

RESOLUTION 06-08-2007

DIGEST

Pupil Immunizations: Human Papilloma Virus Vaccine

Amends Health & Safety Code section 120335 to include human papilloma virus among the vaccinations required of female students before advancing beyond the sixth grade.

**RESOLUTIONS COMMITTEE RECOMMENDATION
DISAPPROVE**

History:

No similar resolutions found.

Reasons:

This resolution amends Health & Safety Code section 120335 to include human papilloma virus among the vaccinations required of female students before advancing beyond the sixth grade. This resolution should be disapproved because the vaccine has not been subjected to long-term testing and has not been tested at all in conjunction with other common vaccines for compatibility and immune system responses.

The threat of cervical cancer, which the vaccine is marketed to avoid, is worth significant resources in research and development by the medical and pharmaceutical establishments. The currently available Merck vaccine, Gardasil, has only has been demonstrated to protect against several strains of the virus in limited testing. Furthermore, the vaccination is not scientifically linked or proven to reduce cervical cancer, primarily because of the very short amount of time the vaccine has been available and subject to testing.

Compounding the lack of research, Merck did not study Gardasil in combination with any of the 18 vaccines that children are likely and routinely to receive. Studies and tests of the HPV vaccine in conjunction with other common vaccinations would reveal the existence, or not, of side-effects of incompatible vaccinations and unacceptable side-effects due to the unforeseeable results from various combinations of common childhood vaccinations. The vaccine should not be required until further studies have been conducted and the effect and safety of the vaccine has been established.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that legislation be sponsored to amend Health & Safety Code section 120335 to read as follows:

- 1 §120335
- 2 (a) As used in Chapter 1 (commencing with Section 120325, but excluding Section
- 3 120380), and as used in Sections 120400, 120405, 120410, and 120415, the term "governing
- 4 authority" means the governing board of each school district or the authority of each other
- 5 private or public institution responsible for the operation and control of the institution or the
- 6 principal or administrator of each school or institution.

7 (b) The governing authority shall not unconditionally admit any person as a pupil of
8 any private or public elementary or secondary school, child care center, day nursery, nursery
9 school, family day care home, or development center, unless prior to his or her first
10 admission to that institution he or she has been fully immunized. The following are the
11 diseases for which immunizations shall be documented:

12 (1) Diphtheria.

13 (2) Haemophilus influenzae type b, except for children who have reached the age of
14 four years and six months.

15 (3) Measles.

16 (4) Mumps, except for children who have reached the age of seven years.

17 (5) Pertussis (whooping cough), except for children who have reached the age of
18 seven years.

19 (6) Poliomyelitis.

20 (7) Rubella.

21 (8) Tetanus.

22 (9) Hepatitis B for all children entering the institutions listed in this subdivision at
23 the kindergarten level or below on or after August 1, 1997.

24 (10) Varicella (chickenpox), effective July 1, 2001. Persons already admitted into
25 California public or private schools at the kindergarten level or above before July 1, 2001,
26 shall be exempt from the varicella immunization requirement for school entry. This
27 paragraph shall be operative only to the extent that funds for this purpose are appropriated in
28 the annual Budget Act.

29 The department may adopt emergency regulations to implement this paragraph
30 including, but not limited to, requirements for documentation and immunization status
31 reports, in accordance with the rulemaking provisions of the Administrative Procedure Act
32 (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the
33 Government Code). The initial adoption of emergency regulations shall be deemed to be an
34 emergency and considered by the Office of Administrative Law as necessary for the
35 immediate preservation of the public peace, health and safety, or general welfare.
36 Emergency regulations adopted pursuant to this paragraph shall remain in effect for no more
37 than 180 days.

38 (11) Any other disease deemed appropriate by the department, taking into
39 consideration the recommendations of the United States Public Health Services' Centers for
40 Disease Control Immunization Practices Advisory Committee and the American Academy
41 of Pediatrics Committee of Infectious Diseases.

