Texas Health Officials Update Vaccination Schedule for Elementary and Secondary School Students

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Introduction

Earlier this year, the Centers for Disease Control and Prevention (CDC), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians jointly released updated recommended immunization schedules for children and adolescents based upon guidance from the Advisory Committee on Immunization Practices (ACIP).1

The ACIP is made up of 15 experts in fields associated with immunization who have been selected by the Secretary of the U.S. Department of Health and Human Services to provide guidance on the control of vaccine-preventable diseases and to develop written recommendations for the routine administration of vaccines to children and adults.2 The ACIP is the only entity in the federal government that makes such recommendations.3

The annual recommended immunization schedules issued by the ACIP are used by states and the federal government to set budget priorities for vaccination programs as well as by state departments of health to formulate immunization policies for school children; states, however, are not legally required to adopt the recommended schedules.4

In response to the recommendations proffered by the CDC and ACIP, the Executive Commissioner on Texas Health and Human Services revised state immunization requirements for students in public and private elementary and secondary schools.5 This update to the vaccination schedule comes at a time when an increasing number of parents are actively voicing objections and concerns about the safety of vaccinations with some continuing to claim they contribute to debilitating conditions such as autism.6

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3 Id.
4 See Ronald Scott, Immunization Law Update, 14 UPDATE ON HEALTH 1 (Jan. 2009).
Vaccination Safety

Government agencies, including the FDA, CDC, and the Department of Health and Human Services, as well as pediatric and adolescent organizations such as the American Academy of Pediatrics (AAP), tout vaccines as being safer now than at any other time in history. As some diseases have virtually disappeared in recent decades, in part due to widespread use of vaccinations, new parents are often concerned as their children receive between 20 and 30 vaccination injections before the age of two. As the AAP explains:

[v]accines contain antigens, which are either live but very weakened viruses, inactivated viruses, or small parts of bacteria or viruses that prompt the body to produce protective antibodies without causing the disease. Even though children receive more vaccines now, the total number of antigens is less because today’s vaccines are more refined than older versions. At a very young age, children’s immune systems are equipped to respond to many antigens at the same time, including those in vaccines…

The AAP and other public health authorities assert that “the risks of serious consequences following vaccination are many hundreds or thousands of times less likely than the risks associated with the diseases that the vaccines protect against.” Most adverse reactions are not serious—including low-grade fever or soreness at the injection site. They additionally note that, while rare, serious allergic reactions to vaccines include swelling, itching, weakness, dizziness, and difficulty breathing.

Many parents are concerned about the allegation that some vaccines, specifically the MMR vaccine, contribute to a diagnosis of autism in children. Generation Rescue, the autism organization led by Jenny McCarthy and Jim Carrey, has long voiced a causal link between vaccines and the incidence of autism. A recent report issued by the organization concluded that “[t]he United States has the highest number of mandated vaccines of any country in the world, the highest prevalence of autism in the world, and places 34th for

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9 Facts for Parents About Vaccine Safety, supra note 7.
11 See Guide to Kids’ Vaccines, supra note 7.
12 Id.
under 5 mortality.”13 It stated that further research is needed to conclusively determine a lack of causal relationship between vaccines and autism.14 Jim Carrey recently stated:

[i]n this growing crisis, we cannot afford to blindly trumpet the agenda of the CDC, the American Academy of Pediatrics (AAP) or vaccine makers. Now more than ever, we must resist the urge to close this book before it's been written. The anecdotal evidence of millions of parents who've seen their totally normal kids regress into sickness and mental isolation after a trip to the pediatrician's office must be seriously considered.15

In February 2009, the London Sunday Times reported that the doctor who first raised concerns about the safety of the measles, mumps, and rubella (MMR) vaccine “changed and misreported results in his research, creating the appearance of a possible link with autism.”16 This news came after years of numerous scientific studies conducted on the relationship between autism and thimerosal, a mercury-based preservative once used in several vaccines, including the MMR vaccine.17 The studies concluded there was no causal connection between the presence of thimerosal in vaccines and the incidence of autism in children.18

Thimerosal was removed from childhood vaccines in 2001, and the AAP states that autism rates have actually increased—thus suggesting that the presence of thimerosal is

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14 Id.
17 Facts for Parents About Vaccine Safety, supra note 7.
not linked to autism.\textsuperscript{19} The Institute of Medicine concluded that “the evidence favors rejection of a causal relationship between thimerosal-containing vaccines and autism.”\textsuperscript{20} Additionally, a recent report from a CDC-funded study in Italy additionally concluded that thimerosal “once used in many vaccines doesn’t hurt children, offering more reassurance to parents.”\textsuperscript{21}

