



Patricia Finn, Esq
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8:30 am - 9:30 am

Vaccine Injury Court - Vaccine Exemptions-Current Legislation

TODAYS PRESENTATION

Part 1- Overview of the Vaccine Court

Part 2- 2016 Legislation affecting Religious Exemptions

Part 3- Your Vaccines Rights, the Exemption Process

An overview of the National Vaccine Injury Compensation Program (VICP) & Your Right To Refuse Vaccinations



Background on the VICP

- Starting in the 1980s, news reports began to reveal the serious side effects caused by the DTP (diphtheria, tetanus, pertussis) vaccine. As a result, the safety of the vaccine was called into question. Suits were filed against vaccine companies, doctors, and nurses. Some vaccine companies even made the decision to stop making the vaccines.
- To combat these problems, Congress enacted a new law to compensate those injured by vaccines. The National Childhood Vaccine Injury Act of 1986 (Public Law 99-660) created the VICP, which began on October 1, 1988.

So what exactly is the National Vaccine Injury Compensation Program (VICP) anyway?

- Vaccines can cause severe problems in some individuals, such as severe allergic reactions and even death.
- In those cases, the VICP, a Federal Program, provides compensation to individuals to have been injured by certain vaccines.
- Note: Creation of this court took all liability for vaccine injuries away from the manufacturers and awards to those injured are paid by a .75 cent tax per dose of vaccine administered. This tax is collected from vaccine manufacturers by the U.S. Department of the Treasury.

Vaccines Covered by the VICP

- Diphtheria, tetanus, pertussis, (DTP, DtaP, Tdap, DT, Td, or TT)
- Haemophilus, influenzae type b (Hib)
- Hepatitis A (HAV)
- Hepatitis B (HBV)
- Human papillomavirus (HPV)
- Influenza (TIV, LAIV)
- Measles, mumps, rubella (MMR, MR, M, R)
- Meningococcal (MCV4, MP SV4)
- Polio (OPV or IPV)
- Pneumococcal conjugate (PCV)
- Rotavirus
- Varicella
- Any combination of the vaccines above
- Additional vaccines may be added in the future.

Not a VICP-covered vaccine

Non-Seasonal Flu Vaccines

Pneumococcal polysaccharide vaccine (PPSV, PPV)

Herpes zoster (shingles) vaccine

The Mechanics of the VICP

- First, a claim must be filed by or on behalf of the person claiming to be injured by a vaccine covered by the VICP.
- The Court's cover sheet for the claim is the only form required. But claims should include the following details:
 - Who was injured by the vaccine;
 - Which vaccine caused the injury;
 - When the vaccine was given;
 - The city and State or country where the vaccine was given;
 - The type of injury and when the first symptom of the injury appeared; and
 - How long the effects of the injury lasted.

Additional Items That Should Also Be Included in the Claim

- Medical records and/or other pertinent documents
- Don't forget the Court's cover sheet!
- \$400.00 filing fee



Who is allowed to file a claim?

Individuals may file a claim if:

- They received a vaccine covered by VICP and believe that they have been injured by that vaccine.
- They are the legal representative of the estate of a deceased person who received a vaccine covered by the VICP and believe that the person's death resulted from the vaccine injury.
- They are *NOT* a United States citizen.

But what if the vaccine was received outside of the U.S.?

- Individuals may still be eligible for compensation. But the vaccines must have been covered by the VICP and given under the following conditions:
 - The injured person must have received a vaccine in the U.S. trust territories; or
 - If the vaccine was administered outside of the U.S. or its trust territories:
 - ✓ The injured person must have been a U.S. citizen serving in the military or a U.S. government employee, or have been a dependent of such a citizen; or
 - ✓ The injured person must have received a vaccine manufactured by a vaccine company located in the U.S. and returned to the U.S. within 6 months after the date of vaccination.

Also, the effects of the individual's injury must have:

- Lasted for more than 6 months after the vaccine was given; or
- Must have led to a hospital stay **AND** surgery; or
- Caused death.



Medical Records That Should Be Included with the Claim

1. Prenatal and Birth Records Prenatal (if the injured person was under 3 years old)
2. Medical Records Prior to Vaccination
3. Vaccination Records
4. Post-Injury Hospital/Emergency Treatment Records
5. Post-Injury Outpatient Records
6. Vaccine Adverse Event Reporting System (VAERS) form (if submitted)
7. Long Term Records (that apply to the injury)
8. Death Records (if applicable)

Deadlines to File a Claim

- The general filing deadlines are:
 - For an *injury*, the claim must be filed within 3 years after the first symptom of the vaccine injury.
 - For a *death*, the claim must be filed within 2 years of the death and 4 years after the start of first symptom of the vaccine-related injury from which the death occurred.



What needs to be proved in order to be compensated?



