

## VIEWPOINT

# COVID-19 Vaccination of Minors Without Parental Consent

## Respecting Emerging Autonomy and Advancing Public Health

**Larissa Morgan, JD, MBE**

University of Pennsylvania Carey Law School, Philadelphia.

**Jason L. Schwartz, PhD**

Department of Health Policy and Management, School of Public Health, Yale University, New Haven, Connecticut.

**Dominic A. Sisti, PhD**

Department of Medical Ethics and Health Policy, Perelman School of Medicine, University of Pennsylvania, Philadelphia.

In May 2021, the Pfizer-BioNTech COVID-19 vaccine received emergency use authorization from the US Food and Drug Administration in adolescents aged 12 to 15 years, with authorization for younger children expected later this year.<sup>1</sup> Despite reported clinical trial data indicating that the vaccine is safe and 100% efficacious for this age range, some parents and guardians may remain hesitant or outright opposed to vaccinating their children, particularly in politically and culturally conservative communities.<sup>2</sup>

Children and adolescents account for approximately 22% of positive COVID-19 cases reported to date, and hospitalizations among this population have recently spiked.<sup>3</sup> Since July 2020, weekly reported case rates for individuals aged 14 to 17 years have generally mirrored or exceeded rates among adults.<sup>4</sup> As cases decline in adults owing to vaccination, the current case rate in teenagers now exceeds that of adults 55 years and older.<sup>5</sup> Although COVID-19 illness is generally less severe in younger people, the disease has nonetheless caused substantial morbidity and more than 325 deaths among US children and adolescents, a burden of disease greater than that of many diseases for which vaccines are routinely recommended in this age group.<sup>6</sup>

Approximately one-third of confirmed COVID-19 cases in minors have been asymptomatic, creating an opportunity for minors to spread the virus unknowingly. The reduction of asymptomatic transmission is essential to slowing the spread of the virus, and growing evidence suggests that vaccination provides substantial public health benefits by decreasing transmission in addition to its direct, individual benefits.<sup>7</sup> For these reasons, there is an urgent need for increased immunization in younger age groups. Vaccinating minors is critical to protecting them from the virus, reducing transmission—especially to higher-risk populations—and continuing progress toward herd immunity.

Children and adolescents have the capacity to understand and reason about low-risk and high-benefit health care interventions. State laws should therefore authorize minors to consent to COVID-19 vaccination without parental permission.

### Minors' Capacity to Consent to Highly Beneficial, Low-Risk Treatments

Before age 14 years, minors are generally thought to lack the cognitive capacity and maturity to make rational health care judgments.<sup>8</sup> Factors such as social pressure, emotional regulation, and planning skills affect minors' ability to make well-considered choices. To account for these developmental facts, laws require parental permission and presume that parents know and

will act in the best interest of their children. Despite this presumption, parents and minors might disagree about health care decisions. In the context of vaccination, some older minors may possess a more accurate understanding of the risks and benefits of a vaccine than their hesitant guardians. In younger children, and depending on the intervention, such cases present challenges and may entail judicial intervention.

However, by age 14 years, minors' reasoning begins to track adult decision-making, weighing in favor of respect for minors' autonomy to make health care decisions that advance their health, particularly when these choices have a positive effect on public health. Around this age, adolescents develop cognitive processes—including a metacognitive understanding of decision-making, problem-solving skills, and an ability to commit to choices—that foster competent decisions.<sup>8</sup>

### Minor Consent Laws

Most state laws in the US presume that minors lack medical decision-making capacity and therefore require parental consent for most health care decisions, including vaccination. There are exceptions to this requirement for stigmatizing or sensitive interventions, but few states authorize vaccination without parental consent. In 4 states, minors can consent to immunizations for sexually transmitted infections, such as human papillomavirus and hepatitis B, without parental permission.<sup>9</sup> In 5 states, minors are allowed to consent to any medical intervention, including vaccines. Although few states allow minors of any age to consent to such services, several states mirror existing research on capacity to consent, granting minors autonomy at or around age 14 years. Court intervention may also grant a "mature minor"—adolescents who, after clinical evaluation, are deemed to possess competence to consent or refuse treatment—broad authority over their medical decisions.

