

By: Nelson, et al.

S.B. No. 1186

Substitute the following for S.B. No. 1186:

By: Delisi

C.S.S.B. No. 1186

A BILL TO BE ENTITLED

AN ACT

1
2 relating to inclusion in the immunization registry of immunization
3 records of first responders and their immediate family members and
4 of immunization records obtained during certain declared
5 disasters.

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

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

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

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

14 (i) [~~(A)~~] the date the vaccine is
15 administered;

16 (ii) [~~(B)~~] the vaccine manufacturer and lot
17 number of the vaccine;

18 (iii) any adverse or unexpected events for
19 a vaccine; and

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

23 (B) specified in rules adopted to implement
24 Section 161.00705.

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

3 (1-b) "Immediate family member" means the parent,
4 spouse, child, or sibling of a person who resides in the same
5 household as the person.

6 SECTION 2. Subchapter A, Chapter 161, Health and Safety
7 Code, is amended by adding Sections 161.00705, 161.00706, and
8 161.00707 to read as follows:

9 Sec. 161.00705. RECORDING ADMINISTRATION OF IMMUNIZATION
10 AND MEDICATION FOR DISASTERS AND EMERGENCIES. (a) The department
11 shall maintain a registry of persons who receive an immunization,
12 antiviral, and other medication administered to prepare for a
13 potential disaster or public health emergency or in response to a
14 declared disaster or public health emergency. A health care
15 provider who administers an immunization, antiviral, or other
16 medication shall provide the data elements to the department.

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

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

26 (d) Sections 161.007, 161.0071, 161.0072, and 161.0074
27 apply to the data elements submitted to the department under this

1 section, unless a provision in those sections conflicts with a
2 requirement in this section.

3 (e) The executive commissioner of the Health and Human
4 Services Commission by rule shall determine the period during which
5 the information collected under this section must remain in the
6 immunization registry following the end of the disaster or public
7 health emergency.

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

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

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

19 (2) to a state agency or health care provider
20 consistent with the purposes of this subchapter or the purposes of
21 aiding or coordinating communicable disease prevention and control
22 efforts during a declared disaster or public health emergency.

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

27 (i) The executive commissioner of the Health and Human

1 Services Commission shall adopt rules necessary to implement this
2 section.

3 Sec. 161.00706. FIRST RESPONDER IMMUNIZATION INFORMATION.

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

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

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

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

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

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

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

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

26 (d) A person's immunization history or data received by the
27 department under this section may be released only on consent of the

1 person or to any health care provider licensed or otherwise
2 authorized to administer vaccines.

3 (e) A person whose immunization records are included in the
4 immunization registry as authorized by this section may request in
5 writing that the department remove that information from the
6 registry. Not later than the 10th day after receiving a request
7 under this subsection, the department shall remove the person's
8 immunization records from the registry.

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

13 Sec. 161.00707. INFORMATION AND EDUCATION FOR FIRST
14 RESPONDERS. The department shall develop a program for informing
15 first responders about the immunization registry and educating
16 first responders about the benefits of being included in the
17 immunization registry, including:

18 (1) ensuring that first responders receive necessary
19 immunizations to prevent the spread of communicable diseases to
20 which a first responder may be exposed during a public health
21 emergency; and

22 (2) preventing duplication of vaccinations.

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

26 (a) The department, for the primary purpose [~~purposes~~] of
27 establishing and maintaining a single repository of accurate,

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

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

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

10 (3) require the written consent of a parent, managing
11 conservator, or guardian of a patient younger than 18 years of age
12 before any information relating to the patient is included in the
13 registry; [~~and~~]

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

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

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

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

27 (2) Section 161.00705 of persons immunized to prepare

1 for or in response to a public health emergency or a declared
2 disaster; and

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

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

9 (1) for whom consent has been withdrawn;

10 (2) for whom a consent for continued inclusion in the
11 registry following the end of the disaster or public health
12 emergency has not been received under Section 161.00705(f); or

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

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

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

27 SECTION 4. Subsections (a) and (c), Section 161.0073,

1 Health and Safety Code, are amended to read as follows:

2 (a) Except as provided by Section 161.00705, [~~The~~
3 information that individually identifies a child or other
4 individual that is received by the department for the immunization
5 registry is confidential and may be used by the department for
6 registry purposes only.

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 of a child or other individual to any
11 other person without written consent of the individual or, if a
12 child, the parent, managing conservator, or guardian of the child,
13 except as provided by Chapter 159, Occupations Code, or Section
14 602.053, Insurance Code.

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

17 Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as
18 provided by Section 161.009, the following persons subject to this
19 subchapter that act in compliance with Sections 161.007, 161.00705,
20 161.00706, 161.0071, 161.0073, 161.0074, and 161.008 are not
21 civilly or criminally liable for furnishing the information
22 required under this subchapter:

- 23 (1) a payor;
24 (2) a health care provider who administers
25 immunizations; and
26 (3) an employee of the department.

27 SECTION 6. Subsection (a), Section 161.009, Health and

1 Safety Code, is amended to read as follows:

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

3 (1) negligently releases or discloses immunization
4 registry information in violation of Section 161.007, 161.0071,
5 161.0073, or 161.008;

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

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

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

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

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

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

22 (a) A health care provider who acts in compliance with
23 Sections 161.007, 161.00705, 161.00706, and 161.008 and any rules
24 adopted under those sections is not civilly or criminally liable
25 for furnishing the information required under those sections. This
26 subsection does not apply to criminal liability established under
27 Section 161.009.

1 SECTION 9. As soon as practicable after the effective date
2 of this Act, the executive commissioner of the Health and Human
3 Services Commission shall adopt the rules required under Sections
4 161.00705 and 161.00706, Health and Safety Code, as added by this
5 Act.

6 SECTION 10. The change in law made by this Act to Section
7 161.009, Health and Safety Code, applies only to an offense
8 committed on or after the effective date of this Act. An offense
9 committed before the effective date of this Act is covered by the
10 law in effect when the offense was committed, and the former law is
11 continued in effect for that purpose. For the purposes of this
12 section, an offense was committed before the effective date of this
13 Act if any element of the offense was committed before that date.

14 SECTION 11. This Act takes effect September 1, 2007.