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# MANDATING THE HPV VACCINE IN ILLINOIS: HOW FAR SHOULD THE STATE GO TO PROTECT GIRLS?

*by* JANELLE SKALLOUD

Since the federal approval and recommendation of the human papillomavirus (HPV) vaccine for 11- and 12-year old girls, nearly all states have responded with some type of legislative action.<sup>1</sup> Many bills are pending or have been passed which provide for research, education and funding for the vaccine, including Illinois' Public Act 95-0422, signed into law in August of this year.<sup>2</sup>

Illinois is also one of 23 states that have taken things a step further by proposing the vaccine be mandatory.<sup>3</sup> Senate Bill 10 (S.B. 10), which has made it out of committee and is currently awaiting its third reading in the Illinois Senate, provides that girls entering sixth grade may not attend school unless they have received the vaccine.<sup>4</sup> S.B. 10 would add the HPV vaccine to the list of already required immunizations for Illinois schoolchildren.<sup>5</sup> This potential mandate has caused significant debate among Illinois public officials, health care providers, interest groups and parents.<sup>6</sup>

Opponents of S.B. 10 have raised concerns about the necessity of mandating the vaccine, and the message it might send to adolescent girls.

“HPV is a sexually transmitted disease,” said David Smith, Executive Director of the Illinois Family Institute (IFI). “It shouldn’t be communicable in public schools, so why should it be required for school attendance?”<sup>7</sup>

Smith added that requiring girls to receive this vaccine could send a subtle message condoning sexual activity, one that not all parents are comfortable with.<sup>8</sup>

Supporters of the mandate emphasize the vaccine’s potential to prevent cancer and save lives.

“If you had the opportunity to save your daughter’s life, why wouldn’t you?” asked Pamela Sutherland, President of the Illinois Planned Parenthood Council.<sup>9</sup> “Senate Bill 10 is about preventing risk to young women, and getting this vaccine early, before they become sexually active, will help do that.”<sup>10</sup>

The sponsor of S.B. 10, Senate Majority Leader Debbie Halvorson (D-Crete), feels strongly that the HPV vaccine is the answer to eliminating cervical cancer in Illinois.<sup>11</sup>

“It is a huge medical triumph, the first vaccine that can eliminate cancer,” said Sen. Halvorson. “It is our responsibility as policy people to make sure we raise awareness and do whatever we can to eliminate cancer, and I plan on doing that.”<sup>12</sup>

Furthermore, Halvorson says that mandating the vaccine for young girls is a valid use of state power to protect children from a deadly disease, like other mandatory vaccinations.<sup>13</sup>

“When you know there’s a vaccine that prevents cervical cancer and you look at your child, it is your responsibility to save their life,” she says. “This is our chance to eradicate a certain cancer in our lifetime.”<sup>14</sup>

#### WHAT THE RESEARCH SAYS

S.B. 10 and other proposed legislation in Illinois came on the heels of a report issued in 2006 by the Cervical Cancer Elimination Task Force (“Task Force”), which was created within the Illinois Department of Public Health.<sup>15</sup> The Task Force found that hundreds of women die in Illinois every year of cervical cancer.<sup>16</sup> The highest incidents occur in the low income, minority areas on the city of Chicago’s south, west and northwest sides, as well as in low income rural areas, and nearly all cases would have been preventable with better access to health care.<sup>17</sup> The study found that most cases of cervical cancer in Illinois were caused by HPV.<sup>18</sup>

The Task Force endorsed the Centers for Disease Control and Prevention Advisory Committee on Immunization Practices’ recommendation<sup>19</sup> that the HPV vaccine be given to females ages 11 to 12.<sup>20</sup> According to the Task Force report, the goal of targeting this age group is to “catch” girls and immunize them before they become sexually active.<sup>21</sup> The Task Force found that the “vaccine is considered highly effective” and that it, along with information and access to regular Pap tests, were the “greatest weapons” in eliminating cervical cancer.<sup>22</sup>

Support for the HPV vaccine’s safety and efficacy has generally been widespread among health care professionals in Illinois; however, the lack of long-term research has raised some concerns. The Illinois Chapter of the American Academy of Pediatrics (ICAAP) reports that the vaccine is considered to be effective, safe, and has minimal side effects.<sup>23</sup>

“We don’t have concerns about the vaccine’s safety,” said ICAAP Executive Director Scott Allen, “and a vaccine that can prevent cancer is a pretty powerful thing.”<sup>24</sup>

Despite the vaccine's efficacy, however, Allen says that mandating girls to receive it may be premature.<sup>25</sup>

