

Please have a read of the memorandum below. There is compelling information that might influence the council to abolish water fluoridation. We know the board cares deeply about the residents and have only good intentions for their health and well-being. New information should be weighed as it appears the potential harm to citizens as well as the liability to **the City of North Miami Beach** may be significant.

Key items contemplated:

- Sept. 24th Federal Judge ruling
- FL Statute 381.026
- FL Statute 859.01

MEMORANDUM

TO: **NMB Mayor and Commissioners**

FROM: Scott Kiley

DATE: Jan 5th, 2024

RE: Legal Analysis of Water Fluoridation Under Florida Statute 859.01 (Poisoning Food or Water) and Florida Statute 381.026 (Informed Consent)

EXECUTIVE SUMMARY

This memorandum presents an updated analysis of the **legal implications of water fluoridation** in **NMB, Florida**, incorporating recent findings from **Federal Judge Edward M. Chen's September 24, 2024 ruling**. The ruling concludes that **fluoride exposure** is associated with **neurotoxicity**, specifically **reduced IQ in children**, a potentially severe adverse effect. These findings provide further support for an immediate **pause** in the City's water fluoridation program, given the heightened risks to public health and legal exposure under **Florida Statutes 859.01** (Poisoning Food or Water) and **381.026** (Informed Consent for Medical Treatment). I recommend that the City immediately reconsider its fluoridation practices pending a thorough legal and health risk review.

LEGAL FRAMEWORK

A. Key Findings from Federal Judge Chen's Ruling

In the **September 24, 2024 ruling**, Judge **Edward M. Chen** of the U.S. District Court for the Northern District of California concluded that:

1. **Fluoride Exposure Linked to Neurotoxicity:**

- The court found that **exposure to fluoride**—as used in **water fluoridation**—is associated with the **adverse effect** of **reduced IQ** in children, particularly **boys**.
- The ruling **does not require proof of direct causation** but instead identifies the **association** between fluoride exposure and adverse health effects (i.e., neurotoxicity).

- The **hazard identification step** was satisfied, with exposure to fluoride being linked to a significant public health concern: **neurodevelopmental damage**, including reductions in **IQ**.
- 2. **Implications for Public Health:**
 - The court highlighted that **neurotoxicity**—particularly in vulnerable populations like children—poses an **unreasonable health risk**.
 - **Key finding:** Judge Chen emphasized that **exposure to fluoride** presents a **hazard** in terms of public health, particularly for **susceptible populations**.

Given these findings, the city's current practice of **fluoridating drinking water** introduces a **health risk** that could be deemed unlawful under **Florida Statutes 859.01** and **381.026** (Informed Consent), which address the administration of potentially harmful substances to the public.

B. Updated Legal and Public Health Analysis

1. **Florida Statute 859.01: Poisoning Food or Water**
 - **Violation of Statutory Duty:** The updated findings in Judge Chen's ruling bolster the argument that the practice of **water fluoridation** violates **Florida Statute 859.01**. If fluoridation chemicals are associated with **neurotoxicity**, **NMB** could face **legal challenges** for **introducing harmful substances** into the public water supply. This poses an **unreasonable risk to health**, particularly for **children**—a population that is specifically noted in the ruling as being vulnerable to reduced IQ from fluoride exposure.
 - The ruling's identification of **fluoride exposure** as a **hazardous** chemical that causes **neurodevelopmental harm** can be directly applied to the **poisoning** statute. In light of the ruling, continuing fluoridation may expose the city to significant **legal liability** under this statute, particularly in relation to the risks posed to **children**.
2. **Florida Statute 381.026: Informed Consent for Medical Treatment**
 - **Fluoridation as Medical Treatment:** The court's finding that **fluoride exposure** is linked to significant **health risks**—including neurotoxicity in children—supports the argument that **fluoridation** constitutes a **medical treatment** aimed at **preventing tooth decay**. Since it involves **exposure to a substance** that can cause harm (neurotoxicity, reduced IQ), and is provided **without individual consent**, this could be a violation of the **Florida Patient Bill of Rights** under **Statute 381.026**.
 - **Informed Consent:** As fluoridation introduces an **unreasonably risky substance** into the water supply, municipalities may be seen as violating individuals' rights to make an informed choice about medical treatments. The **Florida Patient Bill of Rights** stipulates that a person must consent to a medical treatment, and this applies to interventions like fluoridation that could cause adverse health effects, particularly when the risks are now more clearly understood.

RISK ANALYSIS

1. **Increased Public Health Risk:**

With the **new evidence** of neurotoxic risks, especially to **children**, there is a clear public health risk in continuing the practice of fluoridation. The **association** between fluoride exposure and **reduced IQ** requires a serious reassessment of the city's responsibilities to its residents, particularly vulnerable groups like infants and young children.

2. **Legal Exposure and Liability:**

- Based on Judge Chen's ruling, the City could be exposed to substantial **liability** under both **Florida Statutes 859.01** and **381.026**. The risk of **neurotoxicity** associated with fluoride compounds—especially at the levels used in public water supplies—poses a **hazard** that could lead to **legal action**.
- The city could face lawsuits from residents or advocacy groups seeking redress for **harmful medical treatments** being administered without informed consent. **Parents** of affected children could argue that they were unknowingly exposing their children to a **neurotoxic substance** without the ability to opt out.

3. **Municipal Authority and Liability:**

- The **city council** may not have the authority to impose a **medical treatment** on the public in this manner, especially when such treatments involve **health risks**. The **Florida Patient Bill of Rights** and recent legal rulings highlight the need for **informed consent** in matters involving potential health harm.
- Given these risks, there may be growing pressure on the city council to **immediately suspend fluoridation** until a more thorough legal and public health analysis is conducted.

RECOMMENDATION

Based on the new findings from the **September 2024 federal court ruling**, I recommend that **the City of NMB**:

1. **Continue the pause of water fluoridation program** pending a **comprehensive legal review**.
 2. **Conduct a thorough legal analysis** of compliance with both **Florida Statute 859.01** (Poisoning Food or Water) and **Florida Statute 381.026** (Informed Consent for Medical Treatment).
 3. **Review potential health risks** associated with fluoridation, particularly the newly identified **neurotoxic effects** linked to fluoride exposure in children.
 4. Develop protocols for managing public inquiries and mitigating legal risks, including clear **risk communication strategies** to ensure transparency with residents.
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Conclusion

Incorporating **Judge Chen's September 24, 2024 ruling** significantly strengthens the case against **water fluoridation** in **NMB**, Florida. The federal court's finding that fluoride is associated with **neurotoxic effects**, particularly **reduced IQ** in children, amplifies concerns about the public health risks of fluoridation. These findings support the recommendation to abolish the fluoridation program and a careful reassessment of the legal risks under **Florida Statutes 859.01** and **381.026**, which could expose the city to liability for administering a medical treatment without informed consent and exposing residents to hazardous substances.

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