

AN ACT

relating to requiring the Department of State Health Services to allow health care providers to use certain vaccines in the vaccines for children program and to the procurement of those vaccines.

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 161.0102 to read as follows:

Sec. 161.0102. VACCINES FOR CHILDREN PROGRAM; INFLUENZA VACCINES. (a) In this section, "vaccines for children program" means the program operated by the department under authority of 42 U.S.C. Section 1396s, as amended.

(b) The department shall allow each health care provider participating in the vaccines for children program to:

(1) select influenza vaccines from the list of all influenza vaccines that:

(A) are approved by the United States Food and Drug Administration and recommended by the federal Advisory Committee on Immunization Practices; and

(B) are either:

(i) within the limits of the vaccines annually allocated by the Centers for Disease Control and Prevention of the United States Public Health Service to the department for the vaccines for children program; or

(ii) not offered in the annual allocation

1 under Subparagraph (i), but are available from the Centers for  
2 Disease Control and Prevention of the United States Public Health  
3 Service and for which the Centers for Disease Control and  
4 Prevention awards to the department additional funds; and

5 (2) use both inactivated influenza vaccines and live,  
6 attenuated influenza vaccines.

7 SECTION 2. Subchapter A, Chapter 161, Health and Safety  
8 Code, is amended by adding Section 161.0103 to read as follows:

9 Sec. 161.0103. VACCINES FOR CHILDREN PROGRAM; EQUIVALENT  
10 VACCINES. (a) In this section:

11 (1) "Vaccines for children program" means the program  
12 operated by the department under authority of 42 U.S.C. Section  
13 1396s.

14 (2) "Equivalent vaccines" means two or more vaccines,  
15 excluding the influenza vaccine, that protect a recipient of a  
16 vaccine against the same infection or infections, that require the  
17 same number of doses, and that have similar safety and efficacy  
18 profiles and which are recommended for comparable populations.

19 (b) Except as provided by Subsection (d), where two or more  
20 manufacturers produce equivalent vaccines, the department shall  
21 procure an equal supply of the vaccine from each manufacturer.

22 (c) An equivalent vaccine must be:

23 (1) approved by the United States Food and Drug  
24 Administration;

25 (2) recommended by the federal Advisory Committee on  
26 Immunization Practices; and

27 (3) made available to the department by the Centers

1 for Disease Control and Prevention of the United States Public  
2 Health Service.

3 (d) The department shall procure an equal supply of each  
4 equivalent vaccine under Subsection (b) only if the cost to the  
5 department of providing each equivalent vaccine is not more than  
6 110 percent of the lowest-priced equivalent vaccine.

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

\_\_\_\_\_  
President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 811 passed the Senate on April 19, 2007, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 18, 2007, by the following vote: Yeas 29, Nays 0.

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Secretary of the Senate

I hereby certify that S.B. No. 811 passed the House, with amendments, on May 15, 2007, by the following vote: Yeas 140, Nays 0, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor