

United States Senate

WASHINGTON, DC 20510

July 28, 2026

The Honorable Robert F. Kennedy, Jr.
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Kennedy,

We write regarding the recent settlement involving Merck & Co., Inc (“Merck”) and hundreds of plaintiffs regarding the human papillomavirus (HPV) vaccine Gardasil. We are seeking clarity on whether this settlement may have resulted in a significant financial award to one of your sons, raising fresh concerns about conflicts of interest you may possess as Secretary of the Department of Health and Human Services (HHS).

Gardasil is a safe, effective vaccine that prevents multiple types of cancer.¹ Over the course of the litigation a judge dismissed hundreds of cases, including some for which you were the attorney of record, writing that “no scientist could reasonably conclude” the HPV vaccine could induce the alleged injuries “based on this paucity of evidence.”²

Yet on June 4, 2026, Merck announced that the company agreed to pay \$50 million to settle more than 200 lawsuits regarding the use of Gardasil.³ The settlement includes multiple lawsuits for which you were the attorney of record and cases represented by your former employer, Wisner Baum LLP (“Wisner Baum”).⁴ Your son is currently employed at Wisner Baum as an associate attorney.⁵

Your role in Gardasil cases – and the potential conflicts of interest that may arise – were discussed at length during your nomination hearing. You made millions of dollars referring hundreds of cases to Wisner Baum before your confirmation,⁶ and disclosed an ongoing interest

¹ Cleveland Clinic, “HPV Vaccine,” November 9, 2023, <https://my.clevelandclinic.org/health/treatments/21613-hpv-vaccine>.

² Bloomberg, “Merck to Settle Bulk of Gardasil Suits for About \$50 Million,” Jef Feeley, June 4, 2026, <https://www.bloomberg.com/news/articles/2026-06-04/merck-to-settle-bulk-of-gardasil-lawsuits-for-around-50-million>; Reuters, “Exclusive: Kennedy played key role in Gardasil vaccine case against Merck,” Dan Levine and Mike Spector, January 18, 2025, <https://www.reuters.com/business/healthcare-pharmaceuticals/kennedy-played-key-role-vaccine-case-against-merck-2025-01-18/>.

³ *Id.*

⁴ Reuters, “Exclusive: Kennedy played key role in Gardasil vaccine case against Merck,” Dan Levine and Mike Spector, January 18, 2025, <https://www.reuters.com/business/healthcare-pharmaceuticals/kennedy-played-key-role-vaccine-case-against-merck-2025-01-18/>.

⁵ Legal Newsline, “FDA ‘expert panel’ could help RFK Jr.’s son’s firm win lawsuits,” Daniel Fisher, May 20, 2025 https://www.legalnewsline.com/legislation-and-government/fda-expert-panel-could-help-rfk-jr-s-son-s-firm-win-lawsuits/article_28f76509-e0d4-42a5-ac09-4cb59420ee24.html.

⁶ New York Times, “Kennedy Would Keep Stake in HPV Vaccine Suit if Confirmed,” Christina Jewett and Sheryl Gay Stolberg, January 22, 2025, <https://www.nytimes.com/2025/01/22/us/politics/rfk-hpv-vaccine-merck.html>; New York Times, “Kennedy Says He Will Give HPV Vaccine Lawsuit Proceeds to His Son,” Christina Jewett, Susanne

in these cases during the nomination process. Lawyers familiar with the Gardasil lawsuit confirm that you played an “instrumental” role in organizing the litigation against Merck at its inception.⁷ You rallied plaintiffs to file multiple lawsuits against the company and were a “co-counsel with Wisner Baum in the Gardasil litigation.”⁸

In your January 21, 2025 ethics agreement that you filed for Senate confirmation, you informed the Designated Agency Ethics Official at HHS that you planned to keep a 10 percent fee from any settlement award involving the Gardasil cases you had referred to Wisner Baum.⁹

