



FLOOR AMENDMENT NO. _____

BY: Donna Howard

1 Amend S.B. No. 11 on third reading by adding the following
2 appropriately numbered SECTION and renumbering subsequent
3 SECTIONS of the bill accordingly:

4 SECTION __. Section 161.0001, Health and Safety Code, is
5 amended by amending Subdivision (1) and adding Subdivisions (1-
6 a) and (1-b) to read as follows:

7 (1) "Data elements" means the information:

8 (A) a health care provider who administers a
9 vaccine is required to record in a medical record under 42
10 U.S.C. Section 300aa-25, as amended, including:

11 (i) [~~A~~] the date the vaccine is
12 administered;

13 (ii) [~~B~~] the vaccine manufacturer and lot
14 number of the vaccine;

15 (iii) any adverse or unexpected events for
16 a vaccine; and

17 (iv) [~~C~~] the name, the address, and if
18 appropriate, the title of the health care provider administering
19 the vaccine; and

20 (B) specified in rules adopted to implement
21 Section 161.00705.

22 (1-a) "First responder" has the meaning assigned by
23 Section 421.095, Government Code.

24 (1-b) "Immediate family member" means the parent,
25 spouse, child, or sibling of a person who resides in the same
26 household as the person.

27 SECTION __. Subchapter A, Chapter 161, Health and Safety
28 Code, is amended by adding Sections 161.00705, 161.00706, and
29 161.00707 to read as follows:

1 Sec. 161.00705. RECORDING ADMINISTRATION OF IMMUNIZATION
2 AND MEDICATION FOR DISASTERS AND EMERGENCIES. (a) The
3 department shall maintain a registry of persons who receive an
4 immunization, antiviral, and other medication administered to
5 prepare for a potential disaster, public health emergency,
6 terrorist attack, hostile military or paramilitary action,
7 extraordinary law enforcement emergency or in response to a
8 declared disaster, public health emergency, terrorist attack,
9 hostile military or paramilitary action, or extraordinary law
10 enforcement emergency. A health care provider who administers an
11 immunization, antiviral, or other medication shall provide the
12 data elements to the department.

13 (b) The department shall maintain the registry as part of
14 the immunization registry required by Section 161.007.

15 (c) The department shall track adverse reactions to an
16 immunization, antiviral, and other medication administered to
17 prepare for a potential disaster, public health emergency,
18 terrorist attack, hostile military or paramilitary action,
19 extraordinary law enforcement emergency or in response to a
20 declared disaster, public health emergency, terrorist attack,
21 hostile military or paramilitary action, or extraordinary law
22 enforcement emergency. A health care provider who administers
23 an immunization, antiviral, or other medication may provide data
24 related to adverse reactions to the department.

25 (d) Sections 161.007, 161.0071, 161.0072, and 161.0074
26 apply to the data elements submitted to the department under
27 this section, unless a provision in those sections conflicts
28 with a requirement in this section.

29 (e) The executive commissioner of the Health and Human
30 Services Commission by rule shall determine the period during
31 which the information collected under this section must remain

1 in the immunization registry following the end of the disaster,
2 public health emergency, terrorist attack, hostile military or
3 paramilitary action, or extraordinary law enforcement emergency.

4 (f) Unless an individual or, if a child, the child's
5 parent, managing conservator, or guardian consents in writing to
6 continued inclusion of the child's or other individual's
7 information in the registry, the department shall remove the
8 immunization records collected under this section from the
9 registry on expiration of the period prescribed under Subsection
10 (e).

11 (g) The immunization information of a child or other
12 individual received by the department under this section,
13 including individually identifiable information, may be released
14 only:

15 (1) on consent of the individual or, if a child, the
16 child's parent, managing conservator, or guardian; or

17 (2) to a state agency or health care provider
18 consistent with the purposes of this subchapter or the purposes
19 of aiding or coordinating communicable disease prevention and
20 control efforts during a declared disaster, public health
21 emergency, terrorist attack, hostile military or paramilitary
22 action, or extraordinary law enforcement emergency.

23 (h) The report required under Section 161.0074 must also
24 include the number of complaints received by the department
25 related to the department's failure to remove information from
26 the registry as required by Subsection (f).

