

**Title 20. Public Health and Welfare**

**Chapter I. Generally, Department of Health**

**Subchapter D. Immunization and Disease**

**Part 101. Rules Pertaining to the Nursing Home Resident and Employee  
Immunization Law**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"SECTION I. AUTHORITY

The following Rules pertaining to the Nursing Home Resident and Employee Immunization Law are duly adopted and promulgated by the Arkansas Board of Health pursuant to the authority expressly conferred by the laws of the State of Arkansas including, without limitation, Act 1524 of 1999, the same being Ark. Code. Ann. §20-10-1301 - §20-10-1305."

"SECTION VIII. SEVERABILITY

If any provision of these Rules or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of these Rules which can give effect without the invalid provisions or applications, and to this end the provisions hereto are declared severable.

SECTION IX. REPEAL

All rules and parts of rules in conflict herewith are hereby repealed.

CERTIFICATION

This is to certify that the foregoing Rules for the Immunization Requirements for Nursing Home Residents and Employees in Arkansas were adopted by the Arkansas State Board of Health at a regular session of the Board held in Oppello, Arkansas, on the 22nd of October, 2015.

Nathaniel Smith, MD, MPH

Director, Arkansas Department of Health Secretary, Arkansas Board of Health"

### **Subpart 1. Generally**

#### **20 CAR § 101-101. Purpose.**

To protect the health of the citizens of Arkansas by ensuring that:

- (1) Nursing home residents are immunized against influenza annually and pneumococcal disease; and
- (2) Employees are immunized against influenza annually.

**Authority.** Arkansas Code § 20-10-1304.

#### **20 CAR § 101-102. Definitions.**

For the purposes of this part, the following words and phrases when used herein shall be construed as follows:

(1) "Document" means evidence from a person's 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) "Medically contraindicated" means either the influenza or pneumococcal vaccine 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;

(3)(A) "Nursing home facilities" means facilities that include any building, structure, agency, institution, or place for:

(i) 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

(ii) Which reception, accommodation, board, care, or treatment a charge is made.

(B) "Nursing home" shall not include:

(i) The offices of private physicians and surgeons;

(ii) Residential healthcare facilities;

(iii) Hospitals;

(iv) Institutions operated by the federal government;

(v) Any other similar facility where individuals reside; or

(vi) 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; and

(4) "Report" means:

(A) To maintain a current list or roster of vaccine status for residents and employees; and

(B) By December 1 of each year to provide that list to the Office of Long-Term Care.

**Authority.** Arkansas Code § 20-10-1304.

**20 CAR § 101-103. Specific requirements.**

(a)(1) All nursing home facilities shall require all residents and full-time or part-time employees to be immunized against influenza disease.

(2) Additionally, all residents shall be immunized against pneumococcal disease as a condition of residency in said facility.

(b) **Employees.**

(1) Any individual who is employed or accepts employment at any nursing home facility, as a condition of employment, must agree to receive an annual influenza immunization.

(2)(A) Employees may be exempt if they qualify for medical reasons.

(B) See 20 CAR § 101-104, Exemptions.

(c) **Residents.**

(1) Any resident of any nursing home shall:

(A) Be immunized against pneumococcal disease; and

(B) Receive an annual influenza immunization.

(2) Residents, or their responsible parties, have the right to refuse medical treatment, including immunizations, for the resident.

(3)(A) Refusal must be in writing and be on file in resident's permanent record.

(B) See 20 CAR § 101-105, Documentation.

**Authority.** Arkansas Code § 20-10-1304.

**20 CAR § 101-104. Exemptions.**

(a) **Medical exemptions for employees.**

(1) The Department of Health standard form for exemptions must be submitted to the Communicable Disease and Immunization Section.

(2)(A) The form must be notarized and accompanied by a letter from a physician stating the medical contraindication.

(B) Only an approval letter issued by the Medical Director, Communicable Disease and Immunization Section, stating the vaccine or vaccines for which an individual is exempt is to be accepted as a valid medical exemption by the nursing home.

(C) Statements from a private physician are not to be accepted by the nursing home without the department approval letter.

(D) Approved medical exemption letters are to be filed in the employee's personnel file.

(3) Requests for exemption forms or inquiries about exemptions should be forwarded to the Arkansas Department of Health, Communicable Disease and Immunization Section, 4815 W. Markham, MS48, Little Rock, AR 72205, or call (501) 537-8969 or 1-800-574-4040.

**(b) Residents.**

(1) Nursing home residents or their legal guardian may refuse immunizations for any reason, philosophical or religious, including that the immunization conflicts with the religious tenets and practices of a recognized church or religious denomination of which the resident or guardian is an adherent or member.

(2) The nursing home must document the refusal of immunizations in the resident's chart.

**Authority.** Arkansas Code § 20-10-1304.

**20 CAR § 101-105. Documentation.**

(a) Permission to administer influenza and pneumococcal vaccine to the residents and influenza vaccine to employees:

- (1) Is the responsibility of each nursing home; and
- (2) Must be initiated during admission to the facility.

(b) Appropriate vaccine information statements with information on risks and benefits are to be provided to the resident/resident's responsible party or employee prior to receiving vaccines.

(c)(1) Consent for vaccination must be:

- (A) In writing; and
- (B) Signed by either the resident and/or responsible party.

(2) The signed consent shall be kept in the resident's permanent record.

(3) Employee consent must also be in writing and placed within the employee's personnel file.

(d)(1) Nursing homes must:

(A) Maintain a current log or list of residents and employees in their facility; and

(B) Document that each has been immunized.

(2) The log must include, at a minimum, the:

(A) Individual's name;

(B) Date of birth;

(C) Type of vaccine;

(D) Date administered;

(E) Vaccine manufacturer;

(F) Vaccine lot number;

(G) Name of vaccine administrator; and

(H) Date of the vaccine information statement.

(3) Additionally, the reason a vaccine was not administered to any resident (including the right to refuse treatment) or employee must be documented on the log or list.

(4) A copy of this log must be reported to the Office of Long-Term Care by December 1 of each year.

(5) Nursing homes are required to retain a copy of the log for a period of fifteen (15) months after December 1 of the submission year.

(6) These log forms may be obtained from the Department of Health by calling 501-537-8969 or 1-800-574-4040.

**Authority.** Arkansas Code § 20-10-1304.

**20 CAR § 101-106. Responsibilities and implementation.**

(a) The Department of Health shall provide sufficient quantities of vaccine, supplies, and the staff necessary to immunize the residents and staff members in all nursing home facilities that lack coverage for immunizations through:

(1) Medicare;

- (2) Medicaid; or
- (3) Other health insurance.

(b)(1) Area health office or local health unit staff members will coordinate immunization activities with nursing home staff members to ensure that all residents and employees receive all required doses of vaccine.

(2) However, during the outbreak of a pandemic disease, the department may enforce vaccine priorities necessary to:

- (A) Limit the loss of life among citizens; and
- (B) Contain the spread of disease.

(c) The Office of Long-Term Care will monitor and enforce the rules to ensure compliance with the law.

(d) Any nursing home that does not enforce the provisions of the Nursing Home Resident and Employee Immunization Act of 1999, Arkansas Code § 20-10-1301 et seq., will be:

- (1) In violation of Arkansas Code § 20-10-1301 et seq.; and
- (2) Subject to the punishment set down in Arkansas Code § 20-10-1304(c) for that violation.

**Authority.** Arkansas Code § 20-10-1304.