Must prove that:

- The injured person received a vaccine covered by the VICP; and
- The first symptom of the injury/condition occurred within the time period listed by the VICP; or
- The vaccine caused the injury.
- The vaccine caused an existing illness to get worse.

The Court must also conclude that the injury or death did not develop from any other possible sources.

Compensation-Injury



For an *injury*, individuals can be paid:

- A reasonable amount for past and future non reimbursable medical, custodial care, and rehabilitation costs, and related expenses (No limit-based on the vaccine injury needs of the individual).
- Up to \$250,000 for actual and projected pain and suffering;
- Lost wages; and/or
- Reasonable lawyers' fees and other legal costs or legal costs, not fees, of individuals representing themselves, if the claim was filed on a reasonable basis and in good faith.

Not Compensated

Lost wages for caring for their injured child, only the injured person can claim lost wages and there are statutory maximums on this.

Compensation-Death

For a *death*, individuals may be paid:

- Up to \$250,000 as a death benefit for the estate of the deceased; and
- Reasonable lawyers' fees and other legal costs, not fees, of individuals representing themselves, if the claim was filed on a reasonable basis and in good faith.



Thinking about filing a lawsuit outside of the VICP?

- If a vaccine injury claim filed in the Vaccine Court is denied, or if the claim is approved and the claimant rejects the compensation, only then may the claimant file a civil lawsuit. If an individual is considering filing a civil lawsuit outside of the VICP, they should contact a lawyer for advice.



VICP Statistics

(as of 05-24-12)

- 14,214 claims filed since inception
 - Awards
 - Compensation \$2.29 billion
 - Attorneys fees/costs \$148.6 million
 - Total \$2.44 billion
 - Trust Fund \$3.404 billion

Who makes the Decision?

- Department of Health and Human Services
 - administers program (claims review/payments)
 - develops recommendation +/- entitlement to compensation
- Department of Justice
 - represents HHS in court
- US Court of Federal Claims
 - final decision maker (special masters)
 - entitlement and damages

Difficulties Petitioners Face:

The vaccine court was established to help those injured from vaccines get compensation quickly and in a more non-adversarial way, but most of the time this is not how it works out.

- In many cases where a vaccine injury has occurred, the legal standard is difficult to meet
- Petitioners who cannot allege a “table injury” must prove their case by “cause in fact.” This means they need to find a qualified medical expert to give an opinion that defines three things:
 - Medical Theory
 - Logical Sequence of Cause and Effect
 - Temporal Relationship

This program was meant to expedite these claims and compensate victims of vaccine injury quickly, however, these cases can take an average of 3 years. There are some cases that remain from the OAP and are still alive in the program-- over 10 years!

Damages:

There are 4 categories of damages that can be awarded to a Petitioner:

1. Past unreimbursible expenses
2. Lost Wages
3. Pain and Suffering (Capped at 250K and awarded on a sliding scale)
4. Future Care

In settlements typically, there is a lump sum award that does not address each specific category of damages

Damages cont'd:

Once a Petitioner has received a judgment awarding compensation the case moves to the damages phase.

There are several types of experts that can be retained during this phase of the case to help establish the damages award--Life Care Planners, Vocational Experts, Home Modification Experts, Economists

Sometimes this phase alone can take several months and may end up being mediated or litigated if there is a dispute over the amount of damages that should be awarded

Any questions about the
Vaccine Court?

PART 2
Current Legislation as
of March 2016

In Part 2, we will be discussing:

1. Supporting exemptions is in everyone's best interest
2. How many vaccines does the law permit?
3. Europe's laws- are they dumb?
4. Laws of NYS: stopping the witch hunt
5. Lawsuits in the works to save us all
6. State Bills in the pipeline you should know about

ANIMATION GOES HERE (SHELLS)

Our constitutional rights are what allow us to live safely, it is our protection from harm. A shell does the same thing for the animal that built it. Without its shell, the animal inside is defenseless. Similarly, without our constitutional rights, our shell, we too are defenseless



1. Supporting exemptions is in everyone's best interest

Even if you subscribe to the current vaccine schedule, support the exemption right, or else we all lose:

- **A RIGHT TO EDUCATION** Your child has a right to receive a free primary education. A school barring a child has happened during segregation.
- **A RIGHT TO PERSONAL MEDICAL DECISIONS** Current law demand that to secure your right to an education, you must accept all vaccines on the schedule, even if you think one is sketchy.
- **A RIGHT TO RELIGION** A religious exemption to vaccines is a fundamental right of those whose religious beliefs are out of the mainstream, which is protected by the 1st Amendment. It is our constitutional right to worship freely and follow individual spiritual beliefs and conscience.
- **A RIGHT TO PARENTAL RIGHTS** You have the right to choose what is beneficial for your child.
- **A RIGHT TO HUMAN RIGHTS.** The core human right to exercise voluntary, informed consent to any medical treatment and knowing all potential risks associated with the treatment
- **A RIGHT TO NOT BE PENETRATED.** The Federal government should not be able to force vaccinations through physical force or coercion, into children of parents who object on religious or moral grounds.

