

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999  
4

As Engrossed: S2/15/99 S3/4/99 H4/2/99

# A Bill

Act 1524 of 1999  
SENATE BILL 346

5 By: Senator Bradford  
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## For An Act To Be Entitled

9 "THE *NURSING HOME* RESIDENT AND EMPLOYEE IMMUNIZATION  
10 ACT OF 1999."

### Subtitle

13 "THE *NURSING HOME* RESIDENT AND EMPLOYEE  
14 IMMUNIZATION ACT OF 1999."

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

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

22 SECTION 2. Purpose.

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

36 SECTION 3. Definitions. As used in this act:

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

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

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

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

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24       SECTION 4. Implementation.

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

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

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

34       (1) Obtain consent from residents or their legal guardians upon  
35 admission to participate in all immunization programs that are conducted  
36 within the facility while that person is a resident of that facilities, and

1 not in violation of the resident's right to refuse treatment;

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

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

8 Document and report, annually, immunizations against pneumococcal disease for  
9 residents.

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

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

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

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

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

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

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

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

*/s/ Bradford*

APPROVED: 4/15/1999