

By: Zaffirini

S.B. No. 39

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. 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 registrants in accordance with state and federal law [~~patients in accordance with Section 159.002, Occupations Code~~];

(2) inform a parent, managing conservator, or guardian of each registrant [~~patient~~] about the registry; and

(3) permit [~~require~~] the written consent of a parent, managing conservator, or guardian of a registrant to choose in writing to have the registrant excluded from [~~patient before any information relating to the patient is included in~~] the registry[, ~~and~~

~~[(4) permit a parent, managing conservator, or~~

1 ~~guardian to withdraw consent for the patient to be included in the~~  
2 ~~registry].~~

3 (b) Except as provided by Section 161.0071, the ~~[The]~~  
4 childhood immunization registry must contain information on the  
5 immunization history that is obtained by the department under this  
6 section of each person who is younger than 18 years of age ~~[and for~~  
7 ~~whom consent has been obtained in accordance with guidelines~~  
8 ~~adopted under Subsection (a)]. The department shall remove from the~~  
9 ~~registry information for any person for whom consent has been~~  
10 ~~withdrawn].~~

11 (c) An insurance company, a health maintenance  
12 organization, or another organization that pays or reimburses a  
13 claim for an immunization of a person younger than 18 years of age  
14 shall provide an immunization history to the department. The  
15 report shall contain the elements prescribed by the department.  
16 The report may be submitted in writing or by electronic means ~~[An~~  
17 ~~insurance company, health maintenance organization, or other~~  
18 ~~organization is not required to provide an immunization history to~~  
19 ~~the department under this subsection for a person for whom consent~~  
20 ~~has not been obtained in accordance with guidelines adopted under~~  
21 ~~Subsection (a) or for whom consent has been withdrawn].~~

22 (d) A health care provider who administers an immunization  
23 to a person younger than 18 years of age shall provide an  
24 immunization history to the department unless the immunization  
25 history is submitted to an insurance company, a health maintenance  
26 organization, or another organization that pays or reimburses a  
27 claim for an immunization to a person younger than 18 years of age.

1 The report shall contain the elements ~~[be in a format]~~ prescribed by  
 2 the department. The report may be submitted ~~[, which may include~~  
 3 ~~submission]~~ in writing or ~~[,]~~ by electronic means ~~[, or by voice]~~. ~~[A~~  
 4 ~~health care provider is not required to provide an immunization~~  
 5 ~~history to the department under this subsection for a person for~~  
 6 ~~whom consent has not been obtained in accordance with guidelines~~  
 7 ~~adopted under Subsection (a) or for whom consent has been~~  
 8 ~~withdrawn.]~~

9 (e) The department may use the registry to provide notices  
 10 by mail, telephone, personal contact, or other means to a parent,  
 11 managing conservator, or guardian regarding his or her child or  
 12 ward who is due or overdue for a particular type of immunization  
 13 according to the department's immunization schedule. The notice  
 14 must contain instructions for the parent, managing conservator, or  
 15 guardian to request that future notices not be sent and to remove  
 16 the child's immunization record from the registry and any other  
 17 registry-related record that individually identifies the child.  
 18 The notice must describe the procedure to report a violation if a  
 19 child is included in the registry after the submission of a written  
 20 request for exclusion. The department shall consult with health  
 21 care providers to determine the most efficient and cost-effective  
 22 manner of using the registry to provide those notices.

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

26 (g) A person, including a health care provider or an  
 27 insurance company, a health maintenance organization, or another

1 organization that pays or reimburses a claim for immunization, who  
2 submits or obtains in good faith an immunization history or data to  
3 or from the department in compliance with the provisions of this  
4 subchapter [~~section~~] and any rules adopted under this subchapter  
5 [~~section~~] is not liable for any civil damages.

6 (h) [~~Information obtained by the department for the~~  
7 ~~immunization registry is confidential and may be disclosed only~~  
8 ~~with the written consent of the child's parent, managing~~  
9 ~~conservator, or guardian.~~

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

12 SECTION 2. Subchapter A, Chapter 161, Health and Safety  
13 Code, is amended by adding Sections 161.0071, 161.0072, 161.0073,  
14 and 161.0074 to read as follows:

15 Sec. 161.0071. NOTICE OF RECEIPT OF REGISTRY DATA;  
16 EXCLUSION FROM REGISTRY. (a) The first time the department  
17 receives registry data for a child, the department shall send a  
18 written notification to the child's parent, managing conservator,  
19 or guardian disclosing:

20 (1) that providers and insurers may be sending the  
21 child's immunization information to the department, but the  
22 department may not keep the information if the parent, managing  
23 conservator, or guardian chooses to exclude the child from the  
24 registry;

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

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

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

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

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

7           (b) The department shall delete the child's immunization  
8 records from the registry and any other registry-related department  
9 record that individually identifies the child not later than the  
10 30th day after the date the department receives from the parent,  
11 managing conservator, or guardian of the child a written request  
12 that the child be excluded from the registry. The department shall  
13 maintain only those records related to the child necessary to  
14 ensure that the child continues to be excluded from the registry and  
15 may not release the identity of a child excluded from the registry.

