

# SRAGA HAUSER, LLC

ATTORNEYS AT LAW

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## H1N1 VACCINATION PROGRAMS

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

**DATE: October 6, 2009**

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 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. 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 CCDPH and participating school districts. It was prepared by 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.

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. 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 CCDPH, or how much notice CCDPH will have before the vaccine is delivered.

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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.

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.

## **Other Counties**

We are still in the process of investigating how the public health departments in the other counties are proceeding with the H1N1 vaccinations.

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 me 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 (School District Name) members, employees, agents, 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.

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

\_\_\_\_\_  
DATE

# Cook County Department of Public Health

## Cook County Health & Hospitals System

**Todd H. Stroger** • President  
Cook County Board of Commissioners

**Warren L. Batts** • Chairman  
Cook County Health & Hospitals System

**Jorge Ramirez** • Vice Chairman  
Cook County Health & Hospitals System

**William T. Foley** • CEO  
Cook County Health & Hospitals System



### Health System Board Members

Dr. David A. Ansell  
Commissioner Jerry Butler  
David N. Carvalho  
Quin R. Golden  
Benn Greenspan  
Sr. Sheila Lyne  
Dr. Luis R. Muñoz  
Heather E. O'Donnell  
Andrea L. Zopp

1010 Lake Street, Suite 300  
Oak Park, Illinois 60301

Telephone (708) 492-2000  
TDD (708) 492-2002

**Stephen A. Martin, Jr., Ph.D., M.P.H.**  
Chief Operating Officer

September 16, 2009

Dear Superintendent:

The novel H1N1 influenza virus first appeared in suburban Cook County in early May and has caused mild to severe illness resulting in hospitalization in both children and adults. However, children have been most affected by this virus, do not possess immunity to it, and are considered at high risk of infection. As the U.S. enters its flu season, the Centers for Disease Control and Prevention (CDC) is concerned that the H1N1 virus may cause more illness and that it may be more severe. As such, the CDC is securing supplies of an H1N1 vaccine. The CDC has recommended that children and young people 6 months through 24 years of age receive the H1N1 vaccine when it becomes available. It appears at this time that children will require two doses of H1N1 vaccine, administered at least 21 days apart. Vaccination is the best way to protect children from this potentially serious virus.

Based on currently available information about the H1N1 virus, the Cook County Department of Public Health (CCDPH) and other community agencies are coordinating a voluntary school-based H1N1 vaccination campaign. The H1N1 vaccination campaign will endeavor to offer the first dose of the H1N1 vaccine to as many students as possible who are currently enrolled in pre-kindergarten through eighth grade. Parents will be responsible for making arrangements with their health providers for the administration of the second dose of the H1N1 vaccine for their children. The school vaccination program will be staffed by Cook County health providers and volunteers and will be conducted during regular school hours, free of charge. Please note that our plans are flexible and may change depending on the recommendations of state and federal health authorities, the number of providers who volunteer to assist us, and the amount of vaccine that is made available.

In order to prepare for this H1N1 school vaccination campaign, we request that each School District within suburban Cook County consider whether it would like the schools in that School District to participate in the H1N1 vaccination program. Each School District that chooses to participate must sign and submit the enclosed Memorandum of Agreement (MOA) with Cook County. We are also requesting that School Districts direct the schools within their districts to begin informing the parents of enrolled students about the planned H1N1 school vaccination campaign. A template letter to parents is attached.

The CDC indicates that we can expect the H1N1 vaccine supplies to begin arriving sometime in October 2009. As such, it would be appreciated if you would present the attached MOA to the Board of Trustees for your School District as soon as possible. If the Board votes to participate in the program, the MOA must be executed by the authorized person(s) and promptly returned to the CCDPH so that we can include your District in our planning.

Further details about the H1N1 virus and the H1N1 school vaccination program will be provided at upcoming regional superintendent meetings (see attached flyer). If you have questions in the meantime, please call 708-492-2828 or email [BeAware@ccdph.net](mailto:BeAware@ccdph.net) and you will be directed to your regional CCDPH Emergency Response Coordinator.

