Outlook

Re: Question Regarding ACIP Litigation and Georgia Vaccine Administration [* External Email ***]**

From Lim, Marvin <Marvin.Lim@house.ga.gov>
Date Sat 8/15/2026 10:32 AM
To "Kathleen Toomey"; pharmacyboard@dch.ga.gov

Dear Commissioner Toomey and Mr. Joiner:

Thank you for sending the Georgia State Board of Pharmacy's August 12, 2026 guidance, in response to my initial July 13, 2026 letter referencing the ongoing uncertainty about vaccines, especially given litigation around ACIP. I have some additional follow-up questions.

First, I agree that the guidance is helpful. As I understand it, the guidance confirms that COVID-19 independently falls within Georgia's public-health-emergency category for individuals age 13 and older. That conclusion is critical. It also accords with my own understanding of the clear language of the statute, as several of my colleagues (copied here) and I first publicly expressed in our September 12, 2025 letter to Governor Kemp.

Second, I have remaining questions **regarding non-COVID-19 and non-influenza vaccines**.

My initial inquiry referenced the uncertainty brought about by the March 16, 2026 district court order. The BOP guidance states that "pharmacists should consult the current ACIP adult immunization schedule and applicable notes at the time of administration." However, the **guidance does not expressly identify which ACIP recommendations Georgia considers operative following the March 16 order.** The CDC now states that the order stayed all votes taken by ACIP during its June, September, and December 2025 meetings. It identifies the July 2, 2025 adult schedule - as amended on April 27, 2026 to incorporate ACIP's April 2025 RSV recommendation - as the current court-compliant adult schedule. However, the **Georgia statute incorporates recommendations of ACIP, rather than CDC's determination** of the operative schedule as such.

Thus, I have two questions:

- For purposes of O.C.G.A. § 43-34-26.1, **do DPH and BOP each understand pharmacists to rely only on ACIP recommendations reflected in CDC's current court-compliant adult schedule**, rather than recommendations arising from ACIP actions that CDC treats as stayed by the March 16 order? If not, which ACIP recommendations does Georgia regard as controlling for purposes of the statute?
- **Does the operative interpretation include the April 27, 2026 RSV amendment**, which CDC states incorporates ACIP's April 2025 recommendation for high-risk adults ages 50–

59?

Third, as you know, on August 10, President Trump issued an Executive Order changing the federal framework for childhood vaccine recommendations and expressly acknowledging both the pending ACIP litigation and separate changes to the federal vaccine schedule. At the same time, the current PREP Act declaration continues to identify as qualified persons pharmacists who order and administer vaccines that CDC/ACIP recommend for persons ages 3 through 18 according to the standard immunization schedule. The Board previously acknowledged that federal authority in its December 18, 2020 notice.

My question:

- **Do BOP and DPH each continue to regard the current PREP Act declaration as authorizing Georgia pharmacists to administer routine childhood vaccines to persons ages 3 through 17** notwithstanding the age limitations that would otherwise apply under Georgia law? If so, what provision of the current declaration does the Board understand to provide that authority as of today, August 15, 2026 - and **which federal immunization recommendations or schedule should pharmacists rely upon** following the March 16 order and the August 10 Executive Order?

Again, I recognize that the federal landscape continues to change. My concern remains simply that both Georgia providers **and** the general public need a clear and consistent understanding of what those changes mean for vaccine administration in Georgia. I understand that some pharmacists may be comfortable with the guidance as currently communicated; that does not necessarily provide clarity to members of the public, policymakers, or others who are not privy to communications between DPH/BOP and providers. Particularly for Georgians seeking these vaccines, the applicable rules should be understandable without depending on how individual pharmacists or pharmacies have interpreted informal or provider-specific guidance.

While I am most concerned about understanding the current state of vaccination authority, there is certainly a larger looming question: what framework should Georgia providers use going forward when federal vaccine recommendations change again? If ACIP recommendations, CDC schedules, HHS actions, and presidential directives diverge, how should providers and the public determine which source is controlling for purposes of pharmacy practice in Georgia? **Without a clear framework, the same uncertainty is likely to recur each time federal policy changes.**

Thank you,
Rep. Marvin Lim

From: "Lim, Marvin"
Date: July 13, 2026 at 1:41:58 PM EDT
To: "Toomey, Kathleen"
Subject: Question Regarding ACIP Litigation and Georgia Vaccine Administration

Dear Commissioner Toomey:

I wanted to reach out about an issue that we all know is creating real uncertainty for Georgia providers. Obviously, Georgia law authorizes pharmacists to administer certain vaccines pursuant to protocol agreements that, in several circumstances, depend on ACIP recommendations. At the same time, the ongoing federal litigation over the composition of ACIP and the validity of some of its actions has made it less clear which recommendations pharmacists should be relying on while that litigation proceeds.

As I know DPH also knows, pharmacies are already reaching different conclusions about how to navigate this uncertainty. While I understand that individual pharmacies and their counsel may reasonably arrive at different interpretations, I worry that those differences will only grow over time without some form of statewide guidance.

