

By: Howard of Travis, Gonzales, England,  
King of Taylor, et al.

H.B. No. 1896

Substitute the following for H.B. No. 1896:

By: Delisi

C.S.H.B. No. 1896

A BILL TO BE ENTITLED

1 AN ACT

2 relating to information submitted to and maintained in the  
3 immunization registry.

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

5 SECTION 1. Section 161.0001, Health and Safety Code, is  
6 amended to read as follows:

7 Sec. 161.0001. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

21 (B) specified in rules adopted to implement  
22 Section 161.0078.

23 (1-a) "Patient's legally authorized representative"  
24 means:

1           (A) a parent, managing conservator, or guardian  
2 of a patient, if the patient is a minor;

3           (B) a guardian of the patient, if the patient has  
4 been adjudicated incompetent to manage the patient's personal  
5 affairs; or

6           (C) an agent of the patient authorized under a  
7 durable power of attorney for health care.

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

12           SECTION 2. Sections 161.007(a), (a-1), (b), (c), (d), (e),  
13 (f), and (j), Health and Safety Code, are amended to read as  
14 follows:

15           (a) The department, for purposes of establishing and  
16 maintaining a single repository of accurate, complete, and current  
17 immunization records to be used in aiding, coordinating, and  
18 promoting efficient and cost-effective [~~childhood~~] communicable  
19 disease prevention and control efforts, shall establish and  
20 maintain an [~~a childhood~~] immunization registry. The department by  
21 rule shall develop guidelines to:

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

24           (2) inform the patient or the patient's legally  
25 authorized representative [~~a parent, managing conservator, or~~  
26 ~~guardian of each patient~~] about the registry;

27           (3) require the written consent of the patient or the

1 patient's legally authorized representative [~~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 the patient or the patient's legally  
5 authorized representative [~~a parent, managing conservator, or~~  
6 ~~guardian~~] to withdraw consent for the patient to be included in the  
7 registry; and

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

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

19 (b) Except as provided by Section 161.0071, the [~~The~~  
20 ~~childhood~~] immunization registry must contain information on the  
21 immunization history that is obtained by the department under this  
22 section of each person [~~who is younger than 18 years of age and~~] for  
23 whom consent has been obtained in accordance with guidelines  
24 adopted under Subsection (a). The department shall retain the  
25 information until the person's death. The department shall remove  
26 from the registry information for any person for whom consent has  
27 been withdrawn. The department may not retain individually

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

3 (c) A payor that receives data elements from a health care  
4 provider who administers an immunization to a person [~~younger than~~  
5 ~~18 years of age~~] shall provide the data elements to the department.  
6 A payor is required to provide the department with only the data  
7 elements the payor receives from a health care provider. The data  
8 elements shall be submitted in a format prescribed by the  
9 department. The department shall verify consent before disclosing  
10 [~~including~~] the reported information to other users of [~~in~~] the  
11 immunization registry. The department may [~~not~~] retain  
12 individually identifiable information about a person for whom  
13 consent cannot be verified but may not disclose the information to  
14 other users of the registry until consent is verified.

15 (d) A health care provider who administers an immunization  
16 to a person younger than 18 years of age shall provide data elements  
17 regarding an immunization to the department. A health care provider  
18 who administers an immunization to a person 18 years of age or older  
19 may submit data elements regarding an immunization to the  
20 department. The data elements shall be submitted in a format  
21 prescribed by the department. The department shall verify consent  
22 before disclosing [~~including~~] the information to other users of  
23 [~~in~~] the immunization registry. The department may [~~not~~] retain  
24 individually identifiable information about a person for whom  
25 consent cannot be verified but may not disclose the information to  
26 other users of the registry until consent is verified.

27 (e) The department shall provide notice to a health care

1 provider that submits an immunization history for a patient  
2 [~~person~~] for whom consent cannot be verified. The notice shall  
3 contain instructions for obtaining consent in accordance with  
4 guidelines adopted under Subsection (a) and resubmitting the  
5 immunization history to the department.

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

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

20 SECTION 3. Section 161.0071, Health and Safety Code, is  
21 amended to read as follows:

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

1 patient or the patient's legally authorized representative [~~child's~~  
2 ~~parent, managing conservator, or guardian~~] disclosing:

3 (1) that providers and payors may be sending the  
4 patient's [~~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 patient [~~child~~] from  
10 the registry; and

11 (6) the procedure to report a violation if a patient  
12 [~~parent, managing conservator, or guardian discovers a child~~] is  
13 included in 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 patient's [~~child's~~] immunization records from the registry and any  
17 other registry-related department record that individually  
18 identifies the patient [~~child~~].

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

26 (d) The department commits a violation if the department  
27 fails to exclude a patient's [~~child's~~] immunization information

1 from the registry as required by Subsection (b) or (c).

