

By: Howard of Travis

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 by amending Subdivision (2) and adding Subdivision (1-a) to
7 read as follows:

8 (1-a) "Patient's legally authorized representative"
9 means:

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

12 (B) a guardian of the patient, if the patient has
13 been adjudicated incompetent to manage the patient's personal
14 affairs; or

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

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

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

24 (a) The department, for purposes of establishing and

1 maintaining a single repository of accurate, complete, and current
2 immunization records to be used in aiding, coordinating, and
3 promoting efficient and cost-effective [~~childhood~~] communicable
4 disease prevention and control efforts, shall establish and
5 maintain an [~~a childhood~~] immunization registry. The department by
6 rule shall develop guidelines to:

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

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

12 (3) require the written consent of the patient or the
13 patient's legally authorized representative [~~a parent, managing~~
14 ~~conservator, or guardian of a patient~~] before any information
15 relating to the patient is included in the registry; [~~and~~]

16 (4) permit the patient or the patient's legally
17 authorized representative [~~a parent, managing conservator, or~~
18 ~~guardian~~] to withdraw consent for the patient to be included in the
19 registry; and

20 (5) determine the process by which consent is
21 verified, including affirmation by a health care provider, birth
22 registrar, or local immunization registry that consent has been
23 obtained.

24 (a-1) The written consent required by Subsection (a)(3) is
25 required to be obtained only one time. The written consent is valid
26 until the patient or the patient's legally authorized
27 representative withdraws [~~child becomes 18 years of age unless~~] the

1 consent [~~is withdrawn~~] in writing. A parent, managing conservator,
2 or guardian of a child may provide the written consent by using an
3 electronic signature on the child's birth certificate.

4 (b) Except as provided by Section 161.0071, the [~~The~~
5 ~~childhood~~] immunization registry must contain information on the
6 immunization history that is obtained by the department under this
7 section of each person [~~who is younger than 18 years of age and~~] for
8 whom consent has been obtained in accordance with guidelines
9 adopted under Subsection (a). The department shall retain the
10 information until the person's death. The department shall remove
11 from the registry information for any person for whom consent has
12 been withdrawn. The department may not retain individually
13 identifiable information about any person for whom consent has been
14 withdrawn.

15 (c) A payor that receives data elements from a health care
16 provider who administers an immunization to a person [~~younger than~~
17 ~~18 years of age~~] shall provide the data elements to the department.
18 A payor is required to provide the department with only the data
19 elements the payor receives from a health care provider. The data
20 elements shall be submitted in a format prescribed by the
21 department. The department shall verify consent before disclosing
22 [~~including~~] the reported information to other users of [~~in~~] the
23 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 (d) A health care provider who administers an immunization

1 to a person younger than 18 years of age shall provide data elements
2 regarding an immunization to the department. A health care provider
3 who administers an immunization to a person over 18 years of age may
4 submit data elements regarding an immunization to the department.

5 The data elements shall be submitted in a format prescribed by the
6 department. The department shall verify consent before disclosing
7 ~~[including]~~ the information to other users of ~~[in]~~ the immunization
8 registry. The department may ~~[not]~~ retain individually
9 identifiable information about a person for whom consent cannot be
10 verified but may not disclose the information to other users of the
11 registry until consent is verified.

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

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

27 (j) Except as provided by Section 161.008, information

1 obtained by the department for the immunization registry is
2 confidential and may be disclosed only with the written consent of
3 the patient or the patient's legally authorized representative
4 [~~child's parent, managing conservator, or guardian~~].

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

7 Sec. 161.0071. NOTICE OF RECEIPT OF REGISTRY DATA;
8 EXCLUSION FROM REGISTRY. (a) The first time the department
9 receives registry data for a patient [~~child~~] for whom the
10 department has received consent to be included in the registry,
11 [~~from a person other than the child's parent, managing conservator,~~
12 ~~or guardian,~~] the department shall send a written notice to the
13 patient or the patient's legally authorized representative [~~child's~~
14 ~~parent, managing conservator, or guardian~~] disclosing:

15 (1) that providers and payors may be sending the
16 patient's [~~child's~~] immunization information to the department;

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

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

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

21 (5) the procedure to exclude a patient [~~child~~] from
22 the registry; and

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

26 (b) On discovering that consent to be included in the
27 registry has not been granted, the department shall exclude the

1 patient's [~~child's~~] immunization records from the registry and any
2 other registry-related department record that individually
3 identifies the patient [~~child~~].

