

SENATE BILL NO. 464
INTRODUCED BY D. HARRINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING CERTAIN REQUIREMENTS FOR IMMUNIZATIONS FOR RESIDENTS AND EMPLOYEES OF LONG-TERM CARE FACILITIES; ALLOWING FOR EXCEPTIONS TO THE IMMUNIZATION REQUIREMENTS; REQUIRING THAT RECORDS BE KEPT REGARDING IMMUNIZATION OF RESIDENTS AND EMPLOYEES OF LONG-TERM CARE FACILITIES; AND AMENDING SECTION 50-5-1106, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 3], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Documentation" means written evidence from an individual's health care provider indicating the date on which and the place where a resident or employee of a long-term care facility received the influenza vaccine or the pneumococcal vaccine.

(2) "Employee" means a person who is employed, whether directly, by contract with another entity, or as an independent contractor, by a long-term care facility on a part-time or full-time basis.

(3) "Medically contraindicated" means that an influenza vaccine or pneumococcal vaccine should not be administered to an individual because vaccination may be detrimental to the individual's health.

NEW SECTION. **Section 2. Resident and employee immunization required.** (1) Except as provided in [section 3], every resident living in and every employee working in a long-term care facility in this state must be immunized for influenza virus and pneumococcal disease in accordance with rules, if any, adopted by the department to implement [sections 1 through 3].

(2) (a) Upon admitting a person as a resident, a long-term care facility shall notify the person of the immunization requirements of [sections 1 through 3].

(b) Upon hiring a person at a long-term care facility, the long-term care facility shall notify the person of the immunization requirements of [sections 1 through 3].

(c) The long-term care facility shall determine the influenza and pneumococcal immunization status of each person who becomes a resident or employee after [the effective date of this act].

(d) If the resident or employee cannot provide documentation of the required immunization, the long-term care facility shall:

(i) request that the resident or employee agree to be immunized against influenza virus and pneumococcal disease; and

(ii) except as provided in [section 3], provide or arrange for the necessary immunization.

(3) (a) Every long-term care facility shall document, at least annually, the annual immunizations against influenza virus and pneumococcal disease for each resident and employee of the long-term care facility.

(b) If documentation for a resident or employee is not recorded by the long-term care facility, the long-term care facility shall, except as provided in [section 3], provide or arrange for immunization.

(c) Except as provided in [section 3], immunization and the documentation of the immunization must occur within 2 days of discovering that documentation for the resident's or employee's immunization is unavailable.

(4) (a) A long-term care facility shall take all reasonable measures to ensure that each resident and employee of the long-term care facility is immunized as provided in this section.

(b) A long-term care facility may not be sanctioned in any manner or held liable for a resident or employee who:

(i) exercises an exception allowed under [section 3]; or

(ii) provides false or inaccurate documentation.

(5) The department may promulgate rules relating to the immunization requirements of [sections 1 through 3].

NEW SECTION. Section 3. Exception to immunization requirements -- record. (1) A resident or employee may not be required to receive either an influenza vaccine or pneumococcal vaccine if:

(a) the vaccine is medically contraindicated; or

(b) immunization is against the resident's or employee's religious beliefs.

(2) The long-term care facility shall maintain records regarding exceptions granted under this section.

Section 4. Section 50-5-1106, MCA, is amended to read:

"50-5-1106. Resident's rights devolve to authorized representative. The rights and responsibilities listed in 50-5-1104, and 50-5-1105, and [section 3] devolve to the resident's authorized representative ~~when~~ if the resident:

- (1) exhibits a communication barrier;
- (2) has been found by ~~his~~ the resident's physician to be medically incapable of understanding these rights; or
- (3) has been adjudicated incompetent by a district court."

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 50, chapter 5, part 11, and the provisions of Title 50, chapter 5, part 11, apply to [sections 1 through 3].

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