May 20, 2015

The Honorable Fred Upton
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, DC 20515

The Honorable Joseph Pitts
Chairman
Energy and Commerce Subcommittee on Health
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Upton and Chairman Pitts,

The undersigned organizations, which share a strong commitment to promoting immunization in order to reduce rates of vaccine-preventable disease and its associated human, economic, and societal burden, would like to again share our thoughts on the immunization-related provisions of the 21st Century Cures Act, now that is has transitioned from a discussion draft to a bill marked up by the Energy and Commerce Subcommittee on Health.

We previously shared comments with you on the original discussion draft that was released on January 27, 2015, and we appreciate the fact that there were some slight alterations to the text of the immunization-related provisions in the second draft released on April 28, 2015. However, despite these small changes, we still have concerns about the continued inclusion of these provisions in the 21st Century Cures initiative.

As we noted in our earlier comments, immunization is considered one of the great public health victories of the twentieth century, when rates of a host of dreaded diseases were slashed dramatically as safe, effective vaccines were introduced. Once-feared diseases like polio, rubella, and pertussis became virtually unknown as routine vaccination cut rates to almost zero. While some of these diseases have recently resurged, this fact should only inspire us to redouble our commitment to maintaining high vaccination rates.

The process of developing, approving, and recommending vaccines for use among the general public is a carefully calibrated system designed to explore the safety and efficacy of immunizations as thoroughly as possible before widespread use occurs. Recommendations on the use of vaccines for the public are considered with great care by all parties involved, because they may have life-or-death consequences for some Americans. The decision whether to recommend a vaccine for universal, limited use, or optional use is undertaken through a well-established system that seeks the best possible public health outcome.

This system involves a number of steps, some of which may be lengthy, as vaccines are developed and tested in target populations by manufacturers before being submitted to the Food and Drug Administration (FDA) for licensure. After licensure, the Centers for Disease Control and Prevention's (CDC) Advisory Committee on Immunization Practices (ACIP) considers whether to recommend the vaccine for use in broad or specific populations, and also recommends any limitations or exceptions. Once the CDC Director accepts or rejects the ACIP's recommendations, the annual childhood and adult immunization schedules are compiled and published. Key health provider associations, including the American Academy of Pediatrics,

the American Academy of Family Physicians, and the American College of Obstetricians and Gynecologists, endorse the schedules and disseminate them to their membership.

Recognizing the well-established, deliberate, methodical nature of this system, we again feel the need to express our concerns about provisions in the legislation that could disrupt this balance by imposing rigid requirements and deadlines for action. It is still unclear whether the Committee has identified a particular issue or problem these provisions are intended to address. In the absence of such an issue, however, we would urge tremendous caution in pursuing changes that could introduce instability or the appearance of impropriety into the existing successful framework.

Rigid Deadlines for ACIP Recommendations Are Inadvisable

Section 4041 of the original discussion draft would have required the establishment of "standard timelines" for the ACIP to "consider and make recommendations with respect to the route of administration, dosage, and frequency of administration of vaccines for specified populations." Furthermore, the draft directed that if the ACIP does not make a recommendation within 120 days of licensure, a manufacturer could submit a request that would then require the ACIP to draft and vote on a recommendation within 60 days of receipt of that request.

Although the new section 2141 in the introduced legislation removed the 120 days of licensure deadline, as well as the requirement for ACIP to draft and vote on a recommendation within 60 days of receipt of that request, the new language requires the Director, upon the licensure of any vaccine or any new indication for a vaccine, to direct ACIP to consider the use of the vaccine at its next meeting, and still allows the "sponsor of the vaccine" to request an expedited review if there is no recommendation made at ACIP's first regularly scheduled meeting after the licensure of the vaccine or any new indication for the vaccine. This new language could actually require ACIP to review the vaccine sooner than the previous language required, as ACIP meets three times a year, and depending on the date a vaccine is licensed, this could require ACIP to review the vaccine in an extremely short time period.

As mentioned in our earlier comments, it is customary for the ACIP to receive regular updates, often over a year or more, regarding ongoing research studies on new and improved vaccines. In general, the ACIP takes up vaccine recommendations for a vote as quickly as possible after vital data and evidence have been made available. When a vote does not occur promptly, it is usually either because the ACIP is still awaiting important data, or the relevant Work Group has found such data unpersuasive and has therefore not developed a draft recommendation for use.

The imposition of a "standard timeline" for the ACIP to consider a vaccine at the next scheduled meeting would fail to recognize the fact that data is sometimes not forthcoming during those time periods, and could force the ACIP to take votes based on incomplete information. In those situations, it seems logical to assume that the body would err on the side of caution and not recommend a vaccine for wider use. This could actually delay the availability of important vaccines to those who would benefit from them.

In addition, the ACIP frequently reviews data related not only to the specific groups for whom the vaccine was licensed by FDA, but also other relevant or vulnerable groups. For example, even though a vaccine may be licensed for all children of a certain age, the ACIP may review its use in immunocompromised children and make a separate recommendation. Similarly, both influenza and pertussis vaccines are licensed for adults, but the ACIP makes separate, specific recommendations for their use in pregnant women. The ACIP may also take several votes on one vaccine over time to refine their recommendations as new evidence becomes available. The establishment of deadlines fails to recognize the complex and often iterative nature of evidence review.

