No. 25-133

In the Supreme Court of the United States

JOSEPH MILLER, *et al.*,
Petitioners,
v.
JAMES V. MCDONALD, COMMISSIONER, NEW YORK STATE DEPARTMENT OF HEALTH, *et al.*,
Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Second Circuit

Amici Curiae Brief of America's Frontline Doctors and Dr. Simone Gold, M.D., J.D., in Support of Petitioners for Reversal

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A MATTER OF GREAT PUBLIC IMPORTANCE

Amici Curiae are the Free Speech Foundation, d/b/a America's Frontline Doctors ("AFLDS"), and Dr. Simone Gold, M.D., J.D., the founder and physician member with over twenty years experience as an emergency room physician in minority communities around the nation. *Amici Curiae* respectfully file this *amici curiae* brief in support of the Petitioners' request for reversal in *Joseph Miller, et al., v. James V. McDonald, Commissioner, New York State Department of Health, et al.,* 25-133 (2025).[1]

Amici Curiae filed *amici curiae* briefs in the related cases of *Nat'l Fed'n of Indep. Bus. v. OSHA*, 595 U.S.___, 142 S. Ct. 661 (2022), *Mahmoud v. Taylor,* 24-297 (2024); *Kory v. Bonta,* 24-932 (2024), *John Does 1-2, et al.*, v. *Kathy Hochul, Governor of New York* and *Chiles v Salazar,* 24-539 (2024) as well.

This brief offers an important *medical and legal perspective* from thousands of doctors on the frontlines, by demonstrating that New York's arbitrary abolition of all religious exemptions to its school vaccine requirement violates the Free Exercise Clause of the First Amendment, the fundamental parental rights of the Amish Petitioners, the Petitioners' constitutional right to refuse medical treatment, this Court's holding in *Mahmoud v.*

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[1] Pursuant to Rule 37.6, it is hereby certified that no counsel or any party authored or prepared this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. The parties received timely notice of the filing of this *amici curiae* brief.

Taylor, 145 S. Ct. 2332 (2025) and is medically very dangerous.

INTEREST OF *AMICI CURIAE*

Amici Curiae AFLDS are thousands of member physicians from across the country, representing a range of medical disciplines and practical experience on the front lines of medicine, and its founder and expert physician and attorney member, Dr. Simone Gold, M.D., J.D.[2]

AFLDS' programs focus on a number of critical issues, including:

- Providing Americans with science-based facts for staying healthy;
- Protecting physician independence from government overreach;
- Combating illnesses with evidence-based approaches without compromising constitutional freedoms;
- Fighting medical cancel culture and media censorship;
- Advancing healthcare policies that protect the physician-patient relationship.

Each of AFLDS' member physicians is deeply committed to the guiding principle of medicine: "FIRST, DO NO HARM." They take their ethical obligations to their patients very seriously. It is

[2] https://americasfrontlinedoctors.org/about-us (all websites cited herein last visited on August 20, 2025).

axiomatic that a physician's duty is to his or her patient.

America's Frontline Doctors is committed to preserving the voluntary and fully informed doctor/patient relationship, opposes any sort of illegal interference with the doctor/patient relationship, and opposes illegal government overreach by the censorship of medical and other information, or by the mandating of incorrect or dangerous medical information or treatments.

For AFLDS member physicians, the practice of medicine is not merely a job or career. Rather, it is a sacred trust. It is a high calling that often requires a decade or more of highly focused sacrificial dedication to achieve.

America's Frontline Doctors is committed to preserving the voluntary and fully informed doctor/patient relationship, opposes any sort of illegal interference with that relationship, and opposes illegal government overreach by the censorship of medical and other information, or by the "mandating" of incorrect or dangerous medical information or treatments.

Dr. Gold and AFLDS also publicly supported the position, as early as October, 2020, that experimental mRNA injections are not "vaccines," because they do not prevent infection or transmission, and they are neither "safe" nor "effective."[3] They are personal medical treatments only.

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[3] https://aflds.org/about-us/press-releases/americas-frontline-doctors-supports-the-filing-of-a-petition-for-preliminary-injunction-to-prevent-kaiser-permanente-from-enforcing-their-vaccine-mandate

"Informed consent" for medical treatments cannot exist if it is not *fully* informed, that is, unless there is a full disclosure of all known benefits and risks. Voluntary informed consent can never be coerced, subjected to undue influence, nor distorted by censored and incomplete information.