Partnerships are integral to the success of our response to the H1N1 pandemic. The CCDPH and its community partners look forward to working with you to protect the health of the children of suburban Cook County.

Sincerely,

  
Stephen A. Martin, Jr., Ph.D., MPH  
Chief Operating Officer

**Cook County  
Department of Public Health**

**Cook County Health and Hospitals System**



**H1N1 Workshops for School Districts**

Cook County Department of Public Health (CCDPH), with the Illinois Association of School Administrators (IASA), has coordinated H1N1 workshops for Superintendents, Administrators, Principals, Nurses, and other health professionals and key staff.

**IASA Cook North Region**

Friday, September 18th, 2009

1 PM – 3 PM

Maine West High School Auditorium  
1755 S. Wolf Rd., Des Plaines

**IASA Cook West Region**

Wednesday, September 23rd, 2009

10 AM – 12 noon

Mannheim Middle School Auditorium  
2600 Hyde Park Ave., Melrose Park

**IASA Cook South Region**

Friday, September 25th, 2009

9 AM – 11 AM

Stagg High School Auditorium  
8015 W. 111th Street, Palos Hills

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**Stephen A. Martin, Jr., Ph.D., M.P.H.**  
Chief Operating Officer

September, 2009

Dear Parent or Guardian:

This Fall presents parents and schools with two influenza challenges: regular seasonal influenza, and the new H1N1 influenza. Seasonal influenza vaccine is available now and we strongly recommend that you consider having all members of your family receive seasonal influenza vaccine. Please consult your health care provider regarding seasonal influenza vaccine.

With regard to H1N1 influenza, the United States Centers for Disease Control and Prevention (CDC) has recommended that certain groups of people, including pregnant women and children and young people 6 months through 24 years of age, be vaccinated against the H1N1 influenza virus as soon as the vaccine becomes available. As you may have heard, this new H1N1 influenza virus has caused mild to severe illness resulting in hospitalization in both children and adults. Children have been most affected by this virus and are considered at high risk of infection. Vaccination is the best way to protect your child from this potentially serious disease. Please contact your health care provider to determine if they will have H1N1 vaccine available for your child.

The Cook County Department of Public Health is working with area School Districts in an effort to offer the H1N1 influenza vaccine to children in suburban Cook County schools, focusing initially on kindergarten through eight grades. We anticipate offering vaccination sessions beginning this Fall. There is no cost to you for this vaccine. School officials will be sending you an informational packet including a consent form that you must sign to request vaccination of your child. Vaccine will not be given to your child without your written consent.

Please note that only one dose of vaccine will be offered in the schools served by this program. At this time, we expect that children will need 2 doses of vaccine, administered 3 weeks or more apart, to be fully protected. It will be your responsibility to arrange with your health provider to have a second dose of vaccine administered to your child.

Your health provider is the ideal source of information regarding your family's personal health needs and influenza vaccination. Vaccine information intended for parents is also available on line from the CDC's website at <http://www.cdc.gov/h1n1flu/parents/> or from the Cook County Department of Public Health website at <http://www.cookcountypublichealth.org>. You may also call us with questions about the vaccine or our H1N1 school vaccination program at 708-492-2828 from 8:30 A.M. to 4:30 P.M., or you may e-mail questions to [BeAware@CCDPH.net](mailto:BeAware@CCDPH.net).

Sincerely,

Stephen A. Martin, Jr. Ph.D., MPH  
Chief Operating Officer

SAM/HH

We Bring Health **CARE** to Your Community

**MEMORANDUM OF AGREEMENT BETWEEN  
SCHOOL DISTRICT 225  
AND  
THE COOK COUNTY DEPARTMENT OF PUBLIC HEALTH  
FOR THE CCDPH FALL 2009 H1N1 VACCINATION PROGRAM**

This **MEMORANDUM OF AGREEMENT** ("MOA") is entered into between School District 225 ("School District") as the owner and operator of the Schools located within suburban Cook County and listed on Attachment A (individually referred to as "School" and collectively as "Schools") and the Cook County Department of Public Health ("CCDPH"), to describe the responsibilities of those Schools designated by School District to participate in the CCDPH Fall 2009 H1N1 Vaccination Program of school children within suburban Cook County, as follows:

