

SWINE FLU REVIEW:

The Case for Reforming U.S. Emergency Health Laws

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I. INTRODUCTION

The 2009-2010 swine flu pandemic is behind us, but many serious risks remain—not so much from the flu, but from the flu vaccines and America’s emergency health laws. Current laws allow most states to mandate fast-tracked, untested emergency vaccines and other emergency medical protocol without exemptions during declared emergencies, despite the existence of safer, viable alternatives; and those who refuse vaccines can be quarantined in government facilities against their will. This Report documents some of the serious mismanagement of the recent swine flu Pandemic at national and international levels, and the resulting need for prompt, proactive legislative solutions to address the outstanding concerns.

II. BRIEF HISTORICAL BACKGROUND

A. 1976 “Swine Flu Fiasco”¹

In 1976, the Ford Administration projected up to one million deaths from the swine flu. President Ford claimed on national T.V. that the 1976 swine flu was the same virus as the 1918 Spanish flu that killed ½ million Americans and 20 million people worldwide. In response, Congress allocated money for swine flu vaccines, guaranteed vaccine manufacturers a profit, and indemnified vaccine manufacturers from any harm caused by their vaccines.

However, the 1976 swine flu was not the same virus as the Spanish flu, and Ford’s 1976 vaccine campaign went against the recommendation of government scientists. There had been only one swine flu death—a soldier from Fort Dix. That flu season turned out to be the mildest flu season on record. But CBS news later reported 4,000 vaccine damage claims for \$3.5 billion, two thirds of which were for neurological harm or death from the vaccines.²

B. 2005 Bird Flu Hoax

In early October of 2005, the Bush Administration warned that bird flu could kill from 200,000 to 2,000,000 Americans.³ In late October of 2005, the Centre for Research on Globalization revealed that Secretary of Defense Donald Rumsfeld would profit from the “bird flu hoax.”⁴ No pandemic materialized, but the U.S. spent \$2 billion on Tamiflu.

C. 2009 Contaminated Vaccines

In February of 2009, American vaccine manufacturer Baxter sent vaccines contaminated with live avian bird flu virus throughout Europe.⁵ Media in the Czech

Republic, where the contamination was first discovered, reported that it was “virtually impossible” for this to have been an accident, given the Biosafety Level 3 laboratory protocols used, and questioned whether this was an attempt to start a deliberate pandemic.⁶ The combination of the deadly-but-not-easily-spread H5N1 bird flu virus and the benign-but-easily-spread seasonal flu virus might have been a lethal airborne biological weapon that could have triggered contracts internationally for the production and sale of billions of dollars worth of vaccines and medications to address such a pandemic.⁷ (Nor was this an isolated instance in which an American pharmaceutical company deliberately introduced disease into a foreign country. In the mid-1980’s, Bayer knowingly dumped HIV-tainted drugs on foreign countries after being forbidden to sell them in the U.S., and many innocent people died as a result.⁸ Bayer just paid tens of millions to settle the resulting suit.⁹)

Baxter first denied the 2009 European vaccine contamination, then later claimed it was an accident. Baxter has had over 44 Class I recalls since 2003, yet has developed flu vaccines fully funded by the federal government.¹⁰ “Class I Recalls by the US Food and Drug Administration [FDA] are the most severe type of FDA recall. In a Class-I recall there is a potential for serious injury or death.”¹¹

III. THE 2009-2010 SWINE FLU PANDEMIC:

Disconnect Between Policy and Reality

A. Pandemic Declaration

On May 18, 2009, over a dozen countries including Japan, the U.K. and China urged the World Health Organization (WHO) not to use a new definition of “pandemic.”¹² On June 11, 2009, Margaret Chan, WHO Director General, declared a level 6 pandemic using the new definition,¹³ which allowed a much milder disease to meet the level 6 classification. The declaration triggered contract provisions with countries around the world for the purchase of massive quantities of emergency H1N1 vaccines (\$18 billion in U.S. dollars),¹⁴ *most of which were never used.*

