

UNIVERSITY OF CALIFORNIA LAW  
SAN FRANCISCO

## Immunization in Rough Water: Challenges and Potential Solutions

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### Disclosures:

- The family owns stock (regular) in GSK.
- Served as a volunteer (unpaid) advisor on Moderna's ethics advisory group

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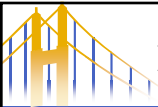
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### Presentation Plan

**Structure:**

- Information issues.
- Personnel issues.
- Access issues.
- Liability and compensation.
- Skepticism
- School mandates.
- General options.



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**Note: Self preservation is key.**

- There is a lot going on. The zone is flooded.
- Remember you are not alone.
- Pick three things you worry most about and follow them.
- Pick two things you can do per month.
  - (More is great, but if you do two, you helped).



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**INFORMATION ISSUES**

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**Removal of information**

- Health agencies websites taken down.
- Information removed.
  - Temporarily ordered to repost by court.
- Scientific publications scrutinized.
- Removal of a list of terms.
- Weldon/Kennedy can remove CDC statements.



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## Misinformation from government

- False statements from anti-vaccine appointees.
- Unreliable data.
- Incorrect changes to government pages.
- Inaccurate reports/presentations from agencies/committees.



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## Misinformation from anti-vaccine organizations

- Ongoing problem.
- Given legitimacy by government.
  - Children's Health Defense using Kennedy's name.



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## Options:

- Create alternative sources of information:
  - Projects that keep archived government data.
  - AMA gave data on bird flu and outbreaks.
  - Consider regional and national information sharing projects.
  - Resources:
    - [https://docs.google.com/document/d/1tRjRDWt\\_nin\\_tgRtUwBN-yYYWuzOssGGYzEXMgIroSWk/edit#m=ssharing](https://docs.google.com/document/d/1tRjRDWt_nin_tgRtUwBN-yYYWuzOssGGYzEXMgIroSWk/edit#m=ssharing)

In case you're unaware, the American Medical Association has a youtube page; they are doing daily updates on bird flu and other outbreaks since the CDC can not.

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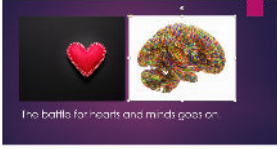
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## Options:

- Give your patients good information.
  - Providers are trusted sources.
  - Direct patients to science-based sources – VEC, AAP, VYF, VFV.
  - Local immunization coalitions can distribute information.
  - Have conversations, communicate.
  - Make information available in multiple languages.



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## Options: Everyone

- Complain loudly.
  - Letters from public health organizations.
  - LTE.
  - Op-eds.
  - Talk to friendly journalists.
  - Share information on social media.
- Contact local and federal representatives.
- Litigation.



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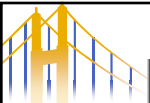
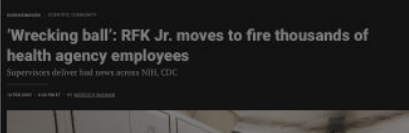
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## PERSONNEL ISSUES

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**Political appointments:**

- Principal officers can appoint inferior officers with no supervision.
- Principal officers can create new advisory committees and fill them.
- Advisory committee members are removable at will and fillable at discretion.



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**Career civil servants:**

- Weakening protections.
- Dismissal in spite of protections.
- Resignations.
  - And encouraged resignations.



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**Options:**

- Dismissed officials can litigate.
- Encourage/participate/join unions for greater protection & litigation
- States can have alternative expert bodies.
- States can litigate, but it's not likely to go anywhere.
- Call out unreliable bodies.



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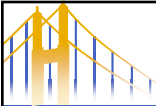
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## ACIP at risk

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- Kennedy committed not to revise ACIP recommendations.
- But:
  - A. Unenforceable.
  - B. Can reconstitute committee.
- ACIP recommendations affect -
  - Insurance
  - VFC




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## Options:

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- Comment before and during ACIP meetings.
- Complain loudly:
  - Call out changes in committee.
  - Call out bad recommendations.
- Lobby Congress for change in law.
- Litigate specific changes.




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## ACCESS ISSUES

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## Vaccine funding

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- ACIP and ACA/VFC addressed above.
- Medicaid/Medicare changes removing access to vaccines.
- 317 grants -
  - Conditions added
  - Not provided
- Other funding threats.




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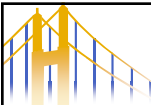
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## Grants and funding:

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- Grant freezes/cuts:
  - Being litigated.
- Conditions attached to grants:
  - Remove language
  - Vaccine conditions




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## Options:

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- State health insurance?
- State direct provision of vaccines?
- Lobby Congress.
  - States can pressure.
- Protest changes loudly.
- Litigate:
  - Changes to Medicaid/Medicare
  - Grant conditions




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**Revocation of license/EUA:**

- Hard, but not impossible, to revoke an existing license.
- Easy to overturn an EUA.
- Easy to add conditions to new/revised product.



