

## MEMORANDUM

**TO: All School District  
and Joint Agreement Clients**

**FROM: Sraga Hauser, LLC**

**DATE: October 6, 2009**

**RE: H1N1 Vaccination Campaigns**

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The public health departments in area Illinois counties have taken different approaches to the administering of the new H1N1 influenza vaccine.

### Cook County

The Cook County Department of Public Health (CCDPH) is sending correspondence regarding its H1N1 vaccination campaign to school districts within Cook County. The September 16, 2009, correspondence informs superintendents that the CCDPH and other community agencies are coordinating a voluntary school-based H1N1 vaccination campaign to offer the first of two recommended doses of the H1N1 vaccine to "as many students as possible who are currently enrolled in pre-kindergarten through eighth grade," in October 2009. The CCDPH is expecting participating school districts to send a letter to parents informing them of the program and to approve a Memorandum of Agreement (MOA) governing its participation in the program.

The MOA sets forth the duties of the CCDPH and participating school districts. It was prepared by the CCDPH. The MOA represents that the federal government has secured supplies of vaccine against H1N1 virus and will distribute these to state and local departments of public health for distribution in October 2009. Moreover, the MOA recites that CCDPH expects to administer the vaccine to school children whose parents give informed written consent (after independently conferring with the child's primary care physician) and to school nurses who similarly consent to be vaccinated. The MOA sets forth several direct and administrative duties for participating schools, including: sending written information to parents; collecting and storing materials, bio-waste and parental consent forms; making school nurses available for training and administration of the vaccine; and managing the flow of students through school premises during school hours to receive immunization.

The CCDPH has confirmed that neither the MOA, nor any documents referenced therein (e.g., the Vaccination Information Sheet (VIS), written information and parental consents) will be negotiated with participating school districts. The CCDPH has also confirmed that the documents referenced in the MOA have either not yet been created or will not be available to participating school districts to review prior to executing the MOA. CCDPH does not have any confirmation from the Center for Disease Control (CDC) as to when the H1N1 vaccine will be delivered to the CCDPH, or how much notice the CCDPH will have before the vaccine is delivered.

Both the Illinois Local Governmental and Governmental Employees Tort Immunity Act (“Tort Immunity Act”), and the U. S. Public Readiness and Emergency Preparedness Act (“PREP”), could address the instant issue and provide some protection both to the Boards of Education which make the policy decision to participate in the CCDPH H1N1 Vaccination Program, as well as those school employees who participate.

The CCDPH has stressed that the H1N1 Vaccination Program is voluntary. There is no legal obligation on the part of any school district to participate, and the option of least legal risk would be not to do so. But for school districts in Cook County which wish to sign the MOA and participate in the voluntary CCDPH H1N1 Vaccination Program, we make the following recommendations:

1. Obtain informed written parent consent forms and waivers for the School District (in addition to those signed for CCPDH) from each student’s parents or legal guardians (see our suggested form attached);
2. Contact the School District’s liability insurance carrier to determine whether participation in the CCDPH’s H1N1 Vaccination Program is a covered event; and,
3. Discourage school nurses from participating in the CCDPH’s H1N1 Vaccination Program.

### **DuPage, Lake and Will Counties**

The public health departments of Will County, Lake County, and DuPage County have confirmed that they will not use the Cook County model of delivery for the H1N1 vaccine. The health departments of these counties are using an open free-clinic model (with minor children’s parents in attendance during inoculation), to be administered either by health department staff or medical contractors. None of these counties intend to use a model which would require vaccination of students at a school facility during the school day by school nurses. In those counties which will hold vaccination clinics at schools (Will and Lake counties), such vaccination is expected to take place on a weekend or some other time when school is not in session.

Please do not hesitate to contact us if you have any questions, or need any assistance with your school district’s participation in the CCDPH H1N1 Vaccination Program.

**[ON SCHOOL DISTRICT LETTERHEAD]**

**AUTHORIZATION FOR ADMINISTRATION**

I, \_\_\_\_\_, state that I have read the  
(Name of Parent or Guardian)  
information given to my by the Cook County Department of Public Health (CCDPH) and  
\_\_\_\_\_ about the H1N1 Vaccine to be administered to my  
(School District Name)  
child, \_\_\_\_\_ at \_\_\_\_\_.  
(Name of Child) (School District Name)

I hereby state that I have had the opportunity to contact both my child's treating physician as well as the CCDPH to ask questions and receive answers to my satisfaction before the administration of the H1N1 Vaccine to my child. I understand the benefits and uses of the H1N1 Vaccine to be given to my child. I understand that my child will need a second dose of the H1N1 Vaccine and that I am solely responsible for my child receiving the second dose. I understand that neither the CCDPH nor \_\_\_\_\_ will provide the second dose of the H1N1 Vaccine, and I agree to assume responsibility to obtain the second dose of the H1N1 Vaccine for my child at my own expense. I release, waive and forever discharge \_\_\_\_\_ and its board members, employees, agents, assigns, insurers, and volunteers both jointly and severally, from any and all claims, damages, causes of action or injuries, including reasonable attorney's fees and court costs which are incurred, arise out of, or result in any way from my child receiving the H1N1 Vaccine.  
(School District Name)

\_\_\_\_\_  
PARENT/GUARDIAN SIGNATURE

\_\_\_\_\_  
DATE

\_\_\_\_\_  
WITNESS SIGNATURE (for mental health/developmental disability records)

\_\_\_\_\_  
DATE