I have read the entirety of the district court's March 16, 2026 order and have spent considerable time trying to understand its practical implications under Georgia law. I also have waited since that order in hopes that developments would take place that create more certainty – with no such luck (hence why I am writing now). In addition, I have attempted to evaluate the impact on each vaccine affected by the challenged ACIP actions, including situations where the previously recommended product is no longer available or no longer appropriate for administration, but the replacement product is one whose recommendation is itself part of the ongoing litigation. COVID-19 vaccination is one obvious example, but not the only one.

After doing all that analysis, I find myself more concerned about the operational uncertainty than when I started. I can only imagine how difficult it is for pharmacists and other providers who are expected to make these decisions in real time.

I also understand why the Department has been cautious about public messaging. Nobody wants to create unnecessary confusion, inadvertently amplify misinformation, and/or somehow make things worse for public health. At some point, however, I worry that too little guidance may itself become a source of confusion for providers who are genuinely trying to comply with Georgia law.

Has the Department reached a position on any of the following?

1. Which ACIP recommendations does the Department believe pharmacists should rely on for purposes of Georgia protocol agreements while the litigation remains pending?
2. Does the Department anticipate issuing guidance to pharmacists or other providers while the litigation is pending?
3. Where there is genuine uncertainty about whether a protocol authorizes administration, does the Department recommend obtaining a patient-specific physician order?
4. Has the Department identified any vaccines or patient populations for which provider uncertainty is likely to affect access?

I recognize there may not be perfect answers while the litigation is pending. Even so, guidance regarding the Department's current interpretation would be preferable to providers having to develop their own.

Even if the Department is still evaluating these questions, I would appreciate knowing that. My goal is simply to understand how Georgia intends for providers to navigate the current uncertainty and to help ensure that Georgians continue to have consistent access to immunizations under Georgia law.

Thank you, as always, for everything you and your team do. I appreciate any guidance you are able to provide.

Best,
Rep. Marvin Lim, Esq.

September 12, 2025

The Honorable Brian P. Kemp
Governor of Georgia
206 Washington Street
111 State Capitol
Atlanta, GA 30334

Dear Governor Kemp,

We, the undersigned Members of the Georgia House of Representatives, respectfully urge you to take decisive action to increase access to updated, FDA-approved COVID-19 vaccines for the people of Georgia.

COVID-19 remains a persistent public health threat, and these updated vaccines are potentially life-saving. Unfortunately, widespread confusion among patients and healthcare providers has made access to these vaccines severely limited. Georgians who wish to be vaccinated are often unable to do so due to uncertainty about vaccine availability, eligibility, costs, and insurance coverage. Patients with high-risk conditions are being denied prescriptions, while others are unable to obtain vaccines without them. Pharmacies differ in what they are dispensing, and physicians and insurers remain unclear about what is permitted or reimbursed.

Much of this inaccessibility stems from recent federal decisions limiting the scope of FDA approval for these vaccines and the ongoing uncertainty surrounding the CDC's Advisory Committee on Immunization Practices (ACIP). From our perspective, these developments have discouraged healthcare providers, pharmacists, insurers, manufacturers, and public health officials across Georgia from offering the updated COVID-19 vaccines due to concerns about liability, cost, and regulatory risk.

Although the State of Georgia cannot control federal agencies, our system of federalism empowers us to take independent action where necessary to protect public health. Rather than relying solely on unelected federal advisory bodies, we believe Georgia can—and should—lead by example. Specifically, we ask that you and the Department of Public Health take the following steps:

- **Clarify that existing Georgia law (Title 43)** allows for the administration of the updated COVID-19 vaccine under valid vaccine protocol agreements, without the need for individual prescriptions or high-risk classifications, for individuals aged 13 and older. The statute references vaccines for illnesses that "have resulted in a public health emergency," a condition clearly met by COVID-19, which you declared a public health emergency in 2020. The law does not require an ongoing emergency—only that such an emergency occurred.
- **Issue an executive order**, similar to those in other states, to:
    1. Permit administration of the COVID-19 vaccine under valid vaccine protocol agreements—without individual prescriptions or high-risk qualifications—for individuals aged 6 months and older, in alignment with current FDA approvals for Pfizer, Moderna, and Novavax vaccines; and
    2. Provide immunity from state-level legal liability for providers who administer the vaccine in accordance with applicable laws and protocols.
- **Authorize and ensure adequate supply for all public health departments** across Georgia to administer the updated COVID-19 vaccines.
- **Ensure the State Health Benefit Plan covers the updated COVID-19 vaccines**, without cost to members, to remove further access barriers.

To be clear: none of these actions would impose a vaccine mandate. They would simply ensure that Georgians who *choose* to be vaccinated can do so safely, easily, and without unnecessary barriers. This is a matter of access, not compulsion.

We believe these steps are essential to upholding Georgia's leadership in safeguarding public health and ensuring that the people of our state have access to lifesaving medical care. We respectfully and urgently request that you take swift action to implement each of these measures.

Thank you for your leadership and service to the State of Georgia.

Sincerely,

Representative David Wilkerson

Representative Marvin Lim

Representative Karen Lupton

Representative Lisa Campbell