

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 634

SPONSOR: Senators Clary and Cowin

SUBJECT: Duties of Nursing Homes with Respect to Influenza and Pneumococcal Vaccinations

DATE: March 12, 2001      REVISED: 03/16/01    03/20/01    \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Thomas</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/2 amendments</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill provides that all residents of nursing homes who consent shall be given an influenza vaccination each year by November 30 or within 5 days of admission if the resident is admitted after November 30 but before March 31, subject to exemptions for medical contraindications, or religious or personal beliefs. Each nursing home must assess all its residents for eligibility for polysaccharide pneumococcal vaccination and vaccinate residents when indicated, subject to exemptions for medical contraindications and religious or personal beliefs. Nursing homes are also encouraged to promote vaccination of their employees against influenza virus.

This bill amends section 400.141, Florida Statutes.

**II. Present Situation:**

Part II, chapter 400, F.S., provides for the regulation of nursing homes. Section 400.141, F.S., requires licensed nursing homes to meet specified standards and requirements that the Agency for Health Care Administration (AHCA or agency) has adopted by rule. Licensed nursing homes must: be under the administrative direction of a licensed nursing home administrator; appoint a medical director who is a Florida-licensed physician; have regular, consultative, and emergency services of Florida-licensed physicians; provide for resident use of a community pharmacy; provide for resident access to dental and other health-related services, recreational services, rehabilitative services, and social work services appropriate to their needs and conditions and which are not directly furnished by the nursing home; be allowed and encouraged by the agency to provide other needed services such as respite care or adult day services, under specified circumstances; be allowed to share programming and staff for enhanced services under specified criteria; maintain the facility premises and equipment and conduct its operations in a safe and sanitary manner; if the licensed nursing home furnishes food service, meet generally accepted

standards of proper nutrition for its residents and provide such therapeutic diets as may be prescribed by attending physicians; keep full records of resident admissions and discharges, including medical records, personal and social history, and individual care plans; keep fiscal records of its operations and conditions; furnish copies of personnel records for employees to any other Florida-licensed facility requesting this information; publicly display a poster provided by the agency containing the names, addresses, and telephone numbers for the state's abuse hotline, the State Long-Term Care Ombudsman, the agency's consumer hotline, the Advocacy Center for Persons with Disabilities, the Statewide Human Rights Advocacy Committee, and the Medicaid Fraud Control Unit, with a clear description of the assistance to be expected from each.

### ***Influenza and Pneumonia***

Influenza, commonly called the "flu," is caused by the influenza virus that infects the respiratory tract. The virus is typically spread from person to person when an infected person coughs or sneezes the virus into the air. Influenza can cause severe illness and lead to serious and life-threatening complications in all age groups. Complications such as bacterial pneumonia, dehydration, and worsening of underlying chronic conditions (such as congestive heart disease and asthma) occur most often in persons who are particularly vulnerable, such as elderly persons and persons with chronic conditions. Flu is a major cause of illness and death in the United States and leads to over 10,000 hospitalizations and approximately 20,000 deaths each year, according to the United States Centers for Disease Control and Prevention (CDC). Pneumonia or pneumococcal disease, an infection that occurs when there is fluid in the lungs, kills more than 10,000 Americans each year, many of them age 65 or older, according to the CDC.

Vaccines are effective in protecting individuals against illness or serious complications of flu, particularly those who are at high risk for developing serious complications from flu, and pneumonia according to CDC. The CDC recommends that persons in high-risk groups that include individuals aged 65 or older and people with chronic diseases of the heart, lung, or kidneys, diabetes, immunosuppression, or severe forms of anemia should be vaccinated against the flu. The CDC also recommends that residents of nursing homes and other chronic-care facilities, children receiving long-term aspirin therapy, and any person who is in close or frequent contact with anyone in the high-risk group, such as health care personnel and volunteers, be vaccinated. The CDC recommends that the optimal time to be vaccinated against flu is from October through mid-November. People with an allergy to eggs should not take the flu vaccination.

