

By: Capelo

H.B. No. 1921

Substitute the following for H.B. No. 1921:

By: Truitt

C.S.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. DEFINITION. In this subchapter, "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 immunization records to be used in aiding, coordinating, and promoting efficient and cost-effective childhood communicable disease prevention and control efforts, shall establish and maintain a childhood immunization registry. The department by rule shall develop guidelines to:

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

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

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

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

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9 withdrawn in writing.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

12 (b) The childhood immunization registry must contain
13 information on the immunization history that is obtained by the
14 department under this section of each person who is younger than 18
15 years of age and for whom consent has been obtained in accordance
16 with guidelines adopted under Subsection (a). The department shall
17 remove from the registry information for any person for whom
18 consent has been withdrawn. The department may not retain
19 individually identifiable information about any person for whom
20 consent has been withdrawn.

21 (c) A payor that receives data elements from a health care
22 provider who administers [~~An insurance company, a health~~
23 ~~maintenance organization, or another organization that pays or~~
24 ~~reimburses a claim for~~] an immunization to [~~of~~] a person younger
25 than 18 years of age shall provide the data elements to the
26 department. A payor is required to provide the department with only
27 the data elements the payor receives from a health care provider.

1 The data elements shall be submitted in a format prescribed by the
2 department. The department shall verify consent before including
3 the reported information in the immunization registry. The
4 department may not retain individually identifiable information
5 about a person for whom consent cannot be verified. [~~an~~
6 ~~immunization history to the department. An insurance company,~~
7 ~~health maintenance organization, or other organization is not~~
8 ~~required to provide an immunization history to the department under~~
9 ~~this subsection for a person for whom consent has not been obtained~~
10 ~~in accordance with guidelines adopted under Subsection (a) or for~~
11 ~~whom consent has been withdrawn.]~~

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

19 format prescribed by the department. The department shall verify
20 consent before including the information in the immunization
21 registry. The department may not retain individually identifiable
22 information about a person for whom consent cannot be verified. [~~7~~
23 ~~which may include submission in writing, by electronic means, or by~~
24 ~~voice. A health care provider is not required to provide an~~
25 ~~immunization history to the department under this subsection for a~~
26 ~~person for whom consent has not been obtained in accordance with~~
27 ~~guidelines adopted under Subsection (a) or for whom consent has~~

1 ~~been withdrawn.]~~

2 (e) The department may provide notice to a health care
3 provider that submits an immunization history for a person for whom
4 consent cannot be verified. The notice shall contain instructions
5 for obtaining consent in accordance with guidelines adopted under
6 Subsection (a) and resubmitting the immunization history to the
7 department.

8 (f) The department and health care providers may use the
9 registry to provide notices by mail, telephone, personal contact,
10 or other means to a parent, managing conservator, or guardian
11 regarding his or her child or ward who is due or overdue for a
12 particular type of immunization according to the department's
13 immunization schedule. The department shall consult with health
14 care providers to determine the most efficient and cost-effective
15 manner of using the registry to provide those notices.

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

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

25 (i) Except as provided by Section 161.008, information
26 ~~[(h) Information]~~ obtained by the department for the immunization
27 registry is confidential and may be disclosed only with the written

consent of the child's parent, managing conservator, or guardian.

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

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

Sec. 161.0071. NOTICE OF RECEIPT OF REGISTRY DATA; EXCLUSION FROM REGISTRY. (a) The first time the department receives registry data for a child from a person other than the child's parent, managing conservator, or guardian, the department shall send a written notice to the child's parent, managing conservator, or guardian disclosing:

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

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

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

(4) the purpose and use of the registry;

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

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

(b) The department shall delete the child's immunization records from the registry and any other registry-related department record that individually identifies the child not later than the 30th day after the date the department receives from the parent,

1 managing conservator, or guardian of the child a written request
2 that the child be excluded from the registry.

3 (c) The department shall send to a parent, managing
4 conservator, or guardian who makes a written request under
5 Subsection (b) a written confirmation of receipt of the request for
6 exclusion and the exclusion of the child's records from the
7 registry.