Unfortunately, New York's failure to allow religious exemptions violates not only the Free Exercise Clause of the First Amendment, but also the fundamental medical principles of informed consent

SUMMARY OF ARGUMENT

New York's arbitrary abolition of all religious exemptions to its school vaccine requirement violates the Free Exercise Clause of the First Amendment, the fundamental parental rights of the Amish Petitioners, the Petitioners' constitutional right to refuse medical treatment, this Court's holding in *Mahmoud v. Taylor,* 606 U.S. ____, 145 S. Ct. 2332 (2025), and is medically very dangerous.

On August 21, 2025, the Office for Civil Rights of the United States Department of Health and Human Services ("HHS") warned the State of West Virginia and the West Virginia Health Department against similar refusals to allow religious exemptions.[4] There are only four states of the Union that refuse to allow new religious exemptions to school vaccine

[4] 'Michael Nevradakis, Ph.D. *'Seismic Shift': HHS Warns West Virginia May Lose $1.37 Billion in Funding if Health Departments Don't Allow Religious Exemptions*. (August 25, 2025).https://childrenshealthdefense.org/defender/hhs-warns-west-virginia-may-lose-over-one-billion-funding-allow-religious-exemption

requirements: New York, California, Connecticut, and Maine.[5]

The fundamental rights of parents as affirmed by *Troxel v. Granville*, 530 U.S. 57, 65-66 (2000), and recently reaffirmed by *Mahmoud, supra*, combined with well-established constitutional rights to refuse medical treatments under such landmark cases as *Cruzan v Director, Missouri Department of Health*, 497 U.S. 261 (1990) provide additional solid grounds for reversal.

Finally, old cases such as *Jacobson v. Massachusetts*, 197 U.S. 11 (1905) and *Zucht v. King*, 260 U.S. 174 (1922) were decided without specifically addressing religious exemptions, and under the presumption of the safety and efficacy of the vaccines in use at the time.

The safety, efficacy, and necessity of certain vaccines on the childhood schedule are now under active and continuing review by HHS. Possible toxic ingredients and dangerous adverse reactions have been identified.

Accordingly, HHS is now actively engaged in reexamining the safety of the childhood vaccination schedule. *On August 14, 2025 HHS announced that it was reinstating the Task Force on Safer Childhood Vaccines.*[6] This indicates that childhood vaccines can be made safer for children than they are now. Some

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[5] National Conference of State Legislatures, *State Non-Medical Exemptions from School Immunization Requirements*. (updated July 24, 2025). https://www.ncsl.org/health/state-non-medical-exemptions-from-school-immunization-requirements.

[6] Ceclia Smith-Schoenwalder, *Calling the Shots: Tracking RFK Jr. on Vaccines*, U.S. News (August 15, 2025). https://www.usnews. com/news/health-news/articles/calling-the-shots-tracking-robert-f-kennedy-jr-s-moves-on-vaccines

parents may elect to forgo the possible risks of harm to their children until they can be assured of the safety of these vaccines in light of these new developments. Such assurance is a necessity for informed consent. After all, how can anyone in good conscience mandate anything that might harm children?

The Free Exercise Clause of the First Amendment and "informed consent" to medical treatments must not be overridden by compelled compliance with forced injections.

ARGUMENT

A. The State of New York overreached by enforcing the ban on all religious exemptions to its school vaccine requirements, which unconstitutionally violated the Free Exercise clause of the First Amendment and *Mahmoud v. Taylor*. On August 21, 2025, the Office for Civil Rights of the United States Department of Health and Human Services warned the State of West Virginia and the West Virginia Health Department against similar refusals to allow religious exemptions. There are only four states of the Union that refuse to allow new religious exemptions to school vaccine requirements: New York, California, Connecticut, and Maine.

As this Honorable Court stated in *Mahmoud v Taylor*:

> Our Constitution proclaims that "Congress shall make no law … prohibiting the free exercise" of religion. Amdt. 1. That restriction applies equally to the States by way of the Fourteenth Amendment. *Cantwell* v. *Connecticut*, 310 U. S. 296, 303 (1940). *And the right to free exercise, like other First Amendment rights, is not "shed . . . at the schoolhouse gate*." *Tinker* v. *Des Moines Independent Community School Dist.*, 393 U. S. 503, 506–507 (1969). Government schools, like all government institutions, may not place unconstitutional burdens on religious exercise. (emphasis added).