Vaccines are continuously reviewed and monitored by government agencies. The Center for Biologics Evaluation and Research (CBER) is an arm of the FDA that regulates vaccines in the United States.\textsuperscript{22} It works with other agencies to study and monitor vaccine safety and effectiveness. Additionally, Federal law requires that Vaccine Information Statements (VISs) produced by the CDC be handed out to recipients whenever vaccinations are given.\textsuperscript{23}

**Texas Vaccination Schedule for Students**

On March 6, 2009, the Texas Department of State Health Services (DSHS) issued a letter to physicians and school administrators informing them of changes to required immunizations for students.\textsuperscript{24} Currently, there is no required immunization against human papillomavirus.\textsuperscript{25} Below is a summary of the changes made to the vaccination schedule for the Texas 2009-2010 school year:

**Hepatitis A Vaccine:** Beginning August 1, 2009, all students entering kindergarten, statewide, will be required to have 2 doses of Hepatitis A vaccine.\textsuperscript{26} Hepatitis A is an easily transmittable liver disease caused by the virus producing “flu-like” illness, jaundice, stomach pains, and diarrhea.\textsuperscript{27} The vaccine has been administered worldwide and is known to have only mild side effects including soreness at the injection site, loss of appetite, and/or tiredness.\textsuperscript{28}

\textsuperscript{19} Facts for Parents About Vaccine Safety, *supra* note 7.
\textsuperscript{22} See *Guide to Kids’ Vaccines*, *supra* note 7.
\textsuperscript{24} See Letter to Physicians and School Administrators re: Changes in Texas Immunization Requirements, *supra* note 5.
\textsuperscript{25} TEX. EDUC. CODE ANN. § 38.001(b-1) (Vernon 2007).
\textsuperscript{26} See Letter to Physicians and School Administrators re: Changes in Texas Immunization Requirements, *supra* note 5.
\textsuperscript{27} See *Guide to Kids’ Vaccines*, *supra* note 7.
\textsuperscript{28} *Id.*
Measles, Mumps, Rubella (MMR) Vaccine: Beginning August 1, 2009, all students entering kindergarten will be required to have 2 doses of the MMR vaccine. Measles is a respiratory infection causing skin rash and flu-like symptoms. Serious complications can lead to ear infection, pneumonia, seizures and brain damage. Mumps causes fever, headache, swollen glands and in some cases, deafness and meningitis. Rubella, also referred to as the German Measles, is an infection of the skin and lymph nodes sometimes causing arthritis. Pregnant women should not receive the MMR vaccine as there is a risk of serious consequences to the fetus. Common side effects of this vaccine include fever, soreness at the injection site, and a mild rash.

Varicella (Chickenpox) Vaccine: Beginning August 1, 2009, all students entering kindergarten and 7th grade will be required to have 2 doses of this vaccine. However, a written statement from a parent, guardian, school nurse, or physician attesting that a child has been exposed to, or has a positive history of chickenpox, or otherwise is immune, is acceptable in lieu of immunization. Chicken pox is caused by the varicella-zoster virus, causing itchy blisters and fever. More serious complications can include skin infection, swelling of the brain, and pneumonia.

Tetanus, Diphtheria, and acellular pertussis-containing vaccine (Tdap): Beginning August 1, 2009, all students entering the 7th grade will be required to have one dose of Tdap vaccine. Students in the 7th grade will be required to have a booster dose of Tdap only if it has been 5 years since their last dose of a tetanus-containing vaccine. Students in grades 8-12 are required to have a booster dose of Tdap if it has been 10 years since their previous dose of a tetanus-containing vaccine. Td is acceptable in lieu of Tdap if a contradiction to pertussis exists. The Tdap vaccine protects children against bacterial infections resulting in lockjaw and whooping cough. The Tdap vaccine, Boostrix, is licensed for use in children, ages 10 to 18 years. Adacel is licensed for individuals, ages 11 to 64. Common side effects include mild fever, pain at the injection site, headache, and fatigue.