Finally, the establishment of deadlines fails to recognize the fact that not every safe, effective vaccine should be recommended for population-based use. For example, it would be possible for a manufacturer to develop a vaccine for a common health issue that does not present a public health threat. Despite the fact that such a vaccine might be safe, effective, and even in great demand, the lack of a public health burden would fail to be meet the standard for ACIP consideration. Once again, deadlines would add burden without benefit.

Transparency Must Be Balanced with Protecting the Integrity of the Recommendation Process

Mirroring our apprehension regarding Section 4042 of the discussion draft, "Review of Transparency and Consistency of ACIP Recommendation Process," we are still concerned that Section 2142, now titled "Review of Processes and Consistency of ACIP Recommendations," could still have unintended consequences for important aspects of the ACIP review process with regard to both transparency and consistency of recommendations. Although references to "transparency" were removed in the new language, and the deadline for the report was extended from 1 year to 18 months after the enactment of the bill, the effect of the directive in Section 2142 to review the ACIP process is effectively the same.

The ACIP currently operates in an atmosphere of considerable transparency. Its meetings are open to the public and webcast; meeting materials are posted online in advance and after meetings; public input is actively welcomed at multiple points in every meeting; and presentations are frequently delivered by industry representatives about studies and data. Work Groups receive and utilize special presentations and material submitted by the public and industry.

At the same time, however, it is vitally important that the ACIP be free of either the appearance or the actuality of undue influence by any party. For example, interested parties are strongly discouraged from contacting ACIP members individually on ACIP business. Furthermore, due to the very strong possibility that advance information about the likelihood of an ACIP recommendation could influence markets and other economic interests, certain discussions – particularly the candid conversations that take place within Work Groups -- take place with the protection of confidentiality. Key information is released publicly at predictable junctures, and votes take place solely at open meetings. We are concerned that Section 2142 could disrupt this careful balance by introducing new opportunities for either the appearance or actual exercise of undue influence.

Like Section 4042 of the original discussion draft, Section 2142 in the introduced legislation would also require a review of the consistency of criteria used by ACIP to evaluate new and existing vaccines, including the Grading of Recommendations, Assessment, Development, and Evaluation (GRADE) approach to reviewing evidence. The development of consistent criteria to evaluate vaccines would be significantly hampered by the fact that vaccines may involve very different target populations, aspects of the immune system, public health burden, quality of data, and other factors. To illustrate, ACIP is called upon to evaluate vaccines for diseases that have a moderate impact on a large population as well as those that have a severe impact on a very small population. The effectiveness of vaccines may vary, as well as the degree and quality of data involved. An attempt to impose a cookie-cutter approach on vaccine evaluation would risk forcing the ACIP to give inappropriate weight to various factors, depending on the vaccine and disease involved.

Congress Should Not Direct CDC Interaction with Vaccine Manufacturers

Finally, Section 4044 of the discussion draft, "Meetings Between CDC and Vaccine Developers," has now been labeled Section 2143, but still requires that CDC meet with vaccine industry officials within certain timeframes (90 days in the original discussion draft and 120 days in the introduced legislation), provide specific, detailed information, and "promptly notify" the vaccine developer any time the agency becomes aware of changes to any information provided in such a meeting, including cases where "the change may have implications for the vaccine developer's vaccine research and development."

Our concerns over this section did not change with the updated language in the introduced legislation. This section still has any number of troubling implications for the integrity of CDC's work around immunizations. The requirement that CDC respond to a meeting request within a rigid deadline, whether it is 90 days or 120 days, could still divert precious resources from other, more urgent public health needs. The mandate for CDC to provide specific, detailed information to industry officials still raises any number of questions: Should CDC be responsible for packaging publicly available information for industry? If CDC has access to non-public or preliminary information or data, must that be shared? Is it CDC's responsibility to track industry interests in order to be able to determine when a change in data or evidence may have "implications" for a manufacturer's product in development? Finally, it would appear impractical for CDC to update every manufacturer in the wake of every meeting about "any change" to relevant data; for example, disease tracking and prevalence data is updated sometimes as often as weekly, and it is unclear why the public reporting of such data is insufficient to satisfy vaccine manufacturers' needs.

While we appreciate the minor changes that were made to the sections regarding ACIP, our concerns have not been ameliorated with the new language and we still urge tremendous caution in pursing changes that could introduce instability or the appearance of impropriety into the existing successful framework.

Again, we deeply appreciate this opportunity to express our views regarding the immunization provisions in the 21st Century Cures Act. We look forward to working with you to ensure that this legislation will promote the timely development and approval of safe, effective vaccines for

all Americans. If we can be of further assistance, please contact James Gelfand at the March of Dimes at 202-659-1800 or Pat Johnson at the American Academy of Pediatrics at 202-347-8600.

Sincerely,

American Academy of Pediatrics
American College Health Association
American Congress of Obstetricians and Gynecologists
American College of Preventive Medicine
March of Dimes
National Association of County and City Health Officials
National Association of Pediatric Nurse Practitioners
National Foundation for Infectious Diseases
Pediatric Infectious Diseases Society
Voices for Vaccines