



October 28, 2002

The Honorable Tommy G. Thompson
Secretary
Department of Health and Human Services
200 Independence Avenue, S.W.
Room 615-F
Washington, D.C. 20201

Dear Secretary Thompson:

On behalf of the 1,600 leading not-for-profit hospitals and health systems allied in Premier, and the more than 2,000 institutional health providers within the Catholic health ministry allied with the Catholic Health Association (CHA), we appreciate this opportunity to discuss some concerns with respect to the inoculation of healthcare workers with smallpox vaccine.

We are deeply appreciative of the depth and breadth of effort on the part of the administration to confront this and other critical challenges apparent in the wake of September 11, 2001. We believe that the strengthened partnerships between hospitals and local, state, and federal health officials have and will continue to serve the public good.

To that end, we would urge the administration, as it develops a fair and responsible smallpox vaccination plan, to include provisions to assist hospitals and other institutional providers in the event that vaccinated parties require and/or seek compensation from adverse reactions. We believe that such provisions will lend themselves to a balanced and thorough vaccination plan based on the voluntary participation of health care providers and others.

As you know, Congress created the National Vaccine Compensation Program (NVCP) in October 1988 as a no-fault alternative to the traditional tort system for resolving both public and privately administered vaccine injury claims. In its more than twelve years of operation, the program has provided critical liability protection for vaccine companies and healthcare providers alike, encouraging research and development of safer formulations. We believe the NVCP and its 9-member advisory commission could prove instructive in the development of a framework by which to address compensation issues.

As you know, at its recent meeting in Atlanta, the HHS Advisory Committee on Immunization Practices (ACIP) endorsed a policy of immunizing approximately 500,000 healthcare workers. Further, it is our understanding that the committee's position is relatively consistent with the administration's perspective on how best to safeguard the public health against smallpox.

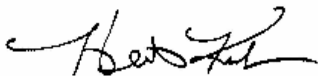
While supportive of the administration's intent in this area, we would encourage you, while moving forward, to consider some critical issues facing hospitals:

- **Immunization of hospital workers in an era of healthcare worker shortages.** The hospital staff workers most likely to be immunized from the outset, according to the ACIP recommendations, would be those who work in emergency departments, intensive care units, infection control, respiratory therapy, radiology units, security, and housekeeping. The ACIP “does not believe that healthcare workers need to be placed on leave” subsequent to their receipt of a smallpox vaccination. However, the committee recognizes that some individuals will likely take sick leave, based on the incidence of symptoms occurring 8-10 days post-inoculation. Clearly, such a scenario will present challenges for hospitals, their employees, and the patients they serve.
- **Concern about liability resulting from immunizations, from patients and workers alike.** We are appreciative of the leadership the administration has exhibited in making the case for medical liability reform. Further, it is our understanding that the administration has been discussing the myriad of liability issues that are sure to accompany smallpox vaccinations and their potential adverse affects. These challenges are depicted in an Oct. 21 *Washington Post* editorial stating that, “Most Americans now assume that anything the government recommends is safe—and will want compensation if it is not.”

We are concerned that individuals adversely affected by smallpox vaccination—clinical staff, hospital employees, their families, and patients, alike—will seek compensation from hospitals through lawsuits, workers' compensation, and other means. We believe that you share and can appreciate this concern, in light of the evidence base for smallpox vaccine complications. Such a scenario could seriously compromise the ability of hospitals to fulfill their mission to community welfare and public health. That is why the inclusion of provisions to help hospitals and other providers address compensation claims is integral to a fair and responsible smallpox vaccination plan.

Again, we deeply appreciate your efforts and leadership. We would encourage you to work with the larger hospital community to craft appropriate measures to ensure the best possible protections and outcomes for patients, healthcare workers and hospitals, alike.

Sincerely,



Herb Kuhn
Corporate Vice President
Premier Advocacy



Michael Rodgers
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Catholic Health Association of the United States