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# The Rush to Vaccinate: Are States Overstepping Their Boundaries by Mandating Vaccination of School-Age Girls for HPV?

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**THE RUSH TO VACCINATE:  
ARE STATES OVERSTEPPING  
THEIR BOUNDARIES BY  
MANDATING VACCINATION  
OF SCHOOL-AGE GIRLS  
FOR HPV?**

*by* MICHELLE KAPLAN

**W**hen Texas Governor Rick Perry issued an executive order in February of 2007 mandating that young girls be vaccinated against the sexually transmitted disease, human papillomavirus (HPV), it touched off a firestorm that shows no signs of letting up.<sup>1</sup>

The debate is largely focused on proposed legislation mandating vaccination of adolescent girls upon entering middle school.<sup>2</sup> This proposed legislation raises the issue of whether the public health benefits are substantial enough to outweigh parents' rights to make decisions about their daughters' sexual health.<sup>3</sup>

HPV is currently the most common sexually transmitted infection in the United States.<sup>4</sup> The Centers for Disease Control and Prevention estimates that more than half of the population of sexually active people will contract HPV in their lifetime with approximately 6.2 million new cases each year.<sup>5</sup>

The vaccine, which was approved by the Federal Drug Administration (FDA) on June 8, 2006, protects against four strains of the sexually transmitted disease.<sup>6</sup> Two of the strains are believed to cause 70 percent of all cervical cancer cases, while the other two strains are believed to cause 90 percent of all genital warts.<sup>7</sup>

While the issue clearly has national implications, the decision on whether to mandate the HPV vaccine has been left to state legislatures.<sup>8</sup> Governor Perry enacted such a mandate, but the Texas legislature barred the state from ordering the shots until at least 2011.<sup>9</sup>

In 2007, 24 states and Washington, D.C. introduced legislation mandating school HPV vaccination.<sup>10</sup> Virginia is the only state, however, that has successfully enacted legislation mandating the HPV vaccine in schools.<sup>11</sup> Yet, the Virginia law was later amended to provide easy opt-out procedures for parents.<sup>12</sup> California and Maryland are among the states that have withdrawn bills mandating HPV vaccination in schools.<sup>13</sup>

#### THE ARGUMENTS

Opponents of school-mandated vaccination raise various moral and ethical concerns about requiring young girls to be vaccinated for a sexually transmitted disease.<sup>14</sup>

Focus on the Family, for example, supports the availability of the HPV vaccine, but opposes a school mandate.<sup>15</sup>

Focus on the Family, believes “the decision of whether to vaccinate a minor against this or other sexually transmitted infections should remain with the child’s parent or guardian.”<sup>16</sup>

The American Academy of Pediatrics states, “Families with firmly enforced restrictions on sexual conduct, whose children do not participate in penetrating vaginal sexual intercourse outside of marriage, should have those values respected; it should be acknowledged that the child will not require HPV vaccination prior to marriage.”<sup>17</sup> Some doctors even fear that the vaccination could encourage sexual behavior.<sup>18</sup>

Opponents further contend that the public health benefits derived from mandating the HPV vaccine in schools are not substantial enough to outweigh parental rights.<sup>19</sup>

Despite the prevalence of HPV in the United States, the incidence of cervical cancer is uncommon.<sup>20</sup> HPV generally leads to cervical cancer in cases where it goes undetected for many years and is typically preventable with routine pap tests.<sup>21</sup> Furthermore, HPV is different from typical mandatory child immunizations in that it is not contagious in a traditional school setting.<sup>22</sup>

Opponents also are concerned because the HPV vaccine is relatively new and its long-term side-effects and efficacy are still unknown.<sup>23</sup>

Those in favor of school mandated HPV vaccination emphasize the impact of high infection rates in the United States and the potential benefits of widespread vaccination.<sup>24</sup> In 2006, approximately 3.5 million abnormal pap results caused millions of women to seek follow up care, including additional pap tests, colposcopies and biopsies — resulting in an estimated \$6 billion in annual health care costs.<sup>25</sup>

Experts contend that high vaccination rates have the potential to not only reduce the incidence of cervical cancer, but also impact the number of abnormal pap results.<sup>26</sup>

Proponents are supported by substantial evidence indicating the success of school-based vaccination programs as a means of achieving universal vaccination.<sup>27</sup> Unlike other vaccines, the HPV vaccine poses a particular challenge because it must be administered three times over a six-month period.<sup>28</sup>

Dr. Heidi Appel, an attending physician of Pediatric Critical Care and Assistant Professor of Clinical Pediatrics at Georgetown University Medical School, believes school mandates are the most effective means of achieving high vaccination results.<sup>29</sup>

“The reality is that lots of kids are behind in their vaccines, which are life saving,” said Appel. “School-mandated vaccinations are the best way to assure compliance.”<sup>30</sup>

Proponents also suggest that school-mandated HPV vaccination has the potential to eliminate the disproportionately high incidence of cervical cancer among low-income women.<sup>31</sup>

Dr. Claudia Vellozi, who specializes in vaccine safety, maintains that “immunization, particularly HPV immunization, has the greatest impact on populations that do not have access to health care – like the developing world and low-income communities.”<sup>32</sup>

Cynthia Dalaird of the Guttmacher Policy Review agrees.

