

Department of Health Policy

The Epidemiology of U.S. Immunization Law: Immunization Requirements for Staff and Residents of Long- Term Care Facilities Under State Laws/ Regulations

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EXECUTIVE SUMMARY

Medically appropriate, timely immunizations are an important component of the medical plans for approximately 1.6 million individuals who reside in the nation's long-term care (LTC) facilities. Increasing the immunization rates among these persons is a recognized public health goal. LTC facility residents are often members of high risk groups and are more susceptible to infectious diseases. The elderly, many of whom reside in LTC facilities, comprise 90% of the 36,000 annual deaths from influenza.

Immunizations are equally important for employees of LTC facilities. Immunizations not only improve the individual's health status, but staff who have direct contact with residents represent the primary source of infectious disease outbreaks in facilities. However, 64% of all persons who work in health-care settings fail to receive immunization for influenza annually.

This study examines state laws and regulations that address the provision of immunizations recommended by the Advisory Committee on Immunization Practices (ACIP), to residents and/or staff of state-licensed long-term care facilities (LTC). To conduct the study, the laws were compared to the Medicare/Medicaid conditions of participation (COP) for LTC facilities. The COP are: 1) assessing individuals to determine their immunization status, 2) providing individuals with education regarding vaccines, 3) implementing methods so individuals may refuse vaccines, 4) providing vaccines to all eligible persons, 5) adhering to the ACIP standard, and 6) maintaining appropriate documentation regarding immunization status for residents/staff. These COP criteria were adopted as the optimal standard from which the laws were evaluated.

The study's principal findings are as follows:

- 29 state laws/regulations control how LTC facilities must manage immunizations for residents and/or staff, and 22 jurisdictions do not have any relevant statutory requirements.
- 28 of the 29 laws/regulations apply to residents of LTC facilities.
 - 5 states meet or exceed COP for residents, and 23 states satisfy the COP to varying degrees.
 - 19 states require vaccines to be distributed to residents according to the standard outlined by ACIP. The remaining 9 states that address residents, detail which vaccines are required without reference to ACIP.
 - 16 of the 28 states that address residents, require facilities to actually *provide* vaccines. The remaining 12 states that have pertinent laws vary in how they describe the requirement to distribute vaccines to residents.
- 15 of the 29 laws/regulations apply to employees of LTC facilities.
 - No state meets all COP for employees, and the 15 states that apply to staff satisfy various elements of the COP.
 - 8 of the 15 laws that apply to employees require facilities to *provide* selected vaccines to staff. The remaining 7 states vary in how they describe the distribution of vaccine.

INTRODUCTION

This study examines state laws and regulations¹ that address the provision of recommended immunizations for residents and staff of state-licensed long-term care facilities (LTC). Increasing the immunization rates among these individuals is a recognized public health goal, because residents of LTC facilities are often at higher risk than the general public of contracting infectious diseases.² The elderly, many of whom reside in these facilities, comprise 90% of the 36,000 annual deaths from influenza.³

LTC workers, who have direct contact with residents, represent the primary source of infectious disease outbreaks in facilities. Generally, 64% of all persons who work in health care settings fail to receive immunizations for influenza annually, and in the case of one outbreak in a LTC setting, only 10% of the staff had been immunized.⁴

After outlining the study's research methods, background information regarding facilities, residents, and staff is provided, followed by the results of the research in a series of tables, and discussion of state composites.

RESEARCH METHODS

This study was conducted by comparing pertinent state laws and regulations to an established standard of care, and then determining which of the laws best fulfilled the components of the standard. The study was completed in a 4-step process as follows:

A. Utilizing a standard legal electronic database, we identified the 29 state laws/regulations that address the provision of immunizations for LTC residents and/or staff.

B. The separate duties prescribed under the laws/regulations were identified and charted. Pertinent language is provided in Appendix 1.

C. The statutory duties were reviewed against a set of 6 elements drawn from the Medicare/Medicaid conditions of participation, which detail how LTC facilities must operate. The state laws in this report parallel these conditions. All facility management must comply with these requirements if they wish to receive payment for the beneficiaries of federal health insurance programs in their care.

¹ Regulations are legally enforceable directives issued by administrative agencies or local governments. They serve to interpret statutes, thus some of the laws reviewed for this study have authorized local agencies that control LTC facility operations to issue regulations governing the administration of immunizations. For that reason, we have included these regulations in this study.

² Healthy People 2010 set a goal for 90% of all adults who reside in long-term or nursing homes to receive an annual influenza vaccine and a one-time pneumococcal vaccine. The target goal for individuals who work in long-term care facilities is to increase hepatitis B vaccine coverage to 98%.

³ National Foundation for Infectious Diseases, *Influenza Immunization Among Health Care Workers*, available at: <http://www.nfid.org/publications>.

⁴ *Id.*

Table 1 below, provides the conditions of participation, followed by the elements used to review the laws/regulations.

TABLE 1 – CMS CONDITIONS OF PARTICIPATION	
Nursing facilities participating in Medicaid/Medicare must meet certain specific requirements; and . . . additional requirements [may be imposed] . . . if they are necessary for the health and safety of individuals to whom services are furnished in the facilities. (b) Scope. The provisions of this part contain the requirements that an institution must meet in order to qualify to participate as a SNF in the Medicare program, and as a nursing facility in the Medicaid program. They serve as the basis for survey activities for the purpose of determining whether a facility meets the requirements for participation in Medicare and Medicaid . . . 42 CFR 483.1	
Facility defined. Facility means a skilled nursing facility (SNF) or a nursing facility (NF) that meets [Medicaid/Medicare] requirements “Facility” may include a distinct part of an institution . . . but does not include an institution for the mentally retarded or persons with related conditions 42 CFR 483.5	
ELEMENT	CMS DEFINITION
Assessment	(b) Physician visits. The physician must (1) Review the resident’s total program of care . . . and (3) Sign and date all orders with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician approved facility policy after an assessment for contraindications. . . § 483.40 (b) (1); (3)
Education	(3) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition . . . (6) The facility must inform each resident before, or at the time of admission, and periodically during the resident’s stay, of services available in the facility and of charges for those services. § 483.10 (b)(3); (6)
Opt Out	(4) The resident has the right to refuse treatment . . . §483.10 (b)(4)
Provide	(3) The facility must provide or obtain preventive and general medical care as well as annual physical examinations of each client that at a minimum include the following . . . (ii) Immunizations . . . § 483.460(a) (3)
Arrange	(3) The facility must provide or obtain preventive and general medical care as well as annual physical examinations of each client that at a minimum include the following . . . (ii) Immunizations § 483.460 (a) (3)
Standard	(3) The facility must provide or obtain . . . Immunizations, using as a guideline the recommendations of the Public Health Service Advisory Committee on Immunization Practices or of the Committee on Control of Infectious Diseases of the American Academy of Pediatrics . . . § 483.460(a)(3)(ii)
Records	(b) Physician visits. The physician must . . .(3) sign and date all orders with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician approved facility policy after an assessment for contraindications . . . § 483.40
GRAY BOX = ELEMENT NOT ADDRESSED	
SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization mandates for staff and residents of LTC facilities	

The elements outlined below comprise the optimal standard of care for immunization services in LTC facilities, and are the basis for the review instrument:

1. *Whether facilities must assess new staff/residents’ immunization status within a specified period of time after admission or employment.*
2. *Whether facilities must educate staff/residents regarding needed vaccines and their value.*
3. *Whether facilities must permit staff/residents to decline any immunization.*
4. *Whether facilities must dispense all recommended immunizations to staff/residents.*

5. *Whether facilities must immunize according to standards set by the Advisory Committee on Immunization Practices (ACIP).*⁵
6. *Whether the facility must maintain immunization records for staff/residents.*

D. After each law/regulation was evaluated against the elements of the standard, state composites were created by grouping the states according to the jurisdictions that best satisfy the elements. We deemed those states that most thoroughly addressed the elements as having developed the most comprehensive LTC immunization policy.

BACKGROUND

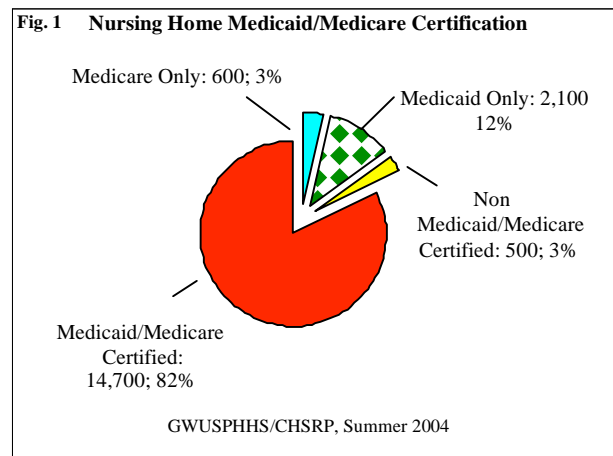
The reviewed laws/regulations obligate all state-licensed LTC facilities to provide immunizations to staff and/or residents to some extent. Because the federal health insurance programs Medicare and Medicaid combine to finance 73% of all LTC residents, the facilities must ensure they are in compliance with both federal and state requirements.

Long Term Care Facilities - All the facilities provide 24-hour skilled nursing and residential care to persons diagnosed with physical and/or mental impairments. In 1999 there were approximately 18,000 nursing homes in the United States.⁶ Almost all (97%) of these facilities were certified by Medicaid and/or Medicare, and must comply with federal requirements. Figure 1 shows how LTC facilities are certified.⁷

Federal Definition of LTC Facilities - Federal law defines skilled nursing facilities (SNF) and nursing facilities (NF) as:

[A]n institution (or a distinct part of an institution) which –
 (1) is primarily engaged in providing to residents - (A) skilled nursing care and related services for residents who require medical or nursing care, or (B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons, and is not primarily for the care and treatment of mental diseases⁸⁹

State Definitions of LTC Facilities - State laws/regulations explicitly cover more types of facilities than the federal statute, thereby providing protection for those residents and/or staff who are excluded by federal law (such as individuals with cognitive impairments). This report includes all facilities identified by state laws/regulations. The laws/regulations describe the facilities in different ways, as follows:



⁵ The ACIP is a federally sponsored advisory group that recommends different immunization according to the most recent evidence-based research and is the foremost practiced standard available. ACIP recommends the following vaccines for all health care facility workers: Influenza, Measles Mumps Rubella, Hepatitis B, and Varicella. Recommendations for long-term care facility residents are: Influenza and Pneumococcal.

⁶ National Center for Health Statistics. *1999 National Nursing Home Survey*, available at: <http://www.cdc.gov/nchs/about/major/nhhd/nhhd.htm> [hereinafter *1999 Nat'l NHS*]. The survey defines nursing homes as facilities with 3 or more beds that routinely provide personal care services to the aged, infirm, or chronically ill. Facilities may be certified by Medicare or Medicaid, or not certified but licensed by the state as a nursing home. These facilities may be freestanding or a separate unit of a larger facility. Other surveys use a narrower definition of nursing home that requires the home to be certified and to provide 24-hour skilled nursing care.

⁷ *Id* at Table 2.

⁸ Institutions that have a primary purpose of furnishing health or rehabilitative services to persons with mental retardation or persons with related conditions are excluded from the federal definition.

⁹ 42 CFR 483.5.

assisted living facility, dementia care facility, home for the aged, home health agency, home health aide agency, home health care agency, homemaker, hospital, intermediate care facility for the mentally retarded (ICF/MR), licensed nursing facility, mental health facility, multi-level health care facility, nursing home, residential care facility, rest home, skilled nursing facility, specialty care assisted living facility, state-operated facilities, and substance abuse treatment facility.

State Laws/Regulations Definition of LTC Facilities - Table 2 below, provides a sample of the range of LTC facility definitions as outlined in state laws/regulations. All the definitions from the laws/regulations are excerpted in Appendix 2.

TABLE 2 – DEFINING LTC FACILITIES UNDER STATE LAW/REGULATION	
State	Statutory Text
Maine	<p>§ 1812-A. Nursing home defined</p> <p>A nursing home facility shall be defined as a facility which is operated in connection with a hospital, or in which nursing care and medical services are prescribed by or performed under the general direction of persons licensed to practice medicine or surgery in the State, for the accommodation of convalescent or other persons who are not acutely ill and not in need of hospital care, but who do require skilled nursing care and related medical services. The term ‘nursing home’ or ‘nursing facility’ is restricted to those facilities, the purpose of which is to provide skilled nursing care and related medical services for a period of not less than 24 hours per day to individuals admitted because of illness, disease or physical or mental infirmity and which provides a community service.</p>
North Carolina	<p>§ 131E-101. Definitions</p> <p>As used in this Part, unless otherwise specified: (1) “Adult care home”, as distinguished from a nursing home, means a facility operated as a part of a nursing home and which provides residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident’s needs may be provided under the direct supervision of a physician, nurse, or home health agency. Adult care homes are to be distinguished from nursing homes subject to licensure under this Part . . . (6) “Nursing home” means a facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A “nursing home” is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A “nursing home” provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.</p>
Washington	<p>§ 18.51.010. Definitions</p> <p>(1) "Nursing home" means any home, place or institution which operates or maintains facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable properly to care for themselves. Convalescent and chronic care may include but not be limited to any or all procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. It may also include care of mentally incompetent persons. It may also include community-based care.</p> <p>Nothing in this definition shall be construed to include general hospitals or other places which provide care and treatment for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both. Nothing in this definition shall be construed to include any boarding home, guest home, hotel or related institution which is held forth to the public as providing, and which is operated to give only board, room and laundry to persons not in need of medical or nursing treatment or supervision except in the case of temporary acute illness. The mere designation by the operator of any place or institution as a hospital, sanitarium, or any other similar name, which does not provide care for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both, shall not exclude such place or institution from the provisions of this chapter: PROVIDED, That any nursing home providing psychiatric treatment shall, with respect to patients receiving such treatment, comply with the provisions.</p>
SOURCE: GWU/SPHHS/CHSRP; Analysis of state immunization mandates for staff and residents of LTC facilities	

FINDINGS - As of the Spring 2004, there were 22 states with pertinent laws, 7 other states had only regulations, and 4 states had both laws and regulations. Table 3 below, identifies these states.

TABLE 3 – STATES THAT ADDRESS IMMUNIZATIONS FOR STAFF AND/OR RESIDENTS OF LTC FACILITIES					
STATE	LAWS n = 22		REGULATIONS n = 11		NO LAW/REG n=22
	<i>Applies to staff</i>	<i>Applies to residents</i>	<i>Applies to staff</i>	<i>Applies to residents</i>	
Alabama (AL)	▲	▲			
Alaska (AK)					▲
Arizona (AZ)		▲			
Arkansas (AR)	▲	▲			
California (CA)		▲			
Colorado (CO)					▲
Connecticut (CT)		▲		▲	
Delaware (DE)					▲
D.C. (DC)					▲
Florida (FL)	▲	▲			
Georgia (GA)		▲			
Hawaii (HI)					▲
Idaho (ID)					▲
Illinois (IL)		▲			
Indiana (IN)		▲			
Iowa (IA)				▲	
Kansas (KS)					▲
Kentucky (KY)	▲	▲			
Louisiana (LA)					▲
Maine (ME)	▲				
Maryland (MD)	▲	▲			
Massachusetts (MA)					▲
Michigan (MI)		▲			
Minnesota (MN)					▲
Mississippi (MS)					▲
Missouri (MO)					▲
Montana (MT)				▲	
Nebraska (NE)					▲
Nevada (NV)					▲
N. Hampshire (NH)	▲	▲			
New Jersey (NJ)				▲	
New Mexico (NM)					▲
New York (NY)	▲	▲			
N. Carolina (NC)	▲	▲			
N. Dakota (ND)					▲
Ohio (OH)					▲
Oklahoma (OK)			▲	▲	
Oregon (OR)	▲	▲	▲	▲	
Pennsylvania (PA)	▲	▲			
R. Island (RI)	▲	▲			
S. Carolina (SC)					▲
S. Dakota (SD)				▲	
Tennessee (TN)				▲	
Texas (TX)	▲	▲	▲	▲	
Utah (UT)			▲	▲	
Vermont (VT)					▲
Virginia (VA)		▲			
Washington (WA)		▲		▲	
W. Virginia (WV)					▲
Wisconsin (WI)					▲
Wyoming (WY)					▲
TOTAL = 51	13/51	21/51	4/51	11/51	22/51
29 States have a Law and/or a Regulation + 22 Jurisdictions do not have a Law and/or a Regulation = 51					
NOTES: Numbers will not add to 51 due to overlap among categories GRAY BOX = Statute does not apply					
SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities					

The Elements of a Comprehensive LTC Immunization Law - Table 4 below, shows how the laws/regulations address each element of a comprehensive LTC facility immunization policy.

TABLE 4 – STATE LAWS/ REGULATIONS THAT ADDRESS THE ELEMENTS OF A COMPREHENSIVE IMMUNIZATION LAW FOR LTC FACILITIES

STATE	ASSESS n = 12/29		EDUCATE n = 14/29		OPT OUT n = 23/29		MANAGEMENT OF VACCINE DISTRIBUTION n = 29/29		ACIP ** n = 19/29		RECORDS n = 21/29	
	Staff	Res.	Staff	Res.	Staff	Res.	Staff	Res	Staff.	Res	Staff	Res.
AL	▲	▲	▲	▲	▲	▲	▲	▲			▲	▲
AZ						▲		▲				▲
AR					▲	▲	▲	▲			▲	▲
CA		▲		▲		▲		▲		▲		▲
CT						▲		▲		▲		▲
FL		▲	▲	▲		▲		▲	▲	▲		▲
GA						▲		▲				
IL		▲		▲		▲		▲		▲		▲
IN		▲		▲		▲		▲		▲		
IA								▲		▲		▲
KY	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲
ME			▲		▲		▲				▲	
MD	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲
MI				▲				▲		▲		
MT								▲		▲		
NH		▲			▲	▲	▲	▲	▲	▲		▲
NJ						▲		▲		▲		▲
NY	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲
NC	▲	▲	▲	▲	▲	▲	▲	▲			▲	▲
OK					▲	▲	▲	▲	▲	▲	▲	▲
OR					▲		▲	▲				
PA			▲	▲			▲	▲	▲	▲	▲	▲
RI	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲	▲
SD								▲				
TN						▲		▲		▲		▲
TX					▲	▲	▲	▲	▲	▲	▲	▲
UT	▲	▲			▲	▲	▲	▲			▲	▲
VA						▲		▲		▲		
WA				▲				▲				
Total = 29	7/29	12/29	9/29	13/29	13/29	21/29	14/29	28/29	9/29	19/29	12/29	20/29

** The notations in the ACIP column mean that statutory language explicitly references ACIP even though not all ACIP-recommended vaccines have been covered. For further detail, see Table 6.

NOTES: Numbers will not add up to 29 due to overlap among categories GRAY BOX: Element not addressed

SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

LTC Management of Vaccine Distribution - Table 5 below, summarizes the methods LTC facilities employ to distribute vaccinations to residents and staff. Each of these methods is discussed in Table 11.

STATE	TABLE 5 – LTC FACILITY MANAGEMENT OF VACCINE DISTRIBUTION									
	MAKE AVAILABLE		PROVIDE		ARRANGE		OFFER		OTHER	
	Staff	Res.	Staff	Res.	Staff	Res.	Staff	Res.	Staff	Res.
AL			▲	▲	▲	▲				
AZ		▲								
AR			▲	▲						
CA								▲		
CT										▲ ¹
FL				▲						
GA								▲		
IL				▲		▲				▲ ²
IN										▲ ^{2,3}
IA				▲ ⁴						
KY			▲	▲	▲	▲				
ME	▲						▲			
MD			▲	▲	▲	▲				
MI										▲ ⁶
MT				▲ ⁴						
NH			▲							▲ ³
NJ				▲						
NY			▲	▲	▲	▲				
NC			▲	▲	▲	▲				
OK							▲	▲		
OR			▲							▲ ³
PA	▲	▲								
RI	▲	▲								
SD				▲ ⁴						
TN				▲		▲				▲ ⁵
TX							▲	▲		
UT	▲			▲ ⁴						
VA				▲		▲				
WA		▲		▲						
Total = 29	4/29	4/29	8/29	16/29	5/29	8/29	3/29	4/29	0/29	7/29
NOTES: Numbers will not add up to 29 due to overlap among categories GRAY BOX: Element not addressed										
Notes:										
1. Assure each patient is protected										
2. Administer or cause to be administered										
3. Shall be immunized										
4. Provide or obtain										
5. Shall receive										
6. [Facility] shall provide . . . assistance in obtaining an annual vaccination										
SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities										

LTC Facility Vaccine Distribution – Table 6 below, illustrates the type of vaccines state laws/regulations require LTC facilities to distribute to staff and/or residents. The clear majority of the laws/regulations require influenza and pneumococcal vaccines for residents, which complies with ACIP requirements. Oregon addresses employee needs by requiring “preventive immunization for infectious diseases” only, without specifically outlining which vaccines are required. Additionally, South Dakota’s regulation is general, including “individuals” without indicating whether it applies to staff and/or residents.