Id., 145 S. Ct. 2332, 2350 (2025).

As this Court found in *Wisconsin v. Yoder*, 406 U.S. 205, 210-217 (1972), and *Mast v Fillmore County*, 141 S. Ct. 2430, 2430 (2021), the Amish are a deeply religious community.

Respondents' disturbing refusal to honor, respect, or accommodate the deeply religious Amish in the practice of their religion in New York clearly illustrates the unconstitutional burden upon the Free Exercise of religion that many bureaucrats seem all to willing to impose. The exorbitant fines that New York seeks to levy upon the Amish community for failing to renounce their religious beliefs would destroy their community. The New York Health Department cannot repeal the Constitution.

Increasingly, this Court's vindication of the constitutional right of religious freedom is making an impact. On August 21, 2025, the Office for Civil Rights of the United States Department of Health and Human Services warned the State of West

Virginia and the West Virginia Health Department against refusing to allow religious exemptions.[7] And the unconstitutional restriction on religious freedom New York extends to the administration of vaccines in school settings does not exist in 46 of the States or in the District of Columbia.

Consistent with *Wisconsin v. Yoder*, 406 U.S. 205, 210-217 (1972), the unanimous opinions in *Mast v. Fillmore County*, 141 S. Ct. 2430 (2021) and *Fulton v. City of Philadelphia*, 593 U.S. 522 (2021), and with *Mahmoud, supra,* the petition for *certiorari* should be granted and the decision below should be reversed as violative of the Free Exercise Clause of the First Amendment.

B. The fundamental rights of parents as recently reaffirmed by *Mahmoud v Taylor*, combined with the well-established constitutional right to refuse medical treatments under *Cruzan v. Director, Missouri Department of Health*, provide solid grounds for reversal.

Under our Constitution, Amish parents enjoy the fundamental parental right to guide their children's religious and secular education and upbringing, guide their children's medical treatments, and protect their children from harms. No government agent has the right to usurp the parental role by "mandating" unwanted forced inoculations against informed consent and parental wishes, particularly where said forced inoculations may potentially contain toxic ingredients or have serious adverse reactions.

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[7] Nevradakis, *'Seismic Shift', supra,* at note 4.

It is "beyond debate" that Petitioners enjoy constitutionally protected fundamental parental rights over the care, custody and control of their minor children, fundamental rights which have been affirmed numerous times by this Court. These fundamental parental rights cannot be usurped or co-opted by governmental actors such as Respondents, or by private third parties.[8] These fundamental parental rights broadly include guiding their children's education, medical care, and protecting their children from real or potential harms.

As Justice O'Connor definitively ruled in *Troxel v. Granville*:

> The Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." We have long recognized that the Amendment's Due Process Clause, like its Fifth Amendment counterpart, "guarantees more than fair process." *Washington v. Glucksberg*, 521 U. S. 702, 719 (1997). The Clause also includes a substantive component that "provides heightened protection against government interference with certain fundamental rights and liberty interests." *Id.*, at 720; see also *Reno v. Flores*, 507 U. S. 292, 301-302 (1993).
>
> The liberty interest at issue in this case — the interest of parents in the care, custody, and control of their children — is perhaps the oldest of the fundamental liberty interests recognized by this Court. More

[8] There is a presumption that fit parents act in their children's best interests. *Parham v J.R.*, 442 U.S. 584, 602 (1979).

than 75 years ago, in *Meyer v. Nebraska*, 262 U. S. 390, 399, 401 (1923), we held that the "liberty" protected by the Due Process Clause includes the right of parents to "establish a home and bring up children" and "to control the education of their own." Two years later, in *Pierce v. Society of Sisters*, 268 U. S. 510, 534-535 (1925), we again held that the "liberty of parents and guardians" includes the right "to direct the upbringing and education of children under their control." We explained in *Pierce* that "[t]he child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." *Id.*, at 535. We returned to the subject in *Prince v. Massachusetts*, 321 U. S. 158 (1944), and again confirmed that there is a constitutional dimension to the right of parents to direct the upbringing of their children. "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Id.*, at 166.