27 (i) The executive commissioner of the Health and Human
28 Services Commission shall adopt rules necessary to implement
29 this section.

1 Sec. 161.00706. FIRST RESPONDER IMMUNIZATION INFORMATION.

2 (a) A person 18 years of age or older who is a first responder
3 or an immediate family member of a first responder may:

4 (1) request that a health care provider who
5 administers an immunization to the person provide data elements
6 regarding the immunization to the department for inclusion in
7 the immunization registry; or

8 (2) provide the person's immunization history
9 directly to the department for inclusion in the immunization
10 registry.

11 (b) A health care provider, on receipt of a request under
12 Subsection (a)(1), shall submit the data elements to the
13 department in a format prescribed by the department. The
14 department shall verify the person's request before including
15 the information in the immunization registry.

16 (c) The executive commissioner of the Health and Human
17 Services Commission shall:

18 (1) develop rules to ensure that immunization history
19 submitted under Subsection (a)(2) is medically verified
20 immunization information;

21 (2) develop guidelines for use by the department in
22 informing first responders about the registry; and

23 (3) adopt rules necessary for the implementation of
24 this section.

25 (d) A person's immunization history or data received by
26 the department under this section may be released only on
27 consent of the person or to any health care provider licensed or
28 otherwise authorized to administer vaccines.

29 (e) A person whose immunization records are included in
30 the immunization registry as authorized by this section may
31 request in writing that the department remove that information

1 from the registry. Not later than the 10th day after receiving
2 a request under this subsection, the department shall remove the
3 person's immunization records from the registry.

4 (f) The report required under Section 161.0074 must also
5 include the number of complaints received by the department
6 related to the department's failure to comply with requests for
7 removal of information from the registry under Subsection (e).

8 Sec. 161.00707. INFORMATION AND EDUCATION FOR FIRST
9 RESPONDERS. The department shall develop a program for
10 informing first responders about the immunization registry and
11 educating first responders about the benefits of being included
12 in the immunization registry, including:

13 (1) ensuring that first responders receive necessary
14 immunizations to prevent the spread of communicable diseases to
15 which a first responder may be exposed during a public health
16 emergency, declared disaster, terrorist attack, hostile military
17 or paramilitary action, or extraordinary law enforcement
18 emergency; and

19 (2) preventing duplication of vaccinations.

20 SECTION __. Section 161.007, Health and Safety Code, is
21 amended by amending Subsections (a), (b), and (j) and adding
22 Subsections (b-1) and (b-2) to read as follows:

23 (a) The department, for the primary purpose [~~purposes~~] of
24 establishing and maintaining a single repository of accurate,
25 complete, and current immunization records to be used in aiding,
26 coordinating, and promoting efficient and cost-effective
27 childhood communicable disease prevention and control efforts,
28 shall establish and maintain an [~~a childhood~~] immunization
29 registry. The department by rule shall develop guidelines to:

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

1 (2) inform a parent, managing conservator, or
2 guardian of each patient younger than 18 years of age about the
3 registry;

4 (3) require the written consent of a parent, managing
5 conservator, or guardian of a patient younger than 18 years of
6 age before any information relating to the patient is included
7 in the registry; ~~and~~

8 (4) permit a parent, managing conservator, or
9 guardian of a patient younger than 18 years of age to withdraw
10 consent for the patient to be included in the registry; and

11 (5) determine the process by which consent is
12 verified, including affirmation by a health care provider, birth
13 registrar, regional health information exchange, or local
14 immunization registry that consent has been obtained.

15 (b) The [~~childhood~~] immunization registry must contain
16 information on the immunization history that is obtained by the
17 department under:

18 (1) this section of each person who is younger than
19 18 years of age and for whom consent has been obtained in
20 accordance with guidelines adopted under Subsection (a);

21 (2) Section 161.00705 of persons immunized to prepare
22 for or in response to a declared disaster, public health
23 emergency, terrorist attack, hostile military or paramilitary
24 action, or extraordinary law enforcement emergency; and

25 (3) Section 161.00706 of first responders or their
26 immediate family members.

