

SENATE SUBSTITUTE TO HB 217

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated,
 2 relating to physicians, so as to authorize the use of influenza vaccine orders for a group of
 3 patients; to provide for influenza vaccine protocol agreements between physicians and
 4 pharmacists or nurses; to provide for definitions; to provide requirements for the content of
 5 influenza vaccine protocol agreements; to provide that a party to an influenza vaccine
 6 protocol agreement shall not delegate his or her authority; to provide for statutory
 7 construction; to provide for policies for handling used equipment; to limit the number of
 8 influenza vaccine protocol agreements in which a physician may enter at any one time; to
 9 prohibit certain entities from entering into influenza vaccine protocol agreements; to provide
 10 for rules and regulations; to provide for limited liability; to provide for applicability; to
 11 amend Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating
 12 to regulation of hospitals and related institutions, so as to provide for vaccinations or other
 13 measures for health care workers in hospitals; to provide for statutory construction; to amend
 14 Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency
 15 management, so as to provide for emergency powers of the Governor in the event of a
 16 pandemic influenza emergency; to provide for related matters; to provide for an effective
 17 date; to repeal conflicting laws; and for other purposes.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

19 Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to
 20 physicians, is amended by adding a new Code section to read as follows:

21 "43-34-26.4.

22 (a) As used in this Code section, the term:

23 (1) 'Administer' means the provision of a unit dose of influenza vaccine by a pharmacist
 24 or nurse pursuant to an influenza vaccine order contained in an influenza vaccine protocol
 25 agreement with a physician.
 26

- 27 (2) 'Adverse event' means an event that is a negative consequence of the administration
28 of influenza vaccine by a pharmacist or nurse that results in an unintended reaction,
29 injury, or illness, which may or may not have been preventable.
- 30 (3) 'Board' means the Composite State Board of Medical Examiners.
- 31 (4) 'Influenza vaccine' means a vaccine administered by injection that contains
32 inactivated influenza viruses that is prepared for the applicable season and that is
33 administered to produce or increase immunity to the influenza virus.
- 34 (5) 'Influenza vaccine order' means a prescription drug order, contained in an influenza
35 vaccine protocol agreement, for influenza vaccine issued by a physician for a group of
36 patients that meet a certain criteria and to be administered by a pharmacist or a nurse. An
37 influenza vaccine order shall also mean a prescription drug order, contained in an
38 influenza vaccine protocol agreement, for epinephrine issued by a physician for a group
39 of patients that meet a certain criteria and to be administered by a pharmacist or a nurse
40 only upon the occurrence of an actual or perceived anaphylactic adverse reaction to the
41 administered influenza vaccine provided that the influenza vaccine protocol agreement
42 sets forth the signs and symptoms that warrant the administration of epinephrine.
- 43 (6) 'Influenza vaccine protocol agreement' means a written document mutually agreed
44 upon and signed by a physician and a pharmacist or by a physician and a nurse, by which
45 document the physician prescribes influenza vaccine and epinephrine, if determined
46 appropriate by the physician, by means of an influenza vaccine order for administration
47 by a pharmacist or a nurse.
- 48 (7) 'Nurse' means a registered professional nurse as defined in paragraph (9) of Code
49 Section 43-26-3. The term shall also mean a licensed practical nurse as defined in
50 paragraph (5) of Code Section 43-26-32 who is regularly employed by a physician who
51 actively engaged in the private practice of medicine.
- 52 (8) 'Pharmacist' means an individual licensed under Chapter 4 of Title 26 to engage in
53 the practice of pharmacy in the State of Georgia.
- 54 (9) 'Pharmacy intern' means a pharmacy intern as defined in paragraph (19) of Code
55 Section 26-4-5.
- 56 (10) 'Physician' means an individual licensed to practice medicine and surgery pursuant
57 to this article and whose principal place of practice is located in this state.
- 58 (b) A physician engaged in the active practice of medicine may prescribe influenza
59 vaccine for a group of patients via an influenza vaccine order contained in an influenza
60 vaccine protocol agreement to be administered by a pharmacist, provided the physician is
61 registered with the vaccination registry established by the Department of Human Resources
62 pursuant to Code Section 31-12-3.1, commonly known as the Georgia Registry of
63 Immunization Transactions and Services, the pharmacist is located within the county of the

