



**RON ROBERTS**  
**CHAIRMAN**  
**SUPERVISOR, FOURTH DISTRICT**  
**SAN DIEGO COUNTY BOARD OF SUPERVISORS**

**AGENDA ITEM**

**DATE:** February 11, 2003  
**TO:** Board of Supervisors  
**SUBJECT:** Unresolved Smallpox Vaccination Issues (District: All)

**SUMMARY:**

**Overview**

After the deadly anthrax attacks occurred in late 2001, the Bush Administration made protecting our homeland against biological, chemical and nuclear warfare a national priority. The federal government released immediate funding to enhance our nation's public health infrastructure so it can better respond to a biological, chemical or nuclear incident. San Diego County has long been involved in bioterrorism preparedness and is a model for the nation. When the President announced a voluntary plan to protect Americans against the threat of smallpox, San Diego County was poised to strategize and implement this calling. The Smallpox Plan outlined by President Bush has tasked the Department of Health and Human Services to work with state and local governments to form volunteer Smallpox Response Teams that can provide critical services in the event of a smallpox outbreak. To ensure this response, health care workers and other critical personnel will be asked to receive the smallpox vaccination voluntarily. Given the nature of San Diego County's public health infrastructure, this will require volunteers from both the public and private sector. Although the state of Connecticut and Los Angeles County have started vaccinating workers, few people have volunteered. The primary reasons for lack of participation are funding, liability and workers' compensation issues. In order to have a robust smallpox vaccination plan where adequate personnel are trained and prepared to deploy, these issues must be resolved at both the state and federal level. Thus, we must make resolving these issues a local priority.

**Recommendation(s)**

**SUPERVISOR ROBERTS:**

Direct the Chief Administrative Officer to:

1. Prepare a letter for signature by the Chairman of the Board of Supervisors to Health and Human Services Secretary Tommy Thompson requesting that the Centers for Disease Control (CDC) allow the costs associated with smallpox vaccination and implementation as a reimbursable federal activity for both the county and hospitals.
2. Direct the County's Washington representative to pursue funding for smallpox vaccination

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activities and seek legislation that would provide liability and workers' compensation coverage.

3. Direct the County's Sacramento representative to pursue release of funding from the federal HRSA through the State EMS Authority directly to pay for hospital costs associated with smallpox implementation.

**Fiscal Impact**

None by this action.

**BACKGROUND:**

On December 13, 2002, President Bush announced a plan to better protect the American people against the threat of a smallpox attack by terrorists or a hostile nation. Under this plan, the Department of Health and Human Services is charged to work with state and local governments to form volunteer Smallpox Response Teams (Teams) who can provide critical services in the event of such a catastrophe. To ensure adequate mobilization, these Teams must be inoculated with the smallpox vaccine. Given that this program calls for volunteers, certain issues must be resolved before we get adequate workforce participation. Although the state of Connecticut and the County of Los Angeles are rolling out these plans, few health care and emergency workers are participating.

These issues have to deal with funding, but primarily liability and workers' compensation. The Bush administration and Congress have provided liability protections for makers of the vaccine as well as hospitals and medical personnel. Further, on January 24, 2003 Secretary Thompson signed the "Declaration Regarding Administration of Smallpox Countermeasures" provided limited liability for certain covered health care workers. However, the liability protections contained in the Homeland Security Act do not provide adequate coverage. Many of the individuals who would volunteer to receive the smallpox vaccine are not direct employees of hospitals, or other health care organizations that would not qualify for federal liability protection.

There are significant costs and liability concerns associated with workers' compensation, including lost wages and medical costs associated with vaccine complications and side effects. The smallpox vaccine is unlike any other inoculation people normally receive. The inoculation is a live virus called "vaccinia" and has been known to cause death in 1 or 2 people per million who take the vaccine. Additionally, out of every million people receiving the smallpox shot, 40 may suffer complications that could be life threatening. This is a risk not everyone is willing to accept. Some workers' compensation carriers may not provide coverage for workers who voluntarily participate in the program. However, the health care workers and emergency responders that bravely step up to accept this risk ought to be compensated if complications arise. These issues need to be resolved by both the federal and state governments.

Funding is also an issue that needs to be addressed. The Centers for Disease Control (CDC) notified the state that bioterrorism preparedness funds cannot be used to pay for smallpox vaccination implementation costs; the funds could only be used for planning purposes. As a direct result of CDC's directive, Counties and local hospitals will incur costs that are not covered by federal or state reimbursement. Some of these costs include county staffing for the vaccination clinics and follow-up, release time for workers getting vaccinated, and monitoring the vaccine site by hospital staff. Costs to the County range from \$50,000-\$60,000 and the costs to hospitals vary depending on participation. Although this program is voluntary, it borders very close to an unfunded mandate.

The Smallpox Vaccination Plan is needed. However, many issues have to be resolved before this plan is effective. I am glad to see that the debate is going on in Washington to resolve these issues. In fact, many Senators have expressed support for legislation to provide compensation to health care workers who

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experience adverse reactions to smallpox vaccinations. Nevertheless, San Diego County needs to lend their voice to the debate and come down on the side of the brave men and women who are called upon in a time of tragedy.

I urge your support for the recommendations.

Respectfully submitted,

RON ROBERTS  
Supervisor, Fourth District