In subsequent cases also, we have recognized the fundamental right of parents to make decisions concerning the care, custody, and control of their children. *See, e.g., Stanley v. Illinois*, 405 U. S. 645, 651 (1972) ("It is plain that the interest of a parent in the companionship, care, custody, and management of his or her children 'come[s] to this Court with a momentum for

respect lacking when appeal is made to liberties which derive merely from shifting economic arrangements'" (citation omitted)); *Wisconsin v. Yoder*, 406 U. S. 205, 232 (1972) ("The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition"); *Quilloin v. Walcott*, 434 U. S. 246, 255 (1978) ("We have recognized on numerous occasions that the relationship between parent and child is constitutionally protected"); *Parham v. J. R.*, 442 U. S. 584, 602 (1979) ("Our jurisprudence historically has reflected Western civilization concepts of the family as a unit with broad parental authority over minor children. Our cases have consistently followed that course"); *Santosky v. Kramer*, 455 U. S. 745, 753 (1982) (discussing "[t]he fundamental liberty interest of natural parents in the care, custody, and management of their child"); *Glucksberg*, supra, at 720 ("In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the 'liberty' specially protected by the Due Process Clause includes the righ[t] ... to direct the education and upbringing of one's children" (citing *Meyer* and *Pierce*)). In light of this extensive precedent, it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make

> decisions concerning the care, custody, and control of their children.
>
> *Troxel v. Granville*, 530 U.S. 57, 65-66 (2000).

Justice O'Connor made it clear that parental authority was constitutionally paramount in the parents-versus-government relationship. This of course includes freely exercising religious beliefs.

The constitutional principles guaranteeing every individual the right to refuse medical treatment and the right of personal bodily integrity are similarly well-established, and were also willfully ignored by Respondents. *See Cruzan v. Director, Missouri Dept. of Health*, 497 U.S. 261 (1990) ("the logical corollary of the doctrine of informed consent is that the patient generally possesses the right not to consent, that is, to refuse treatment."); *Washington v. Harper*, 494 U.S. 210 (1990) ("the forcible injection of medication into a nonconsenting person's body represents a substantial interference with that person's liberty"); *Schloendorff v Society of New York Hospital*, 211 N.Y. 125 (1914) ("Every human being of adult years and sound mind has a right to determine what shall be done with his own body"); *Canterbury v. Spence*, 464 F.2d 772 (1972) ("[T]he root premise is the concept, fundamental in American jurisprudence, that '[e]very human being of adult years and sound mind has a right to determine what shall be done with his body…' True consent to what happens to one's self is the informed exercise of a choice.")

In *Vacco v. Quill*, 521 U.S. 793 (1997), the Supreme Court stated, "Everyone, regardless of physical condition, is entitled, if competent, to refuse unwanted lifesaving medical treatment."

For decades now, courts have consistently upheld the patients' well-established right to refuse unwanted medical treatments on constitutional grounds. *See, e.g., Mills v. Rogers*, 457 U.S. 291 (1982), *Guardianship of Roe*, 383 Mass. 415 (1981), *Riggins v. Nevada*, 504 U.S. 127 (1992), and *Sell v. United States*, 539 U.S. 166 (2003).

The right to refuse unwanted medical treatments obviously includes the right of all parents to refuse unwanted medical treatments being forced upon their children, as Respondents are attempting.

C. The fundamental rights of parents to direct their children's religious education and medical treatment, as well as to protect their children from harm, are especially implicated, because the safety, efficacy, and necessity of certain vaccines on the childhood schedule are currently under new HHS review. Possibly toxic ingredients and dangerous adverse reactions have been identified. Parents reasonably may elect to forgo possible risks of harm to their children until they can be assured of the safety of these vaccines, a necessity for informed consent.

"Mandating" medical treatments absent voluntary, coercion-free informed consent violates well-established constitutional principles including the constitutional right to refuse medical treatments, of personal bodily integrity, and civil and criminal federal and state laws binding upon public and private actors prohibiting medical battery, negligent injuring, and assault.

Amici curiae physicians are very concerned that foundational medical principles such as the absolute requirement for informed consent in all cases, the Hippocratic Oath's "Do No Harm" mandate, and the strict observance of all applicable civil and criminal laws, are trampled upon when "one size fits all" medical mandates are imposed upon unwilling and unconsenting patients.

The possibilities of doing harm are heightened when the safety of the enforced injection is in question, as it is here.

Cases from a time when medical research and the recognition of possible harms from vaccination were considerably less advanced, such as *Jacobson v. Massachusetts*, 197 U.S. 11 (1905) and *Zucht v. King*, 260 U.S. 174 (1922), were decided without specifically addressing religious exemptions and under a presumption that the vaccines used at the time were safe and effective.