**RECITALS**

**WHEREAS**, the School District operates one or more Schools within suburban Cook County which provide educational programs to enrolled students in grades pre-K through 12 or some subset thereof ("Students"); and

**WHEREAS**, the County operates the CCDPH, a local health department certified by the Illinois Department of Public Health (IDPH) to serve all of suburban Cook County, Illinois except those areas served by another IDPH-certified local health department; and

**WHEREAS**, federal, state and local health authorities are responding to an outbreak of H1N1 influenza in the United States which began in the Spring of 2009; and

**WHEREAS**, H1N1 is a novel virus, meaning that the population has little or no immunity to protect itself against illness caused by the virus; and

**WHEREAS**, the age groups that appear to be most impacted by the H1N1 virus, based upon information available from the early stages of the outbreak, are children and young people up to age 24; and

**WHEREAS**, the federal government has secured supplies of vaccine against the H1N1 virus to help reduce the number of cases of H1N1 virus, thereby protecting vaccinated individuals and reducing the number of persons likely to spread the virus, and is making the H1N1 vaccine and related supplies (collectively "Vaccine Supplies") available to state and local public health departments and health providers for distribution and administration to members of the public; and

**WHEREAS**, while many persons in the priority groups for vaccination will choose to receive vaccine through private health providers, it is anticipated that the vaccinations provided by these health providers will need to be supplemented in order to permit rapid vaccination allowing development of immunity by large numbers of persons; and

**WHEREAS**, the CCDPH expects to receive a share of Vaccine Supplies and, subject to the availability of sufficient supplies and personnel resources and the priorities established in conjunction with state and federal health authorities, is willing to work cooperatively with School District and its Schools to conduct an H1N1 Vaccination Program to offer and provide vaccination to Students whose parents or guardians consent to have them vaccinated at School and, subject to the availability of Vaccine Supplies and to the then existing priority categories for H1N1 vaccination, may also offer vaccinations to School staff and School nurses who have signed consents to be vaccinated;

**NOW THEREFORE**, in consideration of its receipt of Vaccine Supplies from the CCDPH, the parties agree as follows:

**Section 1: Incorporation of Recitals.** The above recitals are incorporated into this MOA.

**Section 2: Term and Termination.** This MOA shall be effective upon execution by both parties and shall expire upon completion of the H1N1 Vaccination Program at School, or on March 31, 2010, whichever shall occur later. This MOA may be renewed upon written agreement of the parties in the event H1N1 vaccination programs continue to be undertaken during subsequent school years. This MOA may be terminated by either party upon advance written notice.

**Section 3: Overview of Program.** Subject to the availability of sufficient quantities of Vaccine Supplies, the priority groups that are identified for vaccination by state and federal health authorities, the availability of resources to support the program, and sufficient interest from School families, CCDPH may conduct an H1N1 Vaccination Program at School on one or more days as agreed upon by CCDPH and School. The program shall be directed by CCDPH, which is working in cooperation with the Cook County Emergency Management Agency (CEMA) and other applicable authorities in carrying out a response to a pandemic of H1N1 influenza. The School shall duplicate and distribute documentation provided by the CCDPH to School families. School shall collect the completed documentation and provide it to the CCDPH vaccinators and shall identify to the CCDPH vaccinators those Students whose parent or guardian has submitted a signed consent to have their Student vaccinated. The CCDPH shall assign one or more CCDPH vaccinators to administer vaccine to Students whose parents or guardians have submitted signed consents to have their Students vaccinated. If School District employs School nurses, these individuals shall assist the CCDPH to carry out the Vaccination Program in the Schools under CCDPH direction. CCDPH vaccinators may also provide vaccinations to School staff and School nurses who have signed consents to be vaccinated, subject to adequate Vaccine Supplies and provided these individuals fall within the then existing priority categories for H1N1 vaccination. The vaccine shall be offered at no charge. The specific responsibilities of the CCDPH and the School shall be as set forth below.

