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HEALTH GROUPS CHALLENGE MANDATORY IMMUNIZATIONS ON CONSTITUTIONAL GROUNDS

Due process lacking for potentially lethal injections, they point out

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WASHINGTON, D. C. – As the nation contemplates the prospect of an extensive program of inoculation against the hypothetical threat of smallpox being disseminated by terrorists, two health groups are launching a challenge to the very constitutionality of subjecting infants and children to mandatory vaccinations for a variety of diseases.

The joint effort by the Washington, D. C.-based non-profit consumer groups Foundation for Health Choice and Citizens for Health is based on the fact that such “preventive measures” can be expected to kill a certain number of children and substantially harm others.

The two health organizations have already begun to utilize this approach in a “friend of the court” brief filed in a case now in federal court, citing both a recent opinion by a U.S. district court judge that federal capital punishment law is unconstitutional based on findings that some people facing execution were actually innocent and the argument used by the 2nd Circuit Court of Appeals in reversing that ruling.

(more)

Vaccinations, add one

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In overturning the lower court decision, the appeals court affirmed the need for due process in the taking of a life by government but, contrary to the district court's opinion, held that a criminal trial provides all necessary due process to support the death penalty. It is the citizens groups' contention that children deserve at least as much due process as a convicted killer before being subjected to a possible lethal injection. This is the first time such an argument against mandatory immunization has been raised in the courts.

"The lives that are lost by this program are lost without even a pretense of due process," noted James S. Turner, a lawyer, consumer advocate and spokesman for the groups, who pointed out that those for whom vaccination may prove to be a lethal injection aren't even granted the legal recourse open to defendants facing the death penalty.

The groups have offered to similarly intervene in any court case in which parents find themselves in the position of having to assert their right not to have their children administered immunizations ordered by state or local authorities.

Such inoculations are a routine requirement for attending school, but without any procedures currently in place for parental participation in determining the need for shots or the adverse effects they might have on certain children.

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Vaccinations, add two

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In a joint statement, the two organizations contend that “the body of law justifying mandatory vaccine programs contains limitations on the state power to force vaccination.”

Prior rulings, they contend, have required that such programs be based on “a demonstrable emergency” (e.g., a threatened or actual epidemic), include a medical opt-out for vaccine-endangered individuals, and recognize conscientious objecting.

The groups call for “interested families” to be involved in a procedure for determining who is likely to be harmed by each vaccine, and “a way of prioritizing which of the nearly 20 vaccines currently administered to each child and at what age ... will most protect the community at the least health cost.”

The Foundation for Health choice <www.foundationforhealthchoice.com> was organized to help ensure that individuals have a full range of health-care options open to them, rather than just those dictated by bureaucrats or special interests. Citizens for Health <www.citizens.org> is a national grass-roots group working to advance the consumer’s right to safety, information, choice and redress in the health-care marketplace.

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