“School entry requirements, therefore, might provide an important opportunity to deliver health interventions that, like the HPV vaccine, offer protections to individuals who have the potential to become disconnected from health care services later in life,” said Dalaird.<sup>33</sup>

#### HOW THE STATES ARE REACTING TO THE CONTROVERSY

Due to the controversial nature of immunization requirements, most states provide some form of exemption.<sup>34</sup> The opt-out provisions allow parents to waive the mandatory vaccines for religious, philosophical or personal reasons.<sup>35</sup>

Proponents of school-mandated HPV immunization, however, claim that by giving parents the option to vaccinate (or not vaccinate), it ignores the reality that many teenage girls are sexually active without their parents’ consent or knowledge.<sup>36</sup> Many of these girls would likely risk an HPV infection before obtaining consent from a parent.<sup>37</sup> Therefore, according to this line of thought, vaccinating all girls regardless of their parents’ beliefs or decisions would better protect the population as a whole.<sup>38</sup>

In addition to moral and ethical criticism, states attempting to pass legislation face the challenge of funding a mandatory HPV vaccination.<sup>39</sup> The HPV vaccine — \$360 for the three-dose requirement — is more expensive than any other commonly used vaccine.<sup>40</sup>

Since the CDC recommended routine HPV vaccination of girls ages 11 to 12 in June of 2006, the vaccine has become covered by many private insurance companies and has also become available through the federal Vaccines for Children program (VCF).<sup>41</sup> However, states mandating the vaccine may have to bear the cost of immunizing girls without insurance coverage.<sup>42</sup>

In addition to school-mandated vaccination programs, states are considering other approaches to promote vaccination.<sup>43</sup> More than 30 bills relating to the HPV vaccine are being considered nationwide — including proposals to fund education, awareness campaigns and required insurance coverage.<sup>44</sup>

Meanwhile, health care providers continue to educate parents about the disease and the vaccine.<sup>45</sup>

In fact, Dr. Appel said she “plan[s] to continue recommending the vaccine to my patients and my friends with daughters ages 9 to 18. This is one of the only vaccines that we have that is able to prevent cancer.”<sup>46</sup>

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## NOTES

1 Ralph Blumenthal, *Texas Legislators Block Shots for Girls Against Cancer Virus*, NY Times, April 26, 2007 at (add website).

2 Renee Gerber, *Mandatory Cervical Cancer Vaccinations*, 35 J.L. Med. & Ethics 495 (2007).  
3 Id.

4 Jane E. Brody, *HPV Vaccine: Few Risks, Many Benefits*, New York Times, May 15, 2007 available at 2007 WLNR 9142655

5 Genital HPV Infection, CDC Fact Sheet at [www.cdc.gov/std/HPV/STDFact-HPV.htm](http://www.cdc.gov/std/HPV/STDFact-HPV.htm).

6 Gerber, supra note 2 at 495.

7 Id.

8 Nat'l Conf. of State Legis., *HPV Vaccine*, <http://www.ncsl.org/programs/health/HPVvaccine.htm> (last visited Oct. 4, 2007).

9 Blumenthal, supra note 1 at 1.

10 Nat'l Conf. of State Legis., supra note 8 at 2.

11 Id.

12 Id.

13 Id.

- 14 Gerber, *supra* note 2 at 496.
- 15 Press Release, Focus on the Family Position Statement: Human Papillomavirus Vaccines, Focus on the Family, at <http://www.family.org/socialissues/A000000357.cfm?eafref=1>
- 16 *Id.*
- 17 Gerber, *supra* note 2 at 496.
- 18 *Id.*
- 19 *Id.*
- 20 Cynthia Dailard, *Achieving Universal Vaccination Against Cervical Cancer in the United States: the need and the means*, *Guttmacher Policy Rev.*, (Sept. 22, 2006) at 2006 WLNR 23747176.
- 21 *Id.*
- 22 Gerber, *supra* note 2 at 496.
- 23 *Id.*
- 24 Dailard, *supra* note 20 at 1.
- 25 *Id.* at 3.
- 26 *Id.*
- 27 Gerber, *supra* note 2 at 496.
- 28 Dailard, *supra* note 20 at 3.
- 29 Interview with Heidi Appel M.D., Attending Physician Pediatric Critical Care, Georgetown University Hospital, Assistant Professor of Clinical Pediatrics, Georgetown University, Washington, DC (Oct. 26, 2007).
- 30 *Id.*
- 31 Dailard, *supra* note 20 at 3.
- 32 Interview with Claudia Vellozzi M.D. MPH, Medical Epidemiologist and Expert in Vaccine Safety, Atlanta, GA (Oct. 4, 2007).
- 33 *Id.*
- 34 Gerber, *supra* note 2 at 496.
- 35 *Id.*
- 36 *Id.*
- 37 *Id.*
- 38 *Id.*
- 39 Brody, *supra* note 4 at 2.
- 40 *Id.*
- 41 Nat'l Conf. of State Legis., *supra* note 8 at 1. Vaccines for children is a federally funded program that provides free vaccines to children across the country that otherwise not have access because financial difficulties. CDC purchases the vaccines and distributes them to state health departments and public health agencies who distribute them to private physicians and clinics registered as VFC provider.
- 42 Brody, *supra* note 4 at 2.
- 43 Ana Scott, *Florida Considers Requiring Vaccine; Parents of Preteen Girls Could Opt Out of Shots to Stop Cancer-Causing STD*, *Sarasota Herald Trib.*, March 20, 2007 at 2007 WLNR 5317528.
- 44 *Id.*
- 45 Appel, *supra* note 29.
- 46 *Id.*