STATE	TABLE 6 – LTC FACILITY VACCINE DISTRIBUTION					
	INFLUENZA		PNEUMOCOCCAL		HEPATITIS B	
	<i>Staff</i>	<i>Res.</i>	<i>Staff</i>	<i>Res.</i>	<i>Staff</i>	<i>Res.</i>
AL	▲	▲		▲		
AZ		▲		▲		
AR	▲	▲		▲		
CA				▲		
CT		▲		▲		
FL		▲		▲		
GA		▲		▲		
IL		▲		▲		
IN		▲		▲		
IA		▲		▲		
KY	▲	▲	▲	▲		
ME	▲				▲	
MD	▲	▲		▲		
MI		▲				
MT		▲		▲		
NH	▲	▲		▲		
NJ		▲		▲		
NY	▲	▲	▲	▲		
NC		▲		▲		
OK	▲	▲		▲		
OR	See note 1 below	▲	See note 1 below		See note 1 below	
PA	▲	▲		▲		
RI	▲	▲		▲		
SD		See note 2 below		See note 2 below		See note 2 below
TN		▲		▲		
TX	▲	▲		▲		
UT	▲	▲	▲	▲		
VA		▲		▲		
WA		▲				
Total = 29	13/29	27/29	4/29	25/29	2/29	0/29
NOTES: Numbers will not add up to 29 due to overlap among categories GRAY BOX: Element not addressed						
1. [Facilities] shall provide the worker preventive immunization for infectious disease if such preventive immunization is available and is medically appropriate.						
2. [The facility] shall provide or obtain preventive . . . care . . . of each individual that, at a minimum, include the following . . . immunizations . . .						
SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities						

How LTC Facilities Must Address the Right to Refuse Immunizations - Table 7 below, shows the four different bases that states use to address the right to refuse immunizations.

TABLE 7 – HOW STATES ADDRESS THE RIGHT TO REFUSE TREATMENT				
STATE	Refusal	Personal Belief	Religion	Medically Contraindicated
AL	▲		▲	▲
AZ	▲			
AR			▲	▲
CA	▲	▲		▲
CT			▲	▲
FL		▲	▲	▲
GA				▲
IL	▲			▲
IN	▲		▲	▲
IA				
KY	▲		▲	▲
ME				
MD	▲		▲	▲
MI				
MT				
NH			▲	▲
NJ	▲			▲
NY	▲		▲	▲
NC	▲		▲	▲
OK	▲			▲
OR				
PA				
RI	▲		▲	▲
SD				
TN	▲			▲
TX	▲			▲
UT	▲			▲
VA	▲			▲
WA				
TOTAL = 29	15/29	2/29	11/29	20/29
NOTES: Numbers will not add up to 29 due to overlap among categories GRAY BOX: Element not addressed				
SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities				

Element One, Assessment - Table 8 below, shows the three methods states utilize to determine whether new residents/staff could benefit from medically appropriate immunizations. Language from the CMS conditions of participation relevant to assessment is included for ease of comparison.

TABLE 8 - Element One: ASSESSMENT
<p>Federal Definition: (b) Physician visits. The physician must (1) Review the resident’s total program of care . . . and (3) Sign and date all orders with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician approved facility policy after an assessment for contraindications. . . § 483.40 (b) (1); (3)</p>
<p>12 states address assessment: Staff Only: 0 Residents Only: CA, FL, IL, IN, NH Both: AL, KY, MD, NY, NC, RI, UT</p>
<p style="text-align: center;">Assessment required within a certain number of days after admittance: AL, FL</p>
<p>Alabama (2) The annual immunization and documentation program provided by this section for pneumococcal disease shall be assessed within 5 days of admission and when indicated . . .</p> <p>Florida (23) Assess all residents for eligibility for pneumococcal polysaccharide vaccination (PPV) and vaccinate residents when indicated within 60 days after the effective date of this act . . .</p>
<p style="text-align: center;">Assessment required during critical period of the year: AL, CA, MD, NY, NC, RI, UT</p>
<p>Alabama (2) . . . (f) For an individual who becomes a resident of or who is newly employed by the long term care facility after November 30, but before March 30 of the following year, the long term care facility shall determine the individual’s status for the influenza virus required under this section, and if found to be deficient, the long term care facility shall provide the required immunizations.</p> <p>California (a) A resident who receives services at a health care facility during the period of October 1 to April 1 shall have his or her status for influenza and pneumococcal immunization determined by his or her physician or facility medical director . . .</p>
<p style="text-align: center;">Assessment required either prior to or upon admission: IL, IN, KY</p>
<p>Illinois Before a prospective resident’s admission to an assisted living establishment or a shared housing establishment, the establishment shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia.</p> <p>Kentucky (1) . . . Upon admission, the long-term care facility shall . . . (b) Assess the resident’s immunization status for influenza virus and pneumococcal disease . . . (3) . . . Upon employment, the long-term care facility shall . . . (b) Assess the employee’s immunization status for influenza virus and pneumococcal disease.</p>
<p style="text-align: center;">SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities</p>

Element Two, Education - Table 9 shows those states that require LTC facilities to inform residents/staff about the benefits of receiving medically appropriate vaccines. The educational requirement is addressed in a variety of ways.

TABLE 9 - Element Two: EDUCATION
<p>Federal Definition: (3) The resident has the right to be fully informed in language that he or she can understand of his or her total health status, including but not limited to, his or her medical condition . . . (6) The facility must inform each resident before, or at the time of admission, and periodically during the resident’s stay, of services available in the facility and of charges for those services. § 483.10 (b)(3); (6)</p>
<p>14 states address education: Staff Only: ME Residents Only: CA, IL, IN, MI, WA Both: AL, FL, KY, MD, NY, NC, PA, RI</p>
Facility must provide educational materials: AL, KY, MI, MD, NY, RI
<p>Kentucky (c) Counsel each resident on the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations of the Centers for Disease Control prior to administration of the vaccines . . .</p> <p>(1) The department shall make educational literature that describes the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations from the Centers for Disease Control available to every long-term care facility.</p>
<p>Michigan A home for the aged shall offer each resident, or shall provide each resident with information and assistance in obtaining, an annual vaccination against influenza . . .</p> <p>A nursing home shall offer each resident, or shall provide each resident with information and assistance in obtaining, an annual vaccination against influenza . . .</p>
Facility must obtain informed consent: CA, IN
<p>California (b) A health care facility shall obtain from a resident who requests immunization services, or, if the person lacks the capacity to make medical decisions, from the person legally authorized to make medical decisions on the resident’s behalf, informed consent for the resident to be immunized by vaccination against influenza or pneumococcal disease, or both, to be conducted by the facility while the resident is receiving services at the facility.</p>
<p>Indiana (a) A health facility shall attempt to obtain informed consent from: (1) a patient; or (2) a patient’s legal guardian for a patient to participate in immunization programs conducted within the health facility while the patient is residing at the health facility.</p>
Facility shall notify the individual about immunization requirement: NC, PA, RI
<p>Pennsylvania (a) . . . Upon admission, the facility shall notify the resident and legal guardian of the immunization requirements of this act . . .</p> <p>(a) . . . Every facility shall notify every employee of the immunization requirements of this act and request that the employee agree to be immunized against influenza virus. . .</p>
Facility shall recommend or promote immunizations: FL, IL, ME, WA
<p>Florida (22) . . . provide for immunizations against influenza virus to all its consenting residents . . . (24) Annually encourage and promote to its employees the benefits associated with immunizations against influenza viruses in accordance with the recommendations of the United States Centers for Disease Control and Prevention . . .</p>
<p>Washington (b) Require that each resident, or the resident’s legal representative, upon admission to the facility, be informed verbally and in writing of the benefits of receiving the influenza virus immunization and, if not previously immunized against pneumococcal disease, the benefits of the pneumococcal immunization. Rev. Code Wash. (ARCW) § 74.42.285 (2004)</p>
SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Element Three, Opt out - Table 10 shows the 4 ways that state laws/regulations permit residents/staff to refuse immunizations.

TABLE 10 - Element Three: OPT OUT
<p>Federal Definition: (4) The resident has the right to refuse treatment . . . §483.10 (b)(4)</p>
<p>23 states address opt out provisions: Staff Only: ME, OR Residents Only: AZ, CA, CT, FL, GA, IL, IN, NJ, TN, VA Both: AL, AR, KY, MD, NH, NY, NC, OK, RI, TX, UT</p>
Refusal: AL, AZ, CA, IL, IN, KY, MD, NJ, NY, NC, OK, RI, TN, TX, UT, VA
<p>Indiana Notwithstanding any other provision of this chapter, a health facility shall not require an individual to receive an immunization under this chapter if . . . (4) the individual refuses to permit the immunization as provided by state or federal law.</p> <p>Virginia B. Such regulations . . . 12. Shall require, unless the . . . resident declines the offer of the vaccination . . .</p>
Personal Belief: CA, FL
<p>California 120392.6 No person who has been offered the vaccine as required under this chapter may receive either an influenza vaccine or pneumococcal vaccine pursuant to this chapter if any of the following conditions exists: . . . (b) Receipt of the vaccine is against the resident’s personal beliefs.</p> <p>Florida (22) . . . provide for immunizations against influenza viruses to all its consenting residents . . . subject to exemptions for . . . personal beliefs.</p>
Religion: AL, AR, CT, FL, IN, KY, MD, NH, NY, NC, RI
<p>North Carolina (e) No individual shall be required to receive vaccine under this section if . . . the vaccine is against the individual’s religious beliefs . . .</p> <p>Arkansas All residents of full-time or part-time employees of nursing home facilities shall be immunized according to this chapter with the following exemptions: . . . (2) The provisions of this section shall not apply if the resident or legal guardian objects on the ground 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 member.</p>
Medical Contraindication: AL, AR, CA, CT, FL, GA, IL, IN, KY, MD, NH, NJ, NY, NC, OK, RI, TN, TX, UT, VA
<p>Alabama (g) No individual, resident, or employee, shall be required to receive vaccine under this section if the vaccine is medically contraindicated . . .</p> <p>Georgia [R]equire that all nursing homes annually offer unless contraindicated . . . an influenza virus vaccine . . .</p> <p>Illinois (a) A facility shall annually administer a vaccination against influenza to each resident . . . unless the vaccination is medically contraindicated . . . (b) A facility shall provide or arrange for administration of a pneumococcal vaccine to each resident who is age 65 and over . . . unless the . . . vaccination is medically contraindicated.</p>
SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Element Four, Management of Vaccine Distribution - Table 11 outlines the methods facilities are permitted to use when delivering vaccine to residents/staff.

TABLE 11 - Element Four: MANAGEMENT OF VACCINE DISTRIBUTION
<p>Federal Definition: (3) The facility must provide or obtain preventive and general medical care as well as annual physical examinations of each client that at a minimum include the following . . . (ii) Immunizations . . . § 483.460: Health care services. (a) (3) Standard: Physician services. p. 564</p>
<p>29 states address how facilities must distribute vaccine: Staff Only: ME Residents Only: AZ, CA, CT, FL, GA, IL, IN, IA, MI, MT, NJ, SD, TN, VA, WA Both: AL, AR, KY, MD, NH, NY, NC, OK, OR, PA, RI, TX, UT</p>
<p>Make Available: AZ, ME, PA, RI, UT, WA</p>
<p>Maine 2. Immunizations Required . . . B. (effective July 6, 1992) . . . Designated Healthcare Facilities shall make available the Hepatitis B vaccine to all health care workers with a risk of occupational exposure, at no cost to the employee.</p>
<p>Pennsylvania (b) . . . Upon finding that a resident is lacking such immunization or the facility or individual is unable to provide documentation that the individual has received the appropriate immunization, the facility shall make available the immunization. (b) . . . Upon finding that an employee is lacking such immunization or the facility or individual is unable to provide documentation that the individual has received the appropriate immunization, the facility shall make available the immunization. The immunization and documentation shall take place in a manner consistent with the recommendations of the Centers for Disease Control and Prevention.</p>
<p>Provide immunizations: AL, AR, FL, IL, IA, KY, MD, MT, NH, NJ, NY, NC, OR, SD, TN, UT, VA, WA</p>
<p>Illinois (b) A facility shall provide or arrange for administration of a pneumococcal vaccination to each resident who is age 65 or over . . .</p>
<p>Virginia B. Such regulations . . . 12. Shall require . . . that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (1) an annual vaccination against influenza and (ii) a pneumococcal vaccination . . .</p>
<p>Arrangement of Immunizations: AL, IL, KY, MD, NY, NC, TN, VA.</p>
<p>Alabama (d) . . . Upon finding that a resident is lacking the immunizations as provided herein or that an employee has not been immunized against influenza virus, or if the long term care facility is unable to verify that the individual has received the required vaccination, the long term care facility shall provide or arrange for immunization.</p>
<p>Offer Immunizations: CA, GA, ME, OK, TX</p>
<p>California (b) Each health care facility, as defined in subdivision (a) of Section 120392, shall offer, pursuant to Section 120392.4, pneumococcal vaccine to all new admittees to the health care facility, based on the latest recommendations of the ACIP.</p>
<p>Texas (1) . . . The facility must offer pneumococcal vaccine to all residents . . . (2) The facility must offer influenza vaccination to residents and employees in contact with residents . . . <i>25 TAC § 97.202 (2004)</i></p>
<p>Other immunization distribution methods: CT, IL, IN, MI, NH, OR, TN</p>
<p>Connecticut The regulations shall: (1) Assure that each patient admitted to a nursing home facility is protected by adequate immunization against influenza and pneumococcal disease in accordance with the recommendations of the National Advisory Committee on Immunization Practices, established by the Secretary of Health and Human Services; (2) specify that each patient be protected annually against influenza and be vaccinated against pneumonia in accordance with the recommendations of the National Advisory Committee on Immunization . . .</p>
<p>Illinois Sec. 2-213. Vaccinations. (a) A facility shall annually administer a vaccination against influenza to each resident . . .</p>
<p>Oregon (6) All residents shall be immunized and vaccinated . . .</p>
<p>SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities</p>

Element Five, Standard Utilized - Table 12 shows that most state laws/regulations reference facilities to follow the ACIP standard when determining which vaccines are required.

TABLE 12 - Element Five: STANDARD UTILIZED
<p>Federal Definition: 3) The facility must provide or obtain . . . Immunizations, using as a guideline the recommendations of the Public Health Service Advisory Committee on Immunization Practices or of the Committee on Control of Infectious Diseases of the American Academy of Pediatrics . . . § 483.460 Health care services. (a)(3)(ii) Standard: Physician services. p. 564</p>
<p>19 states address which standard must be utilized: Staff Only: 0 Residents Only: CA, CT, IL, IN, IA, MI, MT, NJ, TN, VA Both: FL, KY, MD, NH, NY, OK, PA, RI, TX</p>
Vaccine recommendations of ACIP:
<p>Illinois (a) A facility shall annually administer a vaccination against influenza to each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention . . . § 210 ILCS 45/2-213</p>
<p>Michigan A home for the aged shall offer each resident, or shall provide each resident with information and assistance in obtaining, an annual vaccination against influenza in accordance with the most recent recommendations of the advisory committee on immunization practices of the federal centers for disease control and prevention, as approved by the department of community health. <i>MI § 333.21332.</i></p> <p>A nursing home shall offer each resident, or shall provide each resident with information and assistance in obtaining, an annual vaccination against influenza in accordance with the most recent recommendations of the advisory committee on immunization practices of the federal centers for disease control and prevention, as approved by the department of community health. <i>MI § 333.21716</i></p>
<p>Rhode Island (a) . . .The department shall promulgate regulation relating to the immunization requirements of this chapter, taking into consideration the recommendations of the advisory committee on immunization practices (ACIP) of the centers for disease control and prevention. <i>R.I. Gen. Laws § 23-17.19-7 (2003)</i></p>
<p>Texas (B) Vaccine administration must be in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention at the time of the most recent vaccination. <i>25 TAC §97.202 (2004)</i></p>
SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Element Six, Recordkeeping - Table 13 details the level of documentation facilities are required to maintain.

TABLE 13 - Element Six: RECORDKEEPING
<p>Federal Definition: (b) Physician visits. The physician must . . .(3) sign and date all orders with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per physician approved facility policy after an assessment for contraindications . . . § 483.40 Physician services.</p>
<p>21 states address recordkeeping: Staff Only: ME Residents Only: AZ, CA, CT, FL, IL, IA, NH, NJ, TN Both: AL, AR, KY, MD, NC, NY, OK, PA, RI, TX, UT</p>
<p>Documentation regarding immunizations must include certification of refusals: AZ, IL, ME, MD, OK, TX,</p>
<p>Arizona 1 . . . The department shall prescribe the manner by which the institutions and facilities shall document compliance with this subdivision, including documenting residents who refuse to be immunized.</p> <p>Maine 4. Certification of Immunization and Proof of Immunity. A. Certificate of Immunization. To demonstrate proper immunization against each disease, an employee shall present the designated healthcare facility with a Certificate of Immunization from a physician, nurse or health official who has administered the immunizing agent(s) to the employee. Physicians within their own practice may authorize their own employees to issue a certificate of immunization on behalf of the physician. The certificate shall specify the immunizing agent, and the date(s), including month and year, on which it was administered. Physicians, having reviewed official patient records created by another practitioner which indicate that a particular patient has received an immunization on a specified date, demonstrating at a minimum the month and year the immunization was give, may certify that the immunization was given. Adequately prepared secondary and/or collegiate school health records will also be considered acceptable for the purpose of meeting this requirement. 7. Records and Record Keeping . . . C. List of Non-Immunized Employees. The chief administrative office or his/her designee in each designated healthcare facility shall keep a listing of the names of all employees within the facility who are not currently immunized or do not have documented serological immunity against each disease. The list shall include the names of all employees with authorized exemptions from immunization as well as any who are otherwise not known to be immune and shall state the reason that the employee is not immune. The purpose of the list is to provide an efficient means to rapidly contact non-immunized employees in the event of disease outbreaks and exclude them from the workplace as necessary . . .</p>
<p>Documentation of immunizations required from a health care provider: PA, RI, UT</p>
<p>Pennsylvania (b) . . . Every facility shall document the annual immunization against influenza virus and immunization against pneumococcal disease for each resident, which includes written evidence from a health care provider indicating the date the vaccine was administered. . . (b) . . . The facility shall require documentation of annual immunization against influenza virus for each employee, which includes written evidence from a health care provider indicating the date and location the vaccine was administered. The documents shall be maintained by the facility for not less than 18 months.</p>
<p>General documentation of immunizations required: AL, AK, CA, CT, FL, IA, KY, NH, NJ, NY, NC, TN</p>
<p>Connecticut Individuals' records shall be started at the time of admission and remain current and shall include as appropriate: (a) reports of . . . immunizations . . .</p> <p>New Hampshire I. All hospitals, residential care facilities, adult day care facilities, and assisted living facilities licensed under this chapter shall document evidence of immunization against influenza, for all consenting patients in accordance with the current recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention with respect to indications such as age, timing, dosing, and administration . . . Receipt of the vaccination shall be documented on the patient's chart and made a part of the patient's permanent record. II. All hospitals, residential care facilities, adult day care facilities, and assisted living facilities licensed under this chapter shall document evidence of immunization against pneumococcal disease, for all consenting patients in accordance with the current recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention with respect to indications such as age, timing, dosing, and administration . . . Receipt of the vaccination shall be documented on the patient's chart and made a part of the patient's permanent record.</p>
<p>SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities</p>

Summary of Statutory Language – Table 14 below, provides a summary of pertinent language from state laws/regulations.