64 physician's place of registration with the vaccination registry or a county contiguous
65 thereto, and the pharmacist holds current certification in Basic Cardiac Life Support and
66 has completed a course of training accredited by the Accreditation Council for Pharmacy
67 Education or similar health authority or professional body approved by the Georgia State
68 Board of Pharmacy. A physician who is a party to an influenza vaccine protocol agreement
69 may also prescribe epinephrine via an influenza vaccine order contained in an influenza
70 vaccine protocol agreement for administration by a pharmacist upon the occurrence of an
71 actual or perceived anaphylactic adverse reaction to the administered influenza vaccine
72 provided that the influenza vaccine protocol agreement sets forth the signs and symptoms
73 that warrant the administration of epinephrine.

74 (c) A physician engaged in the active practice of medicine may prescribe influenza vaccine
75 for a group of patients via an influenza vaccine order contained in an influenza vaccine
76 protocol agreement to be administered by a nurse, provided the physician is registered the
77 vaccination registry established by the Department of Human Resources pursuant to Code
78 Section 31-12-3.1, commonly known as the Georgia Registry of Immunization
79 Transactions and Services, the nurse is located within the county of the physician's place
80 of registration with the vaccination registry or a county contiguous thereto, and the nurse
81 holds current certification in Basic Cardiac Life Support. A physician who is a party to an
82 influenza vaccine protocol agreement may also prescribe epinephrine via an influenza
83 vaccine order contained in an influenza vaccine protocol agreement for administration by
84 a nurse upon the occurrence of an actual or perceived anaphylactic adverse reaction to the
85 administered influenza vaccine provided that the influenza vaccine protocol agreement sets
86 forth the signs and symptoms that warrant the administration of epinephrine.

87 (d) An influenza vaccine protocol agreement between a physician and a pharmacist or a
88 physician and a nurse pursuant to this Code section shall, without limitation:

89 (1) Contain the current names, addresses, telephone numbers, and professional license
90 numbers of the physician and the pharmacist or nurse;

91 (2) Contain a provision for immediate consultation between the pharmacist or nurse and
92 the physician. If the physician is not available, the physician for purposes of consultation
93 may designate another physician who concurs with the terms of the influenza vaccine
94 protocol agreement;

95 (3) Require the pharmacist or nurse to provide the influenza vaccine recipient with the
96 appropriate and current Vaccine Information Statement (VIS) as provided by the federal
97 Centers for Disease Control and Prevention;

98 (4) Require the pharmacist or nurse or his or her employer to retain documentation of
99 each dose of influenza vaccine administered. Such documentation shall include, but not
100 be limited to:

- 101 (A) The administering pharmacist's or nurse's name, address, telephone number, and
102 professional license number;
- 103 (B) The name, dose, manufacturer, and lot number of the influenza vaccine;
- 104 (C) The vaccine recipient's name, address, date of birth, and telephone number;
- 105 (D) The date of administration and injection site;
- 106 (E) A signed and dated consent form by which the vaccine recipient acknowledges
107 receipt of the VIS and consents to the administration of the influenza vaccine; and
- 108 (F) Any adverse events or complications that occur;
- 109 (5) Require the pharmacist or nurse to enter the patient's influenza vaccine information
110 in the Georgia Registry of Immunization Transactions and Services within the registry's
111 designated time frame, or as designated by the Department of Human Resources;
- 112 (6) Require, as a condition of administration of the influenza vaccine, the influenza
113 vaccine recipient to remain under the observation of the administering pharmacist or
114 nurse for a period of not less than 15 minutes immediately subsequent to the
115 administration of the influenza vaccine;
- 116 (7) Contain procedures to follow up on the occurrence of an adverse event or
117 complication including, if prescribed via an influenza vaccine order contained in an
118 influenza vaccine protocol agreement, the administration of epinephrine;
- 119 (8) Provide for prioritization of influenza vaccine recipients in the event the supply of
120 influenza vaccine is limited; and
- 121 (9) Be renewed and, if necessary, revised or updated biennially by the physician and the
122 pharmacist or nurse. An influenza vaccine protocol agreement that is not renewed
123 biennially shall expire.
- 124 (e) A pharmacist that is a party to an influenza vaccine protocol agreement pursuant to this
125 Code section shall not delegate the administration of influenza vaccine to any individual
126 other than a pharmacy intern under the direct supervision of the pharmacist whether or not
127 any such other individual is under the supervision, direct or otherwise, of the pharmacist.
- 128 (f) A nurse that is a party to an influenza vaccine protocol agreement pursuant to this Code
129 section shall not delegate the administration of influenza vaccine to any individual, whether
130 or not any such individual is under the supervision, direct or otherwise, of the nurse;
131 provided, however, notwithstanding the requirement of employment by a physician in
132 paragraph (7) of subsection (a) of this Code section at a registered professional nurse that
133 is a party to an influenza protocol agreement pursuant to this Code section may delegate
134 the administration of influenza vaccine to a licensed practical nurse under the direct on-site
135 supervision of the registered professional nurse.

