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H.B. No. 1921

A BILL TO BE ENTITLED

AN ACT

relating to the immunization registry.

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

SECTION 1. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0001 to read as follows:

Sec. 161.0001. DEFINITIONS. In this subchapter:

(1) "Data elements" means the information a health care provider who administers a vaccine is required to record in a medical record under 42 U.S.C. Section 300aa-25, as amended, including:

(A) the date the vaccine is administered;

(B) the vaccine manufacturer and lot number of the vaccine; and

(C) the name, the address, and if appropriate, the title of the health care provider administering the vaccine.

(2) "Payor" means an insurance company, a health maintenance organization, or another organization that pays a health care provider to provide health care benefits, including providing immunizations to a person younger than 18 years of age.

SECTION 2. Section 161.007, Health and Safety Code, is amended to read as follows:

Sec. 161.007. IMMUNIZATION REGISTRY; REPORTS TO DEPARTMENT. (a) The department, for purposes of establishing and maintaining a single repository of accurate, complete, and current

1 immunization records to be used in aiding, coordinating, and  
2 promoting efficient and cost-effective childhood communicable  
3 disease prevention and control efforts, shall establish and  
4 maintain a childhood immunization registry. The department by rule  
5 shall develop guidelines to:

6 (1) protect the confidentiality of patients in  
7 accordance with Section 159.002, Occupations Code;

8 (2) inform a parent, managing conservator, or guardian  
9 of each patient about the registry;

10 (3) require the written consent of a parent, managing  
11 conservator, or guardian of a patient before any information  
12 relating to the patient is included in the registry; and

13 (4) permit a parent, managing conservator, or guardian  
14 to withdraw consent for the patient to be included in the registry.

15 (a-1) The written consent required by Subsection (a)(3) is  
16 required to be obtained only one time. The written consent is valid  
17 until the child becomes 18 years of age unless the consent is  
18 withdrawn in writing. A parent, managing conservator, or guardian  
19 of a child may provide the written consent by using an electronic  
20 signature on the child's birth certificate.

21 (b) The childhood immunization registry must contain  
22 information on the immunization history that is obtained by the  
23 department under this section of each person who is younger than 18  
24 years of age and for whom consent has been obtained in accordance  
25 with guidelines adopted under Subsection (a). The department shall  
26 remove from the registry information for any person for whom  
27 consent has been withdrawn. The department may not retain

individually identifiable information about any person for whom consent has been withdrawn.

(c) A payor that receives data elements from a health care provider who administers ~~[An insurance company, a health maintenance organization, or another organization that pays or reimburses a claim for]~~ an immunization to ~~[of]~~ a person younger than 18 years of age shall provide the data elements to the department. A payor is required to provide the department with only the data elements the payor receives from a health care provider. The data elements shall be submitted in a format prescribed by the department. The department shall verify consent before including the reported information in the immunization registry. The department may not retain individually identifiable information about a person for whom consent cannot be verified. ~~[an immunization history to the department. An insurance company, health maintenance organization, or other organization is not required to provide an immunization history to the department under this subsection for a person for whom consent has not been obtained in accordance with guidelines adopted under Subsection (a) or for whom consent has been withdrawn.]~~

(d) A health care provider who administers an immunization to a person younger than 18 years of age shall provide data elements regarding an immunization ~~[history]~~ to the department ~~[unless the immunization history is submitted to an insurance company, a health maintenance organization, or another organization that pays or reimburses a claim for an immunization to a person younger than 18 years of age].~~ The data elements ~~[report]~~ shall be submitted in a

1 format prescribed by the department. The department shall verify  
 2 consent before including the information in the immunization  
 3 registry. The department may not retain individually identifiable  
 4 information about a person for whom consent cannot be verified. [  
 5 ~~which may include submission in writing, by electronic means, or by~~  
 6 ~~voice. A health care provider is not required to provide an~~  
 7 ~~immunization history to the department under this subsection for a~~  
 8 ~~person for whom consent has not been obtained in accordance with~~  
 9 ~~guidelines adopted under Subsection (a) or for whom consent has~~  
 10 ~~been withdrawn.]~~

11 (e) The department shall provide notice to a health care  
 12 provider that submits an immunization history for a person for whom  
 13 consent cannot be verified. The notice shall contain instructions  
 14 for obtaining consent in accordance with guidelines adopted under  
 15 Subsection (a) and resubmitting the immunization history to the  
 16 department.

17 (f) The department and health care providers may use the  
 18 registry to provide notices by mail, telephone, personal contact,  
 19 or other means to a parent, managing conservator, or guardian  
 20 regarding his or her child or ward who is due or overdue for a  
 21 particular type of immunization according to the department's  
 22 immunization schedule. The department shall consult with health  
 23 care providers to determine the most efficient and cost-effective  
 24 manner of using the registry to provide those notices.

25 (g) The department shall provide instruction and education  
 26 to providers about the immunization registry provider application  
 27 and enrollment process. The department shall:

1           (1) initially target providers in the geographic  
2 regions of the state with immunization rates below the state  
3 average for preschool children; and

4           (2) expedite the processing of provider applications.