TABLE 14 - SUMMARY of ELEMENTS of COMPREHENSIVE IMMUNIZATION POLICY for LTCs and EXCERPTS from STATE LAWS/REGULATIONS			
Element: ASSESSMENT (12 States)	Staff Only: 0	Residents Only: CA, FL, IL, IN, NH	Both: AL, KY, MD, NY, NC, RI, UT
<p>Alabama: (2) The annual immunization and documentation program provided by this section for pneumococcal disease shall be assessed within 5 days of admission and when indicated . . . (f) For an individual who becomes a resident of or who is newly employed by the long term care facility after November 30, but before March 30 of the following year, the long term care facility shall determine the individual’s status for the influenza virus required under this Section, and if found to be deficient, the long term care facility shall provide the required immunizations.</p>			
Element: EDUCATION (14 States)	Staff Only: ME	Residents Only: CA, IL, IN, MI, WA	Both: AL, FL, KY, MD, NY, NC, PA, RI
<p>Kentucky: (c) Counsel each resident on the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations of the Centers for Disease Control prior to administration of the vaccines. (1) The department shall make educational literature that describes the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations from the Centers for Disease Control available to every LTC facility.</p>			
Element: OPT OUT (23 States)			
Staff Only: ME, OR	Residents Only: AZ, CA, CT, FL, GA, IL, IN, NJ, TN, VA		Both: AL, AR, KY, MD, NH, NY, NC, OK, RI, TX, UT
<p>Alabama (g) No individual, resident, or employee, shall be required to receive vaccine under this section if the vaccine is medically contraindicated, if the vaccine is against the individual’s religious beliefs, or if the individual refuses the vaccine after being fully informed of the health risks of not being immunized.</p> <p>Kentucky The provisions of this section shall not apply if: (a) The vaccine is medically contraindicated (b) The employee, resident, or resident’s legal guardian objects to the immunization due to religious beliefs; or (c) the employee or resident refuses the vaccine after being fully informed of the health risks.</p>			
Element: MANAGEMENT OF VACCINE DISTRIBUTION (29 States)			
Staff Only: ME	Residents Only: AZ, CA, CT, GA, IL, IN, IA, MI, MT, NJ, SD, TN, VA, WA		Both: AL, AR, FL, KY, MD, NH, NY, NC, OK, OR, PA, RI, TX, UT
<p>MAKE AVAILABLE: Washington (1) Long-term care facilities shall” (a) Provide access on-site or make available elsewhere for all residents to obtain the influenza virus immunization on an annual basis.</p> <p>PROVIDE: Virginia B. Such regulations . . . 12. Shall require . . . that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (1) an annual vaccination against influenza and (ii) a pneumococcal vaccination</p> <p>ARRANGEMENT FOR: North Carolina (c) . . . Upon finding that a resident is lacking one or both of these immunizations or that an employee has not been immunized against influenza virus, or if the adult care home is unable to verify that the individual has received the required immunization, the adult care home shall provide or arrange for immunization.</p> <p>OFFER: Georgia (a) . . . Such rules and regulations shall require that all nursing homes annually offer unless contraindicated contingent on availability, an influenza virus vaccine to all Medicare and Medicaid eligible patients and private pay patients in their facilities</p> <p>OTHER: Oregon (6) All residents shall be immunized and vaccinated.</p>			
Element: STANDARD UTILIZED (19 States)			
Staff Only: 0	Residents Only: CA, CT, IL, IN, IA, MI, MT, NJ, TN, VA		Both: FL, KY, MD, NH, NY, OK, PA, RI, TX
<p>Indiana (b) A health facility shall conduct the immunizations required under subsection (a) in accordance with the recommendations established by the Advisory Committee on Immunization Practices of the United States Centers for Disease Control and Prevention that are in effect at the time the health facility conducts the immunizations.</p>			
Element: RECORDKEEPING (21 States)			
Staff Only: ME	Residents Only: AZ, CA, CT, FL, IL, IA, NH, NJ, TN		Both: AL, AR, KY, MD, NY, NC, NY, OK, PA, RI, TX, UT
<p>Rhode Island (b) . . . Every facility shall document the annual immunization against influenza virus and immunization against pneumococcal disease for each resident which includes written evidence from a health care provider indicating the date and location the vaccine was administered. (b) . . . The facility shall require documentation of annual immunization against influenza virus for each employee, which includes written evidence from a health care provider indicating the date and location the vaccine was administered.</p>			
SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities			

Synthesis of Findings - The following composites were developed in a 3-step process: 1) identified the states that *provide* vaccine and satisfy all COP; 2) identified the states that *provide* vaccine, but fail to satisfy all COP; 3) identified the states that fail to *provide* vaccine, and satisfy varying elements of COP.

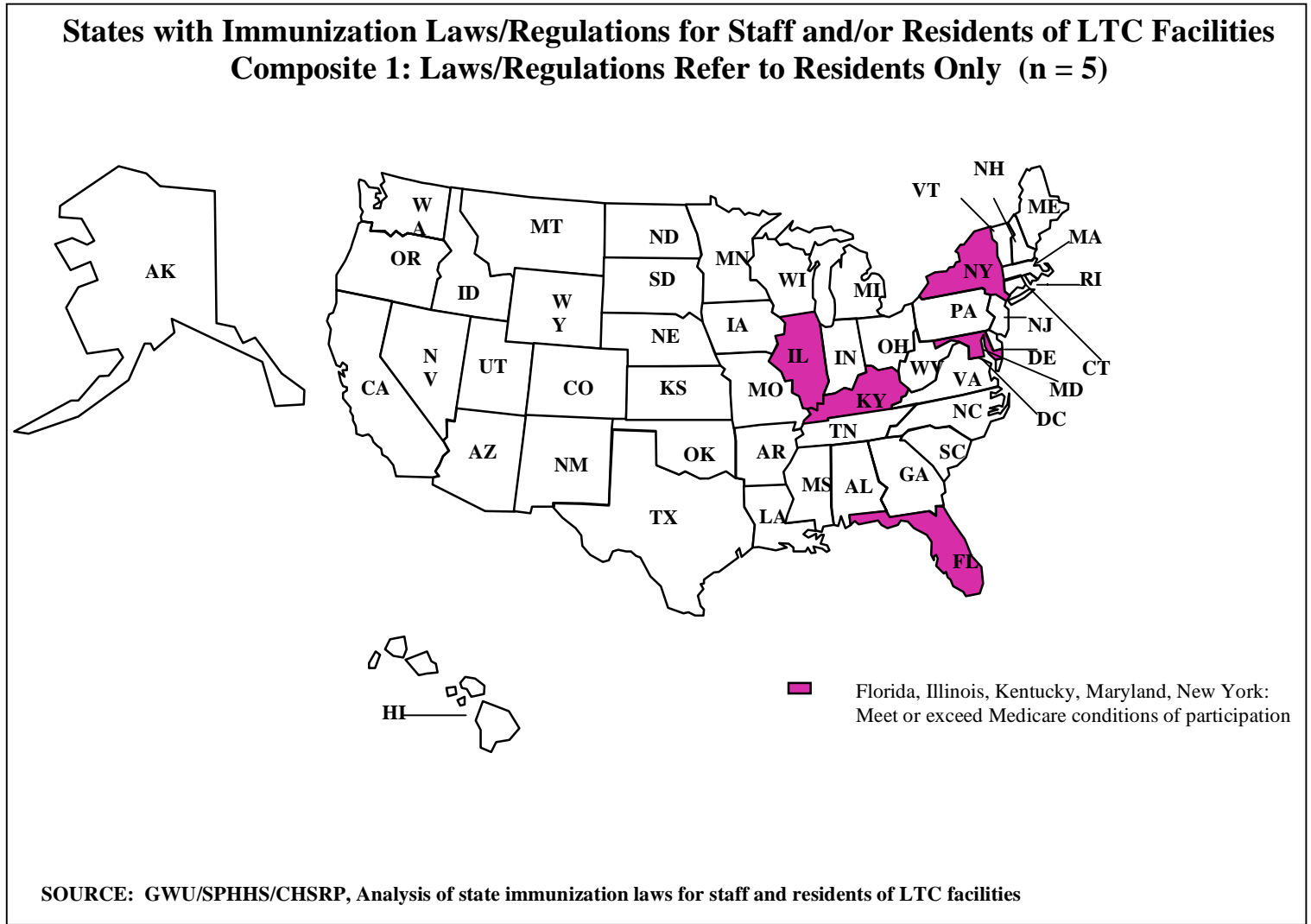
TABLE 15 – Composites of LTC Facility Immunization Laws

14 of the 28 state laws address immunization requirements for residents of LTC facilities

Composite	Description of Composite	States that Satisfy the Composite	Elements that the Law/Regulations Fail to Address
Composite 1 Residents Only n = 5	5 states meet or exceed Medicare conditions of participation for residents including “providing” vaccine	Florida, Illinois, Kentucky, Maryland, New York	These states fulfill all Medicare conditions of participation
Composite 2 Residents Only n = 16 (# is cumulative)	11 states provide vaccine, but fail to satisfy other Medicare conditions of participation	Alabama	ACIP
		Arkansas	Assess, Educate, ACIP
		Iowa	Assess, Educate, Opt-out
		Montana	Assess, Educate, Opt-out, Records
		New Jersey	Assess, Educate
		Utah	Educate, ACIP
		South Dakota	Assess, Educate, Opt-out, ACIP, Records
		Tennessee	Assess, Educate
		North Carolina	ACIP
		Virginia	Assess, Educate, Records
		Washington	Assess, Opt-out, ACIP, Records
Composite 3 Residents Only n = 18 (# is cumulative)	2 states satisfy all Medicare conditions of participation except the management of vaccine distribution fails to provide vaccine	California	Provide Vaccine
		Rhode Island	Provide Vaccine
Composite 4 Residents Only n = 28 (# is cumulative)	10 states fail to provide vaccine, and fail to meet other Medicare conditions of participation	Arizona	Assess, Educate, ACIP, Provide
		Connecticut	Assess, Educate, Provide
		Georgia	Assess, Educate, Provide, ACIP, Records
		Indiana	Provide, Records
		Michigan	Assess, Opt-out, Provide, Records
		New Hampshire	Educate, Provide
		Oklahoma	Assess, Educate, Provide
		Oregon	Assess, Educate, Opt-out, Provide, ACIP, Records
		Pennsylvania	Assess, Opt-out, Provide
		Texas	Assess, Educate, Provide

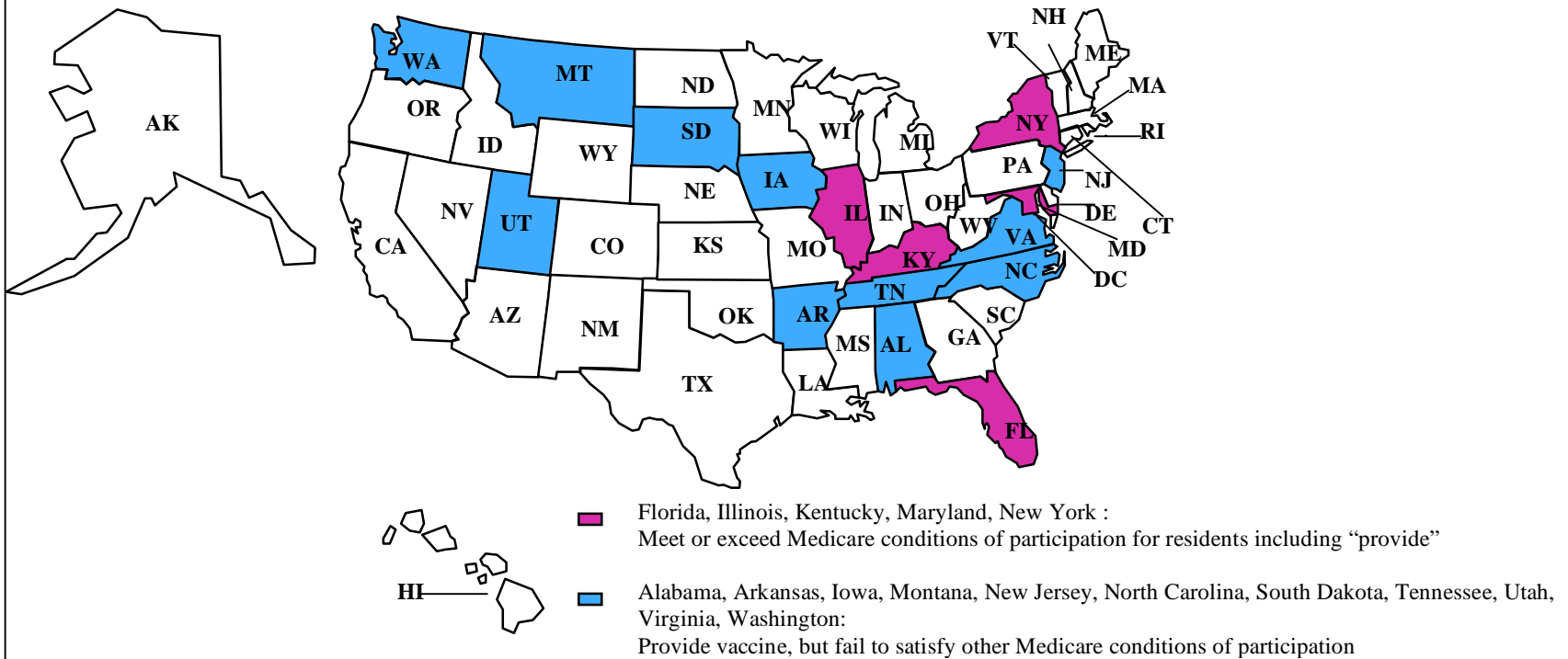
SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Composite 1, Residents Only



Composite 2, Residents Only

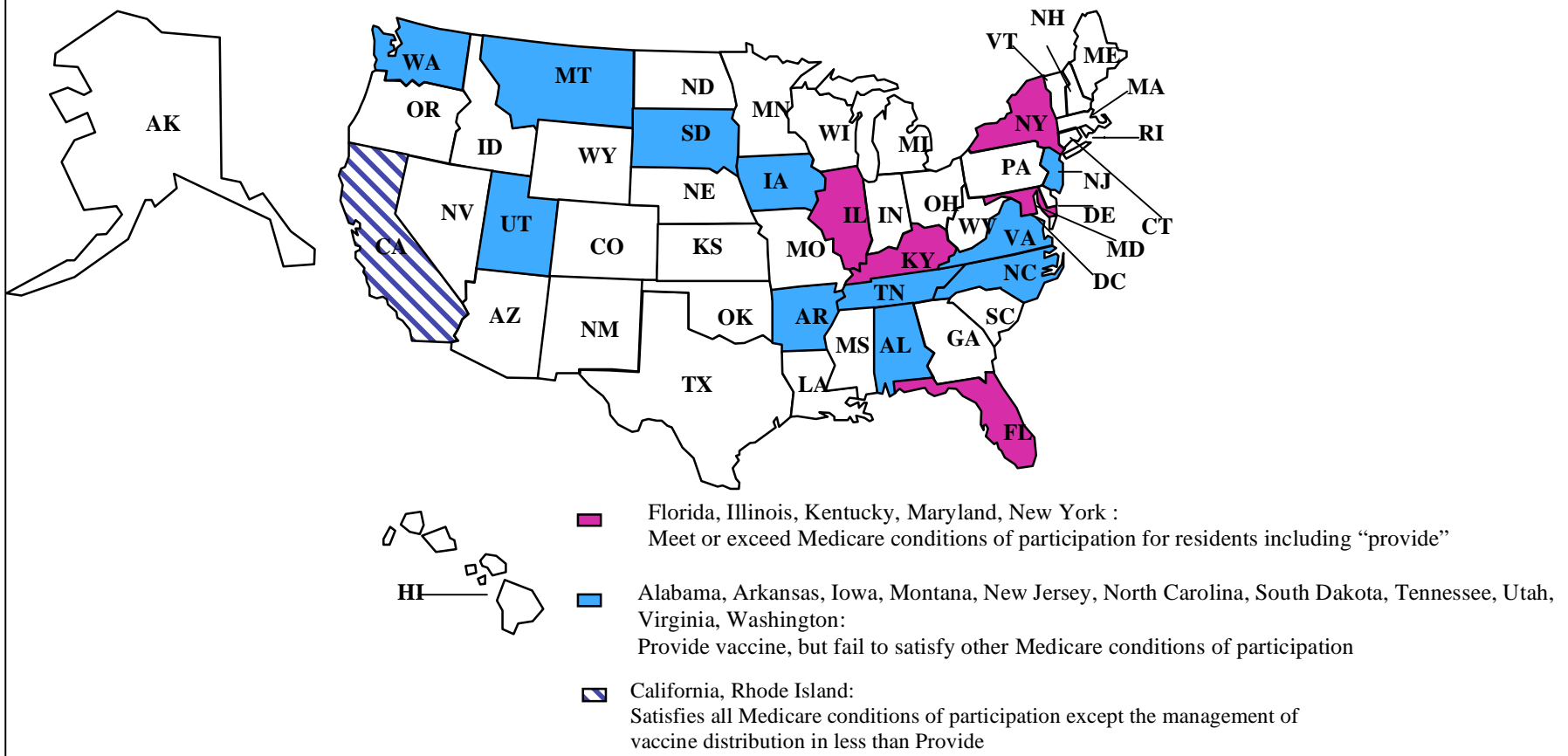
**States with Immunization Laws/Regulations for Staff and/or Residents of LTC Facilities
Composite 2: Laws/Regulations Refer to Residents Only (n = 16)**



SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Composite 3, Residents Only

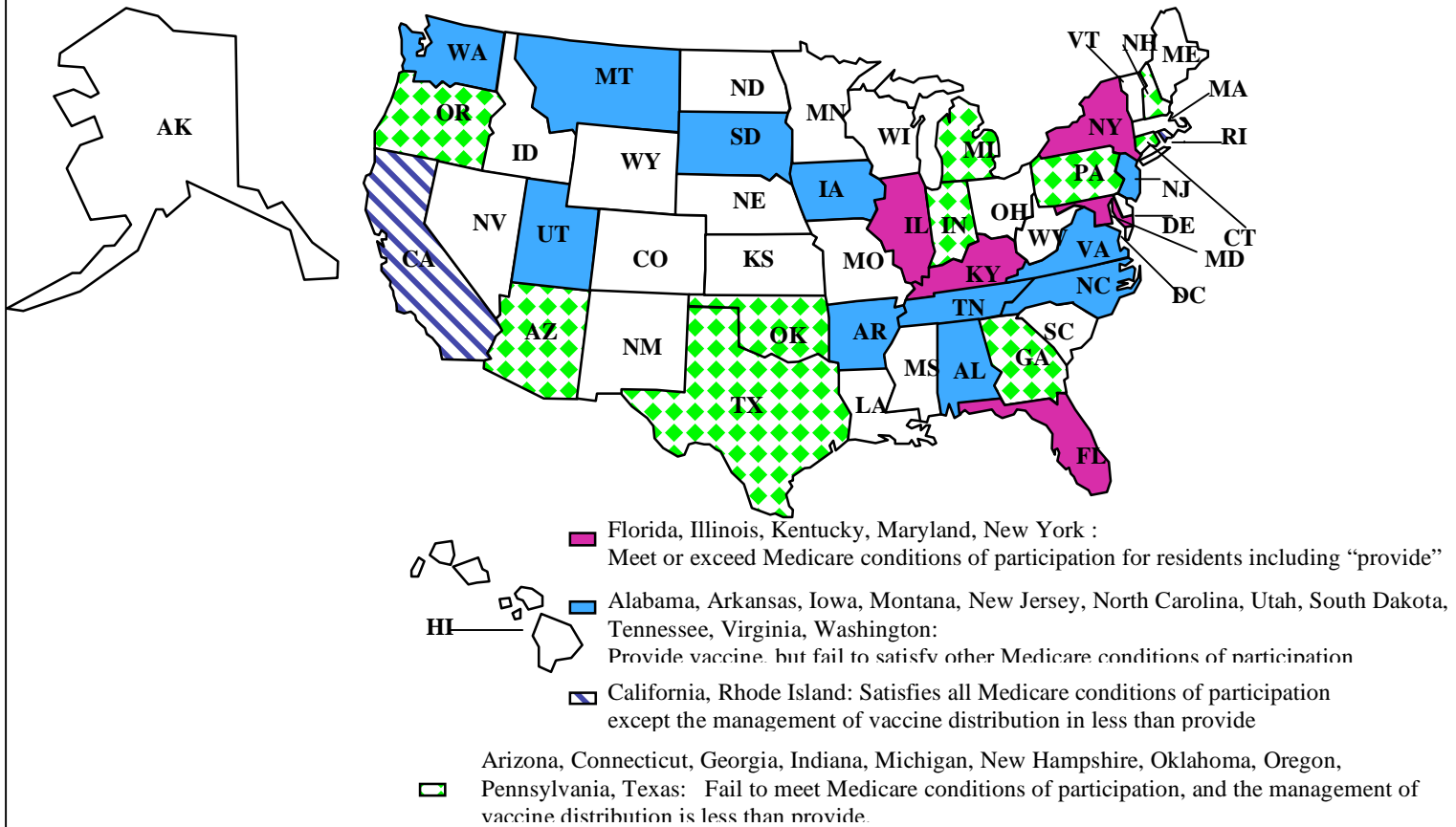
**States with Immunization Laws/Regulations for Staff and/or Residents of LTC Facilities
Composite 3: Laws/Regulations Refer to Residents Only (n = 18)**



SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Composite 4, Residents Only

States with Immunization Laws/Regulations for Staff and/or Residents of LTC Facilities
Composite 4: Laws/Regulations Refer to Residents Only (n = 28)



SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

TABLE 16 – Composites of LTC Facility Immunization Laws

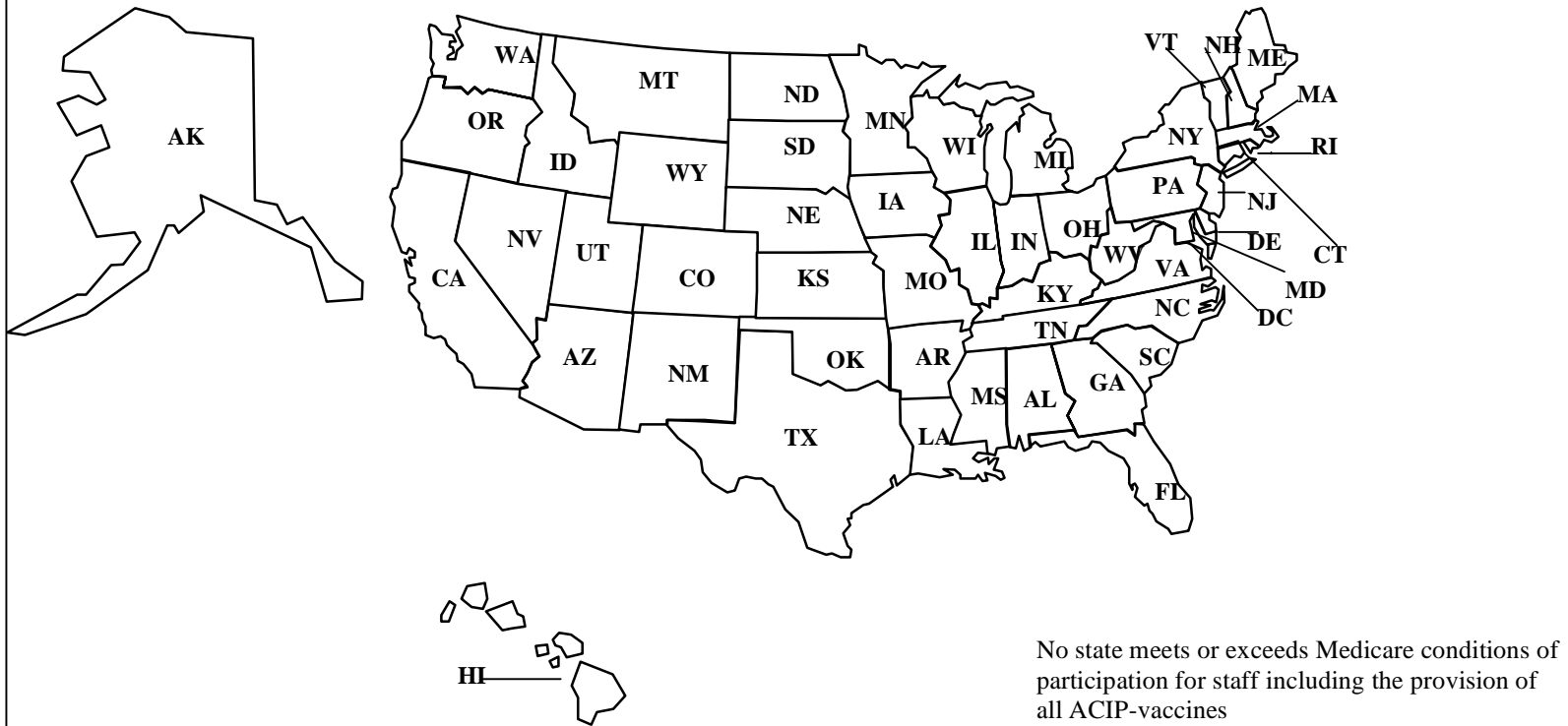
15 of the 29 state laws address immunization requirements for staff of LTC facilities

Composite	Description of Composite	States that Satisfy the Composite	Elements that the Law/Regulations Lacks
Composite 1 Staff Only n = 0	Meets or exceeds Medicare conditions of participation for staff including the provision of all ACIP-recommended vaccines	No state fulfills the composite	
Composite 2 Staff Only n = 3 (# is cumulative)	Meets or exceed Medicare conditions of participation for staff including the provision of some ACIP-recommended vaccines	Kentucky	ACIP
		Maryland	ACIP
		New York	ACIP
Composite 3 Staff Only n = 8 (# is cumulative)	Provides some ACIP-recommended vaccines, but fails to satisfy other Medicare conditions of participation	Alabama	ACIP
		Arkansas	Assess, Educate, ACIP
		New Hampshire	Assess, Educate, Records
		North Carolina	ACIP
Composite 4 Staff Only n = 9 (# is cumulative)	Satisfies all Medicare conditions of participation except the management of vaccine distribution is less than provide	Oregon	Assess, Educate, ACIP, Records
		Rhode Island	Provide
Composite 5 Staff Only n = 14 (# is cumulative)	5 states fail to provide vaccine, and fail to meet other Medicare conditions of participation	Florida	Assess, Opt-out, Provide, Records
		Maine	Assess, Provide, ACIP
		Oklahoma	Assess, Educate, Provide
		Pennsylvania	Assess, Opt-out, Provide
		Texas	Assess, Educate, Provide
	Utah	Educate, ACIP, Provide	

SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Composite 1, Staff Only

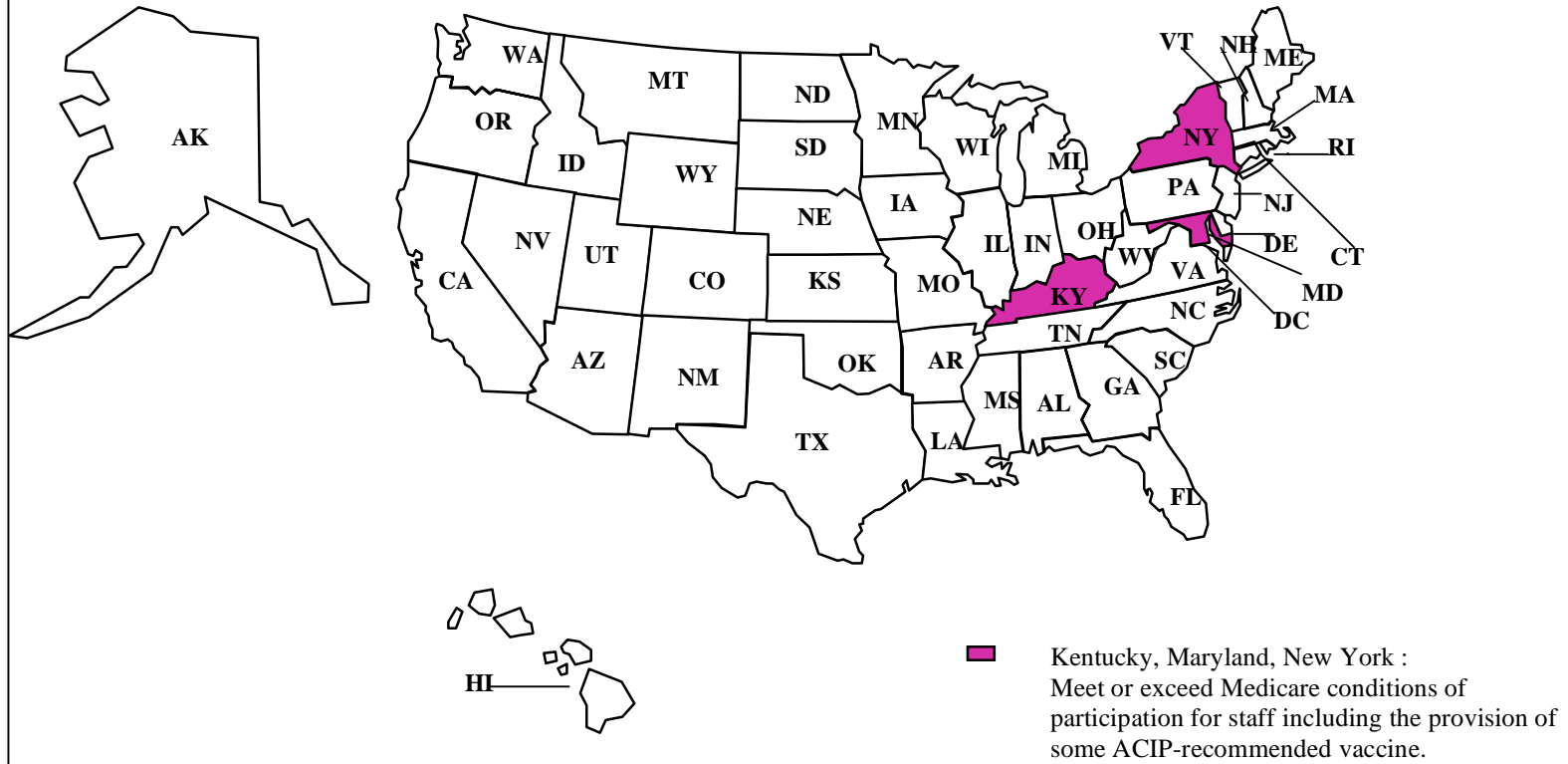
**States with Immunization Laws/Regulations for Staff and/or Residents of LTC Facilities
Composite 1: Laws/Regulations Refer to Staff Only (n = 0)**



SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Composite 2, Staff Only

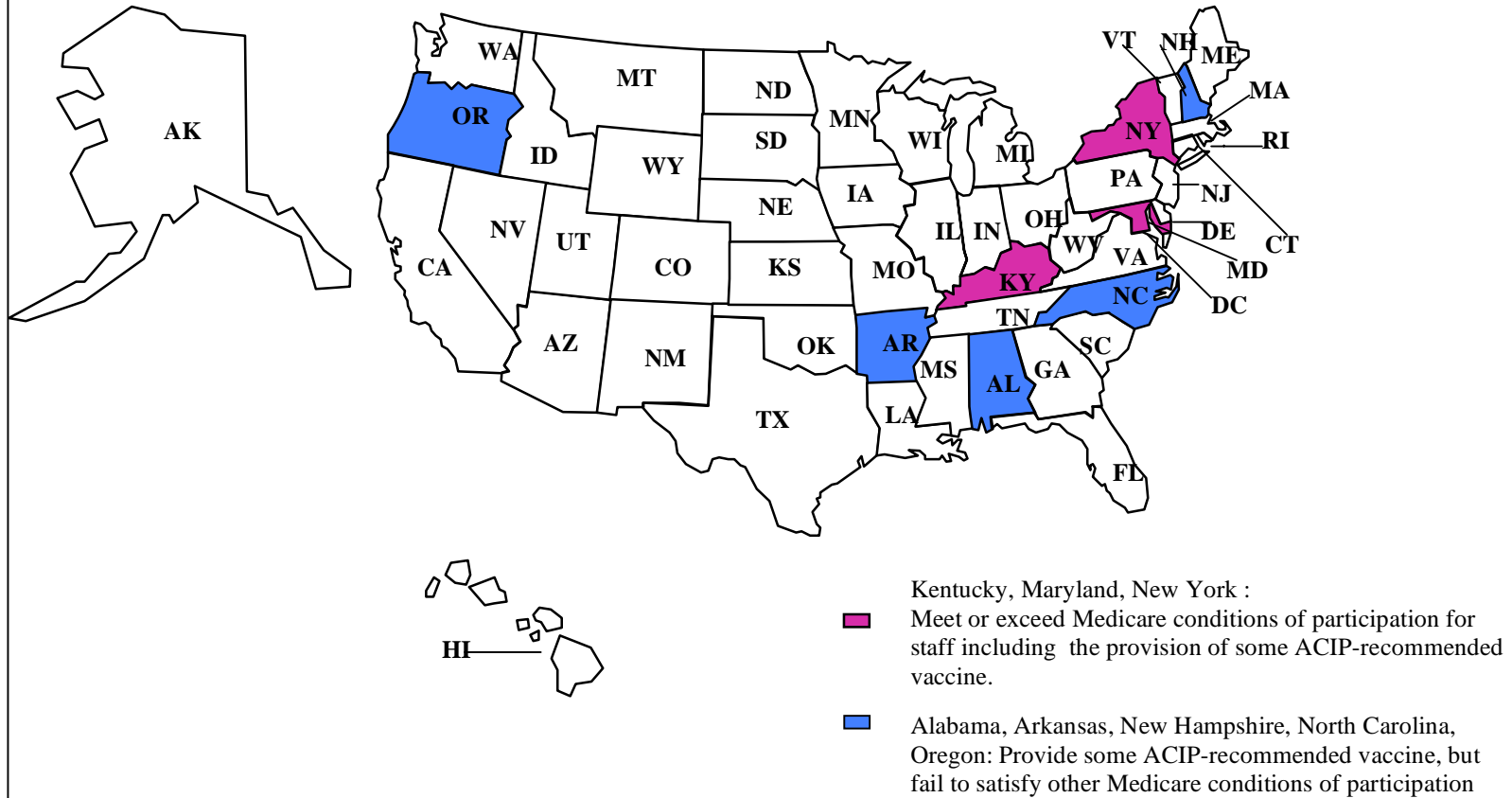
**States with Immunization Laws/Regulations for Staff and/or Residents of LTC Facilities
Composite 2: Laws/Regulations Refer to Staff Only (n = 3)**



SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Composite 3, Staff Only

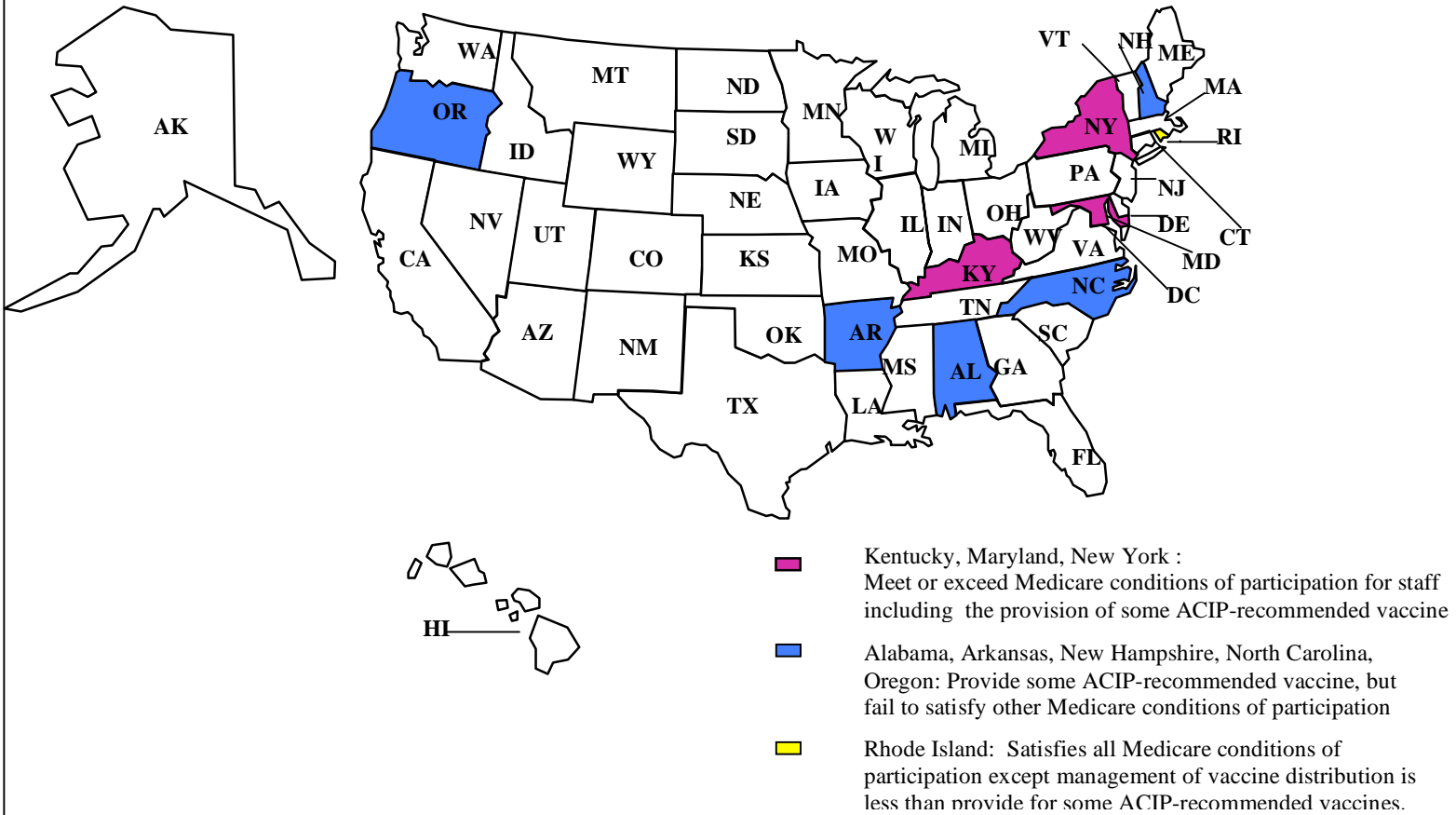
**States with Immunization Laws/Regulations for Staff and/or Residents of LTC Facilities
Composite 3: Laws/Regulations Refer to Staff Only (n = 8)**



SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Composite 4, Staff Only

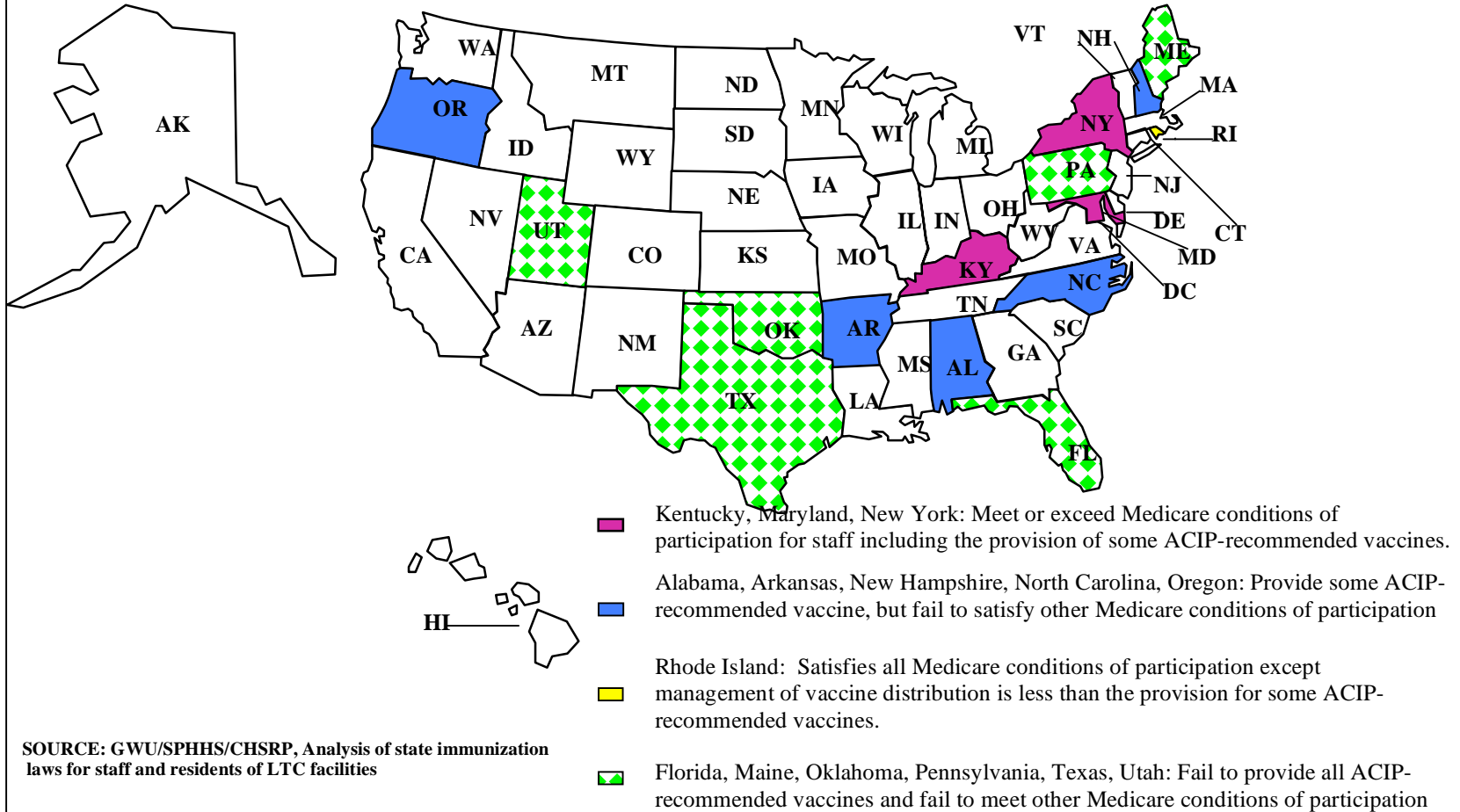
States with Immunization Laws/Regulations for Staff and/or Residents of LTC Facilities
Composite 4: Laws/Regulations Refer to Staff Only (n = 9)



SOURCE: GWU/SPHHS/CHSRP, Analysis of state immunization laws for staff and residents of LTC facilities

Composite 5, Staff Only

States with Immunization Laws/Regulations for Staff and/or Residents of LTC Facilities
Composite 5: Laws/Regulations Refer to Staff Only (n = 14)



CONCLUSION

LTC Residents and State Laws/Regulations - Residents of LTC facilities are among the nation's most vulnerable citizens, and experience the highest risk of contracting infectious diseases. The actual provision of vaccine to these individuals is the essence of the Medicare/Medicaid conditions of participation. Of the 29 reviewed state laws/regulations, Composite 1 for Residents, shows that only 5 are in full compliance with all the elements of the COP by clearly requiring facilities to "provide or obtain" ACIP-recommended vaccines for residents.

