

Senate Bill 85

By: Senators Bethel of the 54th, Mullis of the 53rd, Golden of the 8th, Carter of the 1st, Loudermilk of the 14th and others

**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 administration of vaccines by pharmacists or  
3 nurses pursuant to vaccine protocol agreements with physicians; to provide for definitions;  
4 to provide requirements for the content of vaccine protocol agreements; to provide that a  
5 party to a vaccine protocol agreement shall not delegate his or her authority; to limit the  
6 number of vaccine protocol agreements into which a physician may enter at any one time;  
7 to prohibit certain entities from entering into vaccine protocol agreements; to provide for  
8 rules and regulations; to provide for limited liability; to provide for applicability; to provide  
9 for statutory construction; to provide for related matters; to repeal conflicting laws; and for  
10 other purposes.

11 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

12 **SECTION 1.**

13 Article 2 of Chapter 34 of Title 43 of the Official Code of Georgia Annotated, relating to  
14 physicians, is amended by revising Code Section 43-34-26.1, relating to influenza vaccine  
15 protocol agreements, as follows:

16 "43-34-26.1.

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

18 (1) 'Administer' means the provision of a unit dose of ~~influenza~~ vaccine by a pharmacist  
19 or nurse pursuant to ~~an influenza a~~ vaccine order contained in ~~an influenza a~~ vaccine  
20 protocol agreement with a physician.

21 (2) 'Adverse event' means an event that is a negative consequence of the administration  
22 of ~~influenza~~ vaccine by a pharmacist or nurse that results in an unintended reaction,  
23 injury, or illness, which may or may not have been preventable.

24 (3) 'Board' means the Georgia Composite Medical Board.

25 (4) 'Nurse' means a registered professional nurse as defined in paragraph (9) of Code  
26 Section 43-26-3. The term shall also mean a licensed practical nurse as defined in

27     paragraph (5) of Code Section 43-26-32 who is regularly employed by a physician  
28     engaged in the active practice of medicine.

29     (5) 'Pharmacist' means an individual licensed under Chapter 4 of Title 26 to engage in  
30     the practice of pharmacy in the State of Georgia.

31     (6) 'Pharmacy intern' means a pharmacy intern as defined in paragraph (19) of Code  
32     Section 26-4-5.

33     (7) 'Physician' means an individual licensed to practice medicine and surgery pursuant  
34     to this article and whose principal place of practice is located in this state.

35     (4)(8) 'Vaccine' 'Influenza vaccine' means an inactivated virus administered by injection  
36     or a live attenuated virus administered by nasal spray that is prepared for the applicable  
37     season and that is administered to produce or increase a specially prepared antigen which  
38     upon administration to a person will result in immunity to hepatitis A; hepatitis A and B;  
39     hepatitis B; herpes zoster; influenza; meningococcal disease; measles, mumps, and  
40     rubella; pneumococcal disease; tetanus and diphtheria; tetanus, diphtheria, and pertussis;  
41     or varicella. to the influenza virus; provided, however, that a live attenuated virus shall not  
42     not be administered pursuant to this Code section to any individual younger than 13 or  
43     older than 49 years of age; and provided, further, that a No live attenuated virus shall not  
44     be administered pursuant to this Code section unless the patient or his or her parent, if a  
45     minor, has signed an informed consent that he or she does not have a contraindication to  
46     this vaccine. The informed consent form shall list the contraindications to the vaccine.

47     (5)(9) 'Vaccine order' 'Influenza vaccine order' means a prescription drug order,  
48     contained in an influenza a vaccine protocol agreement, for influenza a vaccine issued by  
49     a physician for a group of patients who meet certain criteria and to be administered by a  
50     pharmacist or a nurse. An influenza A vaccine order shall also mean a prescription drug  
51     order, contained in an influenza a vaccine protocol agreement, for epinephrine issued by  
52     a physician for a group of patients who meet certain criteria and to be administered by a  
53     pharmacist or a nurse only upon the occurrence of an actual or perceived anaphylactic  
54     adverse reaction to the administered influenza vaccine provided that the influenza vaccine  
55     protocol agreement sets forth the signs and symptoms that warrant the administration of  
56     epinephrine.

57     (6)(10) 'Vaccine protocol agreement' 'Influenza vaccine protocol agreement' means a  
58     written document mutually agreed upon and signed by a physician and a pharmacist or  
59     by a physician and a nurse, by which document the physician prescribes influenza a  
60     vaccine and epinephrine, if determined appropriate by the physician, by means of an  
61     influenza a vaccine order for administration by a pharmacist or a nurse.

62     (7) 'Nurse' means a registered professional nurse as defined in paragraph (9) of Code  
63     Section 43-26-3. The term shall also mean a licensed practical nurse as defined in

paragraph (5) of Code Section 43-26-32 who is regularly employed by a physician who actively engaged in the private practice of medicine.