136 (g) Notwithstanding any law to the contrary, a nurse acting pursuant to an influenza
137 vaccine protocol agreement as provided in this Code section may possess and transport
138 influenza vaccine and epinephrine.

139 (h) A pharmacist or nurse administering influenza vaccines pursuant to an influenza
140 vaccine protocol agreement authorized by this Code section shall maintain policies and
141 procedures for the handling and disposal of used or contaminated equipment and supplies.

142 (i) Nothing in this Code section shall be construed to authorize a physician to prescribe
143 any vaccines or other drugs pursuant to an influenza vaccine protocol agreement or
144 influenza vaccine order contained in an influenza vaccine protocol agreement other than
145 influenza vaccines and epinephrine.

146 (j) A delegating physician may not enter into an influenza vaccine protocol agreement with
147 more than ten pharmacists or nurses, or any combination thereof, at any one time; provided,
148 however, and notwithstanding the geographic limitations provided in subsections (b) and
149 (c) of this Code section, a delegating physician may enter into an influenza vaccine
150 protocol agreement with more than ten pharmacists or nurses, or any combination thereof,
151 at any one time so long as the pharmacists or nurses are in the same public health district
152 as established pursuant to Code Section 31-3-15, and are employees or agents of the same
153 corporate entity.

154 (k) It shall be unlawful for a physician who is employed by a pharmacist or nurse to enter
155 into an influenza vaccine protocol agreement or otherwise delegate medical acts to such
156 pharmacist or nurse. It shall be unlawful for a physician who is employed by a pharmacy
157 to enter into an influenza vaccine protocol agreement or otherwise delegate medical acts
158 to a pharmacist or nurse who is also employed by such pharmacy.

159 (l) The board shall have the authority to promulgate rules and regulations governing a
160 physician who is a party to an influenza vaccine protocol agreement in order to carry out
161 the intent and purposes of this Code section. Further, the board shall:

162 (1) Require that the influenza vaccine protocol agreement be filed by the physician with
163 the board and be made available by the board for public inspection; and

164 (2) Promulgate by rule an approved standard protocol template that may be utilized as
165 an influenza vaccine protocol agreement and make such template available on the board's
166 website.

167 (m) Nothing in this Code section shall be construed to require a physician to enter into an
168 influenza vaccine protocol agreement. A public or private managed care system, health
169 plan, hospital, insurance company, or similar entity shall not require a physician,
170 pharmacist, or nurse to enter into an influenza vaccine protocol agreement as a condition
171 for participation in or reimbursement from such entity.

172 (n) No physician who complies with the provisions of this Code section shall be subject
 173 to criminal or civil liability or discipline for unprofessional conduct for:

174 (1) Entering into an influenza vaccine protocol agreement with a pharmacist or nurse;

175 (2) Issuing an influenza vaccine order contained in an influenza vaccine protocol
 176 agreement with a pharmacist or nurse; or

177 (3) The acts or omissions of a pharmacist or nurse pursuant to an influenza vaccine
 178 protocol agreement including the administration of influenza vaccine or epinephrine.

179 Nothing in this subsection shall be interpreted as altering liability of an employer for acts
 180 of his or her employees.

181 (o) This Code section shall not apply to any activities conducted within a hospital or
 182 within any other facility or entity owned, operated, or leased by a hospital.

183 (p) This Code section shall not be interpreted as limiting the authority of any authorized
 184 person to dispense or administer influenza vaccine or other medications.