B. Incidence Tracking and Emergency Declarations

On July 10, 2009, a month after the level 6 declaration, the WHO paradoxically stopped collecting confirmed swine flu cases.¹⁵ In late July of 2009, the CDC abruptly advised states to stop testing for swine flu, to “stop wasting resources.” Some public health officials privately disagreed.¹⁶ On October 21, 2009, Sharyl Attkisson of CBS News reported that swine flu cases had been overestimated by 90%. She based this on data obtained directly from states, following the CDC’s refusal to provide it. Diagnoses had been based on symptoms and risk factors only. Despite this, two days later, President Obama declared a National Swine Flu Emergency.¹⁷

Between April and October of 2009, swine flu emergencies were declared in 11 U.S. states, American Samoa, Washington D.C., and even individual counties, sometimes based on very few or even *no* confirmed swine flu cases, e.g.: Virginia 4-4-09: 0 cases; Ohio 4-28-09 and Nebraska 4-30-09: 1 case each; New York 4-26-09, 8 cases.¹⁸ But

there was no emergency. Even high-end estimates for swine flu deaths were ultimately only a fraction of what the CDC claims occurs annually from the seasonal flu.

C. Pandemic Hoax, Confusing U.S. Policy

In January of 2010, Dr. Wolfgang Wodarg, epidemiologist and former chair of the subcommittee on health of the Parliamentary Assembly of the Council of Europe, publicly announced that the 2009 swine flu pandemic was a “hoax.”¹⁹ Barely a month later, U.S. HHS Secretary Kathleen Sebelius amended a prior Declaration granting immunity from liability for swine flu vaccine manufacturers prospectively for another two years, through the end of February 2012.²⁰ However, the U.S. state of emergency lapsed in June of 2010.²¹

D. Slippery Statistics

The WHO reported international swine flu deaths totaling 25,174 as of late spring 2010.²² According to the CDC, the US—which has approx. 5% of the world’s population—had 10,837 swine flu deaths, or 43% of the world’s swine flu deaths. Britain, with about 1% of the world’s population, reported 2% of the world’s swine flu deaths. Poland, with 0.6% of the world’s population, reported swine flu deaths equal to 0.06% of the world’s total. In other words, the U.S. had over 8 times its proportional share of swine flu deaths, the U.K. 2 times its share, and Poland 1/10 of its proportional share. Disturbingly, this closely correlates with reported swine flu *vaccination* rates: The US reportedly administered vaccines to about 30% of its population,²³ the U.K. about 8%²⁴, while Poland *refused swine flu vaccines altogether*.²⁵

VACCINATION RATE VS. PROPORTIONAL DISEASE DEATHS

COUNTRY	% OF POPULATION VACCINATED WITH SWINE FLU VACCINE	PROPORTIONAL SHARE OF WORLD SWINE FLU DEATHS
U.S.A.	30	> 8 times
U.K.	8	2 times
Poland	0	0.1 times

True statistics are simply not available, and estimates vary. The CDC reports laboratory confirmed flu deaths (swine and seasonal) in the U.S. for the 2009-2010 flu season were 2,117,²⁶ and the WHO’s death total for swine flu 18,337 for the world.²⁷ The CDC’s latest estimate of U.S. swine flu deaths is 8870 – 18,300,²⁸ while Flu Tracker (Rhiza Labs²⁹) estimates 4642 fatal U.S. swine flu cases based on “data from official sources, news reports and user-contributions.” The truth is, we have no idea what the actual death total is, and this leaves room for authorities to manipulate data to favor special interests. Independent researchers saw early on that authorities were doing exactly that, “manipulating data to justify a worldwide public health emergency”³⁰ that we now

know resulted in mammoth profits to pharmaceutical companies who had no responsibility or accountability for the adverse consequences of their vaccines.

U.S. FLU DEATHS 2009-2010

DEATHS	FLU TYPE	SOURCE
2117	Seasonal & Swine, Lab Confirmed	CDC
8870 – 18,300	Swine Flu, Estimated	CDC
4642	Swine Flu, Estimated	Rhiza Labs: Flu Tracker

E. Vaccine Safety Problems

According to the package inserts, the safety of the four swine flu vaccines initially licensed by the FDA was based on prior studies of trivalent, seasonal flu vaccines.³¹ That is, for vaccine safety purposes, the swine flu component was a simple “strain change.” However, for vaccine promotion purposes, the CDC and WHO repeatedly referred to the swine flu virus as a “novel strain” capable of serious harm. The character of the swine flu was apparently malleable to suit the objectives of the vaccine manufacturer industry, with national and international government agencies promoting their unproven products.

