010 Authority Section	(AC =Admin. Code) Code
	Medical	Religious	Other		
AK	Yes	yes		7 AAC 57.550 Health	AC
AL	Yes	Yes		r. 420-6-1-.03 4(b)(3)	AC
AR	Yes	Yes	Yes	Arkansas Code Section 6-18-702(d) (4)	Statue
AZ	Yes	Yes		Title 36. Ch. 7.1. Article 1 A.R.S. § 36-883 See also A.A.C. § R9-6-706 (2006)	Statue
CA	Yes	Yes	Yes	Title 2. Division 4. Part 27. Ch. 2, Article 2., also Cal Health & Saf Code § 120365	Statue
CO	Yes	Yes	Yes	C.R.S. 25-4-903 (Statue Law)	Statue
CT	Yes	Yes		Conn. Gen. Stat. § 19a-79)	Statue
DOC	Yes	Yes		D.C. Code § 38-506)	Statue
DE	Yes	Yes		Title 14. 800. 5.1 & 14 Del.C. §131	AC
FL	Yes	Yes		Fla. Stat. § 1003.22 (5)	Statue
GA	Yes	Yes		O.C.G.A. § 20-2-771 (c), & (e)	Statue
HI	Yes	Yes		HRS § 302A-1156	Statue
IA	Yes	Yes		Iowa Code § 139A.8 4.	Statue
ID	Yes	Yes	Yes	Idaho Code § 39-1118	Statue
IL	Yes	Yes		225 ILCS 10/7 (h)	Statue
IN	Yes	Yes		IC 12-17.2-3.5-11.1	Statue
KS	Yes	Yes		K.S.A. § 65-508	Statue
KY	Yes	Yes		KRS § 214.036	Statue
LA	Yes	Yes	Yes	La. R.S. 17:170 E.	Statue
MAINE	Yes	Yes	Yes	10-148: Ch. 32: Section XVIII. 3.	Statue
MD	Yes	Yes		REGULATIONS 13A.14.02.44	AC
MASS	Yes	Yes		102 CMR 7.09 (AC)	AC
MI	Yes	Yes	Yes	MICH. ADMIN. CODE R. 325.176 (12.)	AC
MN	Yes	Yes	Yes	Minn. Stat. § 121A.15 Subdivision 3.	Statue
MO	Yes	Yes		§ 210.003 R.S.Mo. 2. (2)	Statue
MS	Yes	NO		Miss. Code Ann. § 41-23-37	Statue
MT	Yes	NO (except Hib)		MONT. ADMIN. R. 37.95.140	AC
NC	Yes	Yes		N.C. Gen. Stat. § 130A-157 (156 Med)	Statue
ND	Yes	Yes	Yes	N.D. Cent. Code, § 23-07-17.1 3.	Statue
NE	Yes	Yes		R.R.S. Neb. § 71-1913.01 (Statue
NH	Yes	Yes		RSA § 141-C:20-c. Exemptions	Statue
NJ	Yes	Yes		NJ Permanent Statutes Database 30:5B-5. c.	Statue
NM	Yes	Yes		NMAC 8.16.2.8 M & 7.5.2, N.M. S.A. § 24-5-3	Statue
NV	Yes	Yes		NRS § 432A.240 & 250	Statue
NY	Yes	Yes		NY CLS Pub Health § 2164 8. & 9.	Statue
OH	Yes	Yes		OAC 5101:2-12-37 (B) (2)	AC
OK	Yes	Yes	Yes	10 Okl. St. § 413	Statue
OR	Yes	Yes		ORS 433.102 & ORS 433.267 (1)(b) or (c).	Statue
PA	Yes	Yes		28 Pa. Code. § 23.84 (a) & (b) & 28 Pa. Code § 27.77	Statue
RI	Yes	Yes		R.I. Gen. Laws § 16-38-2 (General Provision for exemption)	Statue
SC	Yes	Yes		S.C. Code Ann. § 44-29-180 (D) & (E)	Statue
SD	Yes	Yes		SD Codified Laws, 13-28-7.1. (2)	Statue
TN	Yes	Yes		Tenn Code Ann § 37-10-402	Statue
TX	Yes	Yes	Yes	Title 2. Health § 161.004	Statue
UT	Yes	Yes	Yes	Utah Code Ann. § 53A-11-302 (3)	Statue
VA	Yes	Yes		VCA § 22.1-271.2 C.	Statue
VT	Yes	Yes		Title 18. Ch. 21, 18 V.S.A. § 1122	Statue
WA	Yes	Yes	Yes	R C Wash. (ARCW) § 28A.210.080 & RCW 28A.210.090.	Statue
WI	Yes	Yes	Yes	Wis. Stat. § 252.04 (3)	Statue
WV	Yes	Yes, DayCareOnly		LEGISLATIVE RULES TITLE 78, SERIES 18 6.4.f3.	Statue
WY	Yes	Yes		Wyo. Stat. § 14-4-116 & Wyo. Stat. § 21-4-309	Statue

Mr. Chairman, members of the Committee, you've heard the arguments today. But this is not a court of law and you do not have to act as judge.

Ultimately, at the end of this day, you must ask yourselves if this legislation is necessary to correct something that is constitutionally wrong.

- 1) Has DPHHS acted egregiously through the rule-making process? YES
- 2) Have the actions of DPHHS met the challenge of constitutionality? NO
- 3) Has DPHHS overreached the law by deciding that religious objections to vaccines and the free exercise thereof are valid only when children reach a certain age? YES
- 4) Has DPHHS followed due process before depriving parents their right to free exercise of religion in the day care setting? NO
- 5) Have families with religious objections to vaccinations EVEN been afforded due process of law? NO

Please support this legislation and move it forward for a full vote of the House.

Thank you.