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**Options:**

- Be loud.
- Participate in commenting process for any changes.
- Petition where needed.
- Make public FDA negotiations with manufacturers.
- Ask companies to apply for license for children covid-19 vaccines.
- Litigate.



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**Liability and compensation:**

- State legislation about liability and compensation.
- Potential: vaccine removal from VICP
- Potential: changes to table of injuries
- Potential: concessions
- Potential: federal legislation
- Expected: messaging.



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## Options:

- Legislative advocacy:
  - Lobby your state legislature.
  - Lobby Congress.
- Collaborate where possible: covid-19 vaccines? More special masters?
- Prepare messaging, speak up.
- Litigate



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## Vaccine skepticism/ refusal

- Politicization
  - Misinformation from trusted sources.
- Bad medical experiences.
- Earned mistrust.
- Anti-vaccine efforts.

They lied about **thalidomide**.  
 They lied about **DDT**.  
 They lied about **tobacco**.  
 They lied about **asbestos**.  
 They lied about **mercury**.  
 They lied about **Vioxx**.  
 They lied about **opioids**.  
 They are lying about **vaccines**.

HealthFreedomIdaho.org

**You know who DOESN'T have any incentives to lie? THE MOTHERS.**

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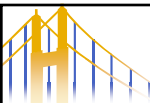
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## Options:


- Improve communication with your patients.
- Use trusted messengers.
- Be kind, empathic and compassionate.
- We are fighting for hearts and minds.
- Think longterm.

**Become a Trusted Messenger**

Learn how to talk about vaccines effectively and be someone people trust for good information. No arguments needed.

Enroll in our 2nd, completely free online course.

[voicesforvaccines.org/courses](https://www.voicesforvaccines.org/courses)



Source: Voices for vaccines – see: <https://ix.com/Voices4Vaccines/status/1809229743184597249>

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Children deserve a good education *and* good health. Immunization requirements help protect both.

## SCHOOL IMMUNIZATION MANDATES

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## Challenges:

- State legislation challenging vaccine mandates.
- Pressures related to implementation.
- Litigation around religious exemptions.
- Potential grant conditions.

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## Options:

- Legislative advocacy.
- Educate for importance of school mandates.
- Collaborate with allies.
- Litigate:
  - Amicus briefs.
  - Get talking points.
  - Be alert.

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## Restrictions on Spending Powers:

- (1) Use for the general welfare.
- (2) Conditions must be reasonably related to the stated goal of the legislation.
- (3) Conditions clear and unambiguous, so states can knowingly choose.
- (4) Conditions cannot induce states to act unconstitutionally.

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## GENERAL OPTIONS

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## What do we need?

- Good sources of information on –
  - What’s going on.
  - Science.
  - Public health.
  - <https://docs.google.com/document/d/1tRjrDWtnjq19BUyoBN7YYWuzQ5sGGY7FXM5gIrpSWk/edit?usp=sharing>
- Good materials to educate, bodies that can educate, funding for education efforts.
- Advocacy bodies, people, resources.

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**The good news:**

- Much work has already been done on information and countering misinformation.
- We have experts, and will have more.
- There are efforts underway.
- There are allies in much of this.

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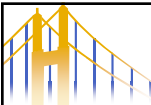
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**Short-term actions:**

- Speak up when you see misinformation or harmful actions.
- Share good information or rebuttals.
- Sign onto efforts, or use available resources to speak up.
- Join Voices for Vaccines, Safe Communities, Vaccinate Your Family’s advocacy portal.
- Maintain trust with your patients.

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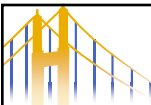
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**Midterm actions:**

- Advocate with your legislators:
  - Know your state and federal legislators.
  - Go to open houses, write to them.
- We need to build alternative sources of information.
- States need to build advisory bodies.
- Advocate for good laws with allies.

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## Potential feasible legislation:

- Access: rural communities, vulnerable populations in your state.
- Transparency: vaccine rates.
- Scope of practice: allowing more actors to give vaccines to those who want them.
- Data infrastructure.

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## Long-term actions

- Educate your patients and other providers on importance of vaccines for them and community.
- Change the language: take back “freedom, accountability, choice, transparency, informed consent.”
- Argue for increased science literacy in schools.

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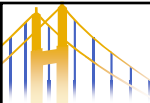
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**Thank you!**

**Questions? Comments?**

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**415-565-4844**

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