As for seasonal flu vaccines, former FDA Chief Vaccine Control Officer Dr. J. Anthony Morris has stated: "There is no evidence that any influenza vaccine thus far developed is effective in preventing or mitigating any attack of influenza. The producers of these vaccines know that they are worthless, but they go on selling them, anyway."³² Tom Jefferson of the non-profit, independent Cochrane Collaboration is widely recognized as the world’s leading authority on flu vaccine literature. He has stated that the “vast majority of [flu vaccine] studies were deeply flawed,” and “calls them ‘rubbish.’”³³ A 2008 Cochrane Review of more than 50 studies involving 294,000 children concluded that the vaccines were no better than a placebo in children six months to two years of age.^{34,35} So how could we have expected emergency flu vaccines to be any more effective? CSL swine flu package inserts admitted that “there have been no controlled clinical studies demonstrating a decrease in influenza disease after vaccination” with its AFLURIA vaccines for 6-month old children.³⁶ Nevertheless, the CDC now recommends the swine flu vaccine for everyone from the age of six months,³⁷ and 2010-2011 seasonal flu vaccines include a swine flu component.³⁸ Meanwhile, other studies bring into question the effectiveness of seasonal flu vaccines for virtually all age groups,³⁹ while a 2010 Cochrane Collaboration review of the medical literature concerning the effectiveness of influenza vaccines for healthy adults issued a WARNING stating that “reliable evidence on influenza vaccines is thin but there is evidence of widespread manipulation of conclusions and spurious notoriety of the studies.”⁴⁰ The review found that “vaccine use did not affect . . . working days lost” and “had no effect on hospital admissions or complication rates.”

As the 2009-2010 pandemic played out, reports of swine flu vaccine adverse events including disability and death poured in from around the globe.⁴¹ Perhaps most disturbing was the alarming number of miscarriages following swine flu vaccination. Doctors reportedly have refused to investigate individual cases, attributing them to coincidence. This raises a serious ethical question, as coincidence can only justify general statistical claims; it is not a valid scientific explanation for any specific, individual case. The National Coalition of Women estimates that the H1N1 vaccination program contributed to up to 3587 miscarriages and stillbirths among women 17 to 45 years of age in the U.S., based on analysis of data from two different sources.⁴² VAERS data shows a 2500% increase in swine flu vaccine-related miscarriages in the 2009-2010 flu season over that of seasonal flu vaccines for the preceding year.⁴³ This dwarfs the alleged increased risk that the swine flu allegedly posed for pregnant women. Furthermore, some swine flu vaccines contain Polysorbate 80, which has been shown to render female rats infertile.⁴⁴ Meanwhile, in April of 2010, Australia suspended flu vaccines containing an H1N1 strain for children under five following excessive adverse events there (CSL withdrew its child flu vaccine),⁴⁵ Finland suspended H1N1 vaccines in August 2010 due to a narcolepsy-related scare there, Nepal suspended importing of H1N1 vaccines in September 2010 following reports of complications,⁴⁶ and U.K. health officials have “inexplicably” ordered doctors to stop giving flu vaccines to healthy children in the 2010-2011 flu season.⁴⁷ According to the Irish Medicines Board, “swine flu vaccination led to a surges in records of adverse reactions . . . an extra 900.”⁴⁸

The federal government’s Vaccine Adverse Event Reporting System (VAERS) reports, as of May 28, 2010, a total of 11,180 adverse events following swine flu vaccination. Of these, 868 were “serious” reactions and 60 were deaths. However, the FDA and CDC have admitted that reported events represent as few as 1-10% of events actually occurring,⁴⁹ or even less than 1% according to former FDA Commissioner David Kessler,⁵⁰ so the truth is, we have no idea what the real scope and severity of swine flu vaccine adverse events was, or of the adverse events associated with any vaccine, for that matter. What we can say with reasonable certainty is that swine flu vaccine adverse events were substantial, and many times that of official reports.