Eleven other states, shown in Composite 2 for Residents, provide vaccine to residents, but do not satisfy other aspects of the COP. Most often, the language excludes specific reference to assessing immunization status and providing any level of education regarding appropriate vaccines.

The remaining 12 states, in Composites 3 and 4 for Residents, utilize ambiguous language that could be interpreted to permit an LTC facility to provide a level of service that fails to satisfy the federal provision requirement. These states reference "making vaccines available," "arranging for a vaccine," or "offering vaccine to residents".

Some Groups Lack any Statutory Immunization Protection - Under federal law, vaccines are a mandatory service for all residents of Medicare/Medicaid-certified facilities. However, institutions for mental diseases are excluded from Medicaid participation. Thus, state laws/regulations would be necessary for these individuals. In the absence of federal safeguards, state requirements become the only source of protection, and should comply with the established standard of care.

Twenty-one states and the District of Columbia lack any law/regulation that addresses resident immunizations and LTC facilities (Table 3, page 6). In these 22 jurisdictions, significant protection gaps exist among populations that fall outside of the federal guidelines. These groups include all persons with mental diseases who reside in LTC facilities, all persons who reside in non-Medicare-certified LTC facilities, and all LTC employees who work in states that fail to maintain laws/regulations that require immunizations at the ACIP standard.

Vaccines for LTC Employees – Laws/regulations controlling LTC facilities' distribution of vaccines do not apply equally to staff and residents. Because employees may introduce infectious agents to residents, statutory requirements should call for provision of all recommended vaccines to staff. Thus, this study applied the elements of the COP for residents to the staff as well. A state law/regulation is deemed comprehensive regarding staff only if it complies with all elements of the COP.

Table 3 on page 6 indicates that 15 states address staff utilizing provisions similar to the elements of the COP. Of these 15, **no** state law/regulation is comprehensive because no state requires facilities to provide all ACIP-recommended vaccines for health-care workers to LTC staff according to the COP.

As Composite 2 for Staff shows, 3 states require facilities to provide workers with selected ACIP-recommended vaccines. These limited vaccines are distributed according to all the elements of the COP. In 2 of these states, facilities must provide influenza and pneumococcal vaccines, and 1 state requires only influenza. None of these states require the provision of hepatitis B vaccine.

As Composite 3 for Staff outlines, 5 of the 15 states also provide some ACIP-recommended vaccines, however the majority fail to satisfy the assessment and education elements of the COP. Note that Oregon requires facilities to provide workers with preventive immunizations without delineating the vaccines.

Composites 4 and 5 for Staff shows that the other 7 states fail to provide any ACIP-recommended vaccines. These states permit a less rigorous standard such as “make available,” “offer,” or arrange for” immunizations. Additionally, 5 of the 7 states fail to meet all elements of the COP by not requiring the assessment of the immunization status of staff.

APPENDIX 1 – EXCERPTS FROM STATE MANDATES AND REGULATIONS

ALABAMA

Code of Ala. § 22-21-10. Flu and pneumonia vaccination program . . .

(a) As used in this section, the following words have the following meanings: . . . (2) Long term care facility. The term includes a skilled nursing facility, intermediate care facility, specialty care assisted living facility or dementia care facility, or an assisted living facility licensed under this chapter.

(b) Each long term care facility in this state shall conduct an immunization program as provided in this section which gives residents the opportunity to be immunized annually against the influenza virus and to be immunized against pneumococcal disease and employees the opportunity to be immunized against influenza virus.

(c) A long term care facility shall notify the resident upon admission of the immunization program provided by this section and shall request that the resident agree to be immunized against influenza virus and pneumococcal disease.

(d) A long term care facility shall document the annual immunization against influenza virus and the immunization against pneumococcal disease for each resident and the annual immunization against influenza virus for each employee, as provided in this section. Upon finding that a resident is lacking the immunizations as provided herein or that an employee has not been immunized against influenza virus, or if the long term care facility is unable to verify that the individual has received the required immunizations, the long term care facility shall provide or arrange for immunization.

(e) (1) The annual immunization and documentation program provided by this section for influenza shall be completed not later than November 30 of each year. (2) The annual immunization and documentation program provided by this section for pneumococcal disease shall be assessed within 5 days of admission and when indicated.

(f) For an individual who becomes a resident of or who is newly employed by the long term care facility after November 30, but before March 30 of the following year, the long term care facility shall determine the individual's status for the influenza virus required under this section, and if found to be deficient, the long term care facility shall provide the required immunizations.

(g) No individual, resident, or employee, shall be required to receive vaccine under this section if the vaccine is medically contraindicated, if the vaccine is against the individual's religious beliefs, or if the individual refuses the vaccine after being fully informed of the health risks of not being immunized.

(h) The State Board of Health may adopt rules to implement the immunization provisions of this section.

(i) The State Health Officer shall waive the requirements of this chapter in the event that there is a shortage of vaccine.

(j) The State Board of Health shall make available to long term care facilities educational and informational materials pertaining to the vaccination program provided in this section.

ARIZONA

A.R.S. § 36-406. Powers and duties of the department . . .

In addition to its other powers and duties . . . [t]he department shall . . . (d) Require as a condition of licensure that nursing care institutions and assisted living facilities make vaccinations for influenza and pneumonia available to residents on site on a yearly basis. The department shall prescribe the manner by which the institutions and facilities shall document compliance with this subdivision, including documenting residents who refuse to be immunized. The department shall not impose a violation on a licensee for not making a vaccination available if there is a shortage of that vaccination in this state as determined by the director.

ARKANSAS

A.C.A. §20-10-1302. Purpose . . .

It is recognized that the sixth leading cause of death in Arkansas is the combined diagnostic category of pneumonia and influenza; that approximately ninety percent (90%) of the pneumonia and influenza deaths are in those over sixty-five (65) years of age; that the Centers for Disease Control and Prevention recommends that individuals over the age of sixty-five (65) years have annual flu shots and a pneumococcal vaccine one (1) time; that the Centers for Disease Control and Prevention further suggests that consent for immunization be acquired at the time of nursing home admission; that current utilization of the flu shots by nursing home residents is approximately fifty percent (50%); that the elderly living in an institutional setting, where disease may be more easily transmitted, are less protected than those living in the community; and that the pneumococcal vaccine utilization by nursing home residents is approximately thirty percent (30%).

A.C.A. § 20-10-1304. Implementation . . .

(b) Each nursing home facility in this state shall . . . (1) Obtain consent from residents or their legal guardians upon admission to participate in all immunization programs that are conducted within the facility while that person is a resident of that facility, and not in violation of the resident's right to refuse treatment; (2) As a condition of their employment, require all

employees to participate in immunization programs conducted while they are employed at the facility, unless the employee meets the qualifications for exemptions as listed in §20-10-305; and (3) (A) Document and report annually immunizations against influenza virus for both residents and full-time and part-time employees. (B) Document and report annually immunizations against pneumococcal disease for residents.

(d) The Department of Health shall provide vaccines, supplies, and staff necessary for the immunizations of nursing home residents and employees as provided for in this subchapter.

A.C.A. § 20-10-1305. Exemption . . .

All residents or full-time or part-time employees of nursing home facilities shall be immunized according to this subchapter with the following exemptions: (1) No individual shall be required to receive either an influenza virus vaccine or a pneumococcal pneumonia vaccine if the vaccine is medically contraindicated as described in the product labeling approved by the Food and Drug Administration; and (2) The provisions of this section shall not apply if the resident or legal guardian objects on the ground 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.

CALIFORNIA

2004 Cal ALS 36; 2004 Cal AB 691; Stats 2004 ch 36

Chapter 1.6. Influenza and Pneumococcal Immunizations . . .

§ 120392 . . .

For purposes of this chapter, the following definitions apply: (a) "Health care facility" means a skilled nursing facility as defined in subdivision (c) of Section 1250, an intermediate care facility as defined in subdivision (d) of Section 1250, or a nursing facility as defined in subdivision (k) of Section 1250. This chapter shall not apply to hospital-based skilled nursing facilities. (b) "Medically contraindicated" means that the administration of the influenza or pneumococcal vaccines to a person, because of a medical condition of that person, would be detrimental to the person's health if the person receives either or both of the vaccines.

§ 120392.2 . . .

(a) Each year, commencing October 1 to the following April 1, inclusive, every health care facility, as defined in subdivision (a) of Section 120392, shall offer, pursuant to Section **120392.4**, immunizations for influenza and pneumococcal disease to residents, aged 65 years or older, receiving services at the facility, based upon the latest recommendations of the Advisory Committee on Immunization Practices (ACIP) of the Centers for Disease Control and Prevention, and the latest recommendations of appropriate entities for the prevention, detection, and control of influenza outbreaks in California long-term care facilities.

(b) Each health care facility, as defined in subdivision (a) of Section 120392, shall offer, pursuant to Section 120392.4, pneumococcal vaccine to all new admittees to the health care facility, based on the latest recommendations of the ACIP.

(c) The facility shall be reimbursed the standard Medi-Cal rate for an immunization provided to a Medi-Cal recipient, unless he or she is also a Medicare recipient whose coverage includes reimbursement for the immunization.

§ 120392.4

(a) A resident who receives services at a health care facility during the period of October 1 to April 1 shall have his or her status for influenza and pneumococcal immunization determined by his or her physician or facility medical director, and, if appropriate, the facility shall offer to make the immunizations available, unless the facility, through written policies and procedures and using standardized nursing procedures, offers to make the immunizations available without limitation as to the period when the residents receive services at the facility.

(b) A health care facility shall obtain from a resident who requests immunization services, or, if the person lacks the capacity to make medical decisions, from the person legally authorized to make medical decisions on the resident's behalf, informed consent for the resident to be immunized by vaccination against influenza or pneumococcal disease, or both, to be conducted by the facility while the resident is receiving services at the facility.

(c) A health care facility shall comply with Section 1418.8 with respect to a resident who lacks the capacity to make health care decisions, and there is no person with legal authority to make these decisions on behalf of the resident.

(d) The health care facility shall document in a resident's medical record whether the resident has been offered the influenza vaccine or the pneumococcal vaccine.

§ 120392.6 . . .

No person who has been offered the vaccine as required under this chapter may receive either an influenza vaccine or pneumococcal vaccine pursuant to this chapter if any of the following conditions exists: (a) The vaccine is medically contraindicated, as described in the product labeling approved by the federal Food and Drug Administration or by the

recommendations established by the Advisory Committee on Immunization Practice (ACIP) of the Centers for Disease Control and Prevention that are in effect at the time of vaccination. (b) Receipt of the vaccine is against the resident's personal beliefs. (c) Receipt of the vaccine is against the resident's wishes, or, if the person lacks the capacity to make medical decisions, is against the wishes of the person legally authorized to make medical decisions on the resident's behalf.

§ 120392.8 . . .

(a) Notwithstanding any other provision of this chapter, a health care facility shall not be required to offer immunizations for influenza and pneumococcal disease under either of the following circumstances: (1) The facility is unable to obtain the vaccine due to a shortage of the supply of vaccine. (2) The resident refuses to pay for the vaccine and there is no other funding source available to pay for the cost of the vaccine . . .

CONNECTICUT

Conn. Gen. Stat. § 19a-522. (Formerly Sec. 19-603). Regulations concerning nursing home facilities' health, safety and welfare. Regulations concerning immunization against influenza and pneumococcal disease. Reimbursement procedures . . .

(a) The commissioner shall adopt regulations, in accordance with chapter 54, concerning the health, safety and welfare of patients in nursing home facilities, classification of violations relating to such facilities, medical staff qualifications, record-keeping, nursing service, dietary service, personnel qualifications and general operational conditions. The regulations shall: (1) Assure that each patient admitted to a nursing home facility is protected by adequate immunization against influenza and pneumococcal disease in accordance with the recommendations of the National Advisory Committee on Immunization Practices, established by the Secretary of Health and Human Services; (2) specify that each patient be protected annually against influenza and be vaccinated against pneumonia in accordance with the recommendations of the National Advisory Committee on Immunization; and (3) provide appropriate exemptions for patients for whom such immunizations or medically contraindicated and for patients who object to such immunization on religious grounds . . .

Regs., Conn. State Agencies § 17a-227-16 . . .

Individuals' records shall be started at the time of admission and remain current and shall include as appropriate:

(a) reports of . . . immunizations . . .

FLORIDA

Fla. Stat. § 400.141. Administration and management of nursing home facilities . . .

Every licensed facility shall comply with all applicable standards and rules of the agency and shall . . .

(10) Keep full records of resident . . . medical and general health status, including medical records . . . including, but not limited to, prescribed services, service frequency and duration, and service goals.

(22) Before November 30 of each year, subject to the availability of an adequate supply of the necessary vaccine, provide for immunizations against influenza viruses to all its consenting residents in accordance with the recommendations of the United States Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Subject to these exemptions, any consenting person who becomes a resident of the facility after November 30 but before March 31 of the following year must be immunized within 5 working days after becoming a resident. Immunization shall not be provided to any resident who proves documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she so chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

(23) Assess all residents for eligibility for pneumococcal polysaccharide vaccination (PPV) and vaccinate residents when indicated within 60 days after the effective date of this act in accordance with the recommendations of the United States Centers for Disease Control and Prevention, subject to exemptions for medical contraindications and religious or personal beliefs. Immunization shall not be provided to any resident who provides documentation that he or she has been immunized as required by this subsection. This subsection does not prohibit a resident from receiving the immunization from his or her personal physician if he or she chooses. A resident who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

(24) Annually encourage and promote to its employees the benefits associated with immunizations against influenza viruses in accordance with the recommendations of the United States Centers for Disease Control and Prevention. The agency may adopt and enforce any rules necessary to comply with or implement this subsection.

GEORGIA

GA H.B. 1709 . . .

(a) The department shall adopt and promulgate such reasonable rules and regulates which in its judgment are necessary to protect the health and lives of patients and shall prescribe and set out the kind and quality of building, equipment, facilities, and institutional services which institutions shall have and use in order to properly care for their patients. Such rules and regulations shall require that all nursing homes annually offer unless contraindicated, contingent on availability, an influenza virus vaccine to all Medicare and Medicaid eligible patients and private pay patients in their facilities, in accordance with the rules and regulations established pursuant to this subsection, such rules and regulations shall also require that all nursing homes annually offer unless contraindicated, contingent on availability, a pneumococcal bacteria vaccine to all Medicare eligible patients and all private pay patients, 65 years of age or older, in their facilities, in accordance with the rules and regulations established pursuant to this subsection.

ILLINOIS

§ 210 ILCS 45/2-213. Vaccinations . . .

(a) A facility shall annually administer a vaccination against influenza to each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention that are most recent to the time of vaccination, unless the vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccinations for all residents age 65 and over shall be completed by November 30 of each year or as soon as practicable if vaccine supplies are not available before November 1. Residents admitted after November 30, during flue season, and until February 1, as medically appropriate, receive an influenza vaccination prior to or upon admission or as soon as practicable if vaccine supplies are not available at the time of the admission, unless the vaccine is medically contraindicated or the resident has refused vaccine. In the event that the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention determines the dates of administration other than those stated in this Act are optimal to protect the health of residents, the Department is authorized to develop rules to mandate vaccinations at those times rather than the times stated in this Act. A facility shall document in the resident's medical record than an annual vaccination against influenza was administered, refused or medically contraindicated.

(b) A facility shall provide or arrange for administration of a pneumococcal vaccination to each resident who is age 65 and over, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, who has not received this immunization prior to or upon admission to the facility, unless the resident refuses the offer for vaccination or the vaccination is medically contraindicated. A facility shall document I each resident's medical record that a vaccination against pneumococcal pneumonia was offered and administered, refused, or medically contraindicated.

§ 210 ILCS 9/76. Pneumonia shots . . .

Before a prospective resident's admission to an assisted living establishment or a shared housing establishment, the establishment shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia.

INDIANA

Burns Ind. Code Ann. § 16-28-14-1. "Medically contraindicated" defined . . .

As used in this chapter, "medically contraindicated" means that a vaccine would be detrimental to an individual's health because of a medical condition of the individual.

Burns Ind. Code Ann. § 16-28-14-2. Informed consent to be obtained . . .

(a) A health facility shall attempt to obtain informed consent from: (1) a patient; or (2) a patient's legal guardian; for a patient to participate in immunization programs conducted within the health facility while the patient is residing at the health facility.

(b) A health facility shall attempt to obtain the consent required under subsection (a): (1) upon the patient's admission, if the patient's admission occurs after June 30, 1999; or (2) before an immunization is administered, if the patient's admission occurred before July 1, 1999.

Burns Ind. Code Ann. § 16-28-14-3. Immunization required . . .

(a) Subject to obtaining a patient's informed consent under section 2(b) [IC 16-28-14-2(b)] of this chapter and subject to obtaining an order from the individual's physician to administer the immunizations, a health facility shall immunize all patients of the health facility against the following: (1) Influenza virus; (2) Pneumococcal disease.

(b) A health facility shall conduct the immunizations required under subsection (a) in accordance with the recommendations established by the Advisory Committee on Immunization Practice of the United States Centers for Disease Control and Prevention that are in effect at the time the health facility conducts the immunizations.

Burns Ind. Code Ann. § 16-28-14-4. Annual deadline for administering immunizations . . .

Except as required by section 5 [IC 16-28-14-5] of this chapter, a health facility shall administer or cause to be administered the immunizations required under this chapter before December 1 of each year if the vaccine is available.

Burns Ind. Code Ann. § 16-28-14-5. Immunization of patient admitted after December 1 . . .

(a) This section applies to an individual who becomes a patient of a health facility on or after December 1 and before April 1.

(b) A health facility shall attempt to determine the status of an individual's immunization against influenza virus and pneumococcal disease upon the individual's admission to the health facility.

(c) Subject to obtaining a patient's informed consent under section 2(b) [IC 16-28-14-2-(b)] of this chapter if the health facility determines that an individual's immunization status is deficient and subject to obtaining an order from the individual's physician to administer the immunizations, the health facility shall, as soon as possible after the individual's admission, administer or cause to be administered the immunizations required under this chapter if the vaccine is available.

Burns Ind. Code Ann. § 16-28-14-6. When immunization not required . . .

Notwithstanding any other provision of this chapter, a health facility shall not require an individual to receive an immunization under this chapter if: (1) the health facility: (A) has written documentation from the individual's physician or other health care provider indicating the date and place that the individual received an immunization required under this chapter; and (B) determines that no additional immunization is required; (2) the immunization is medically contraindicated as described in the product labeling approved by the United States Food and Drug Administration; (3) receiving the immunization is against the individual's religious beliefs; or (4) the individual refuses to permit the immunization as provided by state or federal law.