"ICAAP supports an eventual mandate, but parents have questions and concerns, and those may take a few years to address," Allen said. "The same thing happened when the Hepatitis B vaccine came out, but with time and additional research, parents became more comfortable with it."<sup>26</sup>

Dr. Ken Alexander, chief of pediatric infectious diseases at the University of Chicago, expressed similar sentiments.<sup>27</sup>

"Personally, I think the HPV vaccine is a good thing," Dr. Alexander said, "but concerns about its long-term safety and other ethical questions deserve scientific answers before we force it on parents."<sup>28</sup>

Dr. Alexander also wonders if a mandate of the vaccine is the best strategy from a cost-benefit perspective.

"Sure, it's a great idea," he said, "but a lot of things are great ideas. We need to address whether this is the best use of limited state resources, especially because we have other means to prevent cervical cancer, such as regular Pap smears."<sup>29</sup>

#### PARENTS' RIGHTS

The potential mandate of the HPV vaccine has certainly raised the issue of parents' rights to make health care decisions for their children, and Illinois parents have expressed mixed feelings. Those opposed are concerned that the state is treading too far into the parental arena, particularly because the vaccine relates to girls' sexual health.<sup>30</sup>

"Parents should be the ones making the decisions about whether their daughters receive this vaccine, not the government," said the IFI's Smith.<sup>31</sup>

Kelly S.\*, a Chicago resident and mother of a 9-year old daughter, does not like the idea of being forced to have her daughter vaccinated against HPV.<sup>32</sup>

"I just don't know if there's enough information out there about how safe it is," she says of the vaccine. "I don't know yet if I want my daughter to have it, but I definitely want to have the choice."<sup>33</sup>

Kelly added that the HPV vaccine is “not like the other shots kids have to get” because most of those immunizations protect against communicable diseases which are spread through casual contact, not sexual contact and STDs.<sup>34</sup>

Other parents view the vaccine as a positive development in protecting girls’ health, and support mandating it as a step toward this goal.

Anne K.\*, a Buffalo Grove resident and mother of 14-year old Mary\*, a high school freshman, recently decided to have her daughter vaccinated against HPV.<sup>35</sup> “I was skeptical about it at first,” she says. “But after my sister, who is a pediatrician, told me that it was safe, I decided to do it.”<sup>36</sup>

Anne says that once she had the information about the vaccine, having Mary vaccinated was “the logical thing to do.”<sup>37</sup> Anne supports a mandate of the vaccine, she says, because it will ensure that “people who can’t afford it or don’t have people telling them about it like I did” will have access to a vaccine that could potentially save their daughter’s life.<sup>38</sup>

Currently, Illinois parents who object to their children receiving a required immunization may only get an exemption for a verified medical or religious reason.<sup>39</sup> This includes the Hepatitis B vaccine, a mandatory vaccine in Illinois that protects against a sexually transmitted disease.<sup>40</sup> S.B. 10, in its current form, contains a broader opt-out provision providing that parents whose daughters do not receive the HPV vaccine must present a signed statement to the child’s school that they received information about the vaccine, and elected for their daughter not to have it.<sup>41</sup>

The opt-out provision seems to be an uneasy compromise, however. Some criticize it as defeating the bill’s purpose of protecting as many girls as possible.<sup>42</sup>

“We have a strong vaccine program in Illinois, partly because the only exemptions are for religious and medical reasons,” said the ICAAP’s Allen. “This vaccine, if mandated, should be no different.”<sup>43</sup>

#### COST CONCERNS

Similar to concerns heard in other state legislative proposals, another concern with S.B. 10 is the bottom line issue of cost and funding.<sup>44</sup> The Task Force’s

April 2007 report recommends mandating the HPV vaccine for school age students as part of a long-term strategy to eliminate cervical cancer.<sup>45</sup> However, the Task Force has concerns about whether the current legislation could provide adequate funding to ensure equal access to the vaccine.<sup>46</sup>

Because low-income and uninsured girls are at a higher risk of developing cervical cancer, the Task Force emphasized that legislation mandating the vaccine must ensure equal access to it.<sup>47</sup> With each set of HPV vaccines costing around \$360, Senator Halvorson has estimated that S.B. 10's price tag could reach as high as \$4 million to ensure that the vaccine is provided to all girls in Illinois.<sup>48</sup>

In the face of the controversy it has created, the future of S.B. 10 in the Illinois General Assembly is uncertain. If other states are any guide,<sup>49</sup> lawmakers may not be ready yet to mandate this vaccine. In the meantime, Public Act 95-0422 will ensure information and funding for the vaccine will be available to Illinois girls and their parents. Whether a mandate is appropriate almost certainly will lead to further discussion and debate.