5           (h) [~~f~~] Nothing in this section diminishes a parent's,  
6 managing conservator's, or guardian's responsibility for having a  
7 child immunized properly, subject to Section 161.004(d).

8           (i) [~~g~~] A person, including a health care provider,  
9 payor, or an employee of the department who submits or obtains in  
10 good faith ~~[an]~~ immunization ~~[history or]~~ data elements to or from  
11 the department in compliance with the provisions of this section  
12 and any rules adopted under this section is not liable for any civil  
13 damages.

14           (j) Except as provided by Section 161.008, information  
15 [~~(h) Information~~] obtained by the department for the immunization  
16 registry is confidential and may be disclosed only with the written  
17 consent of the child's parent, managing conservator, or guardian.

18           (k) [~~i~~] The board shall adopt rules to implement this  
19 section.

20           SECTION 3. Subchapter A, Chapter 161, Health and Safety  
21 Code, is amended by adding Sections 161.0071, 161.0072, 161.0073,  
22 161.0074, 161.0075, and 161.0076 to read as follows:

23           Sec. 161.0071. NOTICE OF RECEIPT OF REGISTRY DATA;  
24 EXCLUSION FROM REGISTRY. (a) The first time the department  
25 receives registry data for a child for whom the department has  
26 received consent to be included in the registry, from a person other  
27 than the child's parent, managing conservator, or guardian, the

1 department shall send a written notice to the child's parent,  
2 managing conservator, or guardian disclosing:

3 (1) that providers and payors may be sending the  
4 child's immunization information to the department;

5 (2) the information that is included in the registry;

6 (3) the persons to whom the information may be  
7 released under Section 161.008(d);

8 (4) the purpose and use of the registry;

9 (5) the procedure to exclude a child from the  
10 registry; and

11 (6) the procedure to report a violation if a parent,  
12 managing conservator, or guardian discovers a child is included in  
13 the registry after exclusion has been requested.

14 (b) On discovering that consent to be included in the  
15 registry has not been granted, the department shall exclude the  
16 child's immunization records from the registry and any other  
17 registry-related department record that individually identifies  
18 the child.

19 (c) On receipt of a written request to exclude a child's  
20 immunization records from the registry, the department shall send  
21 to a parent, managing conservator, or guardian who makes the  
22 request a written confirmation of receipt of the request for  
23 exclusion and shall exclude the child's records from the registry.

24 (d) The department commits a violation if the department  
25 fails to exclude a child's immunization information from the  
26 registry as required by Subsection (b) or (c).

27 (e) The department shall accept a written statement from a

1 parent, managing conservator, or guardian communicating to the  
2 department that a child should be excluded from the registry,  
3 including a statement on the child's birth certificate, as a  
4 request for exclusion under Subsection (c). The written statement  
5 may include the electronic signature on the child's birth  
6 certificate.

7 Sec. 161.0072. PROVIDING IMMUNIZATION INFORMATION TO  
8 DEPARTMENT. (a) If the parent, managing conservator, or guardian  
9 of a child has reasonable concern that the child's health care  
10 provider is not submitting the immunization history to the  
11 department and the parent, managing conservator, or guardian wants  
12 the child included in the registry, the parent, managing  
13 conservator, or guardian may provide the child's immunization  
14 history directly to the department to be included in the  
15 immunization registry.

16 (b) The parent, managing conservator, or guardian of a child  
17 may send evidence of the child's immunization history to the  
18 department by facsimile transmission or by mail. The evidence may  
19 include a copy of:

20 (1) the child's medical record indicating the  
21 immunization history;

22 (2) an invoice from a health care provider for the  
23 immunization; or

24 (3) documentation showing that a claim for the  
25 immunization was paid by a payor.

26 (c) The board shall develop rules to ensure that the  
27 immunization history submitted by a parent, managing conservator,

1 or guardian is medically verified immunization information.

2 Sec. 161.0073. REGISTRY CONFIDENTIALITY. (a) The  
3 information that individually identifies a child received by the  
4 department for the immunization registry is confidential and may be  
5 used by the department for registry purposes only.

6 (b) Unless specifically authorized under this subchapter,  
7 the department may not release registry information to any  
8 individual or entity without the consent of the person or, if a  
9 minor, the parent, managing conservator, or guardian of the child.

10 (c) A person required to report information to the  
11 department for registry purposes or authorized to receive  
12 information from the registry may not disclose the individually  
13 identifiable information to any other person without written  
14 consent of the parent, managing conservator, or guardian of the  
15 child, except as provided by Chapter 159, Occupations Code, or  
16 Article 28B.04, Insurance Code.

17 (d) Registry information is not:

18 (1) subject to discovery, subpoena, or other means of  
19 legal compulsion for release to any person or entity except as  
20 provided by this subchapter; or

21 (2) admissible in any civil, administrative, or  
22 criminal proceeding.

23 Sec. 161.0074. REPORT TO LEGISLATURE. (a) The department  
24 shall report to the Legislative Budget Board, the governor, the  
25 lieutenant governor, the speaker of the house of representatives,  
26 and appropriate committees of the legislature not later than  
27 September 30 of each even-numbered year.



