

NVIC Oral Public Comment to the National Vaccine Advisory Committee – September 10, 2013

My name is Theresa Wrangham. I am the Executive Director for the National Vaccine Information Center (NVIC). The following is a statement by Barbara Loe Fisher and Kathi Williams, co-founders of Dissatisfied Parents Together and the National Vaccine Information Center addressing comments made earlier today regarding the legislative history of the 1986 National Childhood Vaccine Injury Act that created this committee.

In the late 1970's, the four drug companies selling childhood vaccines in the U.S. and pediatricians administering those vaccines were being named in civil lawsuits for product liability and malpractice claims mainly involving children injured by DPT and live polio vaccines. For several decades, drug companies, the American Academy of Pediatrics and American Medical Association had been lobbying Congress to create an "exclusive remedy" federal compensation law barring all vaccine injury lawsuits.

After the TV documentary, "DPT: Vaccine Roulette" was broadcast in April 1982 informing the American public that DPT vaccine can cause brain damage in children, parents of vaccine injured children founded the non-profit Dissatisfied Parents Together (DPT), which would seven years later become the National Vaccine Information Center, and asked Congress to hold hearings investigating the safety of DPT vaccine.

By April 1984, the first jury trial verdict in a DPT vaccine injury lawsuit was won, ruling Lederle was negligent in the manufacture of DPT. The following month, Wyeth settled two multi-million dollar DPT injury cases and then announced it was stopping production of DPT vaccine, creating a highly publicized DPT vaccine shortage crisis.

In fact, in congressional hearings between 1984 and 1986, drug companies repeatedly suggested they would not continue to produce government recommended and mandated childhood vaccines unless Congress shielded them from all product liability. Staff members of Congressman Henry Waxman, Orrin Hatch and Edward Kennedy told the co-founders of Dissatisfied Parents Together that Congress had a duty to protect the vaccine supply and that a law shielding the vaccine manufacturers from product liability needed to be passed. They told us that we could come to the table to represent the concerns of parents of vaccine injured children or choose not come to the table during the legislative process but Congress was going to protect the childhood vaccine supply in America.

During the controversial law making process, DHHS and Department of Justice officials opposed a federal compensation program; drug companies continued to lobby for an "exclusive remedy" program eliminating all vaccine injury lawsuits and parents of vaccine-injured children insisted that they be given an option of either applying for federal compensation or filing a civil lawsuit. Parents knew that if all access to the civil justice system was completely blocked, there would be little incentive to award federal compensation or make the program an expedited, less traumatic, less expensive, less adversarial system.

In the eleventh hour and without public discussion, the NVPO, this committee and ACCV were added to the proposed law while pediatricians were given civil liability protection. At that point, DHHS and Justice officials agreed to drop their opposition to the federal compensation program.

As participants in the legislative process, NVIC secured the informed consent and vaccine safety provisions in the 1986 law that many pediatricians are ignoring today. The VICP has been turned into an exclusive remedy system, which parents were promised it would not be, and two out of three claimants have been turned down for compensation while those lucky enough to get compensation have had to wage a long fight with DHHS and Justice officials.

If we knew then what we know now, we would have taken a very different course of action during the legislative process.

At a minimum, this committee should examine ways to enforce drug company and physician compliance with the law's vaccine safety informing, recording and reporting provisions."