This arrangement would have been alarming: as Secretary of HHS you could influence public perception of Gardasil’s safety, and in turn, the outcome of these cases, by publishing unfounded anti-vaccine information, influencing Merck’s interest in a settlement, or adding unproven injuries to the vaccine injury table.¹⁰ This would have left you in a “position to potentially profit from vaccine litigation while also regulating drugmakers and exercising authority over federal vaccine policy.”¹¹ After significant pressure you transferred the Gardasil stake to one of your adult sons, exploiting what legal observers termed “a loophole” in federal ethics law.¹² Despite the ethically-dubious conflict this arrangement poses,¹³ you refused to take any further steps to divest the Gardasil stake from your family.¹⁴ Now, it appears that your son could stand to gain millions of dollars from Merck’s recent settlement agreement, raising fresh concerns about conflicts of interest.¹⁵

Despite the potential financial reward your family and former employer will gain from the lawsuit’s outcome, you have refused to adequately address the concerns about conflicts of interest. While serving as Secretary you have refused to disclose which of the hundreds of

Craig, and Sheryl Gay Stolberg, January 31, 2025, <https://www.nytimes.com/2025/01/31/health/rfk-jr-gardasil-hpv-lawsuits-confirmation.html>.

⁷ Reuters, “Exclusive: Kennedy played key role in Gardasil vaccine case against Merck,” Dan Levine and Mike Spector, January 18, 2025, <https://www.reuters.com/business/healthcare-pharmaceuticals/kennedy-played-key-role-vaccine-case-against-merck-2025-01-18/>.

⁸ *Id*; NPR, “RFK Jr. plans to keep a financial stake in lawsuits against the drugmaker Merck,” Sydney Lupkin, January 22, 2025, <https://www.npr.org/sections/shots-health-news/2025/01/22/nx-s1-5271582/rfk-hpv-vaccine-merck>.

⁹ New York Times, “Kennedy Would Keep Stake in HPV Vaccine Suit if Confirmed,” Christina Jewett and Sheryl Gay Stolberg, January 22, 2025, <https://www.nytimes.com/2025/01/22/us/politics/rfk-hpv-vaccine-merck.html>.

¹⁰ Letter from Senators Elizabeth Warren and Tim Kaine to Robert F. Kennedy Jr., February 5, 2025, https://www.warren.senate.gov/imo/media/doc/warren_kaine_letter_to_rfk_on_ethics.pdf.

¹¹ NPR, “RFK Jr. plans to keep a financial stake in lawsuits against the drugmaker Merck,” Sydney Lupkin, January 22, 2025, <https://www.npr.org/sections/shots-health-news/2025/01/22/nx-s1-5271582/rfk-hpv-vaccine-merck>.

¹² Politico, “RFK Jr. to revise ethics pledge, direct stake in vaccine lawsuit to his son,” Lauren Gardner and Adam Cancryn, January 31, 2025, <https://www.politico.com/live-updates/2025/01/31/congress/rfk-jr-to-revise-ethics-pledge-00201813>.

¹³ American Law Institute, Principles of the Law - Government Ethics § 302 TD No 4 (2023), Thomson Reuters, 2023, (noting that an adult child’s financial interests can lead “a reasonable observer aware of the facts likely [to] question whether the financial interest would affect the public servant’s performance of official duties”).

¹⁴ Letter from Senators Elizabeth Warren and Tim Kaine to Robert F. Kennedy Jr., February 5, 2025, https://www.warren.senate.gov/imo/media/doc/warren_kaine_letter_to_rfk_on_ethics.pdf.