H1N1 vaccine adverse events will not be compensated under the National Vaccine Injury Compensation Program (VICP) that provides compensation for some of the harm caused by most routine immunizations.⁵¹ Swine flu adverse events may be compensated under the Countermeasures Injury Compensation Program (CICP),⁵² but that program won’t be taking applications for months, “because the administrative policies and procedures for handling them have not yet been approved,”^{53,54} despite the nearly 5 years that have passed since the program’s creation under the federal Public Readiness and Emergency Preparedness Act in December of 2005. So, it could be years before swine flu vaccine victims are compensated, and the amount of compensation may be more limited than what the VICP pays for routine immunization adverse events.⁵⁵ However, this same Act ensured that the swine flu vaccine manufacturers have virtually no liability for the adverse effects of their products.⁵⁶ (According to a CICP representative, injuries from the new 2010-2011 trivalent flu vaccines that include a swine flu component will be covered by the VICP.⁵⁷)

F. Corruption and Conflicts of Interest

In December of 2009, Julie Gerberding, M.D., M.P.H., announced her job change from CDC Director (where she promoted vaccines) to President of Merck Vaccines.⁵⁸ The implications are disturbing. Government agency personnel, in order to be considered as candidates for higher paying jobs in the private sector, will necessarily feel pressured to make agency recommendations and decisions favoring vaccine manufacturers. This is not speculative; we now know that this is exactly what happened with the 2009-2010 swine flu pandemic. Like it or not, the so-called “conspiracy theorists” were right this time.

Corruption exists at the highest levels. For example, in December of 2009, the WHO reported on its website: “Corruption in the pharmaceutical sector occurs throughout all stages of the medicines chain, from research and development to dispensing and promotion.”⁵⁹ On February 21, 2010, the Epoch Times reported that the FDA’s conflict of interest in vaccine approval had been confirmed.⁶⁰ On June 3, 2010, the British Medical Journal revealed the existence of undisclosed, serious conflicts of interest in the WHO along with scientifically unsupportable distortions of information from the WHO concerning the swine flu pandemic.⁶¹ The Journal’s Editor in Chief advised: “The current leadership of WHO may need to resign . . . We must create a world in which the best experts are those that are free from commercial influence...”⁶² On June 4, 2010, The UK’s Guardian shared a report that condemns “WHO Swine Flu Experts’ Ties to Big Pharma.”⁶³ The WHO itself did not volunteer any conflict of interest information until August 11, 2010.⁶⁴

G. Government Waste = Pharmaceutical Windfall

An estimated \$18 billion USD worth of swine flu vaccines were sold over the course of a few months.⁶⁵ However, the vast majority of them were never administered. For example:

1. U.S.: Ordered 229 million doses; distributed 162 million; administered 90 million; and had 71 million doses left over. 40 million doses expired for a \$260 million loss.⁶⁶
2. France: Purchased 94 million doses for €700 million; only 8% vaccinated (5 million citizens); attempted sale of surplus.⁶⁷
3. Germany: Ordered 50 million doses. 30% cancelled, 30 million were left over for a loss of €250 million.⁶⁸
4. United Kingdom: Ordered 90 million doses for £540 million (spent £1.24 billion preparing for the pandemic⁶⁹); used only 5.1 million, while 20 million went unused for a £300 million loss.⁷¹
5. Australia: Purchased 19 million doses for \$100 million; 7.5 million went unused (~\$39 million wasted).⁷²
6. Japan: Anticipates \$853 million vaccine loss (US dollars).⁷³

H. Vaccine vs. Virus: The Alternatives

In the fall of 2008, Cuba used homeoprophylaxis to protect 2.5 million Cuban residents from a Leptospirosis outbreak following tropical flooding. (Homeoprophylaxis is the use of homeopathic nosodes to prevent disease; Leptospirosis is a fever disease that recurs in Cuba following flooding from tropical storms). The protective effect profoundly exceeded that of conventional immunizations—10 infections and no deaths with homeoprophylaxis vs. thousands of cases with deaths in prior years with conventional immunization—and for about 1/15th of the cost of immunization. This was reportedly possible since “Cuba is not under the yoke of the pharmaceutical juggernaut” and Cuba “has no multi-nationals to stop them,” and was achieved “with full scientific verification.”⁷⁴ Numerous other instances of successful homeoprophylaxis have been reported around the world over the past 200 years, including in the U.S.⁷⁵ An added bonus of homeoprophylaxis is that adverse events are virtually non-existent—there is no resulting death and disability from homeoprophylaxis as there is with the widespread use of immunizations.

