

Act 1524 (SB246) APPROVED: 4/15/1999

By: Senator Bradford

For An Act To Be Entitled "THE NURSING HOME RESIDENT AND EMPLOYEE IMMUNIZATION ACT OF 1999."

Subtitle "THE NURSING HOME RESIDENT AND EMPLOYEE IMMUNIZATION ACT OF 1999."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Title. This act shall be known and may be cited as the "*Nursing Home and Employee Immunization Act of 1999*".

SECTION 2. *Purpose.* In recognition that the sixth leading cause of death in Arkansas is the combined diagnostic category of 'pneumonia/influenza'; that approximately ninety percent (90%) of the 'pneumonia/influenza' deaths are in those over sixty-five (65) years of age; that the Centers for Disease Control ('CDC') recommends that individuals over the age of sixty-five (65) years have annual flu shots and a pneumococcal vaccine once; that the CDC further suggests that consent for immunization be acquired at the time of nursing home admission; that current utilization of the flu shots by nursing home residents is approximately fifty percent (50%); that the elderly living in an institutional setting, where disease may be more readily transmitted, are less protected than those living in the community; and that the pneumococcal vaccine utilization by nursing home residents is approximately thirty percent (30%).

SECTION 3. Definitions. As used in this act:

(1) "Document" means evidence from a person, physician or healthcare provider in written format indicating the date and place when the individual received the influenza virus vaccine and the pneumococcal pneumonia vaccine;

(2) 'Nursing home facilities' means facilities that include any buildings, structure, agency, institution, or place for the reception, accommodation, board, care, or treatment of two (2) or more individuals, who because, of physical or mental infirmity, are unable to sufficiently or properly care for themselves, and for which reception, accommodation, board, care, or treatment, a charge is made, provided the term 'nursing home' shall not include the offices of private physicians and surgeons, residential health care facilities, hospitals, institutions operated by the federal government or any other similar facility where individuals reside or any facility which is conducted by and for those who rely exclusively upon treatment by prayer alone for healing in accordance with the tenets or practices of any recognized religious denomination;

(3) "Medically contraindicated" means either that the influenza or pneumococcal vaccines should not be administered to an individual because of a condition that individual has that will be detrimental to the individual's health if the individual receives either of the vaccines;

(4) "Report" means to maintain a current list or roster of vaccine status for residents and employees and, by December 1 of each year, to provide that list to the Office of Long-Term Care of the Department of Human Services.

SECTION 4. Implementation.

(a)

(1) The Arkansas Board of Health may promulgate rules and regulations to provide for the immunization against influenza virus and pneumococcal disease as provided for in this act. The Office of Long Term Care shall be granted authority to enforce the rules and regulations.

(2) The Arkansas Board of Health may also promulgate rules and regulations to provide for the immunization of other individuals and require other institutions and facilities to provide the immunizations provided for in this act.

(b) Each nursing home facility in this state shall:

(1) Obtain consent from residents or their legal guardians upon admission to participate in all immunization programs that are conducted within the facility while that person is a resident of that facilities, and not in violation of the resident's right to refuse treatment;

(2) As a condition of their employment, require all employees to participate in immunization programs conducted while they are employed at the facility, unless meeting the qualifications for exemptions as listed in Section 4 of this act;

(3) *Document and report, annually, immunizations against influenza virus for both residents and full-time and part-time employees. Document and report, annually, immunizations against pneumococcal disease for residents.*

(c) *Any nursing home facility which violates this act shall be subject to suspension and revocation of its license.*

(d) *The Arkansas Department of Health shall provide vaccines, supplies, and staff necessary for the immunizations of nursing home residents and employees as provided for in this act.*

SECTION 5. Exemptions. All residents or full-time or part-time employees of *nursing home* facilities shall be immunized according to this act with the following exemptions:

(1) No individual shall be required to receive either an influenza virus vaccine or a pneumococcal pneumonia vaccine if the vaccine is medically contraindicated as described in the product labeling approved by the Food and Drug Administration; and

(2) *The provisions of this section shall not apply if the resident or legal guardian object on the grounds that the immunization conflicts with the religious tenets and practices of a recognized church or religious denomination of which the resident or guardian in an adherent or member.*

SECTION 6. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 8. All laws and parts of laws in conflict with this act are hereby repealed.