¹⁵ New York Times, “Kennedy Says He Will Give HPV Vaccine Lawsuit Proceeds to His Son,” Christina Jewett, Susanne Craig, and Sheryl Gay Stolberg, January 31, 2025, <https://www.nytimes.com/2025/01/31/health/rfk-jr-gardasil-hpv-lawsuits-confirmation.html>.

recently settled Gardasil cases you referred to Wisner Baum.¹⁶ And you have refused our requests that you recuse yourself from decisions and communications that could have played a role in this Gardasil settlement. Specifically, you refused our asks to make the following commitments:

- You did not commit to recuse yourself from HHS, Centers for Disease Control and Prevention (CDC), and Food and Drug Administration (FDA) communications related to Gardasil, even as they could materially impact the outcome of Gardasil litigation.¹⁷
- You did not commit to recuse yourself from decision-making that relates to the federal Vaccine Injury Compensation Program (VICP), even as your former employer continues to seek damages before the vaccine courts – including with regard to cases that you may have referred.¹⁸ To date, Wisner Baum is seeking awards from the federal government in VICP in more than a dozen lawsuits,¹⁹ and a lawyer at Wisner Baum was the attorney of record for at least 19 cases before VICP related to the Gardasil vaccine in 2025.²⁰ Meanwhile, you fired half the experts on the Advisory Commission on Childhood Vaccines (ACCV) who help set VICP policies, appointed Drew Downing, your close associate who also brought cases against Merck related to the Gardasil vaccine, to restructure the program, and awarded Downing’s firm a sole-source contract worth \$400,000.²¹ According to court records, around 70% of “Gardasil cases against Merck started as claims filed by Downing” at VICP.²² You have thus far refused to provide answers related to the many ethical and financial conflicts of interest that this poses with regards to VICP, or Mr. Downing’s vetting and divestments for his role.²³
- You refused to decline compensation from lawsuits, including vaccine injury lawsuits, against drug companies during your time as Secretary and for four years afterwards.²⁴ Your willingness to receive compensation from such suits after a relatively brief one-year cooling off period gives cause for concern.

¹⁶ U.S. Senate Committee on Finance, “Responses to Questions for the Record, Robert F. Kennedy, Jr. Part 3,” p. 2, https://www.finance.senate.gov/imo/media/doc/responses_to_questions_for_the_record_to_robert_f_kennedy_jrpart3.pdf.

¹⁷ U.S. Senate Committee on Finance, “Responses to Questions for the Record, Robert F. Kennedy, Jr. Part 2,” pp. 37-39, https://www.finance.senate.gov/imo/media/doc/responses_to_questions_for_the_record_to_robert_f_kennedy_jrpart2.pdf.

¹⁸ *Id.*, p. 46.

¹⁹ Court Listener, https://www.courtlistener.com/?q=%22Wisner%20Baum%22&type=o&order_by=score%20desc&stat_Unpublished=on&filed_after=06%2F01%2F2025; Data on file with the Office of Senator Elizabeth Warren.

²⁰ Data on file with the Office of Senator Elizabeth Warren.

²¹ Letter from U.S Senator Elizabeth Warren et. al. to HHS Secretary Robert F. Kennedy Jr., January 27, 2026, https://www.warren.senate.gov/imo/media/doc/warren_lawmakers_letter_to_rfk_jr_on_conflicts_revaccineinjurycompensationprogram.pdf.

²² Associated Press, “RFK Jr.’s vow to overhaul vaccine injury program echoes grievances of anti-vaccine movement”, Mathew Perrone, August 7, 2025, <https://apnews.com/article/rfk-kennedy-vaccines-injury-compensation-lawsuit-gardasil-4a8ff2cec127d6ae7ddaf0f4f3479283>.

²³ *Id.*

²⁴ Office of Senator Elizabeth Warren, At Hearing, Warren Slams RFK Jr. for Dangerous Conflicts of Interest, Profiting From Anti-Vaccine Conspiracies, press release, January 29, 2025, <https://www.warren.senate.gov/newsroom/press-releases/at-hearing-warren-slams-rfk-jr-for-dangerous-conflicts-of-interest-profiting-from-anti-vaccine-conspiracies>.

