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S.B. No. 1186

A BILL TO BE ENTITLED

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AN ACT

relating to inclusion in the immunization registry of immunization records of first responders and their immediate family members and of immunization records obtained during certain declared disasters.

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

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

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

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

SECTION 2. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Sections 161.00705 and 161.00706 to read as follows:

Sec. 161.00705. IMMUNIZATION INFORMATION DURING DECLARED DISASTER. (a) In this section:

(1) "Child" means an individual younger than 18 years of age.

(2) "Disaster area" means an area of this state:

(A) that has been declared a disaster area by:

(i) the governor under Chapter 418, Government Code; or

1 (ii) the president of the United States; or

2 (B) in which there is a public health disaster.

3 (3) "Public health disaster" means:

4 (A) a declaration by the governor of a state of
5 disaster; and

6 (B) a determination by the commissioner that
7 there exists an immediate threat from a communicable disease that:

8 (i) poses a high risk of death or serious
9 long-term disability to a large number of people; and

10 (ii) creates a substantial risk of public
11 exposure because of the disease's high level of contagion or the
12 method by which the disease is transmitted.

13 (b) Notwithstanding any other provision of this chapter, a
14 health care provider who administers an immunization to an
15 individual in a disaster area during a declared disaster, including
16 a public health disaster, shall provide data elements regarding the
17 immunization to the department for inclusion in the immunization
18 registry. The data elements shall be submitted within the time and
19 in a format prescribed by the department.

20 (c) The executive commissioner of the Health and Human
21 Services Commission by rule shall determine the period during which
22 the information collected under this section must remain in the
23 immunization registry following the end of the disaster.

24 (d) Unless an individual or, if a child, the child's parent,
25 managing conservator, or guardian consents in writing to continued
26 inclusion of the child's or other individual's information in the
27 registry, the department shall remove the immunization records

1 collected under this section from the registry on expiration of the
2 period prescribed under Subsection (c).

3 (e) The immunization information of a child or other
4 individual received by the department under this section, including
5 individually identifiable information, may be released only:

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

8 (2) to a state agency or health care provider
9 consistent with the purposes of this subchapter or the purposes of
10 aiding or coordinating communicable disease prevention and control
11 efforts during a declared disaster.

12 (f) The report required under Section 161.0074 must also
13 include the number of complaints received by the department related
14 to the department's failure to remove information from the registry
15 as required by Subsection (d).

16 (g) The executive commissioner of the Health and Human
17 Services Commission shall adopt rules necessary to implement this
18 section.

19 Sec. 161.00706. FIRST RESPONDER IMMUNIZATION INFORMATION.

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

22 (1) request that a health care provider who
23 administers an immunization to the person provide data elements
24 regarding the immunization to the department for inclusion in the
25 immunization registry; or

26 (2) provide the person's immunization history directly
27 to the department for inclusion in the immunization registry.

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

6 (c) The executive commissioner of the Health and Human
7 Services Commission shall:

8 (1) develop rules to ensure that immunization history
9 submitted under Subsection (a)(2) is medically verified
10 immunization information;

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

13 (3) adopt rules necessary for the implementation of
14 this section.

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

19 (e) A person whose immunization records are included in the
20 immunization registry as authorized by this section may request in
21 writing that the department remove that information from the
22 registry. Not later than the 10th day after receiving a request
23 under this subsection, the department shall remove the person's
24 immunization records from the registry.

25 (f) The report required under Section 161.0074 must also
26 include the number of complaints received by the department related
27 to the department's failure to comply with requests for removal of

1 information from the registry under Subsection (e).

2 SECTION 3. Section 161.007, Health and Safety Code, is
3 amended by amending Subsections (a), (b), and (j) and adding
4 Subsection (b-1) to read as follows:

5 (a) The department, for the primary purpose [~~purposes~~] of
6 establishing and maintaining a single repository of accurate,
7 complete, and current immunization records to be used in aiding,
8 coordinating, and promoting efficient and cost-effective childhood
9 communicable disease prevention and control efforts, shall
10 establish and maintain an [~~a childhood~~] immunization registry. The
11 department by rule shall develop guidelines to:

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

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

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

20 (4) permit a parent, managing conservator, or guardian
21 of a patient younger than 18 years of age to withdraw consent for
22 the patient to be included in the registry.

23 (b) The [~~childhood~~] immunization registry must contain
24 information on the immunization history that is obtained by the
25 department under:

26 (1) this section of each person who is younger than 18
27 years of age and for whom consent has been obtained in accordance

1 with guidelines adopted under Subsection (a);

2 (2) Section 161.00705 of persons in a disaster area
3 immunized during a declared disaster; and

4 (3) Section 161.00706 of first responders or their
5 immediate family members.

6 (b-1) The department shall remove from the registry
7 information for any person for whom consent has been withdrawn. The
8 department may not retain individually identifiable information
9 about any person:

10 (1) for whom consent has been withdrawn;

11 (2) for whom a consent for continued inclusion in the
12 registry following the end of the disaster has not been received
13 under Section 161.00705(d); or

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

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

21 SECTION 4. Subsections (a) and (c), Section 161.0073,
22 Health and Safety Code, are amended to read as follows:

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

1 (c) A person required to report information to the
2 department for registry purposes or authorized to receive
3 information from the registry may not disclose the individually
4 identifiable information of a child or other individual to any
5 other person without written consent of the individual or, if a
6 child, the parent, managing conservator, or guardian of the child,
7 except as provided by Chapter 159, Occupations Code, or Section
8 602.053, Insurance Code.

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

11 Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as
12 provided by Section 161.009, the following persons subject to this
13 subchapter that act in compliance with Sections 161.007, 161.00705,
14 161.00706, 161.0071, 161.0073, 161.0074, and 161.008 are not
15 civilly or criminally liable for furnishing the information
16 required under this subchapter:

17 (1) a payor;

18 (2) a health care provider who administers
19 immunizations; and

20 (3) an employee of the department.

21 SECTION 6. Subsection (a), Section 161.009, Health and
22 Safety Code, is 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 child's immunization

1 information in violation of Section 161.0071; [~~or~~]

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

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

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

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

16 SECTION 8. As soon as practicable after the effective date
17 of this Act, the executive commissioner of the Health and Human
18 Services Commission shall adopt the rules required under Sections
19 161.00705 and 161.00706, Health and Safety Code, as added by this
20 Act.

21 SECTION 9. The change in law made by this Act to Section
22 161.009, Health and Safety Code, applies only to an offense
23 committed on or after the effective date of this Act. An offense
24 committed before the effective date of this Act is covered by the
25 law in effect when the offense was committed, and the former law is
26 continued in effect for that purpose. For the purposes of this
27 section, an offense was committed before the effective date of this

1 Act if any element of the offense was committed before that date.

2 SECTION 10. This Act takes effect September 1, 2007.