(8) 'Pharmacist' means an individual licensed under Chapter 4 of Title 26 to engage in the practice of pharmacy in the State of Georgia.

(9) 'Pharmacy intern' means a pharmacy intern as defined in paragraph (19) of Code Section 26-4-5.

(10) 'Physician' means an individual licensed to practice medicine and surgery pursuant to this article and whose principal place of practice is located in this state.

(b) A physician engaged in the active practice of medicine may prescribe influenza a vaccine for a group of patients via an influenza a vaccine order contained in an influenza a vaccine protocol agreement to be administered by a pharmacist, provided the physician is registered with the vaccination registry established by the Department of Public Health pursuant to Code Section 31-12-3.1, commonly known as the Georgia Registry of Immunization Transactions and Services, the pharmacist is located within the county of the physician's place of registration with the vaccination registry or a county contiguous thereto, and the pharmacist holds current certification in Basic Cardiac Life Support and has completed a course of training accredited by the Accreditation Council for Pharmacy Education or similar health authority or professional body approved by the Georgia State Board of Pharmacy. A physician who is a party to an influenza a vaccine protocol agreement may also prescribe epinephrine via an influenza a vaccine order contained in an influenza a vaccine protocol agreement for administration by a pharmacist upon the occurrence of an actual or perceived anaphylactic adverse reaction to the administered influenza vaccine provided that the influenza vaccine protocol agreement sets forth the signs and symptoms that warrant the administration of epinephrine.

(c) A physician engaged in the active practice of medicine may prescribe influenza a vaccine for a group of patients via an influenza a vaccine order contained in an influenza a vaccine protocol agreement to be administered by a nurse, provided the physician is registered with the vaccination registry established by the Department of Public Health pursuant to Code Section 31-12-3.1, commonly known as the Georgia Registry of Immunization Transactions and Services, the nurse is located within the county of the physician's place of registration with the vaccination registry or a county contiguous thereto, and the nurse holds current certification in Basic Cardiac Life Support. A physician who is a party to an influenza a vaccine protocol agreement may also prescribe epinephrine via an influenza a vaccine order contained in an influenza a vaccine protocol agreement for administration by a nurse upon the occurrence of an actual or perceived anaphylactic adverse reaction to the administered influenza vaccine provided that the

100 influenza vaccine protocol agreement sets forth the signs and symptoms that warrant the  
101 administration of epinephrine.

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

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

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

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

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

116 (A) The administering pharmacist's or nurse's name, address, telephone number, and  
117 professional license number;

118 (B) The name, dose, manufacturer, and lot number of the influenza vaccine;

119 (C) The vaccine recipient's name, address, date of birth, and telephone number;

120 (D) The date of administration and injection site;

121 (E) A signed and dated consent form by which the vaccine recipient acknowledges  
122 receipt of the VIS Vaccine Information Statement, and consents to the administration  
123 of the influenza vaccine, and directs the pharmacy or nurse to notify or not to notify the  
124 vaccine recipient's primary care provider of the vaccine administered to the vaccine  
125 recipient, where applicable; and

126 (F) Any adverse events or complications that occur;

127 (5) If the vaccine recipient has notified the pharmacist or nurse that the vaccine recipient  
128 has a primary care provider, require the pharmacist or nurse to provide the vaccine  
129 recipient with a form that shall contain a checkbox, or another selection mechanism,  
130 which authorizes the pharmacist or nurse to notify the vaccine recipient's primary care  
131 provider of a vaccine administered by the pharmacist or nurse, or which prohibits the  
132 pharmacist or nurse from notifying the vaccine recipient's primary care provider of the  
133 vaccine administered by the pharmacist or nurse. If a vaccine recipient fails to select one  
134 of the two options, the pharmacist or nurse is not required to notify the vaccine recipient's  
135 primary care provider of the vaccine administered by the pharmacist or nurse;

136       (5)(6) Require the pharmacist or nurse to enter the patient's ~~influenza~~ vaccine  
137       information in the Georgia Registry of Immunization Transactions and Services within  
138       the registry's designated time frame, or as designated by the Department of Community  
139       Health;

140       (6)(7) Require, as a condition of administration of the ~~influenza~~ vaccine, the ~~influenza~~  
141       vaccine recipient to remain under the observation of the administering pharmacist or  
142       nurse for a period of not less than 15 minutes immediately subsequent to the  
143       administration of the ~~influenza~~ vaccine;

144       (7)(8) Contain procedures to follow up on the occurrence of an adverse event or  
145       complication including, if prescribed via ~~an influenza a~~ vaccine order contained in ~~an~~  
146       ~~influenza a~~ vaccine protocol agreement, the administration of epinephrine;

147       (8)(9) Provide for prioritization of ~~influenza~~ vaccine recipients in the event the supply  
148       of ~~influenza a~~ vaccine is limited; and

149       (9)(10) Be renewed and, if necessary, revised or updated biennially by the physician and  
150       the pharmacist or nurse. ~~A~~ An influenza vaccine protocol agreement that is not renewed  
151       biennially shall expire.