Merck's settlement focuses renewed scrutiny on your potential unresolved conflicts of interest as Secretary. You are charged with setting federal vaccine policy and regulating vaccine manufacturers, including Merck, even as your family and former employer may financially benefit from actions you take as Secretary. The settlement – and the ongoing questions about whether your immediate family will benefit from it – raises serious questions about any role HHS may have played in influencing the lawsuit's outcome. This settlement appears to reinforce a lucrative and dangerous playbook in which litigators with ties to anti-vaccine organizations sue drug companies with scientifically dubious claims and undermine trust in vaccines and America's public health as a result.

To assist us in fulfilling our legislative responsibilities to protect public health and address potential conflicts of interest within the federal government, we ask that you provide answers to the following questions by August 11, 2026.

Questions

1. Did you or any other HHS official communicate with representatives of Merck regarding the civil suit claims regarding Gardasil? If so, please describe the nature of these communications.
 - a. Did you or any other HHS official communicate with representatives of Merck about ongoing Gardasil VICP claims that could influence the civil suit claims? If so, please describe the nature of these communications.
2. Please disclose all communications between HHS and Merck regarding Gardasil.
 - a. Please provide a list of external organizations, including law firms, that HHS officials have been in communication with regarding Gardasil
 - b. Please provide copies of any correspondence (emails, meeting notes) internal to HHS, CDC, or FDA regarding meetings with external parties about the Merck Gardasil case and - more generally - regarding HPV vaccine safety.
 - c. Please provide copies of any correspondence from Secretary Kennedy regarding HPV vaccine safety.
3. Did you or any other HHS official communicate with any representative of Wisner Baum regarding the firm's civil Gardasil litigation with Merck? If so, please describe the nature of these communications.
4. Were you at any point involved in any discussions with any other HHS or Administration officials regarding the status of or outcome of this civil suit? If so, please describe the nature of these communications.
5. For how many of the Gardasil cases covered by Merck's June 2026 settlement agreement were you the lead counsel of record? Please provide a list of all cases and their docket numbers.

6. How many of the Gardasil cases covered by Merck's June 2026 settlement agreement did you refer to Wisner Baum? Please provide a list of all cases and their respective docket numbers.
7. Has your son received, or is he slated to receive, your former share of the awarded funds in the Gardasil settlement? If so, how much money is your son expected to receive?
8. How much of Merck's June 2026 settlement award are plaintiffs slated to receive?
9. Have you received any compensation from a vaccine injury lawsuit during your tenure as Secretary?
10. Do you commit to not accept any compensation from any lawsuit against drug companies in your time as Secretary and for four years following the end of your tenure?
11. Do you commit to not accept any compensation from vaccine injury lawsuits in your time as Secretary and for four years following the end of your tenure?
12. Will you make public any and all recusals from agency-decision making involving Gardasil?
13. Have you referred any vaccine-related cases, other than the Gardasil cases, to Wisner Baum or any other law firm? Do you currently have a contingency fee interest in any such cases?
14. What changes, if any, has HHS made to VICP since January 20, 2025?
 - a. Does HHS intend to expand the list of vaccine injuries eligible for federal compensation? If so, which injuries are under consideration?
 - b. Does HHS intend to expand or reduce the list of vaccines covered under VICP?
 - c. Does HHS plan to change the government's posture in response to certain injury claims before VICP?
 - d. Please provide a list of any and all rules, policies, and regulations – proposed or enacted – that have been made to VICP.
 - e. Please provide transcripts, meeting agendas, and notes of all DOJ-HHS discussions with regards to changes to VICP since January 20, 2025.
 - f. In addition to Mr. Andrew Downing, who else serves on the team that is examining changes to VICP?
 - g. Which individuals or organizations have you met with regarding these changes?
 - h. When will the ACCV meet, and what are you planning to have on their agenda?
 - i. Have you given the Health Resources and Services Administration (HRSA) any instructions on which cases to concede or not concede?

