Maine Medical Association

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To: Maine Center for Disease Control and Prevention (Maine CDC)
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From: Maine Medical Association
VIA ELECTRONIC MAIL from dmorin@mainemed.com

Date: December 3, 2020

Subject: Ch. 264, Immunization Requirements for Healthcare Workers (2020-P198; 2nd publication)

The Maine Medical Association, formed in 1853, is the largest volunteer physician organization in Maine with over 4,300 physicians, residents, and medical students. We appreciate the opportunity to comment on the Maine Center for Disease Control and Prevention (Maine CDC) proposed rules changes to the Ch. 264, Immunization Requirements for Healthcare Workers (2020-P198; 2nd publication). Specifically, we would like to commend Maine CDC for taking action with the proposed rule and we strongly encourage the amendment adding seasonal influenza to the list of vaccine preventable diseases for which designated healthcare facility employees must show proof of immunization or documented immunity, or provide appropriate exemption documentation.

A key part of our mission statement is to promote the health of all Maine citizens. The flu vaccine is the most effective method to prevent influenza and while we would support the proposed rule amendments, we, however, remain neutral on proposed amendment § (2)(A)(7):

> *In the event of a public health emergency or extreme public health emergency declared by the governor, the Department may impose control measures, including, but not limited to, mass vaccinations and exclusions from the workplace, and may require immunization or documented immunity to protect public health and minimize the impact from the specific communicable disease.*

Although it stops short of directly mandating a potential COVID-19 vaccine for health care

workers, it does give Maine CDC the general authority to order mass vaccination in the event the Governor declares a "public health emergency" or "extreme public health emergency." The proposed amendment seems to give broad authority to mandate vaccinations of unknown type in the future. The MMA is hesitant to support the previously mentioned amendment for products approved only on an Emergency Use Authorization (EUA), where full data from clinical trials is not yet available. Imposing such a mandate when there is still uncertainty about the risk/benefit profile is much less appealing than for a fully licensed and thoroughly reviewed product. We hope the FDA would have first carefully evaluated the results of clinical trials. More complete data for that purpose will not be available until the conclusion of Phase 4 trials. However, there is debate as to whether a mandate is legal for a product under an EUA.[1] [2]

That being written, vaccination remains the single most important measure in keeping us safe from seasonal influenza and without a medical contraindication, physicians have an ethical duty to become immunized. It is also important to note that many symptoms of influenza overlap with COVID-19. Therefore, the immunization may also indirectly help prevent unnecessary COVID-19 testing in healthcare workers.

Johns Hopkins Hospital and the Johns Hopkins University School of Medicine provides a concise and clear message outlining why they mandate the flu vaccine: "Each year, approximately 226,000 are hospitalized and 36,000 people die due to the flu. These are preventable deaths. Requiring an annual flu vaccine demonstrates our commitment to protect the safety and health of our patients, many of whom already have weakened immune systems, as well as visitors, co-workers and our families." We are currently amid a once-in-a-lifetime pandemic which threatens everyone and has been well documented to greatly affect some demographics more than others. Now, more than ever, we are reminded of the potential risks of viral infections and the implications for ourselves, staff, and many of our patients. A person with a weakened immune system is likely to get infections more frequently than most other people, and these illnesses might be more severe or harder to treat, straining critical hospital

[1] Section 360bbb-3 (e)(1)(A)(ii)(III) of the Food, Drug and Cosmetics Act – 21 U.S.C. 564, "Authorization for medical products for use in emergencies,"

[2] 10 U.S.C. §1107a – allows the President to waive the requirement that people be told that they can accept or refuse the product for members of the armed forces, but only if "…the President determines, in writing, that complying with such requirement is not in the interests of national security." The specific waiver implies that for those not in the armed forces, and in other circumstances, the condition cannot be waived, and a mandate cannot be imposed.

and other inpatient health care facility resources when they are most needed. According to recent Kaiser Health News report, "beds and space aren't the main concern. It's the workforce. Hospitals are worried staffing levels won't be able to keep up with demand as doctors, nurses and specialists such as respiratory therapists become exhausted or, worse, infected and sick themselves."

Another factor leading to our support is well documented by The Journal of General Internal Medicine. It defines "presenteeism" as occurring when an employee goes to work despite a medical illness that will prevent him or her from fully functioning at work. This problem carries increased importance in the health care setting due to the risk of infectious disease transmission in vulnerable patient populations. In a 2017 published study of approximately 2,000 healthcare workers, 41 percent of those experiencing influenza-like illness reported working while ill. 63 percent for physicians and 47 percent for nurses. Another study released in 2017 from a major tertiary care medical center surveyed healthcare workers caring for hospitalized internal medicine and transplant patients and found that presenteeism was 92% in those with influenza-like illness.

Today, more than 1,100 U.S. healthcare facilities and systems have mandatory influenza vaccination policies for healthcare workers, and they have understandably, and necessarily increased vaccine uptake. One of the largest nonprofit health care organizations in the United States implemented a mandatory flu vaccination policy during the 2008-2009 flu season. Before the policy, only about 70% of healthcare workers at BJC Healthcare, based in St. Louis, Missouri, were vaccinated. After the policy's implementation, that immediately jumped to 98.4% the subsequent year and remained above the 97% level during the next 9 years. While we appreciate the proactive action by some of Maine's health care facilities in mandating the flu vaccine for their health care workers, the MMA believes it is unfortunately necessary to formally mandate such action at all defined facilities statewide as infected workers may unintentionally transmit infection to patients who have multiple comorbidities, are immunosuppressed, and/or are at risk of severe complications.

Annual vaccination of healthcare workers against influenza has been recommended by the Centers for Disease Control and Prevention since 1984. In 2005, the Society for Healthcare Epidemiology (SHEA) published a position paper that stated that "all healthcare workers should receive influenza vaccine annually unless they have a contraindication to the vaccine or actively decline vaccination." Five years later, SHEA issued a revised position paper, which recommended that annual

influenza vaccination be made a condition of employment for healthcare workers. The Veterans Health Administration recently released an updated policy statement supporting mandatory influenza vaccination for healthcare personnel. In past years, the VA approach had been only to strongly encourage the vaccine. According to the VA, the CDC reported 81.1 percent of health care providers in the U.S. received an influenza vaccination during the 2018–19 season, similar to reported coverage in the previous four seasons. However, the percentage of VHA providers immunized against influenza had been lower than the national percentage, nearing 65-75 percent, despite efforts to increase vaccination by strongly encouraging compliance over the previous five years.

In conclusion, the highest priority for Maine physicians is to protect patients. The research clearly shows that flu vaccinations vastly increase mass immunity and protect immune-suppressed patients. Thank you for the opportunity to present our comments. Any questions or request for references can be addressed to:

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