1st and 9th and 14th Amendments of the Constitution of the U.S. are at risk

HOW MANY VACCINES ARE OK WITH YOU?

How many do you think you had?

1953 schedule: 4 vaccines (16 doses)

1973 schedule: 7 vaccines (23 doses)

How many do you think there are today:?

2016 schedule: 16 vaccines (69 doses) by age 18

At what number is too many?

16?

30?

400?

2000?

Ask the American CDC

Paul Offit, M.D., chief of infectious diseases at the Children's Hospital of Philadelphia and the Henle Professor of Immunologic and Infectious Diseases at the University of Pennsylvania School of Medicine, is the Chief US spokesman for vaccination. The Voice of Sauron. On the board of “Every Child By Two”.

10,000

He has stated that he believes children can safely take 100,000 vaccines! (He shares the patent on the Rotavirus vaccine Rotateq, that made him approx 42 million!)

What if you don't like vaccine number #34
or #587, can you opt out of those?

NO

In America, it's all or nothing.

Adding more every year

Added in NYS:

December 2013--flu NYC

July 2014--additional doses

September 2015--additional doses, meningitis most recently

more and more....

Google Alert News Feed HEADLINES (1 day)

New vaccine may prevent multiple strains of the flu

Universal flu vaccine comes a step closer

Are We Really 'Close' to an HIV Vaccine?

Aren't vaccines all about health?

\$

New vaccine production is probably one of the largest income generating products on earth.

getting a law passed to remove anyone's ability to say no means that everyone is a customer!! Example: A pharmaceutical company gets \$1 for each administration. That's Billions of dollars for one vaccine and every year, and more if boosters.

Other countries:

VACCINE SCHEDULES, AUTISM RATES, AND UNDER 5 MORTALITY FOR SELECT COUNTRIES

Country	# of Mandatory Vaccines (<5 years old)	Autism Rate	US Autism Rate Multiplier	Mortality Rates per 1,000 Children Under 5 years old	Mortality Rates per 1,000 Children Under 5 years old
United States	36	1 in 110		7.8	
Iceland	11	1 in 1,100	7.3x	3.9	
Sweden	11	1 in 862	5.7x	4.0	
Japan	11	1 in 475	3.2x	4.2	
Norway	13	1 in 2,000	13.3x	4.4	
Finland	12	1 in 719	4.8x	4.7	
France	17	1 in 613	4.1x	5.2	
Israel	11	1 in 1,000	6.7x	5.7	
Denmark	12	1 in 2,200	14.6x	5.8	

Summary of Chart

Highest rate of Autism in the country with the highest rate of vaccines

LEGAL GENIUS- COMBOS ERADICATE ACCOUNTABILITY:

- More vaccines per injection (combos hold no accountability)
- In 2015 the last remaining single dose shots were eliminated (must Factcheck)

VACCINE INGREDIENTS:

- Different vaccines contain different ingredients including lab altered live or inactivated viruses and bacteria, chemicals, metals, proteins, antibiotics and human, animal and insect DNA and RNA. Aborted fetal cells. Learn more at NVIC.org

LAWS OF NYS (problems)

sincerity testing

“Modern Witch Hunts”

outright denial of the law

legislative activism

Lawsuits in the Works

We are currently handling an appeal seeking Certiorari in the U.S. Supreme Court in the matter of Phillips vs. City of New York involving the rights of Americans to refuse vaccines.

The parents involved in this case did not vaccinate their children prior to applying for their admission to school because they hold sincere religious objections to vaccination. The Second Circuit ruled that no constitutional rights exist for religious or medical exemptions. This conflicts with the relevant decisions of the US Supreme Court.

State Bills in the Works

Retracting of the Religious Exemption

Promoting a form to avoid testing abuse

Attempt to make vaccination schedule for Adults

PART 3

Your Vaccines Rights, the Exemption Process

1. Your Rights
2. The Exemption Process
3. Avoiding Pitfalls & Interrogations (aka Helpful Tips and Methods)

Your Rights

To have your paper be held in confidence.

The right to be heard

The right for respectful consideration

The right to a be told why if denied.

The Exemption Process

Tips

If possible, build a relationship before submission

Know that anything you say can and will be used against you

Talk to an attorney if you suspect a challenge, before submission

Gift a “Religious Exemption Birth Plan” to an expectant mother.

Converse in email, not on the phone

Want more information about the VICP or have questions about your rights?

- Be sure to contact:

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