185 (q) No influenza vaccine protocol agreement entered into pursuant to this Code section
 186 shall permit a pharmacist or nurse to administer an influenza vaccine to any child under the
 187 age of 13 without an individual prescription from a physician, and consent of the child's
 188 parent or legal guardian shall be a condition precedent to the administration of an influenza
 189 vaccine to a child under the age of 18."

190 **SECTION 2.**

191 Article 1 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to
 192 regulation of hospitals and related institutions, is amended by revising Code Section 31-7-18,
 193 relating to influenza vaccinations for discharged patients aged 65 and older, as follows:

194 "31-7-18.

195 (a) ~~Annually between October 1 through March 1, prior~~ Prior to discharging any inpatient
 196 who is 65 years of age or older, a hospital shall offer the inpatient vaccinations for the
 197 influenza virus and pneumococcal disease ~~in accordance with the recommendations of the~~
 198 ~~Centers for Disease Control and Prevention and any applicable rules and regulations of the~~
 199 ~~department, unless contraindicated and contingent on availability of such vaccine, in~~
 200 ~~accordance with any applicable rules and regulations of the department. A hospital may~~
 201 ~~offer other patients such vaccinations in accordance with the recommendations of the~~
 202 ~~Centers for Disease Control and Prevention and any applicable rules and regulations of the~~
 203 ~~department.~~ The vaccinations may be administered pursuant to a standing order that has
 204 been approved by the hospital's medical staff.

205 (b) A hospital may offer to its health care workers any vaccination, test, or prophylactic
 206 measure required or recommended by, and in accordance with, the recommendations of the

207 Centers for Disease Control and Prevention pursuant to standing orders approved by the
 208 hospital's medical staff to ensure the safety of employees, patients, visitors, and contractors.
 209 (c) A hospital or health care provider acting in good faith and in accordance with generally
 210 accepted health care standards applicable to such hospital or health care provider shall not
 211 be subject to administrative, civil, or criminal liability or to discipline for unprofessional
 212 conduct for complying with the requirements of this Code section.
 213 (d) Nothing in this Code section shall restrict or limit the use of standing orders in
 214 hospitals for any other lawful purpose."

215 **SECTION 3.**

216 Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency
 217 management, is amended in Code Section 38-3-3, relating to definitions, by adding a new
 218 paragraph to read as follows:

219 "(4.1) 'Pandemic influenza emergency' means the declaration by the World Health
 220 Organization of at least a Phase 5 Pandemic Alert for influenza occurring in the United
 221 States or the State of Georgia or the declaration by the Centers for Disease Control and
 222 Prevention of at least a Category 2 Pandemic Severity Index for influenza occurring in
 223 the United States or the State of Georgia."

224 **SECTION 4.**

225 Said chapter is further amended in Code Section 38-3-51, relating to emergency powers of
 226 the Governor, by revising subsection (a) as follows:

227 "(a) In the event of actual or impending emergency or disaster of natural or human origin,
 228 or pandemic influenza emergency, or impending or actual enemy attack, or a public health
 229 emergency, within or affecting this state or against the United States, the Governor may
 230 declare that a state of emergency or disaster exists. As a condition precedent to declaring
 231 that a state of emergency or disaster exists as a result of a public health emergency, the
 232 Governor shall issue a call for a special session of the General Assembly pursuant to
 233 Article V, Section II, Paragraph VII of the Constitution of Georgia, which session shall
 234 convene at 8:00 A.M. on the second day following the date of such declaration for the
 235 purpose of concurring with or terminating the public health emergency. The state of
 236 emergency or disaster shall continue until the Governor finds that the threat or danger has
 237 passed or the emergency or disaster has been dealt with, to the extent that emergency or
 238 disaster conditions no longer exist, and terminates the state of emergency or disaster. No
 239 state of emergency or disaster may continue for longer than 30 days unless renewed by the
 240 Governor. The General Assembly by concurrent resolution may terminate a state of

241 emergency or disaster at any time. Thereupon, the Governor shall by appropriate action end
242 the state of emergency or disaster."

243 **SECTION 5.**

244 This Act shall become effective upon its approval by the Governor or upon its becoming law
245 without such approval.

246 **SECTION 6.**

247 All laws and parts of laws in conflict with this Act are repealed.