However, the safety, efficacy, and necessity of certain vaccines on the childhood schedule are now under active new review by HHS. Certain possibly toxic ingredients and dangerous adverse reactions have been identified. HHS is reexamining the childhood vaccination schedule. On August 14, 2025, HHS announced that it was reinstating the Task Force on Safer Childhood Vaccines.[9] This indicates that childhood vaccines can be made safer for children than they are now.

Some parents may elect to forgo the possible risks of harm to their children until they can be assured of the safety of these vaccines, in light of

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[9] Smith-Schoenwalder, *Calling the Shots, see supra,* note 6.

these new developments, a necessity for informed consent.

Cautious recognition that not all vaccines can be administered safely to all persons is not "anti-vaccine." All parents simply want assurance that childhood vaccines are truly safe, with no potentially toxic ingredients. *Amici Curiae* have written extensively about the lack of safety and efficacy of the experimental COVID-19 mRNA injections, which have recorded a shocking 38,742 deaths in America alone through July 25, 2025.[10]

The unsafe mRNA injections have, thankfully, now been removed from childhood vaccine schedules. However, red safety flags remain for other childhood vaccines.

For example, a 2021 article published in Toxicology Reports reported on an almost thirty year analysis of the Vaccine Adverse Event Reporting System (VAERS) database. Miller made these findings: [11]

- Additive or synergistic toxicity may occur following multivalent vaccination.
- Infant deaths post-vaccination are often misclassified as SIDS or suffocation in bed.
- Of all reported SIDS cases post-vaccination, 75 % occurred within 7 days

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[10] *Source*: https://openvaers.com/covid-data

[11] Neil Z. Miller, *Vaccines and sudden infant death: An analysis of the VAERS database 1990–2019 and review of the medical literature*, 8 Toxicology Reports 1324-1335 (2021). https://www.sciencedirect.com/science/article/pii/S2214750021001268

- Inflammatory cytokines in the infant medulla act as neuromodulators causing prolonged apneas.
- Adjuvants that cross the blood-brain barrier may induce fatal disorganization of respiratory control.

Parents understandably want to know whether these results are accurate or not, and may prefer not to gamble with their children's health.

As another example of the scientific controversies currently surrounding the safety of the childhood vaccine schedule, the toxicity of aluminum ingredients is in question. Despite incessant statements from multiple sources stating that aluminum ingredients are safe for injection into children, the safety is still very much in doubt.

On July 29, 2025, Madhava Setty, M.D., wrote an article entitled *Danish Study on Aluminum in Vaccines a Masterclass in How to Design a Study That 'Proves' No Danger — by Hiding It*.[12] The subtitle summarizes Dr. Setty's analysis as follows:

> A study by Danish researchers claiming no link between aluminum exposure from vaccines and autism or chronic disease was designed to hide any possible evidence of a connection. The study illustrates why medical professionals can no longer simply

[12] Madhava Setty, M.D., *Danish Study on Aluminum in Vaccines a Masterclass in How to Design a Study That 'Proves' No Danger — by Hiding It*. (July 29, 2025). https://childrenshealthdefense.org/defender/denmark-study-designed-hide-connection-aluminum-vaccines-chronic-disease/

> read a study's abstract and results and trust that peer review will validate findings.

All concerned parents need to know whether the adjuvants in childhood vaccines are truly safe or not before consenting to their child's vaccination. Informed consent can never be coerced.

HHS's new safety evaluations will soon produce data which must be factored into any legal decisions legislators and government officials make regarding mandating forced medical injections. Allowing exceptions founded on religious conscience *in addition* to medical exceptions based on the known medical vulnerabilities of a child protects all children from potential harms which have not yet been fully investigated. After all, how can anyone in good conscience mandate anything that *might* harm children?

CONCLUSION

New York's arbitrary abolition of all religious exemptions to its school vaccine requirement violates the Free Exercise Clause of the First Amendment, the fundamental parental rights of the Amish Petitioners, Petitioners' constitutional right to refuse medical treatment, this Court's holding in *Mahmoud v. Taylor, supra,* and is medically very dangerous. New York is attempting to impose ruinous fines on its Amish communities which would destroy those communities.

The Petition for *Certiorari* should be granted.

Respectfully submitted,

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