

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN ACADEMY OF PEDIATRICS, *et al.*,

Plaintiffs,

vs.

ROBERT F. KENNEDY, JR., in his official
capacity as Secretary of the Department of Health
and Human Services, *et al.*,

Defendants.

Case No. 1:25-cv-11916

District Judge: Hon. William G. Young
Magistrate Judge: M. Page Kelley

REQUEST FOR ORAL ARGUMENT

**PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION AND DECLARATORY
RELIEF AND REQUEST FOR EXPEDITED CONSIDERATION**

Pursuant to Federal Rule of Civil Procedure 65 and Local Rule 7.1, Plaintiffs American Academy of Pediatrics, American College of Physicians, Inc., American Public Health Association, Infectious Diseases Society of America, Massachusetts Public Health Association d/b/a Massachusetts Public Health Alliance, Society for Maternal-Fetal Medicine, and Jane Doe (collectively, "Plaintiffs"), by and through their counsel, move this Court for a preliminary injunction and declaratory relief (the "Motion").

Department of Health and Human Services' Secretary, Robert F. Kennedy, Jr. (the "Secretary") issued a directive dated May 19, 2025 (the "Secretarial Directive") rescinding prior evidence-based recommendations that healthy children ages six months to 17 years old be routinely immunized against Covid and directing the CDC to remove Covid vaccines from the recommended Child and Adolescent Immunization Schedule by Age.

Unless the Secretary's baseless and uninformed policy decision is vacated, pregnant women and children remain at grave and immediate risk of contracting serious illness. The Secretary's Directive immediately exposes these vulnerable populations to a serious illness with potentially irreversible long-term effects and, in some cases, death. This is a pressing public health emergency that demands immediate legal action and correction, making Plaintiffs entitled to a preliminary injunction and declaratory relief.

Plaintiffs are likely to succeed on the merits of their claims set forth in the Complaint under 5 U.S.C. § 706(2)(A), (D). Indeed, the Secretarial Directive is arbitrary and capricious under the Administrative Procedure Act (the "APA") because the Secretary abandoned his duty to keep Americans safe and healthy by unilaterally issuing a directive rescinding years' worth of carefully considered, evidenced-based recommendations regarding the safety and effectiveness of the administration of the Covid vaccine to pregnant women and healthy children. The Secretary provided no reasoned explanation for the decision, and it is wholly unsupported by the evidence. In addition, the Secretary contravened his mandate under 42 U.S.C. § 245(a) to carry out a national evidence-based campaign to increase knowledge of and fight misinformation about vaccines and disseminate scientific and evidenced-based vaccine related information when he issued his Secretarial Directive. Therefore, the Directive is also not in accordance with law and must be declared unlawful and set aside under the APA.

In addition, Plaintiffs are facing and will continue to face irreparable harm absent injunctive and declaratory relief. Plaintiffs are individuals and physician and public health associations who live and practice across the United States. Plaintiffs have been irreparably harmed by the Secretary's arbitrary, capricious, and unlawful Secretarial Directive, and without injunctive and declaratory relief, pregnant women and children remain at grave and immediate risk

of series illness or death. Moreover, the Secretarial Directive is forcing physicians to choose between following HHS's recommendations or exposing themselves to professional liability by following the optimal standard of care to protect their patients.

Last, the balance of harms and the public interest greatly weigh in favor of the Plaintiffs. The interest in public safety and protecting our nation's most vulnerable populations—pregnant women and children—greatly outweigh any government interest. In fact, the Secretary's responsibility is to enhance the health and well-being of all Americans, not cause them direct, irreparable harm.

For the reasons set forth in more detail in Plaintiffs' Memorandum of Law in Support of their Motion, declarations, and exhibits, which are incorporated herein by reference, Plaintiffs respectfully request that the Court grant the Plaintiffs injunctive and declaratory relief, vacate the Directive nationwide, and issue an order consistent with the proposed order attached to Plaintiffs' Motion as Exhibit A.

Dated: July 7, 2025

Respectfully submitted,

By: /s/ Elizabeth J. McEvoy (BBO No. 683191)
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**LOCAL RULE 7.1 CERTIFICATE REGARDING PLAINTIFFS'
MOTION FOR PRELIMINARY INJUNCTION AND DECLARATORY RELIEF
AND FOR EXPEDITED CONSIDERATION**

I, Elizabeth J. McEvoy, certify that on July 7, 2025, I provided a copy of the foregoing to the following individuals to provide notice contemporaneous with filing this motion:

Eric J. Hamilton
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Prior to filing the motion, I emailed the above-named individuals on behalf of the Defendants to meet and confer on this motion. As of the time of filing, Defendants have not responded. Plaintiffs are proceeding with this filing given the need for prompt relief, as set forth in Plaintiffs' Motion for Preliminary Injunctive and Declaratory Relief and for Expedited Consideration.

CERTIFICATE OF SERVICE

I hereby certify that this document was filed through the ECF system and served upon the following parties by Process Server on this 7th day of July 2025:

Robert F. Kennedy, Jr., in his official capacity
as Secretary of Health and Human Services

Marty Makary, in his official capacity as
Commissioner of the Food and Drug
Administration

Jay Bhattacharya, in his official capacity as
Director of the National Institutes of Health

Matthew Buzzelli, in his official capacity as
Acting Director Centers for Disease Control
and Prevention

c/o Leah Belaire Foley, US Attorney
Office of the US Attorney for the District of Massachusetts
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/s/ Elizabeth J. McEvoy (BBO No. 683191)
Elizabeth J. McEvoy (BBO No. 683191)