IOWA

441 IAC 82.2(249A) Licensing and certification . . .

In order to participate in the program, a facility shall be licensed as a hospital, nursing facility, or an intermediate care facility for the mentally retarded by the department of inspections and appeals under the department of inspections and appeals rules 481-Chapter 64. The facility shall meet the following conditions of participation . . .

c. Client records . . . (1) The facility shall develop and maintain a record-keeping system that includes a separate record for each client and that documents the clients' health care, active treatment, social information, and protection of the client's rights . . . (4) Any individual who makes an entry in a client's record shall make it legibly, date it, and sign it. (5) The facility shall provide a legend to explain any symbol or abbreviation used in a client's record . . .

d. Services provided under agreements with outside sources. . . . (1) If a service required under this rule is not provided directly, the facility shall have a written agreement with an outside program, resource, or service to furnish the necessary service, including emergency and other health care. (2) The agreement shall: 1. Contain the responsibilities, functions, objectives, and other terms agreed to by both parties. 2. Provide that the facility is responsible for ensuring that the outside services meet the standards for quality of services contained in this rule. 3. The facility shall ensure that outside services meet the needs of each client . . .

82.2(6) Health care services . . .

a. Physician services. (1) The facility shall ensure the availability of physician services 24 hours a day. (2) The physician shall develop, in coordination with licensed nursing personnel, a medical care plan of treatment for a client if the physician determines that an individual client requires 24-hour licensed nursing care. This plan shall be integrated in the individual program plan. (3) The facility shall provide or obtain preventive and general medical care as well as annual physical examinations of each client that at a minimum include the following . . . 2. Immunizations, using as a guide the recommendations of the Public Health Service Advisory Committee on Immunization Practices or of the Committee on the Control of Infectious Diseases of the American Academy of Pediatrics . . .

KENTUCKY

K.R.S. § 209.552. Immunization against pneumococcal disease and influenza - Documentation - Immunization of employees . . .

(1) Every long-term care facility shall require residents to be immunized against pneumococcal disease and influenza. Upon admission, the long-term care facility shall: (a) Notify the resident of the requirements of this section and request that the resident agree to be immunized against pneumococcal disease and influenza virus; (b) Assess the residents' immunization status for influenza virus and pneumococcal disease; (c) Counsel each resident on the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations of the Centers for Disease Control prior to administration of the vaccines; and (d) Provide or arrange for immunizations against pneumococcal and influenza in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers

for Disease Control, unless medically contraindicated, if the resident or long-term care facility does not have documentation of the immunization.

(2) Every long-term care facility shall document the annual immunization against influenza virus and pneumococcal immunization for each resident. Upon finding that a resident lacks either of these immunizations, the facility shall provide or arrange for the immunization in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control, unless medically contraindicated.

(3) Every long-term care facility shall require each employee to be immunized against pneumococcal and influenza virus. Upon employment, the long-term care facility shall: (a) Notify the employee of the requirements of this section and request that the employee agree to be immunized against pneumococcal disease and influenza virus; (b) Assess the employee's immunization status for influenza virus and pneumococcal disease; (c) Counsel each employee on the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations of the Centers for Disease Control prior to administration of the vaccines; and (d) Provide or arrange for immunizations against pneumococcal and influenza in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control, unless medically contraindicated, if the employee or long-term care facility does not have documentation of the appropriate immunizations.

(4) Every long-term care facility shall document the annual immunization against influenza virus and pneumococcal immunization for each employee. Upon finding that an employee lacks either or these immunizations, the facility shall provide or arrange for immunization in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control, unless medically contraindicated.

(5) The provisions of this section shall not apply if: (a) The vaccine is medically contraindicated; (b) The employee, resident, or resident's legal guardian objects to the immunizations due to religious beliefs; or (c) The employee or resident refuses the vaccine after being fully informed of the health risks.

K.R.S. § 209.554. Administrative regulations - - Educational literature - - Negotiation of price of vaccines - - Report . . .

(1) The commissioner of the department shall implement the provisions of KRS 209.550 to 209.554 through the promulgation of administrative regulations under KRS Chapter 13A.

(2) The department shall make educational literature that describes the risks of influenza and pneumococcal disease; the efficacy, side effects, and contraindications of these immunizations; and the recommendations from the Centers for Disease Control available to every long-term care facility.

(3) The department, on behalf of long-term care facilities, shall negotiate with any appropriate manufacturer of the vaccines for adult pneumococcal disease and influenza for a purchase price of the vaccines. Long-term care facilities shall be entitled to purchase the vaccines at the negotiated price for the purposes specified under KRS 290.552.

(4) The commissioner of the department shall report by September 1, 2005, to the Governor, the Interim Joint Committee on Health and Welfare, and the Legislative Research Commission on the number of outbreaks in long-term care facilities for each year due to influenza virus and pneumococcal disease and the number of hospitalizations of long-term care facility residents each year due to influenza virus, pneumococcal disease, and associated complications.

MAINE

22 M.R.S. § 802 Authority of department . . .

4-B. Exemptions to Immunization. Employees are exempt from immunization otherwise required by this subchapter or by rules adopted by the department pursuant to this section under the following circumstances.

A. A medical exemption is available to an employee who provides a physician's written statement that immunization against one or more diseases may be medically inadvisable.

B. A religious or philosophical exemption is available to an employee who states in writing a sincere religious or philosophical belief that is contrary to the immunization requirement of this subchapter.

C. An exemption is available to an individual who declines hepatitis B vaccine, as provided for by the relevant law and regulations of the federal Department of Labor, Occupational Health and Safety Administration.

5. Immunization Requirements for Nursing Facility Staff. A nursing facility or licenses assisted living facility shall adopt a facility policy that recommends and offers annual immunizations against influenza to all personnel who provide direct care to residents of the facility.

10-144 Department of Human Services; Bureau of Health; Chapter 264: Immunization Requirements for Healthcare Workers

This rule is issued pursuant to the statutory authority of the Department of Human Services to require immunization of the employees of designated health care facilities as set forth in 22 M.R.S.A. §802, as amended by P.L. 2001, Ch. 185. It prescribes the dosage for required immunizations and defines responsibilities, exclusion periods, record keeping and reporting requirements for officials of hospitals and healthcare facilities . . .

2. Immunizations Required

A. Except as otherwise provided by law, each Designated Healthcare Facility in the State of Maine shall require for all employees proof of immunization or documented immunity against: (1) Rubeola (measles); (2) Mumps; (3) Rubella (German measles); (4) Varicella (chicken pox); (5) Hepatitis B

B. In accordance with 29 CFR 1910.1030(f)(1)(i) (effective July 6, 1992) of the Occupational Safety and Health Administration (OSHA) regulations, Designated Healthcare Facilities shall make available the Hepatitis B vaccine to all health care workers with a risk of occupational exposure, at no cost to the employee.

C. All Designated Healthcare Facilities shall adopt a policy that recommends and offers annual immunizations against influenza to all personnel who provide direct care to residents of the facility.

D. No chief administrative officer may permit any employee to be in attendance at work without a certificate of immunization for each disease or other acceptable evidence of immunity to each disease, or documentation of exemption or declination.

3. Exceptions and Declinations. An employee who does not meet the immunization/immunity requirement may be permitted to attend work under the following conditions:

A. The employee presents to the designated healthcare facility a physician's written statement that immunization against one or more of these diseases is medically inadvisable. If the statement does not include all diseases, the employee must meet the immunization/immunity requirements for any diseases not covered by the statement.

B. The employee state in writing an opposition to immunization because of a sincere religious belief or for philosophical reasons.

C. Declination for Hepatitis B pursuant to OSHA Regulations: An exemption is available to an employee who declines Hepatitis B vaccination in accordance with the applicable regulations established by the Occupational Safety and Health Administration.

4. Certification of Immunization and Proof of Immunity

A. Certificate of Immunization. To demonstrate proper immunization against each disease, an employee shall present the designated healthcare facility with a Certificate of Immunization from a physician, nurse or health official who has administered the immunizing agent(s) to the employee. Physicians within their own practice may authorize their own employees to issue a certificate of immunization on behalf of the physician. The certificate shall specify the immunizing agent, and the date(s), including month and year, on which it was administered. Physicians, having reviewed official patient records created by another practitioner which indicate that a particular patient has received an immunization on a specified date, demonstrating at a minimum the month and year the immunization was given, may certify that the immunization was given. Adequately prepared secondary and/or collegiate school health records will also be considered acceptable for the purpose of meeting this requirement.

B. Proof of Immunity. To demonstrate that an employee is immune to any of the diseases, the employee shall present the hospital/facility with laboratory evidence demonstrating immunity, or other acceptable evidence of immunity. (See 7-B Individual Health Records) . . .

6. Exclusions from the Workplace.

A. Exclusion by order of Public Health Official. An employee not immunized or otherwise immune from a disease shall be excluded from the worksite, when in the opinion of a public health official, the employee's continued presence at work poses a clear danger to the health of others. The documented occurrence of a single case of rubeola (measles), mumps, rubella (German measles) or varicella (chickenpox) in a designated healthcare facility or amongst its employees may be interpreted as a clear danger to the health of others. The chief administrative officer shall exclude the employee during the period of danger or for one incubation period following immunization of the employee, when one or more cases of disease are present . . .

B. Except as otherwise provided for by law, contract or collective bargaining Agreement, an employer will not be responsible for maintaining an employee in pay status as a result of this rule.

C. When a public health official determines there are reasonable grounds to believe a public health threat exists, an exempted employee may be immunized or tested for serologic evidence of immunity. Employees without serologic evidence of immunity and those who become immunized against the disease in question at the time of a documented case or cases of disease must be excluded from the work site during one incubation period . . .

7. Records and Record Keeping . . . C. List of Non-Immunized Employees. The chief administrative officer or his/her designee in each designated healthcare facility shall keep a listing of the names of all employees within the facility who are not currently immunized or do not have documented serological immunity against each disease. The list shall include the names of all employees with authorized exemptions from immunization as well as any who are otherwise not known to be immune and shall state the reason that the employee is not immune. The purpose of the list is to provide an efficient means to rapidly contact non-immunized employees in the event of disease outbreaks and exclude them from the workplace as necessary . . .

MARYLAND

Md. Health-General Code Ann. § 18-404. Immunization against influenza virus and pneumococcal disease . . .

(b) Immunizations generally; consent - - (1) Subject to subsection (e) of this section, each related institution in the state shall immunize residents against the influenza virus and pneumococcal disease. (2) Subject to subsection (e) of this section, each related institution in the state shall immunize employees against the influenza virus. (3) Before an immunization under this section is administered, the related institution shall obtain written consent to administer the immunization from: (i) The resident or employee receiving the immunization; or (ii) The legal guardian of the resident receiving the immunization.

(c) Protocol. - - Each related institution shall conduct the immunization required under subsection (b) of this section: (1) In accordance with the recommendations established by the Advisory Committee on Immunization Practice of the United States Centers for Disease Control and Prevention that are in effect at the time the related institution conducts the immunizations; and (2) By December 1 of each year that the immunization is required . . .

(d) New residents or employees. - - A related institution that accepts an individual as a new resident or accepts an individual as a new employee after December 1 but before April 1 shall: (1) Determine the individual's status for immunization as required under subsection (b) of this section; and (2) If necessary, provide or arrange for an immunization as required under subsection (b) of this section.

(e) Circumstances under which vaccine is not required. - - A resident or employee is not required to receive a vaccine under this section if: (1) The vaccine is medically contraindicated for the resident or employee; (2) The vaccine is against the resident or employee's religious beliefs; or (3) After being fully informed by the related institution of the health risks associated with not receiving a vaccine, the resident or employee refuses the vaccine.

(f) Documentation. - - (1) (i) Each related institution shall document the annual immunization against influenza virus and immunization against pneumococcal disease received by each resident in the resident's medical record. (ii) Each related institution shall document the annual immunization against influenza virus received by each employee in the employee's personnel file. (2) If a resident or employee refused to be immunized as required under subsection (b) of this section, the related institution shall document the refusal and the reason for the refusal.

(g) Notification; educational and informational materials. - - Each related institution shall: (1) Notify each prospective resident of each prospective employee of the immunization requirements of this section and request that the resident or employee agree to be immunized in accordance with subsection (b) (3) of this section; and (2) Make available to all residents and employees of the related institution educational and informational materials relating to immunization against influenza virus and immunization against pneumococcal disease.

MICHIGAN

M.C.L.S. § 333.21332. Home for the aged; influenza vaccination . . .

Sec. 21332. A home for the aged shall offer each resident, or shall provide each resident with information and assistance in obtaining, an annual vaccination against influenza in accordance with the most recent recommendations of the advisory committee on immunization practices of the federal centers for disease control and prevention, as approved by the department of community health.

M.C.L.S. § 333.21716. Nursing home; influenza vaccination . . .

Sec. 21716. A nursing home shall offer each resident, or shall provide each resident with information and assistance in obtaining, an annual vaccination against influenza in accordance with the most recent recommendations of the advisory committee on immunization practices of the federal centers for disease control and prevention, as approved by the department of community health.

MONTANA

MONT. ADMIN. R. 37.106.2150 Health Care and Physician Services . . .

(3) The facility must provide or obtain preventive and general medical care as well as annual physical examinations of each client that at a minimum include the following . . . (b) immunizations, using as a guide the recommendations of the public health service advisory committee on immunization practices or of the committee on the control of infectious diseases of the American academy of pediatrics . . .

NEW HAMPSHIRE

NH S.B. 438; 151:9-b Immunizations by Hospitals, Residential Care Facilities, Adult Day Care Facilities, and Assisted Living Facilities. . .

I. All hospitals, residential care facilities, adult day care facilities, and assisted living facilities licensed under this chapter shall document evidence of immunization against influenza, for all consenting patients in accordance with the current recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention with respect to indications such as age, timing, dosing, and administration. Immunization of all consenting patients shall be subject to the availability of an adequate supply of the necessary vaccine, and subject to exemptions for medical

contraindications and religious beliefs. Subject to these exemptions, and in accordance with the guidelines of the Advisory Committee on Immunization Practices for the Center for Disease Control and Prevention, a consenting patient shall be immunized prior to discharge from the hospital or within 5 working days of becoming a patient in a residential care facility, adult day care facility, or assisted living facility. Receipt of the vaccination shall be documented on the patient's chart and made a part of the patient's permanent record. Prior to administration of the vaccination, diligence shall be exercised to determine whether the patient has already received the influenza vaccination for the year in question. This paragraph shall not prohibit a patient in a residential care facility, adult day care facility, or assisted living facility from receiving the immunization from his or her personal physician if he or she so chooses. A patient who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility.

II. All hospitals, residential care facilities, adult day care facilities, and assisted living facilities licensed under this chapter shall document evidence of immunization against pneumococcal disease, for all consenting patients in accordance with the current recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention with respect to indications such as age, timing, dosing, and administration. Immunization of all consenting patients shall be subject to exemptions for medical contraindications and religious beliefs. Subject to these exemptions, and in accordance with the guidelines of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention, a consenting patient shall be vaccinated prior to discharge from the hospital or within 60 days of becoming a patient in a residential care facility, adult day care facility, or assisted living facility. Receipt of the vaccination shall be documented on the patient's chart and made a part of the patient's permanent record. Prior to administration of the vaccination, diligence shall be exercised to determine whether the patient has received the pneumococcal vaccination within the preceding 10 years. This paragraph shall not prohibit a patient in a residential care facility, adult day care facility, or assisted living facility from receiving the immunization from his or her personal physician if he or she so chooses. A patient who chooses to receive the immunization from his or her personal physician shall provide proof of immunization to the facility.

III. Each hospital, residential care facility, adult day care facility, and assisted living facility licensed under this chapter shall collect aggregate data regarding patient influenza and pneumococcal immunization and shall report that data to the department of health and human services on an annual basis, beginning July 1, 2005, for calendar year 2004 data. The data shall be limited to the number of patients within the age guidelines in the current recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention receiving either or both the influenza vaccine and the pneumococcal vaccine.

IV. Before November 30 of each year, each hospital, residential care facility, adult day care facility, and assisted living facility licensed under this chapter shall provide to its consenting employees annual immunizations against influenza, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention, subject to the availability of an adequate supply of the necessary vaccine, and subject to exemptions for medical contraindications and religious beliefs. Consenting employees beginning employment between October 1 and February 1 shall be provided with immunization against influenza prior to or upon reporting to work, subject to the availability of an adequate supply of the necessary vaccine, and subject to exemptions for medical contraindications and religious beliefs.

V. The commissioner of the department of health and human services shall adopt rules, pursuant to RSA 541-A, relative to the administration and documentation of immunizations required under this section.

2. Effective Date. This act shall take effect January 1, 2005.

NEW JERSEY

N.J.A.C. § 8:39--19.4 Mandatory general policies and procedures for infection control and sanitation . . .

(i) The facility shall document evidence of vaccination against pneumococcal disease for all residents who are 65 years of age or older, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control most recent to the time of vaccination, unless such vaccination is medically contraindicated or the resident has refused offer of the vaccine in accordance with N.J.A.C. 8:39--4.1(a)4. The facility shall provide pneumococcal vaccination to residents who have not received this immunization, prior to or on admission unless the resident refuses offer of the vaccine.

NEW YORK

NY CLS Pub Health § 2192. Long-term care resident and employee immunization required . . .

Except as provided in section twenty-one hundred ninety-five of this article, every long-term care facility in this state shall require residents and employees to be immunized for influenza virus and pneumococcal disease in accordance with regulations of the commissioner.

NY CLS Pub Health § 2193. Resident immunization . . .

1. Upon admission, a long-term care facility shall notify the resident of the immunization requirements of this article and request that the resident agree to be immunized against influenza virus and pneumococcal disease.

2. Every long-term care facility shall document the annual immunization against influenza virus and immunization against pneumococcal disease for each resident. Upon finding that a resident is lacking such immunization or the long-term care facility or individual is unable to provide documentation that the individual has received the appropriate immunization, the long-term care facility shall provide or arrange for immunization. Immunization and the documentation thereof shall take place no later than November thirtieth of each year.

3. An individual who becomes a resident after November thirtieth but before April first shall have his or her status for influenza and pneumococcal immunization determined by the facility, and if found to be deficient, the facility shall provide or arrange for the necessary immunization.

NY CLS Pub Health § 2194. Employee immunization . . .

1. Every long-term care facility shall notify every employee of the immunization requirements of this article and request that the employee agree to be immunized against influenza virus and pneumococcal disease.

2. The long-term care facility shall require documentation of annual immunization against influenza virus and immunization against pneumococcal disease for each employee. Upon finding that an employee is lacking such immunization or the long-term care facility or individual is unable to provide documentation that the individual has received the appropriate immunization, the long-term care facility must provide or arrange for immunization. Immunization and the documentation thereof shall take place no later than November thirtieth of each year.

3. An individual who is newly employed as an employee after November thirtieth but before April first shall have his or her status for influenza and pneumococcal immunization determined by the facility, and if found to be deficient, the facility shall provide or arrange for the necessary immunization.

NY CLS Pub Health § 2195. Exceptions . . .

No individual shall be required to receive either an influenza vaccine or pneumococcal vaccine if the vaccine is medically contraindicated, or if it is against his or her religious beliefs, or if he or she refuses the vaccine after being fully informed of the health risks of such action.

NY CLS Pub Health § 2196. Rules and regulations; report . . .

1. The commissioner shall promulgate regulations relating to the immunization requirements of this article, taking into consideration the recommendations of the centers for disease control and prevention.

2. The commissioner is hereby directed to make available educational and informational materials to all long-term care facilities with respect to vaccination against influenza virus and pneumococcal disease.

3. The commissioner shall report three years from the effective date of this article to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly on the number of outbreaks in long-term care facilities each year due to influenza virus and pneumococcal disease and number of hospitalizations of long-term care facility residents each year due to influenza virus, pneumococcal disease and complications thereof.

NORTH CAROLINA

N.C. Gen. Stat. § 131D-9. Immunization of employees and residents of adult care homes . . .

(a) Except as provided in subsection (e) of this section, an adult care home licensed under this Article shall require residents and employees to be immunized annually against influenza virus and shall require residents to also be immunized against pneumococcal disease.

(b) Upon admission, the adult care home shall notify the resident of the immunization requirements of this section and shall request that the resident agree to be immunized against influenza virus and pneumococcal disease.

(b1) An adult care home shall notify every employee of the immunization requirements of this section and shall request that the employee agree to be immunized against the influenza virus.

(c) An adult care home shall document the annual immunization against influenza virus and the immunization against pneumococcal disease for each resident and each employee, as required under this section. Upon finding that a resident is lacking one or both of these immunizations or that an employee has not been immunized against influenza virus, or if the adult care home is unable to verify that the individual has received the required immunization, the adult care home shall provide or arrange for immunization. The immunization and documentation required shall occur not later than November 30 of each year.