8 (d) The department commits a violation if the department
9 fails to exclude a child from the registry within the period
10 required by Subsection (b).

11 (e) The department shall accept a written statement from a
12 parent, managing conservator, or guardian communicating to the
13 department that a child should be excluded from the registry,
14 including a statement on the child's birth certificate, as a
15 request for exclusion under Subsection (b).

16 Sec. 161.0072. PROVIDING IMMUNIZATION INFORMATION TO
17 DEPARTMENT. (a) If the parent, managing conservator, or guardian
18 of a child has reasonable concern that the child's health care
19 provider is not submitting the immunization history to the
20 department and the parent, managing conservator, or guardian wants
21 the child included in the registry, the parent, managing
22 conservator, or guardian may provide the child's immunization
23 history directly to the department to be included in the
24 immunization registry.

25 (b) The parent, managing conservator, or guardian of a child
26 may send evidence of the child's immunization history to the
27 department by facsimile transmission or by mail. The evidence may

include a copy of:

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

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

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

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

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

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

(d) Registry information is not:

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

(2) admissible in any civil, administrative, or

1 criminal proceeding.

2 Sec. 161.0074. REPORT TO LEGISLATURE. (a) The department
3 shall report to the Legislative Budget Board, the governor, the
4 lieutenant governor, the speaker of the house of representatives,
5 and appropriate committees of the legislature not later than
6 September 30 of each even-numbered year.

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

10 (c) The report must:

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

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

15 (3) describe the approaches identified to increase
16 immunization rates in underserved areas and the estimated cost for
17 each;

18 (4) identify changes to department procedures needed
19 to increase immunization rates;

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

23 (6) identify performance measures used in contracts
24 described by Subdivision (5);

25 (7) include the number and type of exemptions used in
26 the past year;

27 (8) include the number of complaints received by the

department related to the department's failure to comply with requests for exclusion of individuals from the registry; and

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

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.

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 record for a [the] child from a public health district, a local health department, the child's parent, managing conservator, or guardian, a physician to the child, a payor, or any health care provider licensed or otherwise authorized to administer vaccines. The department shall verify consent before including the reported information in the immunization registry. The department may not

1 retain individually identifiable information about a person for
2 whom consent cannot be verified.

3 (d) The department may ~~[or a physician to the child, or~~
4 ~~(2)]~~ release the data constituting an immunization
5 record for the child to any entity that is described by Subsection
6 (c), to ~~[a public health district, a local health department, a~~
7 ~~physician to the child, or]~~ a school or child care facility in which
8 the child is enrolled, or to a state agency responsible for the
9 health care of the child.

10 (e) [(a)] A parent, managing conservator, or legal guardian
11 may obtain and on request to the department shall be provided with
12 all individually identifiable immunization registry information
13 concerning his or her child or ward.

14 (f) A person, including a health care provider, a payor, or
15 an employee of the department that submits in good faith an
16 immunization history or data to or obtains in good faith an
17 immunization history or data from the department in compliance with
18 the provisions of this section and any rules adopted under this
19 section, is not liable for any civil damages.

20 (g) The department may release nonidentifying summary
21 statistics related to the registry that do not individually
22 identify a child.

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

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

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

27 (1) negligently releases or discloses individually

1 identifiable immunization registry information in violation of
2 Section 161.007, 161.0071, 161.0073, or 161.008; or

3 (2) negligently uses individually identifiable ~~[the]~~
4 information in the immunization registry to solicit new patients or
5 clients or for other purposes that are not associated with
6 immunization or quality-of-care purposes, unless authorized under
7 this section.

8 SECTION 6. (a) As soon as practicable, but not later than
9 September 1, 2004, the Texas Board of Health shall:

10 (1) adopt rules necessary to implement the procedure
11 for excluding children from the immunization registry required by
12 this Act; and

13 (2) make available for use a form for requesting
14 exclusion from the immunization registry under Section 161.0071,
15 Health and Safety Code, as added by this Act.

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

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

26 (b) The change in law made by this Act to Sections
27 161.007(c) and (d), Health and Safety Code, takes effect September

C.S.H.B. No. 1921

1 1, 2004.