152       (e) A pharmacist who is a party to ~~an influenza a~~ vaccine protocol agreement pursuant to  
153       this Code section shall not delegate the administration of ~~influenza a~~ vaccine to any  
154       individual other than a pharmacy intern under the direct supervision of the pharmacist  
155       whether or not any such other individual is under the supervision, direct or otherwise, of  
156       the pharmacist.

157       (f) A nurse who is a party to ~~an influenza a~~ vaccine protocol agreement pursuant to this  
158       Code section shall not delegate the administration of ~~influenza a~~ vaccine to any individual,  
159       whether or not any such individual is under the supervision, direct or otherwise, of the  
160       nurse; provided, however, that notwithstanding the requirement of employment by a  
161       physician in paragraph (7) (4) of subsection (a) of this Code section, a registered  
162       professional nurse who is a party to ~~an influenza a vaccine~~ protocol agreement pursuant to  
163       this Code section may delegate the administration of ~~influenza a~~ vaccine to a licensed  
164       practical nurse under the direct on-site supervision of the registered professional nurse.

165       (g) Notwithstanding any law to the contrary, a nurse acting pursuant to ~~an influenza a~~  
166       vaccine protocol agreement as provided in this Code section may possess and transport  
167       ~~influenza such~~ vaccine and epinephrine.

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

171       (i) Nothing in this Code section shall be construed to authorize a physician to prescribe  
172       any other vaccines or other drugs pursuant to ~~an influenza a~~ vaccine protocol agreement

173 or ~~influenza~~ vaccine order contained in ~~an influenza~~ a vaccine protocol agreement other  
174 than ~~influenza~~ those vaccines and epinephrine specifically authorized in such vaccine  
175 protocol agreement or vaccine order.

176 (j) A delegating physician may not enter into ~~an influenza~~ a vaccine protocol agreement  
177 with more than ten pharmacists or nurses, or any combination thereof, at any one time;  
178 provided, however, and notwithstanding the geographic limitations provided in subsections  
179 (b) and (c) of this Code section, a delegating physician may enter into ~~an influenza~~ a  
180 vaccine protocol agreement with more than ten pharmacists or nurses, or any combination  
181 thereof, at any one time so long as the pharmacists or nurses are in the same public health  
182 district as established pursuant to Code Section 31-3-15 and are employees or agents of the  
183 same corporate entity.

184 (k) It shall be unlawful for a physician who is employed by a pharmacist or nurse to enter  
185 into ~~an influenza~~ a vaccine protocol agreement or otherwise delegate medical acts to such  
186 pharmacist or nurse. It shall be unlawful for a physician who is employed by a pharmacy  
187 to enter into ~~an influenza~~ a vaccine protocol agreement or otherwise delegate medical acts  
188 to a pharmacist or nurse who is also employed by such pharmacy.

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

192 (1) Require that the ~~influenza~~ vaccine protocol agreement be filed by the physician with  
193 the board and be made available by the board for public inspection; and  
194 (2) Promulgate by rule an approved standard protocol template that may be utilized as  
195 ~~an influenza~~ a vaccine protocol agreement and make such template available on the  
196 board's website.

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

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

204 (1) Entering into ~~an influenza~~ a vaccine protocol agreement with a pharmacist or nurse;  
205 (2) Issuing ~~an influenza~~ a vaccine order contained in ~~an influenza~~ a vaccine protocol  
206 agreement with a pharmacist or nurse; or  
207 (3) The acts or omissions of a pharmacist or nurse pursuant to ~~an influenza~~ a vaccine  
208 protocol agreement including the administration of ~~influenza~~ a vaccine or epinephrine.

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

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

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

215 (q) No ~~influenza~~ vaccine protocol agreement entered into pursuant to this Code section  
216 shall permit a pharmacist or nurse to administer any of the following:

217 (1) ~~an~~ An influenza vaccine to any child under the age of 13 without an individual  
218 prescription from a physician, or any other types of vaccines to any child under the age  
of 18 without an individual prescription from a physician; or

219 (2) Any vaccines containing a live attenuated virus to a child under the age of 13.  
220 and consent Consent of the child's parent or legal guardian shall be a condition precedent  
221 to the administration of ~~an influenza~~ a vaccine to a child under the age of 18."

223 **SECTION 2.**

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