(d) For an individual who becomes a resident of or who is newly employed by the adult care home after November 30 but before March 30 of the following year, the adult care home shall determine the individual's status for the immunizations required under this section, and if found to be deficient, the adult care home shall provide the immunization.

(e) No individual shall be required to receive vaccine under this section if the vaccine is medically contraindicated, or if the vaccine is against the individual's religious beliefs, or if the individual refuses the vaccine after being fully informed of the health risks of not being immunized.

(f) Notwithstanding any other provision of law to the contrary, the Health Services Commission shall have the authority to adopt rules to implement the immunization requirements of this section . . .

N.C. Gen. Stat. § 131E-113. Immunizations of employees and residents . . .

(a) Except as provided in subsection (e) of this subsection, a nursing home licensed under the Part shall require residents and employees to be immunized against influenza virus and shall require residents to also be immunized against pneumococcal disease.

(b) Upon admission, a nursing home shall notify the resident of the immunization requirements of this section and shall request that the resident agree to be immunized against influenza virus and pneumococcal disease.

(b1) A nursing home shall notify every employee of the immunization requirements of this section and shall request that the employee agree to be immunized against influenza virus.

(c) A nursing home shall document the annual immunization against influenza virus and the immunization against pneumococcal disease for each resident and each employee, as required under this section. Upon finding that a resident is lacking one or both of these immunizations or that an employee has not be immunized against influenza virus, or if the nursing home is unable to verify that the individual has received the required immunization, the nursing home shall provide or arrange for immunization. The immunization and documentation required shall occur not later than November 30 of each year.

(d) For an individual who becomes a resident of or who is newly employed by the nursing home after November 30 but before March 30 of the following year, the nursing home shall determine the individual's status for the immunizations required under this section, and if found to be deficient, the nursing home shall provide the immunization.

(e) No individual shall be required to receive vaccine under this section if the vaccine is medically contraindicated, of if the vaccine is against the individual's religious beliefs, of if the individual refuses the vaccine after being fully informed of the health risks of not being immunized.

(f) Notwithstanding any other provision of law to the contrary, the Health Services Commission shall have the authority to adopt rules to implement the immunization requirements of this section.

OKLAHOMA

OKLA. ADMIN. CODE § 310:675-9-31 (2003); Influenza and pneumococcal vaccinations

a) Each facility shall document evidence of the offering of annual vaccination against influenza for each resident and for each employee, in accordance with the Recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention most recent to the time of vaccination.

(b) Each facility shall document evidence of the offering of vaccination against pneumococcal disease for each resident, in accordance with the Recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention most recent to the time of vaccination.

(c) The immunization provided for in this section may be waived because of medical contraindication or may be refused. Documentation of the vaccination, medical contraindication or refusal shall be recorded in the resident's medical or care record. If the resident is not vaccination, the documentation in the resident record shall include a statement signed by the resident, the resident's representative, or the resident's physician as appropriate.

(d) Attending physicians may establish standing orders for the administration of influenza and pneumococcal immunizations in accordance with the Recommendations of the Advisory Committee on Immunization Practices for the Centers for Disease Control and Prevention most recent to the time of vaccination.

OREGON

ORS § 433.416. When employer to provide preventive immunization . . .

(1) An employer of a health care worker at risk of contracting an infectious disease in the course of employment shall provide the worker preventive immunization for infectious disease if such preventive immunization is available and is medically appropriate.

(2) Such preventive immunization shall be provided by the employer at no cost to the worker.

(3) A worker shall not be required as a condition of work to be immunized under this section, unless such immunization is otherwise required by federal or state law, rule, or regulation.

OR ADMIN. R. 333-092-0075. Control of Infections, Contagious, and Communicable Disease in Nursing Homes for the Mentally Retarded . . .

(6) All residents shall be immunized and vaccinated for smallpox, diphtheria, tetanus, measles, polio, and pertussis. In addition, when indicated, immunization against influenza shall be required.

OR. ADMIN. R. 411-070-0085. All-Inclusive Rate . . .

(1) Purpose. The nursing facility rate established for a facility shall be an all-inclusive rate and is intended to include all services, supplies and facility equipment require for care except therapy services, supply item(s) or equipment covered under OAR 411-070-0359(3) (Third-Party Payors) . . . (b) The following services and supplies are NOT included in the all-inclusive rate: (D) Biologicals (e.g., immunization vaccines) . . .

PENNSYLVANIA

35 P.S. § 632.4. Resident immunization . . .

(a) Notice to Resident. - - Upon admission, the facility shall notify the resident and legal guardian of the immunization requirements of this act and request that the resident agree to be immunized against influenza virus and pneumococcal disease.

(b) Records and Immunizations. - - Every facility shall document the annual immunization against influenza virus and immunization against pneumococcal disease for each resident, which includes written evidence from a health care provider indicating the date the vaccine was administered. Upon finding that a resident is lacking such immunization or the facility or individual is unable to provide documentation that the individual has received the appropriate immunization, the facility shall make available the immunization. The immunization and documentation shall take place in a manner consistent with the recommendations of the Centers for Disease Control and Prevention.

35 P.S. § 632.5. Employee immunization . . .

(a) Notice to Employees. - - Every facility shall notify every employee of the immunization requirements of this act and request that the employee agree to be immunized against influenza virus.

(b) Records and Immunizations. - - The facility shall require documentation of annual immunization against influenza virus for each employee, which includes written evidence from a health care provider indicating the date and location the vaccine was administered. These documents shall be maintained by the facility for not less than 18 months. Upon finding that an employee is lacking such immunization or the facility or individual is unable to provide documentation that the individual has received the appropriate immunization, the facility shall make available the immunization. The immunization and documentation shall take place in a manner consistent with the recommendations of the Centers for Disease Control and Prevention.

(c) Immunization authorized. - - Nothing in this section shall prohibit the immunization against pneumococcal disease to employees.

RHODE ISLAND

R.I. Gen. Laws § 23-17.19-3. Long-term care resident and employee immunization . . .

Except as provided in §23-17.19-6, every facility in this state shall request that residents and employees be immunized for influenza virus and pneumococcal disease in accordance with this chapter.

R.I. Gen. Laws § 23-17.19-4. Resident immunization . . .

(a) Notice to resident. Upon admission, the facility shall notify the resident and legal guardian of the immunization requirements of this chapter and request that the resident agree to be immunized against influenza virus and pneumococcal disease.

(b) Records and immunizations. Every facility shall document the annual immunization against influenza virus and immunization against pneumococcal disease for each resident which includes written evidence from a health care provider indicating the date and location the vaccine was administered. Upon finding that a resident is lacking the immunization or the facility or individual is unable to provide documentation that the individual has received the appropriate immunization, the facility shall make available the immunization. Immunization and the documentation of the immunization shall take place no later than November 30 of each year.

(c) Other immunizations. An individual who becomes a resident after November 30 and prior to April 1 of the following year shall have his or her status for influenza and pneumococcal immunization determined by the facility, and, if found to be deficient, the facility shall make available the necessary immunizations.

R.I. Gen. Laws § 23-17.19-5. Employee immunization . . .

(a) Notice to employees. Every facility shall notify every employee of the immunization requirements of this chapter and request that the employee agree to be immunized against influenza virus.

(b) Records and immunizations. The facility shall require documentation of annual immunization against influenza virus for each employee, which includes written evidence from a health care provider indicating the date and location the vaccine was administered. Upon finding that an employee is lacking the immunization, the facility shall make available the immunization. Immunization and the documentation of the immunization shall take place no later than November 30 of each year.

(c) Other immunizations. An individual who is newly employed as an employee and after November 30 and prior to April 2 shall have his status for influenza determined by the facility, and if found to be deficient, the facility shall make available the necessary immunization.

(d) Immunization authorized. Nothing in this section shall prohibit the immunization against pneumococcal disease to employees.

R.I. Gen. Laws § 23-17.19-6. Exceptions . . .

No resident or employee shall be required to receive either the influenza or pneumococcal vaccine if any of the following apply: (1) the vaccine is contraindicated; (2) It is against his or her religious beliefs; or (3) The resident or the resident's legal guardian refuses the vaccine after being fully informed of the health risks of that action.

R.I. Gen. Laws § 23-17.19-7. Regulations . . .

(a) Promulgation by department. The department shall promulgate regulation relating to the immunization requirements of this chapter, taking into consideration the recommendations of the advisory committee on immunization practices (ACIP) of the centers for disease control and prevention.

(b) Educational materials. The department, in conjunction with the department of elderly affairs, shall make available educational and informational materials to all facilities with respect to vaccination against influenza virus and pneumococcal disease.

(c) Report to general assembly. Three (3) years from July 13, 2000, the department shall report to the general assembly on the number of outbreaks in facilities each year due to influenza virus and pneumococcal disease. The number of hospitalizations of facility residents each year due to influenza virus, pneumococcal disease, and complications of those must be reported as well.

SOUTH DAKOTA

ARSD 46:17:05:02. Physician services . . .

SDDC shall ensure the availability of physician services 24 hours a day. SDDC shall provide or obtain preventive and general medical care as well as annual physical examinations of each individual that, at a minimum, include the following . . .

(2) Immunizations . . .

TENNESSEE

Tenn. Comp. R. & Regs. R. 1200-8-6.06. Basic Services . . .

(3) Infection Control . . . (g) The facility shall document evidence of annual vaccination against influenza for each resident, in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control most recent to the time of the vaccine. Influenza vaccination is medically contraindicated or the resident has refused the vaccine. Influenza vaccination for all residents accepting the vaccine shall be completed by November 30 of each year or within ten (10) days of the vaccine becoming available. Residents admitted after this date during the flu season and up to February 1, shall as medically appropriate, receive influenza vaccination prior to or on admission unless refused by the resident.

The facility shall document evidence of vaccination against pneumococcal disease for all residents who are 65 years of age or older, in accordance with the recommendation of the Advisory Committee on Immunization Practices of the Centers for Disease Control at the time of vaccination, unless such vaccination is medically contraindicated or the resident has refused offer of the vaccine. The facility shall provide or arrange the pneumococcal vaccination of residents who have not received this immunization prior to or on admission unless the resident refuses offer of the vaccine . . .

TEXAS

Tex. Health & Safety Code § 161.0051. Required Immunizations for Nursing Homes . . .

(b) The board by rule may require nursing homes to offer, in accordance with an immunization schedule adopted by the board, immunizations to elderly residents or staff who are in contact with elderly residents against diseases that the board determines to be: (1) caused by infectious agents; (2) potentially deadly; and (3) preventable by vaccine.

(c) The board by rule shall require nursing homes to offer, in accordance with an immunization schedule adopted by the board: (1) pneumococcal vaccine to elderly residents; and (2) influenza vaccine to elderly residents and to staff who are in contact with elderly residents.

25 T.A.C. § 97.201. Facilities Included in Requirements . . .

These requirements apply to nursing homes that are licensed institutions which serve residents who are elderly persons as defined by the Health and Safety Code, § 242.002.

25 T.A.C. § 97.202. Required Immunizations . . .

(a) Nursing homes are required to offer in accordance with an immunization schedule adopted by the Texas Department of Health.

(1) Pneumococcal vaccine for residents. The facility must offer pneumococcal vaccine to all residents 65 years of age or older who have not received this immunization and to residents younger than 65 years of age who have not received this vaccine but are candidates for vaccination because of chronic illness. Pneumococcal vaccine must be offered both to residents who currently reside in the facility and to new residents upon admission. Vaccination must be completed unless the vaccine is medically contraindicated by a physician or the resident refuses the vaccine. Vaccine administration must be in accordance

with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention at the time of the vaccination.

(2) Influenza vaccinations for residents and employees. The facility must offer influenza vaccination to residents and employees in contact with residents. Vaccination must be completed unless the vaccine is medically contraindicated by a physician or unless the employee or resident has refused the vaccine.

(A) Influenza vaccination for all residents and employees must be completed by November 30 of each year. Employees hired or residents admitted after this date and during the influenza season (through February of each year) must receive influenza vaccinations unless medically contraindicated by a physician or unless the employee or resident has refused the vaccine.

(B) Vaccine administration must be in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention at the time of the most recent vaccination.

(b) Documentation of receipt or refusal of vaccinations. Immunization records will be maintained for each employee in contact with residents and will show the date of the receipt or refusal of each annual influenza vaccination. The medical record for each resident will show the date of the receipt or refusal of the annual influenza vaccination and the pneumococcal vaccine.

40 TAC § 19.1601. Infection Control . . .

The facility must establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment and to help prevent the development and transmission of disease and infection.

(1) Infection control program. The facility must establish an infection control program under which it: (A) investigates, controls, and prevents infections in facility; (B) decides what procedures, such as isolation should be applied to an individual resident; and (C) maintains a record of incidents and corrective actions related to infections. . . .

(2) Preventing spread of infection. . . .(E)The facility must have written policies for the control of communicable diseases in employees and residents and must maintain evidence of compliance with local and/or state health codes or ordinances regarding employee and resident health status . . . (ii) Hepatitis B . . . (I) The facility's policy regarding hepatitis B vaccinations must address all circumstances warranting these vaccinations and identify employees at risk of directly contacting blood or potentially infectious materials. (II) All these employees must be offered hepatitis B vaccinations within 10 days of employment. If the employee initially declines hepatitis B vaccination but at a later date, while still at risk of directly contacting blood or potentially infectious materials, decides to accept vaccination, the facility must make the vaccination available at that time.

(3) Vaccinations. Facilities are required to offer vaccinations in accordance with an immunization schedule adopted by the Texas Department of Health.

(A) Pneumococcal vaccine for residents. The facility must offer pneumococcal vaccination to all residents 65 years of age or older who have not received this immunization and to residents younger than 65 years of age, who have not received this vaccine, but are candidates for vaccination because of chronic illness. Pneumococcal vaccine must be offered both to residents who currently reside in the facility and to new residents upon admission. Vaccination must be completed unless the vaccine is medically contraindicated by a physician or the resident refuses the vaccine. Vaccine administration must be in accordance with the recommendations of the Advisory Committee on immunization Practices of the Centers for Disease Control and Prevention at the time of the vaccination.

(B) Influenza vaccinations for residents and employees. The facility must offer influenza vaccine to residents and employees in contact with residents, unless the vaccine is medically contraindicated by a physician or the employee or resident has refused the vaccine. (i) Influenza vaccination for all residents and employees in contract with residents must be completed by November 30 of each year. Employees hired or residents admitted after this date and during the influenza season (through February of each year) must receive influenza vaccinations, unless medically contraindicated by a physician or the employee or resident refuses the vaccine. (ii) Vaccine administration must be in accordance with the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention at the time of the most recent vaccination.

(C) Documentation of receipt or refusal of vaccination. Immunization records must be maintained for each employee in contact with residents and must show the date of the receipt or refusal of each annual influenza vaccination. The medical record for each resident must show the date of the receipt or refusal of the annual influenza vaccination and the pneumococcal vaccine . . .

UTAH

R432-40-4. Policy and Procedures . . .

Each long-term health care facility shall implement written policies and procedures that include: (1) a comprehensive assessment and immunization program for residents and employees; (2) how and when to provide the influenza and pneumococcal immunizations; (3) standing orders from a qualified health care practitioner to ensure residents obtain influenza and pneumococcal immunizations; and (4) collection and recording of resident-specific immunization history information for each resident admitted to the facility

R432-40-5. Immunization Offer and Exemptions . . .

(1) Each long-term health care facility shall make available to all employees an influenza immunization during the recommended vaccine season. The facility shall be deemed to have made influenza immunization available if the facility documents that each employee on staff had the opportunity to receive an influenza immunization under their existing health plan coverage. If the employee does not have health plan coverage for influenza immunization, then the facility shall be deemed to have made influenza immunization available if the facility documents that each employee on staff had the opportunity to receive an influenza immunization at a cost to the employee that is at or below that charged by their local health department.

(2) Each long-term health care facility shall documents circumstances beyond its control that prevent it from providing immunizations, such as non-availability of vaccine. If the facility is unable to obtain the necessary vaccines, it shall provide documentation and request an alternative plan from the local health department or Utah Department of Health.

(3) The following are exempt from influenza and pneumococcal immunizations: (a) a resident, or the resident’s responsible person if the resident is unable to act for himself, who has refused the immunization(s) after haven been given the opportunity to be immunized; and (b) an employee who has refused the immunization(s) after having been given the opportunity to be immunized; (c) a resident or employee who has a condition contraindicated for immunization according to the Centers for Disease Control and Prevention’s Advisory Committee on Immunization Practice (ACIP) recommendations for influenza vaccine or for pneumococcal vaccine.

(2) For each resident and employees who is not immunized, the facility shall document in the resident’s or employees respective files the reason for not becoming immunized. The long-term care facility shall annually make influenza and pneumococcal immunizations available to all residents and employees who have claimed an exemption. The long-term care facility shall document each refusal to receive and medical contraindication to influenza and pneumococcal immunizations.

R432-152-16. Physician Services . . .

(e) The facility shall provide or obtain preventive and general medical care as well as annual physical examinations of each client that at a minimum includes . . . (ii) immunizations, using as a guide the recommendations of the Public Health Service Advisory Committee on Immunization Practices or of the Committee on the Control of Infectious Diseases of the American Academy of Pediatrics . . .

VIRGINIA

Section 32.1-127. Regulations . . .

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (Section 32.1-138 et seq.) of this chapter.

B. Such regulations . . . 12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the advisory committee on immunization practices of the centers for disease control and prevention . . .

WASHINGTON

§ 74.42.285. Immunization - - Rules . . .

(1) Long-term care facilities shall: (a) Provide access on-site or make available elsewhere for all residents to obtain the influenza virus immunization on an annual basis; (b) Require that each resident, or the resident’s legal representative, upon admission to the facility, be informed verbally and in writing of the benefits of receiving the influenza virus immunization and, if not previously immunized against pneumococcal disease, the benefits of the pneumococcal immunization.

(2) As used in this section, “long-term care facility” is limited to nursing homes licenses under chapter 18.51 RCW.

(3) The department of social and health services shall adopt rules to implement this section . . .

(1) This section and rules adopted under this section shall not apply to nursing homes conducted for those who rely exclusively upon treatment by nonmedical religious healing methods, including prayer.

WAC § 388-97-143. Influenza and pneumococcal immunizations . . .

(1) The nursing home shall provide residents access on-site or make available elsewhere, the ability to obtain the influenza virus immunization on an annual basis.

(2) Upon admission, the nursing home shall inform residents or the resident’s representative, verbally and in writing, of the benefits of receiving the influenza virus immunization and the pneumococcal disease immunization.

(3) Nursing homes who rely exclusively upon treatment by nonmedical religious healing methods, including prayer, are exempt from the above rules.

APPENDIX 2 – DEFINITIONS OF LTC FACILITIES FROM STATE AND FEDERAL LAWS/REGULATIONS

ALABAMA

Code of Ala. § 22-21-10. Flu and pneumonia vaccination program

As used in this section, the following words have the following meanings . . . (2) Long term care facility. The term includes a skilled nursing facility, intermediate care facility, specialty care assisted living facility or dementia care facility, or an assisted living facility licensed under this chapter . . .

ARIZONA

A.R.S. § 36-401. Definitions; adult foster care

A. In this chapter, unless the context otherwise requires . . . 10. “Assisted living facility” means a residential care institution, including adult foster care, that provides or contracts to provide supervisory care services, personal care services or directed care services on a continuing basis . . . 33. “Nursing care institution” means a health care institution providing inpatient beds or resident beds and nursing services to persons who need nursing services on a continuing basis but who do not require hospital care or direct daily care from a physician . . .

ARKANSAS

A.C.A. § 20-10-1303. Definitions

As used in this subchapter . . . (3) (A) “Nursing home facilities” means facilities that include any building, structure, agency, institution, or place for 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 for which reception, accommodation, board, care, ore treatment a charge is made. (B) Provided, the term “nursing home” shall not include the offices of private physicians and surgeons , residential health care facilities, hospitals, institutions operated by the federal government, any other similar facility where individuals reside, or 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 . . .

CALIFORNIA

CHAPTER 36, SECTION 1. Chapter 1.6 (commencing with Section 120392) is added to Part 2 of Division 105 of the Health and Safety Code, to read:

CHAPTER 1.6. INFLUENZA AND PNEUMOCOCCAL IMMUNIZATIONS

120392. For purposes of this chapter, the following definitions apply: (a) "Health care facility" means a skilled nursing facility as defined in subdivision (c) of Section 1250, an intermediate care facility as defined in subdivision (d) of Section 1250, or a nursing facility as defined in subdivision (k) of Section 1250. This chapter shall not apply to hospital-based skilled nursing facilities . . .

