

SALIENT POINTS REGARDING MANDATORY INFLUENZA VACCINATION

1. The **employer-mandated influenza vaccination policies in Ohio emerged** from a December 2010 unveiling of Healthy People 2020 goals and recommendations (not federal law) from the Department of Health and Human Services under Kathleen Sebelius. Prior to that, influenza vaccination was **largely voluntary**.
2. **The acute care hospital is subject to a 2% payment reduction from CMS only if the Health Care Provider fails to report quality measures. The payment reduction is not related to achieving a specific influenza vaccination rate.**

See Page 12: The National Vaccine Advisory Committee February 8, 2012 Final Report "Recommendations on Strategies to Achieve the Healthy People 2020 Annual Influenza Vaccine Coverage Goal for Health Care Personnel" which reads:

CMS recently adopted a rule for reporting influenza vaccination rates among HCP. Starting in January 2013, CMS will require acute care hospitals to report HCP influenza vaccination rates through the CDC's National Health care Safety Network system using the NQF measure as part of the Hospital Inpatient Quality Reporting (IQR) Program. Data from the IQR program will be made publicly available on the HospitalCompare.gov website. **In addition, starting in 2014, acute care hospitals that fail to report these quality measures will be subject to a 2% payment reduction.** CMS also has proposed implementing this measure in outpatient and ambulatory care settings. However, this proposal is still under review.⁶

⁶ Details on this measure can be found at *The National Healthcare Safety Network (NHSN) Manual, Healthcare Personnel Safety Component Protocol*

3. The National Healthcare Safety Network (NHSN) Manual allows for the reporting of **declinations of vaccination for reasons other than medical**.
4. **Contrary to the repeated mantra that "vaccines are safe", in 2011, the U.S. Supreme Court ruled that vaccines are "unavoidably unsafe." *Bruesewitz v. Wyeth LLC*, 131 S. Ct. 1068, 179 L.Ed.2d 1 (2011).**
5. **Serious concerns of the vaccine's efficacy and documented serious side effects**, up to and including death of an employee, due to the vaccine. The National Childhood Vaccine Injury Act of 1986 (Public Law 99-660) **shields a vaccine manufacturer from vaccine injury liability**. Per the Health Resources and Services Administration, the **flu vaccine is considered the most injurious vaccine**.
6. **Based upon Dr. Sherri Tenpenny's testimony, with footnoted references, at the Commerce and Labor Committee's of the May 19, 2015 hearing:**
 - #1 – Giving ME (or a Health Care Worker) a flu shot does not prevent YOU (or patients) from getting the flu. **Vaccination does not prevent transmission.**
 - #2 – Flu shots do not prevent lost time from work.
 - #3 – Flu shots contain problematic ingredients that can cause serious harm to your health.
 - #4 – Flu shots are not safe, reactions are not rare and side effects are costly.
 - #5 – Most importantly, the evidence for vaccinating healthcare workers, if any, is heavily flawed and inconclusive at best.

7. **Mandating an elective medical procedure is an egregious violation of a person's freedom and right to informed consent. When do the rights of any employer override the personal freedom and civil rights of an individual?**

The National Vaccine Advisory Committee Report of February 2012 (page 17) even acknowledges that **mandatory vaccination requirements are coercive and infringe on workers' autonomy to make informed choices** about their health and may violate a worker's religious convictions and culture and result in adverse reactions. The report cautions the healthcare entity to ensure that their exemption policies are **in accordance with state-defined legislation**. Violation of a person's civil rights guaranteed by the US Constitution's First Amendment and Title VII of the 1964 Civil Rights Act and the Equal Employment Opportunity Commission, but surprisingly not protected by the Ohio Civil Rights Act. **THIS IS WHY STATE LEGISLATION IS NEEDED**. For those employees who pursue vaccine exemption through federal law, the employee must bear the financial burden and time-consuming legal process to keep one's job.

8. **Mandating employee influenza vaccination with the only exception being a medical condition is a violation of the American Medical Association Code of Ethics, and other health care professional codes of ethics, which recognize "medical, religious, and philosophic reasons to not be immunized."** In some health care entities it is reported that the mandated vaccination policies are not uniformly applied at all levels of professional ranks on premise versus other employees.

9. **Imposing coercive or punitive mask policies on only non-vaccinated persons and/or employing the use of an identifiable means to openly identify the non-vaccinated status of a person is discriminatory and presents a HIPAA violation of the person.**

10. **In a September 2011 Position Statement, the Occupational Safety and Health Administration (OSHA) stated that it "believes there is insufficient scientific evidence for the federal government to promote mandatory influenza vaccination programs that do not have an option for the Health Care Provider to decline for medical, religious and/or personal philosophical reasons"**. See National vaccine Advisory Committee Meeting Minutes, September 13-14, 2011, APPENDIX B: OSHA Position Statement, as submitted by Mr. Borwegen, representative of the **Service Employees International Union**, http://www.hhs.gov/nvpo/nvac/meetings/pastmeetings/2011/nvac_meeting201109_certified-minutes.pdf

11. **A 2013 BMJ article documented that public health authorities' aggressive promotion of the influenza vaccine is not supported by the medical literature and fails to acknowledge serious vaccine risks. BMJ2013;346:f3037**

12. **Last, but not least, is the second article from the Declaration of Bill of Rights. This basis is simply the inherent and "unalienable" rights of our fellow men necessary for human life, liberty and the pursuit of happiness, which are naturally conferred upon all men, equally, and cannot be ignored or violated by individuals or governments.**