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## NOTES

\* Name changed to protect her privacy.

1 National Conference of State Legislators, *HPV Vaccine Legislation 2007*, <http://www.ncsl.org/programs/health/HPVvaccine.htm> (Oct. 2007) [hereinafter NCSL].

2 P.A. 095-0422, 95th Gen. Assemb. (Ill. Aug. 24, 2007).

3 NCSL, *supra* note 1.

4 S.B. 10, 95th Gen. Assemb. (Ill. 2007) [hereinafter S.B. 10].

5 *Id.*

6 *See infra* notes 7-14, 23-48, and accompanying text (exploring the debate around S.B. 10).

7 Telephone Interview with David Smith, Executive Director, Illinois Family Institute, in Glen Ellyn, IL (Nov. 2, 2007) [hereinafter Smith Interview].

8 *Id.*

9 Telephone Interview with Pamela Sutherland, President, Illinois Planned Parenthood Council, in Springfield, IL (Nov. 2, 2007).

10 *Id.*

11 Leslie Baldacci, *Lawmaker Champions Cancer Vaccine, Reveals Her Story*, Chicago Sun-Times, Sept. 22, 2006 at 48 [hereinafter Sun-Times].

12 *Id.*

13 Deane Williams-Harris, *Parents v. Prevention*, Illinois Issues Online (March 2007), <http://illinoisissues.uis.edu/features/2007mar/vaccine.html>.

14 *Id.*

15 20 Ill. Comp. Stat. 2310/2310-353 (2006).

- 16 Illinois Department of Public Health, *Cervical Cancer Task Force Annual Report 7* (April 2006), available at <http://www.idph.state.il.us/about/womenshealth/pubs/CervCancerEliminationTFRpt.pdf> [hereinafter *Task Force*].
- 17 *Id.* at 7, 10.
- 18 *Id.* at 8.
- 19 See ACIP *supra* note ? (Michelle has this source in her article)
- 20 *Task Force* 2006 Addendum 2, available at [http://www.idph.state.il.us/about/womenshealth/pubs/CervCancerEliminationTFRpt\\_addendum.pdf](http://www.idph.state.il.us/about/womenshealth/pubs/CervCancerEliminationTFRpt_addendum.pdf).
- 21 *Id.* at 1.
- 22 *Id.* at 2.
- 23 ICAAP Newsletter 11, Spring 2007, available at <http://www.illinoisap.org/Newsletter/HPVSpring07.pdf>.
- 24 Telephone Interview with Scott Allen, Executive Director, Illinois Chapter of the American Academy of Pediatrics, in Chicago, IL (Nov. 5, 2007) [hereinafter Allen interview].
- 25 *Id.*
- 26 *Id.*
- 27 Telephone Interview with Dr. Ken Alexander, Associate Professor and Chief of Pediatric Infectious Diseases, University of Chicago, in Chicago, IL (Nov. 5, 2007).
- 28 *Id.*
- 29 *Id.*
- 30 Smith Interview, *supra* note 7.
- 31 *Id.*
- 32 Telephone Interview with Kelly S., mother of nine-year old daughter, in Chicago, IL (Oct. 6, 2007).
- 33 *Id.*
- 34 *Id.* Current Illinois immunizations doe require a vaccine for Hepatitis B, which is often spread through sexual contact. 77 Ill. Adm. Code 695.10 (2006).
- 35 Telephone Interview with Anne K., mother of 14-year old daughter, in Buffalo Grove, IL (Oct. 7, 2007).
- 36 *Id.*
- 37 *Id.*
- 38 *Id.*
- 39 20 Ill. Comp. Stat. 2305/2(e) (2006).
- 40 *Id.*
- 41 S.B. 10, *supra* note 4.
- 42 Allen Interview, *supra* note 24.
- 43 *Id.*
- 44 *Task Force* April 2007, available at [http://www.idph.state.il.us/about/womenshealth/pubs/CervCancerEliminationTFRpt\\_2007.pdf](http://www.idph.state.il.us/about/womenshealth/pubs/CervCancerEliminationTFRpt_2007.pdf)
- 45 *Id.* at 4.
- 46 *Id.* at 7.
- 47 *Id.* at 8.
- 48 Sun-Times, *supra* note 11.
- 49 NCSL, *supra* note 1 (of all the states that proposed bills mandating the vaccine, only Virginia has so far passed one into law).