4 (c) On receipt of a written request to exclude a patient's
5 [~~child's~~] immunization records from the registry, the department
6 shall send to the patient or the patient's legally authorized
7 representative [~~a parent, managing conservator, or guardian~~] who
8 makes the request a written confirmation of receipt of the request
9 for exclusion and shall exclude the patient's [~~child's~~] records
10 from the registry.

11 (d) The department commits a violation if the department
12 fails to exclude a patient's [~~child's~~] immunization information
13 from the registry as required by Subsection (b) or (c).

14 (e) The department shall accept a written statement from a
15 patient or the patient's legally authorized representative
16 [~~parent, managing conservator, or guardian~~] communicating to the
17 department that a patient [~~child~~] should be excluded from the
18 registry, including a statement on the patient's [~~child's~~] birth
19 certificate, as a request for exclusion under Subsection (c). The
20 written statement may include the electronic signature on the
21 patient's [~~child's~~] birth certificate.

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

24 Sec. 161.0072. PROVIDING IMMUNIZATION INFORMATION TO
25 DEPARTMENT. (a) If the patient or the patient's legally authorized
26 representative [~~parent, managing conservator, or guardian of a~~
27 ~~child~~] has reasonable concern that the patient's [~~child's~~] health

1 care provider is not submitting the immunization history to the
2 department [~~and the parent, managing conservator, or guardian wants~~
3 ~~the child included in the registry~~], the patient or the patient's
4 legally authorized representative [~~parent, managing conservator,~~
5 ~~or guardian~~] may provide the patient's [~~child's~~] immunization
6 history directly to the department to be included in the
7 immunization registry.

8 (b) The patient or the patient's legally authorized
9 representative [~~parent, managing conservator, or guardian of a~~
10 ~~child~~] may send evidence of the patient's [~~child's~~] immunization
11 history to the department by facsimile transmission or by mail. The
12 evidence may include a copy of:

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

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

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

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

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

25 (a) The information that individually identifies a patient
26 [~~child~~] received by the department for the immunization registry is
27 confidential and may be used by the department for registry

1 purposes only.

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

7 (c) A person required to report information to the
8 department for registry purposes or authorized to receive
9 information from the registry may not disclose the individually
10 identifiable information to any other person without written
11 consent of the patient or the patient's legally authorized
12 representative [~~parent, managing conservator, or guardian of the~~
13 ~~child~~], except as provided by Chapter 159, Occupations Code, or
14 Section 602.053, Insurance Code.

15 SECTION 6. 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 7. Sections 161.008(c), (d), (e), and (g), Health
3 and Safety Code, are amended to read as follows:

4 (c) The department may obtain the data constituting an
5 immunization record for a patient [~~child~~] from a public health
6 district, a local health department, a regional health information
7 exchange, a local immunization registry, the patient or the
8 patient's legally authorized representative [~~child's parent,~~
9 ~~managing conservator, or guardian~~], a physician to the patient
10 [~~child~~], a payor, or any health care provider licensed or otherwise
11 authorized to administer vaccines. The department shall verify
12 consent before including the reported information in the
13 immunization registry. The department may [~~not~~] retain
14 individually identifiable information about a person for whom
15 consent cannot be verified but may not disclose the information to
16 other users of the registry until consent is verified.

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

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

27 (g) The department may release nonidentifying summary

1 statistics related to the registry that do not individually
2 identify a patient [~~child~~].

3 SECTION 8. 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 patient's [~~child's~~]
10 immunization information in violation of Section 161.0071; or

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

15 SECTION 9. Subchapter A, Chapter 161, Health and Safety
16 Code, is amended by adding Section 161.0102 to read as follows:

17 Sec. 161.0102. DISASTER PREPARATION. The department shall
18 consult with public health departments and appropriate health care
19 providers to identify adult immunizations that may be necessary to
20 respond to or prepare for a public health disaster.

21 SECTION 10. Subchapter A, Chapter 161, Health and Safety
22 Code, is amended by adding Sections 161.0107 and 161.0108 to read as
23 follows:

24 Sec. 161.0107. ELECTRONIC MEDICAL RECORDS SYSTEMS. (a) A
25 person who sells, leases, or otherwise provides an electronic
26 medical records software package or system to a person who
27 administers immunizations in this state or to an entity that

1 manages records for the person shall provide, as part of the
2 electronic medical records package or system, the ability to:

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

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

7 (b) The executive commissioner of the Health and Human
8 Services Commission by rule may specify the fields necessary to
9 populate the immunization registry.

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

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

17 SECTION 11. This Act takes effect immediately if it
18 receives a vote of two-thirds of all the members elected to each
19 house, as provided by Section 39, Article III, Texas Constitution.
20 If this Act does not receive the vote necessary for immediate
21 effect, this Act takes effect September 1, 2007.