

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

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."

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17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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19 SECTION 1. Title. This act shall be known and may be cited as the
20 "Nursing Home and Employee Immunization Act of 1999".
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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%).
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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.

23 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