September 19, 2025

Topic: Discrepancies in Vaccine Guidance

Background: The Advisory Committee on Immunization Practices (ACIP) is a federal advisory committee that develops recommendations (for the CDC's consideration) on the use of vaccines in the civilian population of the United States.[1] HHS Secretary Robert F. Kennedy, Jr. (the "Secretary") recently removed the 17 sitting members of the ACIP, stating that: "*A clean sweep is necessary to reestablish public confidence in vaccine science.*"[2] In response, the American Academy of Pediatrics (AAP) along with several other healthcare associations, filed suit on July 7, 2025 against the Secretary, the CDC, et al. for declaratory and injunctive relief, alleging, among other things, that "*…the Secretary has demonstrated a clear pattern of hostility toward established scientific processes, a disregard for expert guidance, an affinity for placing persons who align with his anti-vaccination views in positions of authority at HHS, and a reliance on bias and pretext to further his apparent agenda: to undermine trust in vaccines and reduce the rate of vaccinations in this country.*"[3] Moreover, the AAP has now published its own independent immunization schedule which differs from the CDC's recent changes to the immunization recommendations.[4]

Issue: While the above-referenced litigation is pending, the question then becomes: What is the appropriate standard of care for pediatricians? In other words, should providers follow the CDC's or the AAP's vaccine recommendations? Unfortunately, there is no clear-cut answer. Healthcare providers are charged with bringing, to the exercise of their profession, "*…a reasonable degree of care and skill.*"[5] "*[Medical] Malpractice is a particular form of negligence which consists in not applying to the exercise of the practice of medicine that degree of care and skill which is ordinarily employed by the profession generally under similar conditions and like surrounding circumstances.*"[6] In short, providers must practice medicine reasonably and in a similar manner as other providers with the same training and experience, when presented with the same situation. This means that whichever vaccine schedule you elect to follow, you must be able to support the decision with sound medical reasoning and authority, and be assured that other providers in the same specialty - and with the same training and experience - support your decision and are following the same course.

Advice: We cannot recommend one schedule over another. We would, however, recommend taking the following steps:

1) Document your rationale when following one guidance schedule over another. Seek consensus among your providers.

2) Be prepared to justify vaccine choices, especially if deviating from federal guidance.

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[1] *CDC*, https://www.cdc.gov/acip/about/index.html
[2] *HHS Press Room,* https://www.hhs.gov/press-room/hhs-restore-public-trust-vaccines-acip.html
[3] *AAP et al. v. Kennedy et al.*, Case No. 1:25-cv-11916, U.S. Dist. (Mass.), ¶ 46.
[4] *AAP* news, https://publications.aap.org/aapnews/news/32835/AAP-releases-evidence-based-immunization-schedule?autologincheck=redirected
[5] *O.C.G.A. § 51-1-27*
[6] *Johnson v. Myers*, 118 Ga. App. 773 (1968)

3) Clearly explain the differences between CDC and AAP recommendations to families. You may decide to use a document that is easy to read and compares the two schedules (see attached sample comparison).

4) Use shared decision-making tools and ensure parents understand risks, benefits, and alternatives. Document these conversations thoroughly to protect against liability and support patient autonomy.

5) Use the AAP Refusal to Immunize Form if parents decline vaccination.

6) Be aware that insurers may tie coverage to CDC recommendations, potentially excluding vaccines recommended only by AAP. Big pharmacy chains such as CVS and Walgreens are following the current CDC guidelines.

7) Advocate for coverage and help families navigate appeals or alternative funding sources (e.g., Vaccines for Children program).

8) Regularly review updates from AAP Red Book Online, CDC's MMWR, and Georgia DPH.

9) Train staff on current vaccine schedules, especially where they diverge. This is important, as most claims involving vaccines are due to administration errors.

10) Consult with your legal counsel: (i) If you plan to follow one schedule over the other; (ii) If you are concerned about malpractice exposure, insurance coverage, or parental disputes; (iii) If your practice is considering policy changes or public communication about vaccine recommendations; (iv) To assist you with informed consent language; and (v) To assist with strategies to protect the providers as this divergence may raise questions of liability, especially if adverse events occur.