Some sensitive health services currently accessible to minors may present greater risk and less benefit than the COVID-19 vaccine. Given the risks and the ongoing devastation of the pandemic, as well as the high benefit of vaccination for individual and public health, existing laws authorizing minors to consent to vaccines should be expanded to include COVID-19 vaccination and adopted nationally.

### Policy Recommendations

To balance respect for minors' autonomy with developmental realities and parental interests, a policy allowing minors to receive the vaccine without parental consent would use a sliding scale of decision-making authority, granting greater autonomy to minors as they

### Corresponding

**Author:** Larissa Morgan, JD, MBE, University of Pennsylvania Carey Law School, 3501 Sansom St, Philadelphia, PA 19104 (mlarissa@pennlaw.upenn.edu).

age while also considering the risks and benefits of vaccination. On such a calculus, COVID-19 vaccines offer high benefit and low risk—a profile that lowers the threshold for determining whether a minor has the capacity to make this decision.

The following age groupings offer a guide for minor consent rules for COVID-19 vaccination:

- Healthy children younger than 12 years would not be permitted to consent to vaccination without parental approval. Children older than 9 years with underlying medical conditions for whom the vaccine could offer increased benefits, however, would be exempt from this general prohibition and, after an affirmative evaluation of their competency, may consent.
- Minors aged 12 to 14 years could consent to vaccination without parental approval with support and facilitation from their clinicians and other trusted adult figures. In such cases, clinicians should notify minors' parents of their immunization unless notification might pose a risk to the minor. In such cases, weighing the risk of parental retribution or the loss of the therapeutic relationship against the risk of minors contracting the virus would require a careful case-by-case determination.
- Minors aged 15 to 17 years could provide consent without parental approval. Unlike the younger groups, immunization for individuals in this population should remain confidential.

Even if states grant minors the power to consent to vaccination, states must also continue to promote vaccine acceptance and confidence in all age groups. Routine vaccinations among children and adolescents have declined—particularly during the COVID-19

pandemic—while antivaccine attitudes continue to grow. In an ongoing public health crisis, children and adolescents should not be placed at continued risk due to their parents' hesitancy over COVID-19 vaccines. Although the percentage of parents who may decline to vaccinate their children is currently unknown, the reported hesitancy among adults—including the age groups that include most parents of minors—suggests that this number is likely substantial.<sup>2</sup> Given that children and adolescents account for approximately 22% of the US population, a considerable portion of unvaccinated minors could prolong the pandemic, compromise herd immunity, and expose these minors to preventable risks.<sup>10</sup>

Prior to the COVID-19 pandemic, responses to other vaccination programs demonstrate that it is not merely a theoretical possibility that situations will arise in which well-informed adolescents will want the benefits of COVID-19 immunization despite their parents' wishes.<sup>9</sup> Although limiting provisions for minor consent only to COVID-19 vaccines (and perhaps only during the current public health emergency) may be more expedient and politically feasible, the ethical and public health concerns at stake are not restricted to COVID-19 vaccines. Policy makers and health officials must take action to address these concerns beyond the context of the current pandemic, even if such action occurs at a later time.

Every vaccinated individual counts in the global fight against COVID-19. The ongoing pandemic and its profound consequences for health and societal functioning affirm the urgent need for states to recognize minors' capacity to consent to vaccination to safeguard individual and public health.

#### ARTICLE INFORMATION

**Published Online:** July 12, 2021.  
doi:10.1001/jamapediatrics.2021.1855

**Conflict of Interest Disclosures:** Dr Schwartz reported grants from The Greenwall Foundation. No other disclosures were reported.

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