2 (e) The department shall accept a written statement from a  
3 patient or the patient's legally authorized representative  
4 ~~[parent, managing conservator, or guardian]~~ communicating to the  
5 department that a patient ~~[child]~~ should be excluded from the  
6 registry, including a statement on the patient's ~~[child's]~~ birth  
7 certificate, as a request for exclusion under Subsection (c). The  
8 written statement may include the electronic signature on the  
9 patient's ~~[child's]~~ birth certificate.

10 SECTION 4. Section 161.0072, Health and Safety Code, is  
11 amended to read as follows:

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

23 (b) The patient or the patient's legally authorized  
24 representative ~~[parent, managing conservator, or guardian of a~~  
25 ~~child]~~ may send evidence of the patient's ~~[child's]~~ immunization  
26 history to the department by facsimile transmission or by mail. The  
27 evidence may include a copy of:

1           (1) the patient's ~~[child's]~~ medical record indicating  
2 the immunization history;

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

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

7           (c) The board shall develop rules to ensure that the  
8 immunization history submitted by a patient or the patient's  
9 legally authorized representative ~~[parent, managing conservator,~~  
10 ~~or guardian]~~ is medically verified immunization information.

11           SECTION 5. Sections 161.0073(a), (b), and (c), Health and  
12 Safety Code, are amended to read as follows:

13           (a) The information that individually identifies a patient  
14 ~~[child]~~ received by the department for the immunization registry is  
15 confidential and may be used by the department for registry  
16 purposes only.

17           (b) Unless specifically authorized under this subchapter,  
18 the department may not release registry information to any  
19 individual or entity without the consent of the patient or the  
20 patient's legally authorized representative ~~[person or, if a minor,~~  
21 ~~the parent, managing conservator, or guardian of the child]~~.

22           (c) A person required to report information to the  
23 department for registry purposes or authorized to receive  
24 information from the registry may not disclose the individually  
25 identifiable information to any other person without written  
26 consent of the patient or the patient's legally authorized  
27 representative ~~[parent, managing conservator, or guardian of the~~



1 ~~child~~], except as provided by Chapter 159, Occupations Code, or  
2 Section 602.053, Insurance Code.

3 SECTION 6. Section 161.0075, Health and Safety Code, is  
4 amended to read as follows:

5 Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as provided  
6 by Section 161.009, the following persons subject to this  
7 subchapter that act in compliance with Sections 161.007, 161.0071,  
8 161.0073, 161.0074, 161.0078, and 161.008 are not civilly or  
9 criminally liable for furnishing the information required under  
10 this subchapter:

- 11 (1) a payor;
- 12 (2) a health care provider who administers  
13 immunizations; and
- 14 (3) an employee of the department.

15 SECTION 7. Subchapter A, Chapter 161, Health and Safety  
16 Code, is amended by adding Section 161.0077 to read as follows:

17 Sec. 161.0077. FIRST RESPONDERS. (a) In this section,  
18 "first responder" has the meaning assigned by Section 421.095,  
19 Government Code.

20 (b) The department shall develop a program for informing  
21 first responders about the immunization registry and educating  
22 first responders about the benefits of being included in the  
23 immunization registry, including:

- 24 (1) ensuring that first responders receive necessary  
25 immunizations to prevent the spread of communicable diseases to  
26 which a first responder may be exposed during a public health  
27 emergency; and

1           (2) preventing duplication of vaccinations.

2           SECTION 8. Subchapter A, Chapter 161, Health and Safety  
3 Code, is amended by adding Section 161.0078 to read as follows:

4           Sec. 161.0078. RECORDING ADMINISTRATION OF IMMUNIZATION  
5 AND MEDICATION FOR DISASTERS AND EMERGENCIES. (a) The department  
6 shall maintain a registry of persons who receive an immunization,  
7 antiviral, and other medication administered to prepare for a  
8 potential disaster or public health emergency or in response to a  
9 declared disaster or public health emergency. A health care  
10 provider who administers an immunization, antiviral, or other  
11 medication may provide the data elements to the department except  
12 that to the extent that reporting is required by Section 161.007,  
13 the health care provider shall provide the data elements to the  
14 department.

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

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

24           (d) Sections 161.007, 161.0071, 161.0072, 161.0073, and  
25 161.0074 apply to the data elements submitted to the department  
26 under this section, unless a provision in those sections conflicts  
27 with a requirement in this section.

1       (e) The executive commissioner of the Health and Human  
2 Services Commission may adopt rules necessary to implement this  
3 section.

4       SECTION 9. Sections 161.008(b), (c), (d), (e), (f), and  
5 (g), Health and Safety Code, are amended to read as follows:

6       (b) An immunization record contains ~~[the]~~:

7           (1) the name and date of birth of the person immunized;

8           (2) the dates of immunization;

9           (3) the types of immunization administered; ~~[and]~~

10          (4) any adverse or unexpected events for a vaccine;

11          (5) the name and address of the health care provider  
12 administering the immunization; and

13          (6) any additional information specified in rules  
14 adopted to implement Section 161.0078.