Medicare coverage for flu shots for the elderly began in 1993. Flu shots are free for individuals enrolled in Medicare Part B from physicians who accept Medicare recipients. The Medicaid program covers costs for flu vaccine and administration for Medicaid patients who are residents of nursing homes and long-term care facilities who are not the recipients of Medicare benefits. Medicare is the primary payer for this service. Medicare also covers vaccinations against pneumonia.

### **III. Effect of Proposed Changes:**

The bill amends s. 400.141, F.S., to require every licensed nursing home, before November 30 of each year, subject to the availability of an adequate supply of the necessary vaccine, to provide

for immunizations against the flu virus to all its residents in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention, with exemptions for medical contraindications and religious or personal beliefs. The bill requires any person who becomes a resident of a licensed nursing home after November 30th but before March 31st of the following year to be immunized against the flu virus within 5 days after becoming a resident. If a resident can document that immunization has already occurred, then immunization need not be repeated. The resident may be immunized by his or her personal physician, and the resident must provide proof of such immunization.

The bill also requires every licensed nursing home, within 60 days of the effective date of this act, to assess all residents for eligibility for polysaccharide pneumococcal vaccination (PPV) in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention, and vaccinate residents when indicated, with exemptions for medical contraindications and religious or personal beliefs. The bill requires residents admitted after the effective date of the act to be assessed within 5 days of admission. If a resident can document that immunization has already occurred, then immunization need not be repeated. The resident may be immunized by his or her personal physician, and the resident must provide proof of such immunization.

Licensed nursing homes are required to annually encourage and promote to their employees the benefits associated with immunizations against the influenza virus in accordance with the recommendations of the U.S. Centers for Disease Control and Prevention.

If the bill becomes law, it shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Residents who are covered by Medicare Part B may incur costs for the flu vaccination or pneumonia vaccination required by the bill if their physicians do not accept the Medicare payment as full payment.

Licensed nursing homes may incur additional costs to provide flu vaccinations to their employees. The Agency for Health Care Administration assumes that the net cost to nursing homes will be zero if the facilities include the cost of the flu immunizations for its employees in its facility rates. For those nursing homes that do not pay for the flu vaccinations to employees, the employees that choose to be vaccinated will assume the expense.

**C. Government Sector Impact:**

The Agency for Health Care Administration estimates that it will have recurring costs equal to \$83,265 annually for Medicaid coverage of the administration of flu and pneumonia vaccinations to employees and residents of licensed nursing homes. The agency will receive federal grants under Title XIX Medical Assistance equal to \$47,136 annually to offset the costs for total revenues minus total expenditures equal to \$36,129 for each fiscal year. The agency's estimate is based on 61 percent of 84,000 nursing home employees being immunized times 65 percent of the Medicaid proportion of each nursing home census at an average cost of \$2.50 to the nursing home. The cost will be lessened for any nursing homes requiring employees to pay for their own vaccinations, and as to those employees who elect to not be vaccinated.

The agency assumes that any costs relating to immunizing nursing home residents who are covered by the Medicaid program will be offset by the avoidance or reduction of Medicaid health care costs for these residents. Medicaid pays on average \$3.65 for the ingredients for the influenza vaccine plus \$4.23 for a dispensing fee. The average Medicaid cost for the pneumococcal disease vaccine is \$20.21 plus \$4.23 for a dispensing fee. The agency indicated that the Medicaid program pays for immunizations of about 18,000 nursing patients each year and that the Medicare program pays for most of the remaining residents who are not otherwise covered under the Medicaid program for the vaccinations.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Health, Aging and Long-Term Care:

Provides that only nursing home residents who consent are to be immunized against influenzae virus.

#2 by Health, Aging and Long-Term Care:

Provides that nursing home residents must be assessed for eligibility for pneumonia immunizations within 5 working days of admission.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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