**Section 4: Responsibilities of CCDPH.** The CCDPH shall:

- A. Provide written information including public health information and guidance concerning the H1N1 virus and vaccine and a consent to vaccination form to School for duplication and distribution by School to School families.
- B. Schedule one or more dates on which CCDPH shall assign one or more CCDPH vaccinators to administer vaccine in accordance with CCDPH Protocols and the Public Health Physician Standing Order for Administration of H1N1 Vaccine.
- C. Provide Vaccine Supplies to be used by CCDPH vaccinators in administering vaccine to School Students.
- D. If a School Nurse has been identified to assist CCDPH, provide direction and training to the School Nurse with respect to the administration of vaccine to Students in accordance with CCDPH Protocols and the Public Health Physician Standing Order for Administration of H1N1 Vaccine.
- E. Make available the Record of Administration of Vaccine with respect to each Student who is vaccinated for duplication by the School for its records and for immediate transmittal of one copy by School to the vaccinated Students' parents or guardians (CCDPH to retain the originals after duplication).
- F. Create and maintain a record of vaccines administered as part of the Vaccination Program.
- G. Sanitize the hard surfaces in the areas where vaccine was administered and secure the removal and disposal of all medical waste generated as part of the Vaccine Program from the School premises.
- H. Designate CCDPH vaccinators who may be Cook County Health and Hospitals System health providers (including CCDPH nurses), School Nurses, Municipal Nurses, members of the Cook County Medical Reserve Corps, health professionals in training working under the supervision of licensed personnel, or other health professionals identified by authorities to administer vaccinations and who shall conduct vaccination activities under CCDPH protocols, the Public Health Physician Standing Orders and under the direction of an on site lead CCDPH clinician.

**Section 5: Responsibilities of School.** The School shall:

- A. Duplicate and transmit to School families written information, guidance and consent forms provided by CCDPH.
- B. Collect and organize completed and signed CCDPH consent forms returned to School by School families.



- C. Schedule dates on which CCDPH vaccinators may administer Vaccine to School Students whose parent or guardian has submitted signed consent forms and, if applicable, to School nurses and School staff subject to then existing priority categories and the availability of sufficient Vaccine Supplies and personnel.
- D. Schedule Students for vaccination at times and intervals on these dates.
- E. Accept delivery of Vaccine Supplies and assume responsibility for the safe and secure storage of the Vaccine Supplies in accordance with refrigeration and other specifications provided by the CCDPH.
- F. Following the Vaccine Program, retain in a safe and secure location in accordance with refrigeration and other specifications provided by CCDPH the unused Vaccine Supplies, as well as the original completed paperwork and medical waste containers, pending the arrival of CCDPH Vaccine Supply Transport Services to pick them up; make these items and areas available within a reasonably prompt time when CCDPH Transport Services arrive for pick up.
- G. Verify the name and signature of the parent or guardian who completes and signs the CCDPH Consent Form for Vaccination of Student and provide the original signed forms to the CCDPH vaccinator at the time of vaccination.
- H. Designate an appropriate area for the Vaccine Program, set up the area/room with tables and chairs in accordance with CCDPH instructions, and make responsible staff available to maintain order and to identify Students to CCDPH vaccinator(s) prior to the administration of Vaccine to Students whose parents or guardians have submitted signed consent forms.
- I. If School District Nurses are available to assist CCDPH, require School Nurses to complete the CCDPH H1N1 vaccination training and assign the School Nurses to assist the CCDPH vaccinator(s) in administering vaccine to Students in accordance with direction provided by CCDPH and pursuant to CCDPH Protocols and the Public Health Physician Standing Order for Administration of H1N1 Vaccine.
- J. Duplicate (two copies each) the record of vaccine administered to each Student, return the original to the CCDPH, retain a copy in the Student's School Health records, and transmit a copy immediately to the vaccinated Student's parent or guardian.
- K. Direct any follow-up inquiries from vaccinated Students' parents or guardians in accordance with instructions provided by CCDPH.
- L. Restore the area (tables and chairs) used for the Vaccine Program after the completion of the scheduled sessions and sanitizing of hard surfaces by CCDPH.