29 See Letter to Physicians and School Administrators re: Changes in Texas Immunization Requirements, supra note 5.
30 See Guide to Kids’ Vaccines, supra note 7.
31 Id.
32 Id.
33 Id.
35 See Guide to Kids’ Vaccines, supra note 7.
36 See Letter to Physicians and School Administrators re: Changes in Texas Immunization Requirements, supra note 5.
37 Id.
38 See Guide to Kids’ Vaccines, supra note 7.
39 Id.
40 See Letter to Physicians and School Administrators re: Changes in Texas Immunization Requirements, supra note 5.
41 See Guide to Kids’ Vaccines, supra note 7.
42 Id.
43 Id.
44 Id.
Meningococcal Vaccine: Beginning August 1, 2009, all students entering the 7th grade will be required to have one dose of this vaccine.\footnote{See Letter to Physicians and School Administrators re: Changes in Texas Immunization Requirements, \textit{supra} note 5.} In October 2007, FDA approved expanding the age of children eligible to receive this vaccine to those 2 to 10 years.\footnote{See \textit{Guide to Kids’ Vaccines}, \textit{supra} note 7.} Meningococcal disease is the leading cause of bacterial meningitis\footnote{Meningitis is an infection of fluid surrounding the brain and spinal cord.\label{footnote:meningitis}} in children 2-18 years old in the United States and is contracted by contact with an infected person, i.e., kissing, sharing food/drink, etc.\footnote{See \textit{Guide to Kids’ Vaccines}, \textit{supra} note 7; see also \textit{The Children’s Hosp. of Phila., Vaccine Education Center: A Look at Each Vaccine: Meningococcus Vaccine}, available at \url{http://www.chop.edu/consumer/jsp/division/generic.jsp?id=75734} (last visited May 19, 2009).} Common side effects include soreness at the injection site, headache, and fatigue.\footnote{\textit{Id.}}

A phase-in schedule accompanies the vaccination schedule for the specific school year and grade(s) for each vaccine requirement. The phase-in schedule may be found on the Texas DSHS website at the following web address: http://www.dhs.state.tx.us/immunize/school/SchoolRules_Phase-InSschedule.pdf.

\textbf{Texas Law}

Pursuant to Texas law, the Executive Commissioner of Texas Health and Human Services Commission or the Department of State Health Services “may modify or delete any of the immunizations” required for any student entering any elementary or secondary school.\footnote{\textsc{TEX. EDUC. CODE ANN.} § 38.001(b) (Vernon 2007).} The vaccine requirements apply to all children and students, “entering, attending, enrolling in, and/or transferring to child-care facilities or public or private primary or secondary schools or institutions of higher education.”\footnote{\textsc{TEX. ADMIN. CODE ANN.} § 97.61(a) (Vernon 2008).} Although a child is required to show evidence of vaccination prior to entry, attendance, or transfer to a child-care facility or public or private elementary or secondary school,\footnote{\textsc{TEX. ADMIN. CODE ANN.} § 97.63(2) (Vernon 2008).} provisional admittance will be allowed if a parent is able to show that the child has begun the required immunizations and continues to receive them as rapidly as is medically feasible.\footnote{\textsc{TEX. EDUC. CODE ANN.} § 38.001(e) (Vernon 2007); see also \textsc{TEX. ADMIN. CODE ANN.} § 97.66 (Vernon 2008).}

Acceptable evidence of vaccination includes: (1) documentation from a health care provider that includes the signature or stamp of the physician or his/her designee, or public health personnel; (2) an official immunization record generated from a state or local health authority; or (3) a record received from school officials including a record from another state.\footnote{\textsc{TEX. ADMIN. CODE ANN.} § 97.68 (Vernon 2008).}
Exceptions to Immunization

Immunization of children in Texas schools is not required if a parent or guardian submits an affidavit on a form provided by DSHS, signed by a physician, stating that immunization “poses a significant risk to the health and well-being” of the child or any member of the child’s family; alternatively, a parent or guardian may submit an affidavit declining immunization for reasons of conscience, including religious belief. It is important to note that if a student lacks the required immunizations, the child may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

The form provided by DSHS contains a statement that the parent or guardian understands the risks and benefits of immunizations as well as the risks of not being vaccinated. The law requires DSHS to advise the legislature annually of the number of forms sent out, but specifically prohibits DSHS from maintaining a record of the names of individuals who request an affidavit form. The number of conscientious exemptions has increased every year since such exemptions were allowed in 2003.

Conclusion

As a parent, I often struggle with the idea of injecting my three-year-old with anything, let alone live or inactivated forms of disease-causing bacteria. Further, the number of shots it takes to become fully immunized is great. The CDC states that if enough parents do not vaccinate their children, over time, once deadly diseases could potentially stage a comeback. Thus not following immunization schedules could mean risking a child’s exposure to potentially life-threatening diseases. The choice for parents therefore appears to be one of two different paths: vaccinate or not. It is a decision each parent should weigh.

Health Law Perspectives (May 2009), available at:
http://www.law.uh.edu/healthlaw/perspectives/homepage.asp

60 Vaccines & Immunizations: Why Immunize?, supra note 8.