15       (c) The department may obtain the data constituting an  
16 immunization record for a patient ~~[child]~~ from a public health  
17 district, a local health department, a regional health information  
18 exchange, a local immunization registry, the patient or the  
19 patient's legally authorized representative ~~[child's parent,~~  
20 ~~managing conservator, or guardian]~~, a physician to the patient  
21 ~~[child]~~, a payor, or any health care provider licensed or otherwise  
22 authorized to administer vaccines. The department shall verify  
23 consent before including the reported information in the  
24 immunization registry. The department may ~~[not]~~ retain  
25 individually identifiable information about a person for whom  
26 consent cannot be verified but may not disclose the information to  
27 other users of the registry until consent is verified.

1 (d) The department may release the data constituting an  
2 immunization record for the patient [~~child~~] to any entity that is  
3 described by Subsection (c), to a school or child care facility in  
4 which the patient [~~child~~] is enrolled, or to a state agency having  
5 legal custody of the patient [~~child~~].

6 (e) A patient or the patient's legally authorized  
7 representative [~~parent, managing conservator, or legal guardian~~]  
8 may obtain and on request to the department shall be provided with  
9 all individually identifiable immunization registry information  
10 concerning the patient [~~his or her child or ward~~].

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

18 (g) The department may release nonidentifying summary  
19 statistics related to the registry that do not individually  
20 identify a patient [~~child~~].

21 SECTION 10. Section 161.009(a), Health and Safety Code, is  
22 amended to read as follows:

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

24 (1) negligently releases or discloses immunization  
25 registry information in violation of Section 161.007, 161.0071,  
26 161.0073, or 161.008;

27 (2) fails to exclude a patient's [~~child's~~]

1 immunization information in violation of Section 161.0071; or

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

6 SECTION 11. Subchapter A, Chapter 161, Health and Safety  
7 Code, is amended by adding Section 161.0102 to read as follows:

8 Sec. 161.0102. DISASTER PREPARATION. The department shall  
9 consult with public health departments and appropriate health care  
10 providers to identify adult immunizations that may be necessary to  
11 respond to or prepare for a disaster or public health emergency.

12 SECTION 12. Subchapter A, Chapter 161, Health and Safety  
13 Code, is amended by adding Sections 161.0107 and 161.0108 to read as  
14 follows:

15 Sec. 161.0107. ELECTRONIC MEDICAL RECORDS SYSTEMS. (a) In  
16 this section:

17 (1) "Electronic medical records software package or  
18 system" means an electronic system for maintaining medical records  
19 in the clinical setting.

20 (2) "Medical records" has the meaning assigned by  
21 Section 151.002, Occupations Code.

22 (b) A person who sells, leases, or otherwise provides an  
23 electronic medical records software package or system to a person  
24 who administers immunizations in this state or to an entity that  
25 manages records for the person shall provide, as part of the  
26 electronic medical records software package or system, the ability  
27 to:

1           (1) electronically interface with the immunization  
2 registry created under this subchapter; and

3           (2) generate electronic reports that contain the  
4 fields necessary to populate the immunization registry.

5           (c) The executive commissioner of the Health and Human  
6 Services Commission by rule shall specify:

7           (1) the fields necessary to populate the immunization  
8 registry; and

9           (2) the data standards that must be used for  
10 electronic submission of immunization information.

11           (d) The data standards specified under Subsection (b) must  
12 be compatible with the standards for immunization information  
13 transmission adopted by the Healthcare Information Technology  
14 Standards Panel sponsored by the American National Standards  
15 Institute and included in certification criteria by the  
16 Certification Commission for Healthcare Information Technology.

17           Sec. 161.0108. INJUNCTION. (a) The attorney general may  
18 bring an action in the name of the state to enjoin a violation of  
19 Section 161.0107.

20           (b) If the state prevails in a suit under this section, the  
21 attorney general may recover on behalf of the state reasonable  
22 attorney's fees, court costs, and reasonable investigative costs  
23 incurred in relation to the proceeding.

24           SECTION 13. The change in law made by Section 161.0108,  
25 Health and Safety Code, as added by this Act, applies only to a  
26 cause of action that accrues on or after the effective date of rules  
27 adopted by the executive commissioner of the Health and Human

1 Services Commission under Section 161.0107, Health and Safety Code,  
2 as added by this Act.

3 SECTION 14. This Act takes effect immediately if it  
4 receives a vote of two-thirds of all the members elected to each  
5 house, as provided by Section 39, Article III, Texas Constitution.  
6 If this Act does not receive the vote necessary for immediate  
7 effect, this Act takes effect September 1, 2007.