1        (b) The department shall use the report required under  
2 Subsection (a) to develop ways to increase immunization rates using  
3 state and federal resources.

4        (c) The report must:

5            (1) include the current immunization rates by  
6 geographic region of the state, where available;

7            (2) focus on the geographic regions of the state with  
8 immunization rates below the state average for preschool children;

9            (3) describe the approaches identified to increase  
10 immunization rates in underserved areas and the estimated cost for  
11 each;

12           (4) identify changes to department procedures needed  
13 to increase immunization rates;

14           (5) identify the services provided under and  
15 provisions of contracts entered into by the department to increase  
16 immunization rates in underserved areas;

17           (6) identify performance measures used in contracts  
18 described by Subdivision (5);

19           (7) include the number and type of exemptions used in  
20 the past year;

21           (8) include the number of complaints received by the  
22 department related to the department's failure to comply with  
23 requests for exclusion of individuals from the registry;

24           (9) identify all reported incidents of discrimination  
25 for requesting exclusion from the registry or for using an  
26 exemption for a required immunization;

27           (10) include department recommendations about the

best way to use, and communicate with, local registries in the state; and

(11) include ways to increase provider participation in the registry.

Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as provided by Section 161.009, the following persons subject to this subchapter that act in compliance with Sections 161.007, 161.0071, 161.0073, 161.0074, and 161.008 are not civilly or criminally liable for furnishing the information required under this subchapter:

(1) a payor;

(2) a health care provider who administers immunizations; and

(3) an employee of the department.

Sec. 161.0076. COMPLIANCE WITH FEDERAL LAW. If the provisions of this chapter relating to the use or disclosure of information in the registry are more stringent than the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, then the use or disclosure of information in the registry is governed by this chapter.

SECTION 4. Section 161.008, Health and Safety Code, is amended by amending Subsections (c) and (d) and adding Subsections (e)-(h) to read as follows:

(c) The department [~~only with the consent of a child's parent, managing conservator, or guardian,~~] may [+]

[~~(1)~~] obtain the data constituting an immunization

1 record for a [the] child from a public health district, a local  
2 health department, the child's parent, managing conservator, or  
3 guardian, a physician to the child, a payor, or any health care  
4 provider licensed or otherwise authorized to administer vaccines.  
5 The department shall verify consent before including the reported  
6 information in the immunization registry. The department may not  
7 retain individually identifiable information about a person for  
8 whom consent cannot be verified.

9 (d) The department may [or a physician to the child, or  
10 [~~(2)~~] release the data constituting an immunization  
11 record for the child to any entity that is described by Subsection  
12 (c), to [a public health district, a local health department, a  
13 physician to the child, or] a school or child care facility in which  
14 the child is enrolled, or to a state agency having legal custody of  
15 the child.

16 (e) [~~(d)~~] A parent, managing conservator, or legal guardian  
17 may obtain and on request to the department shall be provided with  
18 all individually identifiable immunization registry information  
19 concerning his or her child or ward.

20 (f) A person, including a health care provider, a payor, or  
21 an employee of the department, that submits in good faith an  
22 immunization history or data to or obtains in good faith an  
23 immunization history or data from the department in compliance with  
24 the provisions of this section and any rules adopted under this  
25 section is not liable for any civil damages.

26 (g) The department may release nonidentifying summary  
27 statistics related to the registry that do not individually

1 identify a child.

2 (h) The board shall adopt rules to implement this section.

3 SECTION 5. Section 161.009(a), Health and Safety Code, is  
4 amended to read as follows:

5 (a) A person commits an offense if the person:

6 (1) negligently releases or discloses immunization  
7 registry information in violation of Section 161.007, 161.0071,  
8 161.0073, or 161.008;

9 (2) fails to exclude a child's immunization  
10 information in violation of Section 161.0071; or

11 (3) [~~(2)~~] negligently uses [~~the~~] information in the  
12 immunization registry to solicit new patients or clients or for  
13 other purposes that are not associated with immunization or  
14 quality-of-care purposes, unless authorized under this section.

15 SECTION 6. (a) As soon as practicable, but not later than  
16 January 1, 2005, the Texas Board of Health shall adopt rules and  
17 forms necessary to implement this Act.

18 (b) The data reported under Sections 161.007(c) and (d),  
19 Health and Safety Code, as amended by this Act, may not be accepted  
20 or released by the Texas Department of Health until the department  
21 has adopted rules and prescribed the forms required by this Act.

22 SECTION 7. (a) Except as provided by Subsection (b) of this  
23 section, this Act takes effect immediately if it receives a vote of  
24 two-thirds of all the members elected to each house, as provided by  
25 Section 39, Article III, Texas Constitution. If this Act does not  
26 receive the vote necessary for immediate effect, this Act takes  
27 effect September 1, 2003.

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1           (b) The change in law made by this Act to Sections  
2   161.007(c) and (d), Health and Safety Code, takes effect January 1,  
3   2005.