16           (c) The department shall send to a parent, managing  
17 conservator, or guardian who makes a written request under  
18 Subsection (b) a written confirmation of receipt of the request for  
19 exclusion and the exclusion of the child's records from the  
20 registry.

21           (d) The department commits a violation if the department  
22 fails to exclude a child from the registry within the period  
23 required by Subsection (b).

24           (e) The department shall accept a written statement from a  
25 parent, managing conservator, or guardian communicating to the  
26 department that a child should be excluded from the registry,  
27 including a statement on the child's birth certificate, as a

1 request for exclusion under Subsection (b).

2 Sec. 161.0072. 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.

16 (d) Registry information is not:

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

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

22 Sec. 161.0073. REPORT TO LEGISLATURE. (a) The department  
23 shall report to the Legislative Budget Board, the governor, the  
24 lieutenant governor, the speaker of the house of representatives,  
25 and appropriate committees of the legislature not later than  
26 September 30 of each even-numbered year.

27 (b) The department shall use the report required under

1 Subsection (a) to develop ways to increase immunization rates using  
2 state and federal resources.

3 (c) The report must:

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

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

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

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

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

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

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

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

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

26 Sec. 161.0074. IMMUNITY FROM LIABILITY. Except as provided  
27 by Section 161.009, the following persons subject to this

1 subchapter that act in compliance with Sections 161.007, 161.0071,  
2 161.0072, 161.0073, and 161.008 are not civilly or criminally  
3 liable for furnishing the information required under this  
4 subchapter:

5 (1) an insurance company, a health maintenance  
6 organization, or another organization that pays or reimburses a  
7 claim for immunization;

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

10 (3) an employee of the department.

11 SECTION 3. Section 161.008, Health and Safety Code, is  
12 amended by amending Subsections (c) and (d) and adding Subsections  
13 (e)-(g) to read as follows:

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

16 [~~(1)~~] obtain the data constituting an immunization  
17 record for the child from a public health district, a local health  
18 department, an insurance company, a health maintenance  
19 organization, or any other organization that pays or reimburses a  
20 claim for immunization, or any health care provider licensed or  
21 otherwise authorized to administer vaccines.

22 (d) After the 30th day after the date notice was sent by the  
23 department to the child's parent, managing conservator, or guardian  
24 under Section 161.0071, the department, if the department has not  
25 received a written request to exclude the child from the registry,  
26 shall:

27 (1) enter the child into the registry; and [~~or a~~

1 ~~physician to the child, or]~~

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

10 (e) ~~(d)~~ 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) The department may release nonidentifying summary  
15 statistics related to the registry that do not individually  
16 identify a child.

17 (g) The department may not release individually  
18 identifiable information under Subsection (d)(2) to an entity  
19 outside of this state.

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

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

23 (1) negligently releases or discloses immunization  
24 registry information in violation of Section 161.007, 161.0071,  
25 161.0072, or 161.008; or

26 (2) negligently uses the information in the  
27 immunization registry to solicit new patients or clients or for

1 other purposes that are not associated with immunization purposes,  
2 unless authorized under this section.

3 SECTION 5. (a) As soon as practicable, but not later than  
4 August 1, 2004, the Texas Board of Health shall:

5 (1) adopt rules necessary to implement the procedure  
6 for excluding children from the immunization registry required by  
7 this Act; and

8 (2) make available for use a form for requesting  
9 exclusion from the immunization registry required under Section  
10 161.0071, Health and Safety Code, as added by this Act.

11 (b) The report required under Section 161.007(c), Health  
12 and Safety Code, as amended by this Act, and the data obtained or  
13 released under Section 161.008, Health and Safety Code, as amended  
14 by this Act, may not be accepted or released by the Texas Department  
15 of Health until the department has adopted rules and prescribed the  
16 forms required by this Act.

17 SECTION 6. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2003.