15. Is HHS coordinating changes to the VICP program with DOJ or other government agencies? If so, please describe the nature of this coordination.
16. Moving forward, what process will HHS use to make any changes to VICP?
 - a. 42 U.S.C. 300aa-14(c) requires at least 180 days for comments and an oral hearing.²⁶ Will you commit to a transparent process, with a full notice and comment period as required by law for any potential rule changes?
17. Given widespread personnel terminations and resignations across HHS, is HRSA adequately staffed to process VICP claims and ensure timely compensation to claimants?²⁷
 - a. How many full-time HRSA staff are dedicated to processing VICP claims?
 - b. How many HRSA personnel were affected by HHS's reductions in force in 2025?
 - c. How many HRSA personnel resigned or retired in 2025?
 - d. Please provide a count of HRSA staff as of January 21, 2024, 2025, and 2026.
18. When was Andrew Downing appointed as a Senior Advisor at HHS?
 - a. Under what authority has Mr. Downing been appointed to his position?
 - i. Was Mr. Downing appointed as a special government employee?
 - b. What, if any, ethics rules is Mr. Downing subject to in his role with HHS?
 - c. Has Mr. Downing divested from any financial conflicts of interest upon the assumption of his role? Please provide any conflict of interest and ethics forms completed by Mr. Downing.
 - d. Has Mr. Downing recused himself from any matters due to conflicts of interest in his role at HHS? If so, please list the matters and corresponding conflicts.
 - e. Has Mr. Downing received any ethics waivers? If so, on what matters and why?
 - f. Is Mr. Downing being compensated by HHS for his role as a Senior Advisor?
 - g. Is Mr. Downing being compensated through HHS's contract with Brueckner Spitler Shelts PLC?
 - h. Is Mr. Downing still a party to ongoing litigation regarding the Gardasil vaccine, either before VICP or before any state or federal court? If so, list all instances.
19. Why was Brueckner Spitler Shelts PLC selected for a contract with regards to the VICP?
 - a. Has HHS contracted with any other private law firms on VICP or vaccines more generally? If so, please provide a list of any firms.
 - b. Why did HHS increase the contract award for Brueckner Spitler Shelts PLC from \$150,000 in June 2025 to \$250,000 in August 2025?²⁸ Please provide any documentation related to this award change.

²⁶ 42 U.S.C. 300aa-14 (c); 5 U.S.C, 553.

²⁷ 42 U.S.C, 300aa-12.

²⁸ USASpending, "Award from the Department of Health and Human Services to Brueckner Spitler Shelts PLC," https://www.usaspending.gov/award/CONT_AWD_75P00125P00036_7570_-NONE_-NONE-.

- c. Why did HHS increase the contract award for Brueckner Spitler Shelts PLC from \$250,000 in August to \$400,000 in September 2025?²⁹ Please provide any documentation related to this award change.
20. Since June 6, 2025, has Brueckner Spitler Shelts PLC or any of its attorneys, been the attorney on record for any cases pending before VICP?
- a. If so, provide a list of all cases where Brueckner Spitler Shelts PLC and its attorneys represent litigants.
 - b. Since June 6, 2025, has Andrew Downing remained the attorney on record for clients seeking vaccine injury awards pending before VICP?
 - c. As of June 6, 2025, how many former clients represented by Brueckner Spitler Shelts PLC had award decisions pending before VICP?
21. Since June 6, 2025, has the firm of Downing, Allison & Jorgenson been the attorney of record in cases pending before VICP?
- a. If so, provide a list of all cases where Downing, Allison & Jorgenson and its attorneys represent litigants.
 - b. Since June 6, 2025, has Andrew Downing remained the attorney on record for clients seeking vaccine injury awards pending before VICP?
 - c. As of June 6, 2025, how many former clients represented by Downing, Allison & Jorgenson had award decisions pending before VICP?

Sincerely,


Elizabeth Warren
United States Senator


Richard Blumenthal
United States Senator


Angela D. Alsobrooks
United States Senator


Andy Kim
United States Senator

²⁹ *Id.*