CONNECTICUT

Conn. Gen. Stat. § 19a-490 (Formerly Sec. 19-576). Licensing of institutions. Definitions.

As used in this chapter. (a) “Institution” means a hospital, residential care home, health care facility for the handicapped, nursing home, rest home, home health care agency, homemaker-home health aide agency, mental health facility, substance abuse treatment facility, an infirmary operated by an educational institution for the care of students enrolled in, and faculty and employees of, such institution; a facility engaged in providing services for the prevention, diagnosis, treatment or care of human health conditions, including facilities operated and maintained by any state agency, except facilities for the care or treatment of mentally ill persons or persons with substance abuse problems; and a residential facility for the mentally retarded licensed pursuant to section 17a-227 and certified to participate in the Title XIX Medicaid program as an intermediate care facility for the mentally retarded . . . (c) “Residential care home”, “nursing home”, or “rest home” means an establishment which furnishes in single or multiple facilities, food and shelter to two or more persons unrelated to the proprietor and, in addition, provides services which meet a need beyond the basic provisions of food, shelter and laundry . . .

Conn. Gen. Stat. § 19a-521. (Formerly Sec. 19-602). Nursing home facilities. Definitions.

As used in this section and sections 19a-522 to 19a-534, inclusive, 19a-536 to 19a-539, inclusive, and 19a-550 to 19a-554, inclusive, unless the context otherwise requires: "Nursing home facility" means any nursing home or residential care home as defined in section 19a-490 or any rest home with nursing supervision which provides, in addition to personal care required in a residential care home, nursing supervision under a medical director twenty-four hours per day, or any chronic and convalescent nursing home which provides skilled nursing care under medical supervision and direction to carry out nonsurgical treatment and dietary procedures for chronic diseases, convalescent stages, acute diseases or injuries; "department" means the Department of Public Health and "commissioner" means the Commissioner of Public Health or the commissioner's designated representative.

FLORIDA

Fla. Stat. § 400.021. Definitions

When used in this part, unless the context otherwise requires, the term . . .(8) “Facility” means any institution, building, residence, private home, or other place, whether operated for profit or not, including a place operated by a county or municipality, which undertakes through its ownership or management to provide for a period exceeding 24-hour nursing care, personal care, or custodial care for three or more persons not related to the owner or manager by blood or marriage, who by reason of illness, physical infirmity, or advanced age require such services, but does not include any place providing care and treatment primarily for the acutely ill. A facility offering services for fewer than three persons is within the meaning of this definition if it holds itself out to the public to be an establishment which regularly provides such services . . .(13) “Nursing home facility” means any facility which provides nursing services as defined in part 1 of chapter 464 and which is licenses according to this part . . .

GEORGIA

O.C.G.A. § 31-7-1. Definitions

As used in this chapter, the term: (1) “Institution” means . . . (B) Any building, facility, or place in which are provided two or more beds and other facilities and services that are used for persons received for examination, diagnosis, treatment, surgery, maternity care, nursing care, or personal care for periods continuing for 24 hours or longer and which is classified by the department, as provided for in this chapter, as either a hospital, nursing home, or personal care home . . .

ILLINOIS

210 ILCS 45/1-113. Facility or long-term care facility

Sec. 1-113. “Facility” or “long-term care facility” means a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the counties Code [55 ILCS 5/5-21001 et seq. or 55 ILCS 5/5-22001 et seq.], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII [42 U.S.C. § 1395 et seq.] and Title XIX of the Federal Social Security Act [42 U.S.C. § 1396 et seq.]. It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veteran’s Affairs.

“Facility” does not include the following:

- (1) A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois, other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veteran’s Affairs;
- (2) A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefore, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85/1 et seq.];
- (3) Any “facility for child care” as defined in the Child Care Act of 1969 [225 ILCS 10/1 et seq.];
- (4) Any “Community Living Facility” as defined in the Community Living Facilities Licensing Act [210 ILCS 35/1 et seq.];
- (5) Any “community residential alternative” as defined in the Community Residential Alternatives Licensing Act [repealed];
- (6) Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-organized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;
- (7) Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135/1 et seq.];
- (8) Any “Supportive Residence” licensed under the Supportive Residences Licensing Act [210 ILCS 135/1 et seq.];
- (9) Any “supportive living facility” in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];
- (10) Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9/1 et seq.]; or
- (11) An Alzheimer’s disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3/1 et. seq.].

KENTUCKY

KRS § 209.550. Definitions for KRS 209.550 to 209.554

As used in KRS 209.550 to 209.554, unless the context requires otherwise . . . (6) “Long-term care facility” has the same meaning as in KRS 216.510, except that for purposes of KRS 209.550 to 209.554, “long-term care facility” does not include family-care homes or personal-care homes.

KRS § 216.510. Definitions for KRS 216.515 to 216.530

As used in KRS 216.515 to 216.530: (1) “Long-term-care facilities” means those health-care facilities in the Commonwealth which are defined by the Cabinet for Health Services to be family-care homes, personal-care homes, intermediate-care facilities, skilled-nursing facilities, nursing facilities as defined in Pub. L. 100-203, nursing homes, and intermediate-care facilities for the mentally retarded and developmentally disabled . . .

MAINE

22 M.R.S. § 1812-A. Nursing home defined

A nursing home facility shall be defined as a facility which is operated in connection with a hospital, or in which nursing care and medical services are prescribed by or performed under the general direction of persons licenses to practice medicine or surgery in the State, for the accommodation of convalescent or other persons who are not acutely ill and not in need of hospital care, but who do require skilled nursing care and related medical services. The term ‘nursing home’ or ‘nursing facility’ is restricted to those facilities, the purpose of which is to provide skilled nursing care and related medical services for a period of not less than 24 hours per day to individuals admitted because of illness, disease or physical or mental infirmity and which provides a community service.

MARYLAND

Md. HEALTH-GENERAL Code Ann. § 18-404. Immunization against influenza virus and pneumococcal disease

(a) Definitions. - - (1) In this section the following words have the meanings indicated . . . (3) “Related institution” has the meaning provided under § 19-301 (o) of this article . . .

Md. HEALTH-GENERAL Code Ann. § 19-301. Definitions

(a) In general. - - In this subtitle the following words have the meanings indicated . . . (o) Related institution - - (1) “Related institution” means an organized institution, environment, or home that: (i) Maintains conditions or facilities and equipment to provide domiciliary, personal, or nursing care for 2 or more unrelated individuals who are dependent on the administrator, operator, or proprietor for nursing care or the subsistence of daily living in a safe, sanitary, and healthful environment; and (ii) Admits or retains the individuals for overnight care. (2) “Related institution” does not include a nursing facility or visiting nurse service that is conducted only by or for adherents of a bona fide church or religious organization, in accordance with tenets and practices that include reliance on treatment by spiritual means alone for healing.

MICHIGAN

MCLS § 333.21311. Home for the aged, definition, license requirement; admission eligibility; exceptions.

Sec. 21311. (1) A home for the aged shall be licensed under this article. (2) “Home for the aged” or a similar term or abbreviation shall not be used to describe or refer to an institution or agency unless the institution or agency is licensed as a home for the aged by the department under this article. (3) Except as otherwise provided in this subsection, a home for the aged shall not admit individuals under 60 years of age. Upon the request of a home for the aged, the director may waive the age limitation imposed by this subsection if the director determines that a waiver would be in the best interests of a resident of the home for the aged and the individual for whom the waiver is sought.

MCLS § 333.21712. Name of nursing home; change in name; prohibited terms; rehabilitation services.

Sec. 21712. (1) A nursing home shall use the name that appears on the license for its premises. A nursing home shall not change its name without the approval of the department. (2) A nursing home shall not use the terms “hospital” or “sanitarium” or a term conveying a meaning that is substantially similar to those terms in the name of the nursing home. However, a nursing home may use the term “health center” or “health care center” or “rehabilitation center” or a term conveying a meaning substantially similar to those terms as long as those terms do not conflict with the terms prohibited by this subsection. (3) If a nursing home uses the term “rehabilitation center” in its name as allowed under subsection (2), the nursing home shall have the capacity to provide rehabilitation services that include, at a minimum, all of the following: (a) physical therapy services. (b) Occupational therapy services. (c) Speech therapy services. (4) A nursing home shall not include in its name the name of a religious, fraternal, or charitable corporation, organization, or association unless the corporation, organization, or association is an owner of the nursing home.

MONTANA

MONT. ADMIN. R. 37.106.2102. Definitions

(16) “Long term care facility” is defined at 50-5-101, MCA.

MCA § 50-5-101 Definitions

(35) (a) “Long-term care facility” means a facility or part of a facility that provides skilled nursing care, residential care, intermediate nursing care, or intermediate developmental disability care to a total of two or more individuals or that provides personal care. (b) The term does not include community homes for persons with developmental disabilities licensed under 53-20-305; community homes for persons with severe disabilities, licensed under 52-4-203; youth care facilities, licensed under 52-2-622; hotels, motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or individuals who do not require institutional care; or juvenile and adult correctional facilities operating under the authority of the department of corrections.

NEW JERSEY

N.J.A.C. § 8:39-1.2 Definitions

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise . . . “Facility” means a facility or distinct part of a facility licensed by the New Jersey State Department of Health and Senior Services as a long-term care facility.

NEW YORK

NY CLS Pub Health § 2191. Definitions

For the purposes of this article: 1. “long-term care facility” or “facility” means a residential health care facility as defined in section twenty-eight hundred one of this chapter, adult home as defined in subdivision twenty-five of section two of the social services law or enriched housing program as defined in subdivision twenty-eight of section two of the social services law, adult day health care program in accordance with regulations of the department, and any other facility providing residential housing for five or more persons over the age of sixty-five unrelated to the operator and supportive services including, but not limited to, food services, housekeeping, laundry, arranging for medical care, and assistance with daily living . . .

NY CLS Pub Health § 2801. Definitions

The following words or phrases, as used in this article, shall have the following meanings, unless the context otherwise requires . . . 3. “Residential health care facility” means a nursing home or a facility providing health-related service . . .

NORTH CAROLINA

NC Gen. Stat. §131E-101. Definitions

As used in this Part, unless otherwise specified: (1) “Adult care home”, as distinguished from a nursing home, means a facility operated as a part of a nursing home and which provides residential care for aged or disabled persons whose principal need is a home with the shelter or personal care their age or disability requires. Medical care in an adult care home is usually occasional or incidental, such as may be required in the home of any individual or family, but the administration of medication is supervised. Continuing planned medical and nursing care to meet the resident’s needs may be provided under the direct supervision of a physician, nurse, or home health agency. Adult care homes are to be distinguished from nursing homes subject to licensure under this Part . . . (6) “Nursing home” means a facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A “nursing home” is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A “nursing home” provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision . . .

OREGON

Or. Admin. R. 333-02-0000, Definitions

(1) A “Nursing Home for the Mentally Retarded” means any institution or health facility which: (a) Operates and maintains facilities and a wide range of services exclusively for two or more mentally retarded residents in whom there is subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior; (b) Provides or any combination of classes of care as defined in OAR 333-092-0040(6)(a) through (e) . . .

PENNSYLVANIA

35 P.S. § 632.2. Definitions

The following words and phrases when used in this act shall have the meaning given to them in this section unless the context clearly indicates otherwise . . . “Long-term care facility” or “facility. A long-term care nursing facility as defined in section 802.1 of the act of July 19, 1979 (P.L. 130, No. 48), known as the Health Care Facilities Act.

35 P.S. §448.802a. Definitions

. . . “Long-Term Care Nursing Facility.” A facility that provides either skilled or intermediate nursing care or both levels of care to two or more patients, who are unrelated to the licensee, for a period exceeding 24 hours. Intermediate care facilities exclusively for the mentally retarded, commonly called ICF/MR, shall not be considered long-term care nursing facilities for the purpose of this act and shall be licensed by the Department of Public Welfare.

RHODE ISLAND

R.I. Gen. Laws § 23-17-19.2. Definitions

The following words and phrases when used in this chapter have the meanings given to them in this section unless the content clearly indicates otherwise . . . (3) “Long-term care facility or facility” means a health care facility as defined in chapter 17 of this title, which provides long-term health care.

TEXAS

TEX. Health and Safety Code §242.002. Definitions

. . . (6) “Institution” means an establishment that: (A) furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment; and (B) provides minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical Examiners, or other services that meet some need beyond the basic provision of food, shelter, and laundry . . . (6) “Facility” means an institution . . . (8) “Home” means an institution . . . (10) “Institution” means: (A) an establishment that: (i) furnishes, in one or more facilities, food and shelter to four or more persons who are unrelated to the proprietor of the establishment; and (ii) provides minor treatment under the direction and supervision of a physician licensed by the Texas State Board of Medical examiners, or other services that meet some need beyond the basic provision of food, shelter, and laundry; or (B) a foster care type residential facility that provides room and board to fewer than five persons who: (i) are not related within the second degree of consanguinity or affinity, as determined under Chapter 573, Government Code, to the proprietor; and (ii) because of their physical or mental limitation, or both, require a level of care and services suitable to their needs that contributes to their health, comfort and welfare . . .

UTAH

U.A.C. R432-40-3. Definitions.

As used in this rule: “Long-term care facility” means a nursing care facility, small health care facility, assisted living type I and type II, intermediate care facility for the mentally retarded, and swing bed unit of a general acute care hospital.

VIRGINIA

Va. Code Ann. § 32.1-123. Definitions

As used in this article unless a different meaning or construction is clearly required by the context or otherwise:

“Certified nursing facility: means any skilled nursing facility, skilled care facility, intermediate care facility, nursing or nursing care facility, or nursing home, whether freestanding or a portion of a freestanding medical care facility, that is certified as a Medicare or Medicaid provider, or both, pursuant to § 32.1-137.

“Nursing home” means any facility or any identifiable component of any facility licensed pursuant to this article in which the primary function is the provision, on a continuing basis, of nursing services and health-related services for the treatment and inpatient care of two or more nonrelated individuals, including facilities known by varying nomenclature or designation such as convalescent homes, skilled nursing facilities or skilled care facilities, intermediate care facilities, extended care facilities and nursing or nursing care facilities.

WASHINGTON

Rev. Code Wash. (ARCW) § 74.42.010. Definitions

Unless the context clearly requires otherwise, the definitions in this section apply through this chapter . . . (2) “Facility” refers to a nursing home as defined in RCW 18.51.010

Rev. Code Wash. (ARCW) § 18.51.010. Definitions

(1) "Nursing home" means any home, place or institution which operates or maintains facilities providing convalescent or chronic care, or both, for a period in excess of twenty-four consecutive hours for three or more patients not related by blood or marriage to the operator, who by reason of illness or infirmity, are unable properly to care for themselves. Convalescent and chronic care may include but not be limited to any or all procedures commonly employed in waiting on the

sick, such as administration of medicines, preparation of special diets, giving of bedside nursing care, application of dressings and bandages, and carrying out of treatment prescribed by a duly licensed practitioner of the healing arts. It may also include care of mentally incompetent persons. It may also include community-based care. Nothing in this definition shall be construed to include general hospitals or other places which provide care and treatment for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both. Nothing in this definition shall be construed to include any boarding home, guest home, hotel or related institution which is held forth to the public as providing, and which is operated to give only board, room and laundry to persons not in need of medical or nursing treatment or supervision except in the case of temporary acute illness. The mere designation by the operator of any place or institution as a hospital, sanitarium, or any other similar name, which does not provide care for the acutely ill and maintain and operate facilities for major surgery or obstetrics, or both, shall not exclude such place or institution from the provisions of this chapter: PROVIDED, That any nursing home providing psychiatric treatment shall, with respect to patients receiving such treatment, comply with the provisions of *RCW 71.12.560* and *71.12.570*.

FEDERAL

42 C.F.R. § 483.5 Definitions

(a) Facility defined. For purposes of this subpart, facility means a skilled nursing facility (SNF) that meets the requirements of sections 1819(a), (b), (c), and (d) of the Act, or a nursing facility (NF) that meets the requirements of sections 1919(a), (b), (c), and (d) of the Act. ``Facility" may include a distinct part of an institution (as defined in paragraph (b) of this section and specified in Sec. 440.40 and Sec. 440.155 of this chapter), but does not include an institution for the mentally retarded or persons with related conditions described in Sec. 440.150 of this chapter. For Medicare and Medicaid purposes (including eligibility, coverage, certification, and payment), the ``facility" is always the entity that participates in the program, whether that entity is comprised of all of, or a distinct part of, a larger institution. For Medicare, an SNF (see section 1819(a)(1) of the Act), and for Medicaid, an NF (see section 1919(a)(1) of the Act) may not be an institution for mental diseases as defined in Sec. 435.1009 of this chapter.

location.

APPENDIX 3 – CITATION LIST OF CITED LAWS AND REGULATIONS

ALABAMA

ALA. CODE § 22-21-10 (2003); Flu and pneumonia vaccination program

ARIZONA

ARIZ. REV. STAT. § 36-401 (2004); Definitions; adult foster care

ARIZ. REV. STAT. § 36-406 (2004); Powers and duties of the department

ARKANSAS

ARK. CODE ANN. § 20-10-1302 (2003); Purpose

ARK. CODE ANN. § 20-10-1303 (2003); Definitions

ARK. CODE ANN. § 20-10-1304 (2003); Implementation

ARK. CODE ANN. § 20-10-1305 (2003); Exemptions

CALIFORNIA

CAL. HEALTH & SAFETY CODE § 120392 (2003); Influenza and pneumococcal immunizations

CAL. CODE REGS. tit. 22, § 51343.2 (2004); Intermediate Care Facility Services for the Developmentally Disabled-Nursing

CONNECTICUT

CONN. AGENCIES REGS. § 17a-227-16 (2004); Individual records

CONN. GEN. STAT. § 19a-490 (2003); Licensing of institutions. Definitions

CONN. GEN. STAT. § 19a-521 (2003); Nursing home facilities. Definitions

CONN. GEN. STAT. § 19a-522 (2003); Regulations concerning nursing home facilities' health, safety and welfare. Regulations concerning immunization against influenza and pneumococcal disease. Reimbursement procedures

FLORIDA

FLA. STAT. ANN. § 400.021 (West 2004); Definitions

FLA. STAT. ANN. § 400.141 (West 2002); Administration and management of nursing home facilities

GEORGIA

GA. CODE ANN. § 31-7-1 (2002); Definitions

2003 Ga. Laws H.B. 1709

ILLINOIS

210 ILL. COMP. STAT. 45/1-113 (2004); Facility or long-term care facility

210 ILL. COMP. STAT. 45/2-213 (2004); Vaccinations

210 ILL. COMP. STAT. 9/76 (2004); Pneumonia shots

INDIANA

IND. CODE ANN. § 16-28-14-1 (Burns 2004); "Medically contraindicated" defined

IND. CODE ANN. § 16-28-14-2 (Burns 2004); Informed consent to be obtained

IND. CODE ANN. § 16-28-14-3 (Burns 2004); Immunizations required

IND. CODE ANN. § 16-28-14-4 (Burns 2004); Annual deadline for administering immunizations

IND. CODE ANN. § 16-28-14-5 (Burns 2004); Immunization of patient admitted after December 1

IND. CODE ANN. § 16-28-14-6 (Burns 2004); When immunization not required

IOWA

IOWA ADMIN. CODE r. 441-82.2(249A) (2004); Intermediate Care Facilities for the Mentally Retarded

KENTUCKY

KY. REV. STAT. ANN. § 209.550 (Banks-Baldwin 2002); Definitions for KRS 209.550 to 209.554

KY. REV. STAT. ANN. § 209.552 (Banks-Baldwin 2002); Immunization against pneumococcal disease and influenza - - Documentation - - Immunization of employees

KY. REV. STAT. ANN. § 209.554 (Banks-Baldwin 2002); Administrative regulations - - Educational literature - - Negotiation of price of vaccines - - Report

KY. REV. STAT. ANN. § 216.510 (Banks-Baldwin 2002); Definitions for KRS 216.515 to 216.530

MAINE

ME. REV. STAT. tit. 22, § 802 (2003); Authority of department

ME. REV. STAT. tit. 22, § 1812-A.(2003); Nursing home defined

CODE ME. R. § 264 (2002); Immunization Requirements for Healthcare Workers

MARYLAND

MD. CODE ANN., [HEALTH-GENERAL] § 18-404 (2002); Immunization against influenza virus and pneumococcal disease

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OR. REV. STAT. § 442.015; Definitions

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35 PA. CONS. STAT. § 632.2 (2003); Definitions

35 PA. CONS. STAT. § 632.4 (2003); Resident immunization

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