A recent Japanese study found that “Vitamin D [is] better than vaccines at preventing flu,”⁷⁶ and experts say that vitamin D toxicity fears are unwarranted.⁷⁷ Immunizations may be profitable for the pharmaceutical industry, but they are severely lacking compared to other safer, proven, more effective and less costly means of addressing infectious disease concerns.

IV. EMERGENCY HEALTH LAWS

48 U.S. states have philosophical and/or religious exemptions to routine immunizations, and all have medical exemptions.⁷⁸ However, most states can require everyone, including exempt persons, to be immunized during outbreaks and/or emergencies. Many of these laws were enacted in the years following the publication of the Model State Emergency Health Powers Act⁷⁹ in December of 2001, shortly after 9/11. This model law would give states sweeping authority to mandate emergency vaccines and other emergency medical protocols during declared emergencies—without exemptions—and to quarantine those who refuse, potentially in government facilities against their will, among other overreaching powers. Despite the criticism of many organizations, most states have enacted various portions of the Model Act. However, since we now know that pandemics and emergencies can be declared even when they don’t exist, and that vaccines can be mandated during such false emergencies (e.g., New York temporarily mandated H1N1 vaccines for healthcare workers in the fall of 2009⁸⁰), and given the 1) lack of availability of reliable data from which to conduct a meaningful cost-benefit analysis of emergency vaccines, 2) the lack of efficacy of flu vaccines in particular, and 3) the availability of proven, more effective, safer alternatives, laws clearly need to be enacted that enable citizens to make informed choices about the healthcare measures they take in times of government-declared emergencies.

V. THE PANDEMIC IS OVER, BUT IS THE EMERGENCY?

On August 10, 2010, the WHO declared that the H1N1 Pandemic was over,⁸¹ and information about WHO conflicts of interest was released shortly afterwards.⁸² However, overreaching emergency health laws remain intact with questionable provisions that may be invoked whenever an emergency is declared—whether the emergency is real or not, and whether or not the next round of emergency vaccines are safe and effective or not.

VI. CONCLUSIONS

- A. Epidemics and Emergencies can be declared when they do not exist.
- B. Untested, fast-track, experimental vaccines can be mandated without exemptions in a false emergency.
- C. A reliable risk-benefit analysis is impossible to calculate, because actual figures for pandemic-disease-deaths and emergency-vaccine-deaths can only be estimated, and estimates vary widely.
- D. Mortality from the swine flu “pandemic” was disproportionately high for some vaccinating countries (e.g., U.S. and Britain), and substantially disproportionately low for at least one non-vaccinating country (Poland). Therefore, pandemic vaccines may actually be counterproductive.
- E. Corruption and conflicts of interest occurs at the highest levels of government and throughout the pharmaceutical industry. Therefore, it is completely inappropriate for governments to assume absolute authority over populations during healthcare emergencies. Citizens should retain high levels of autonomy and the ability to make informed decisions for themselves and their children.
- F. Individual citizens **MUST** have the right to make their own informed decisions about vaccines and other medical protocols in declared emergencies. But this will not occur unless enough citizens unite and take appropriate action.

WHAT TO DO

The Pandemic Response Project (PReP), founded by Attorney Alan Phillips, J.D. is dedicated to reforming America’s emergency health laws to allow greater freedom for informed choice in declared emergencies. Join the PReP mailing list for up-dates and support for reform in your state. E-mail PReP at ncprepmanager@gmail.com. Read and share this report and The Model Self-Shielding Act,⁸³ available at the PReP website, with your state representatives and others. Join the Pandemic Response Project’s Volunteer Pool or Professional Panel. There is no obligation, but your participation brings clout and credibility to our mission. Together, we can advance the cause of informed choice. www.pandemicresponseproject.com

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