42 (c) On and after July 1, 1999, the governing authority shall not unconditionally admit
43 any pupil to the 7th grade level, nor unconditionally advance any pupil to the 7th grade
44 level, of any of the institutions listed in subdivision (b) unless the pupil has been fully
45 immunized against hepatitis B.

46 (d) (1) On and after July 1, 2008, the governing authority shall not unconditionally
47 admit any female pupil to the 6th grade level of any of the institutions listed in subdivision
48 (b) unless the pupil has received the human papillomavirus (HPV) vaccine.

49 (2) The State Department of Public Health shall identify and distribute informational
50 materials about the risks associated with the HPV virus, including its association with
51 cervical cancer. The materials shall discuss the effects of the HPV vaccine. The department

52 shall inform institutions listed in subdivision (b) and all health care providers that administer
53 HPV vaccines about the availability of these informational materials.

54 (3) Every health care provider administering the HPV vaccine shall provide a written
55 disclosure to the parent or guardian relating to the HPV virus including its relation to
56 cervical cancer and the effects of the HPV vaccine. The disclosure shall include the
57 materials distributed by the department pursuant to paragraph (2).

58 (e) The department may specify the immunizing agents which may be utilized and
59 the manner in which immunizations are administered.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Bar Association of San Francisco

STATEMENT OF REASONS

Existing Law: The law currently prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center, unless prior to his or her first admission to that institution he or she has been fully immunized against various diseases.

This Resolution: The proposed amendment would, prohibit a school's governing authority from unconditionally admitting any female pupil to the 6th grade level of any of the specified institutions unless the pupil has received the human papillomavirus (HPV) vaccine. The law would go into effect on July 1, 2008, The State Department of Public Health will be required to identify and distribute related informational materials and to inform the institutions and all health care providers that administer HPV vaccines about the availability of the materials. The amendment would also require a health care provider administering the HPV vaccine to provide a written disclosure to the parent or guardian relating to the HPV virus including its relation to cervical cancer and the effects of the HPV vaccine, and would require the disclosure to include the materials distributed by the department. This resolution is currently before the California legislature as Assembly Bill 16.

The Problem: The human papilloma virus has been identified as the cause of cervical cancer. An effective vaccine has been developed to prevent infection by the human papilloma virus. Existing law requires children to be vaccinated for a number of diseases. in order to be admitted to school. This amendment would add a requirement that female students be vaccinated against the human papilloma virus. Existing law (Health & Safety Code section 120365) allows the parent or guardian of a minor to opt out of the vaccination if the parent or guardian states that the vaccination is contrary to his or her beliefs.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

AUTHOR AND/OR PERMANENT CONTACT: Alyson L. Huber, Bartko, Zankel, Tarrant & Miller, 900 Front Street, Suite 300, San Francisco California 94111, 415.956.1900, fax: 415.956.1152, e-mail: ahuber@bztm.com

RESPONSIBLE FLOOR DELEGATE: Alyson L. Huber

COUNTERARGUMENTS

RIVERSIDE COUNTY BAR ASSOCIATION

The purpose of HPV vaccination differs from the other vaccinations cited in the statute. Current medical research demonstrates that HPV is only contracted through sexual contact. All other vaccinations cited in this section can be transmitted by non-sexual means. Therefore, the public policy reasons for the existing vaccinations prior to attendance at the specified institutions do not necessarily apply to HPV. A decision whether to vaccinate for HPV should be made on the basis of the sexual lifestyle choices of the minor in light of the risks and benefits of the vaccination. To require this vaccination for all children after the sixth grade is unjustified.

SAN DIEGO COUNTY BAR ASSOCIATION

Prohibiting entry into school is too harsh a penalty. While the SDCBA supports the *general* stated purpose of this resolution – to encourage the use of the immunization for the better health of students – it cannot support an enforcement mechanism that would result in barring the educational facilities to a student who is not a disease-spread risk in the school environment.