27 (b-1) The department shall remove from the registry
28 information for any person for whom consent has been withdrawn.
29 The department may not retain individually identifiable
30 information about any person:

31 (1) for whom consent has been withdrawn;

1 (2) for whom a consent for continued inclusion in the
2 registry following the end of the declared disaster, public
3 health emergency, terrorist attack, hostile military or
4 paramilitary action, or extraordinary law enforcement emergency
5 has not been received under Section 161.00705(f); or

6 (3) for whom a request to be removed from the
7 registry has been received under Section 161.00706(e).

8 (b-2) Except as otherwise provided by this subchapter, the
9 department shall retain the information in the registry until
10 the person's death. Not later than the 180th day after the date
11 a person whose immunization information is included in the
12 registry turns 18 years of age, the department shall notify the
13 person that the information will remain in the registry unless
14 the person withdraws consent to be included in the registry.

15 (j) Except as provided by Sections 161.00705, 161.00706,
16 and [Section] 161.008, information obtained by the department
17 for the immunization registry is confidential and may be
18 disclosed only with the written consent of the individual or, if
19 a child, the child's parent, managing conservator, or guardian.

20 SECTION __. Subsections (a) and (c), Section 161.0073,
21 Health and Safety Code, are amended to read as follows:

22 (a) Except as provided by Section 161.00705, [The]
23 information that individually identifies a child or other
24 individual that is received by the department for the
25 immunization registry is confidential and may be used by the
26 department for registry purposes only.

27 (c) A person required to report information to the
28 department for registry purposes or authorized to receive
29 information from the registry may not disclose the individually
30 identifiable information of a child or other individual to any
31 other person without written consent of the individual or, if a

1 child, the parent, managing conservator, or guardian of the
2 child, except as provided by Chapter 159, Occupations Code, or
3 Section 602.053, Insurance Code.

4 SECTION __. Section 161.0075, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as
7 provided by Section 161.009, the following persons subject to
8 this subchapter that act in compliance with Sections 161.007,
9 161.00705, 161.00706, 161.0071, 161.0073, 161.0074, and 161.008
10 are not civilly or criminally liable for furnishing the
11 information required under this subchapter:

12 (1) a payor;

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

15 (3) an employee of the department.

16 SECTION __. Subsection (a), Section 161.009, Health and
17 Safety Code, is amended to read as follows:

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

19 (1) negligently releases or discloses immunization
20 registry information in violation of Section 161.007, 161.0071,
21 161.0073, or 161.008;

22 (2) fails to exclude a child's immunization
23 information in violation of Section 161.0071; [~~or~~]

24 (3) fails to remove a person's immunization
25 information in violation of Section 161.00705 or 161.00706; or

26 (4) negligently uses information in the immunization
27 registry to solicit new patients or clients or for other
28 purposes that are not associated with immunization or quality-
29 of-care purposes, unless authorized under this section.

30 SECTION __. Subchapter A, Chapter 161, Health and Safety
31 Code, is amended by adding Section 161.0102 to read as follows:

1 Sec. 161.0102. DISASTER PREPARATION. The department shall
2 consult with public health departments and appropriate health
3 care providers to identify adult immunizations that may be
4 necessary to respond to or prepare for a disaster or public
5 health emergency, terrorist attack, hostile military or
6 paramilitary action, or extraordinary law enforcement emergency.

7 SECTION __. Subsection (a), Section 161.0105, Health and
8 Safety Code, is amended to read as follows:

9 (a) A health care provider who acts in compliance with
10 Sections 161.007, 161.00705, 161.00706, and 161.008 and any
11 rules adopted under those sections is not civilly or criminally
12 liable for furnishing the information required under those
13 sections. This subsection does not apply to criminal liability
14 established under Section 161.009.

15 SECTION __. As soon as practicable after the effective
16 date of this Act, the executive commissioner of the Health and
17 Human Services Commission shall adopt the rules required under
18 Sections 161.00705 and 161.00706, Health and Safety Code, as
19 added by this Act.

20 SECTION __. The change in law made by this Act to Section
21 161.009, Health and Safety Code, applies only to an offense
22 committed on or after the effective date of this Act. An
23 offense committed before the effective date of this Act is
24 covered by the law in effect when the offense was committed, and
25 the former law is continued in effect for that purpose. For the
26 purposes of this section, an offense was committed before the
27 effective date of this Act if any element of the offense was
28 committed before that date.