**Section 6: Vaccine Supplies.** The CCDPH may need to pre-position Vaccine Supplies at the School prior to the scheduled dates for the Vaccine Program, and will need to leave and arrange to pick up unused Vaccine Supplies, completed original paperwork, and medical waste containers after the scheduled dates for the Vaccine Program at School. In this event, School shall designate in writing a representative who shall assume responsibility for the proper storage and security of the Vaccine Supplies, original paperwork, and medical waste containers while these items are on site at the School in accordance with CCDPH instructions and shall provide the CCDPH with a telephone number for this person and a delivery location for Vaccine Supplies. The School representative shall sign the appropriate CCDPH Chain of Custody Form in order to account for the whereabouts of Vaccine Supplies and documentation at all times.

**Section 7: Confidentiality.** The parties shall comply with all applicable laws relating to the confidentiality of Student health information generated, created or reviewed in connection with the CCDPH Fall 2009 H1N1 Vaccination Program. The parties shall maintain the confidentiality of, and refrain from disclosing, personally identifiable health information except as permitted by law.

**Section 8: Miscellaneous.** The following terms shall also apply with respect to the Vaccine Program described in this MOA:

- A. Entire Agreement. This Agreement constitutes the entire agreement between the parties with regard to the subject matter hereof. No promises, terms, or conditions not recited, incorporated, or referenced herein shall be binding upon any party.
- B. Amendment. This Agreement may be amended only upon the written agreement of both parties.
- C. Assignment. This Agreement may not be assigned by either party.
- D. Relationship of the parties. Each party to this agreement shall be responsible for its own acts and omissions and those of its officers, employees and agents. This Agreement shall not be construed as seeking to either enlarge or diminish any obligation or duty owed by one party with respect to the other or with respect to third parties, nor shall it be construed to create or increase liability of either party beyond that which is otherwise imposed upon it by law.
- E. No Third Party Beneficiaries. The terms of the Agreement shall be binding upon and inure to the benefit of the parties only.
- F. Severability. If any covenant, condition, provision, or term of this Agreement shall, to any extent, be held invalid or unenforceable, the remaining covenants, conditions, provisions, and terms of this Agreement shall not be affected thereby, but each covenant, condition, provision, term or agreement of this Agreement shall be valid and in force to the fullest extent permitted by law.
- G. Governing Law. This Agreement shall be governed, interpreted and construed in accordance with the laws of the State of Illinois.
- H. Notices. Any notices required to be given under this agreement shall be sent by U.S. Mail and by confirmed facsimile to:

Cook County Department of Public Health  
 Attention: Regional Emergency Response Coordinator  
 1010 Lake Street, Oak Park, Illinois 60301  
 Phone: (708) 492-2828  
 Fax #1: (708) 492-2660  
 Fax #2: (708) 492-2133

SCHOOL DISTRICT 225  
 ADDRESS:  
 NAMES OF OFFICIAL POINTS OF CONTACT:  
 PHONE:  
 FAX:

IN WITNESS WHEREOF, the parties agree to the above terms and have caused this MOA to be signed by their duly authorized representatives:

SCHOOL DISTRICT 225

COUNTY OF COOK/COOK COUNTY  
 DEPARTMENT OF PUBLIC HEALTH

\_\_\_\_\_  
 Stephen A. Martin, Jr., Ph.D., M.P.H.  
 Chief Operating Officer  
 Cook County Department of Public Health

MEMORANDUM OF AGREEMENT BETWEEN  
 SCHOOL DISTRICT 225  
 AND  
 THE COOK COUNTY DEPARTMENT OF PUBLIC HEALTH  
 FOR THE CCDPH FALL 2009 H1N1 VACCINATION PROGRAM

EXHIBIT A

Dist Name	School Name	School ID	City
Northfield Twp HSD 225	Glenbrook North High School	140162250170001	Northbrook
Northfield Twp HSD 225	Glenbrook South High School	140162250170002	Glenview