

## Mandatory Seasonal Influenza Vaccinations for Hospital Employees

### *Ethical Considerations*

In the midst of all the concern this year about H1N1 influenza (swine flu), an ethically important development is under way in institutional policies regarding **seasonal** influenza.

- There has been a notable increase in 2009 in the number of health care organizations that have implemented mandatory annual vaccination of employees for seasonal influenza. Those now requiring flu shots include systems (e.g., HCA and Medstar Health) as well as individual medical centers (e.g., Loyola in Chicago).
- Organizationally mandated seasonal influenza vaccination is a major change from past practices in which employees were strongly encouraged, but not required, to get shots. As a major change, it is encountering some resistance.
- **Note:** In the summer of 2009 the New York State Health Department adopted a requirement that all hospital, home care, and hospice workers in the state get seasonal and swine flu vaccinations.

This, the first government-mandated vaccination, has been challenged as a violation of civil rights and, at the time of this writing in late October, enforcement has been halted by a temporary restraining order until a hearing on the cases. This commentary does not address government mandates.

### **Rationale**

Supporters of mandatory seasonal influenza vaccination often reference the following points.

- Vaccination of health care workers has been shown in some studies to lower patient mortality.
- After years of efforts of encouraging healthcare workers to get seasonal flu vaccinations, only about 40 - 50% of them do so across the country.
- Requiring flu vaccination would not be a significantly departure from present healthcare practice. Requirements already exist for mandatory healthcare worker vaccination for such diseases as

rubella, measles, mumps, hepatitis B, and varicella as well as for annual TB screening.

- “Despite considerable evidence that the vaccination of health care workers benefits workers, their patients, their families, and their institutions, few health care professionals take advantage of vaccination programs unless these programs are actively promoted or required as a condition of employment.

“Even when programs are actively promoted, their increases in vaccination rates generally remain below levels required to achieve herd immunity and, therefore, are unlikely to secure the potential benefits from high rates of vaccination.” (Olga Anikeeva et. al. “Requiring Influenza Vaccination for Health Care Workers.” *American Journal of Public Health*. January, 2009. p. 26.)

### Some Clarifications

As noted above, the vaccine that some hospitals are mandating for employees is seasonal flu vaccine, not swine flu vaccine.

- Because seasonal influenza vaccinations are done every year, the appropriateness of a policy mandating vaccination is best analyzed as potential on-going practice, not as an emergency practice.

- There are years of experience relating to the effectiveness and safety of seasonal flu vaccinations (compared to the new H1N1 vaccine) in the assessment of the likely impact of a policy mandating vaccination.

There are different meanings to the word “mandatory” in these policies. For some “mandatory” means that getting vaccinated is a condition of employment, necessary to avoid dismissal. Others allow employees to decline vaccination if they have medical reasons for not getting vaccinated; some allow exemptions for workers with religious objections. Some allow employees to avoid vaccination if they complete a form indicating the reason why they are declining (“informed declination”).

- While permitting informed declination may not seem “mandatory,” it is a significant step away from former practices of leaving the decision up to the individual who need not give an explanation.

The policies mandating vaccination are for **health care workers**, not the general public and not employees in other kinds of organizations.

- The argument in support of such policies is clearly based on the fact that these workers are involved directly or indirectly in patient care and that this is

relevant in terms of what should be expected or required of them.

### **The Right to Decline Unwanted Medical Treatment**

Many adults choose not to be vaccinated against seasonal influenza even when they are part of the population for whom vaccination is strongly recommended.

Whatever the reason, their decision should ordinarily be accepted. The principle of informed consent means the right to decline routine care just as it means the right to decline more major interventions.

- The word “ordinarily” is a qualifier in the statement above. The qualifier is necessary because our rights are limited by our responsibility to avoid placing others at unnecessary risk of significant harm.
- There is a sound ethical basis for restricting the freedom of individuals to decline health care only when necessary to protect the common good, to protect others from serious harm.

This is the general standard, one which supports a reluctance to endorse mandatory healthcare, except in public health emergencies. Given the important value of protecting patient self-determination, opposition to mandatory vaccination is not surprising.

- The responsibilities of health care workers are, however, somewhat different in this case from those of the general public and the requirements that can be placed upon healthcare workers are also different.

### **Health Care Workers**

While the nature of seasonal influenza does not present the kind of emergency that would justify mandatory vaccination of the public, we need to consider the unique circumstances of hospital workers to determine whether their situation is different.

- At the heart of professional health care ethics is the obligation to avoid harming those in one’s care. At an organizational level, one of the implications of this responsibility is the need to limit hospital-acquired infections as much as possible.
- Another aspect of health care professionalism is the subordination of one’s own interests to the needs of those being cared for. This means that healthcare workers can be expected to stay on the job even when it means risking their own health. On the everyday level, it means an on-going commitment to doing what is needed for patient well-being rather than following one’s own preferences.

### Key Ethical Considerations

Good policy recognizes both the general right of individuals to decide freely whether to accept health care interventions for themselves and the responsibility of healthcare workers to protect patients from harm.

Thus, while it is difficult to justify a requirement that is simply designed to protect the employee's own health, a requirement designed to protect against patient harm is sometimes appropriate.

A strong case can be made for a hospital mandate for annual seasonal influenza vaccination of employees if the following considerations apply:

- There is evidence that patients are in fact put at significant risk and suffer harm when hospital employees have seasonal influenza (even when other infection control methods are used).
- There is convincing evidence that the risks to patients will be significantly reduced by increased vaccination of hospital staff.
- There is good reason to conclude that the level of staff vaccination necessary to protect patients will not be achieved by a voluntary program (even with incentives).

- The categories of employees included in a vaccination requirement are only those necessary to achieve the patient safety goal. (One question is whether employees not involved in patient care activities must be vaccinated.)
- Covered employees for whom influenza vaccination is medically contraindicated are exempted from the requirement.
- Other exemptions for covered employees are limited in order to ensure the effectiveness of the program and fairness in its application.
- Consequences for non-exempted employees who refuse to comply with the requirement are no more severe than necessary to ensure the effectiveness of the program and fairness in its application.

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