

*Vaccine-Related Liability: Past Approaches,
Current Challenges, and Proposals for
Encouraging Future Innovation and More
Widespread Vaccine Use*

Food and Drug Law Journal 2020 Symposium
Thursday, November 12, 2020 at 3 p.m. – 4:30 p.m.

pbwt.com

Vaccination Policies in the United States

- Vaccines and Herd Immunity
- Case Law on Mandatory Vaccine Policies in the United States
 - *Jacobson v. Massachusetts*, 197 U.S. 11 (1905)
 - *Zucht v. King*, 260 U.S. 174 (1922)
- Mandatory Vaccine Policies
 - Schools
 - Workplaces
- Exemptions to Vaccine Policies
 - Medical
 - Religious
 - Philosophical and Conscientious Beliefs

Vaccine Manufacturer Liability Schemes

- The Vaccine Injury Compensation Program (VICP)
- The U.S. Preparedness Readiness and Emergency Preparedness (“PREP”) Act
- State Law Vaccine Liability Schemes
- Vaccine Liability Schemes Outside the United States
- Vaccine Liability Exemplars
 - H1N1
 - Ebola
 - Dengvaxia

Improving Vaccine Development and Adoption

- Challenges to Vaccine Adoption
 - Anti-vaxxer Movement
- International Coordination of Vaccine Policies
 - International travel patterns
- Limiting International liability for a COVID-19 Vaccine
 - Global Treaty / Legislated Immunity
 - Third-Party Intermediary Declaration (Prep Act-Like Declaration)
 - Letters of Agreement
 - The World Bank: Pandemic Emergency Financing Facility

Improving Vaccine Development and Adoption (cont'd)

- Limiting Covid-19 Liability Claims in the United States
 - Adding Covid-19 vaccine to the Vaccine Injury Table
 - Reforms to VICP
 - Increase damage awards
 - Workers' Compensation-like Insurance Scheme
 - Vaccine Courts exclusive forum for vaccine-related injury

Improving Vaccine Development and Adoption (cont'd)

- Addressing Cost Associated with Vaccine Development
 - Creation of a Vaccine Bond
- Policy changes to Increase Vaccination Rates
 - Tie some school funding to vaccination rates
 - Repealing philosophical and conscientious exemptions
 - Increase requirements to invoke medical and religious exemptions

Improving Vaccine Development and Adoption (cont'd)

- Addressing Intangibles
 - Amnesia
 - Hindsight Bias
 - The Law of Small Numbers

Contacts



John D. Winter

Tel. 212-336-2836

jwinter@pbwt.com



Camille L. Fletcher

Tel. 212-336-2379

cfletcher@pbwt.com