

1-1 By: Nelson, Uresti S.B. No. 1186  
1-2 (In the Senate - Filed March 6, 2007; March 14, 2007, read  
1-3 first time and referred to Committee on Health and Human Services;  
1-4 April 16, 2007, reported favorably by the following vote: Yeas 8,  
1-5 Nays 0; April 16, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to inclusion in the immunization registry of immunization  
1-9 records of first responders and their immediate family members and  
1-10 of immunization records obtained during certain declared  
1-11 disasters.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 161.0001, Health and Safety Code, is  
1-14 amended by adding Subdivisions (1-a) and (1-b) to read as follows:

1-15 (1-a) "First responder" has the meaning assigned by  
1-16 Section 421.095, Government Code.

1-17 (1-b) "Immediate family member" means the parent,  
1-18 spouse, child, or sibling of a person who resides in the same  
1-19 household as the person.

1-20 SECTION 2. Subchapter A, Chapter 161, Health and Safety  
1-21 Code, is amended by adding Sections 161.00705 and 161.00706 to read  
1-22 as follows:

1-23 Sec. 161.00705. IMMUNIZATION INFORMATION DURING DECLARED  
1-24 DISASTER. (a) In this section:

1-25 (1) "Child" means an individual younger than 18 years  
1-26 of age.

1-27 (2) "Disaster area" means an area of this state:

1-28 (A) that has been declared a disaster area by:

1-29 (i) the governor under Chapter 418,  
1-30 Government Code; or

1-31 (ii) the president of the United States; or

1-32 (B) in which there is a public health disaster.

1-33 (3) "Public health disaster" means:

1-34 (A) a declaration by the governor of a state of  
1-35 disaster; and

1-36 (B) a determination by the commissioner that  
1-37 there exists an immediate threat from a communicable disease that:

1-38 (i) poses a high risk of death or serious  
1-39 long-term disability to a large number of people; and

1-40 (ii) creates a substantial risk of public  
1-41 exposure because of the disease's high level of contagion or the  
1-42 method by which the disease is transmitted.

1-43 (b) Notwithstanding any other provision of this chapter, a  
1-44 health care provider who administers an immunization to an  
1-45 individual in a disaster area during a declared disaster, including  
1-46 a public health disaster, shall provide data elements regarding the  
1-47 immunization to the department for inclusion in the immunization  
1-48 registry. The data elements shall be submitted within the time and  
1-49 in a format prescribed by the department.

1-50 (c) The executive commissioner of the Health and Human  
1-51 Services Commission by rule shall determine the period during which  
1-52 the information collected under this section must remain in the  
1-53 immunization registry following the end of the disaster.

1-54 (d) Unless an individual or, if a child, the child's parent,  
1-55 managing conservator, or guardian consents in writing to continued  
1-56 inclusion of the child's or other individual's information in the  
1-57 registry, the department shall remove the immunization records  
1-58 collected under this section from the registry on expiration of the  
1-59 period prescribed under Subsection (c).

1-60 (e) The immunization information of a child or other  
1-61 individual received by the department under this section, including  
1-62 individually identifiable information, may be released only:

1-63 (1) on consent of the individual or, if a child, the  
1-64 child's parent, managing conservator, or guardian; or

2-1                   (2) to a state agency or health care provider  
 2-2 consistent with the purposes of this subchapter or the purposes of  
 2-3 aiding or coordinating communicable disease prevention and control  
 2-4 efforts during a declared disaster.

2-5                   (f) The report required under Section 161.0074 must also  
 2-6 include the number of complaints received by the department related  
 2-7 to the department's failure to remove information from the registry  
 2-8 as required by Subsection (d).

2-9                   (g) The executive commissioner of the Health and Human  
 2-10 Services Commission shall adopt rules necessary to implement this  
 2-11 section.

2-12 Sec. 161.00706. FIRST RESPONDER IMMUNIZATION INFORMATION.

2-13 (a) A person 18 years of age or older who is a first responder or an  
 2-14 immediate family member of a first responder may:

2-15                   (1) request that a health care provider who  
 2-16 administers an immunization to the person provide data elements  
 2-17 regarding the immunization to the department for inclusion in the  
 2-18 immunization registry; or

2-19                   (2) provide the person's immunization history directly  
 2-20 to the department for inclusion in the immunization registry.

2-21                   (b) A health care provider, on receipt of a request under  
 2-22 Subsection (a)(1), shall submit the data elements to the department  
 2-23 in a format prescribed by the department. The department shall  
 2-24 verify the person's request before including the information in the  
 2-25 immunization registry.

2-26                   (c) The executive commissioner of the Health and Human  
 2-27 Services Commission shall:

2-28                   (1) develop rules to ensure that immunization history  
 2-29 submitted under Subsection (a)(2) is medically verified  
 2-30 immunization information;

2-31                   (2) develop guidelines for use by the department in  
 2-32 informing first responders about the registry; and

2-33                   (3) adopt rules necessary for the implementation of  
 2-34 this section.

2-35                   (d) A person's immunization history or data received by the  
 2-36 department under this section may be released only on consent of the  
 2-37 person or to any health care provider licensed or otherwise  
 2-38 authorized to administer vaccines.

2-39                   (e) A person whose immunization records are included in the  
 2-40 immunization registry as authorized by this section may request in  
 2-41 writing that the department remove that information from the  
 2-42 registry. Not later than the 10th day after receiving a request  
 2-43 under this subsection, the department shall remove the person's  
 2-44 immunization records from the registry.

2-45                   (f) The report required under Section 161.0074 must also  
 2-46 include the number of complaints received by the department related  
 2-47 to the department's failure to comply with requests for removal of  
 2-48 information from the registry under Subsection (e).

2-49                   SECTION 3. Section 161.007, Health and Safety Code, is  
 2-50 amended by amending Subsections (a), (b), and (j) and adding  
 2-51 Subsection (b-1) to read as follows:

2-52                   (a) The department, for the primary purpose [purposes] of  
 2-53 establishing and maintaining a single repository of accurate,  
 2-54 complete, and current immunization records to be used in aiding,  
 2-55 coordinating, and promoting efficient and cost-effective childhood  
 2-56 communicable disease prevention and control efforts, shall  
 2-57 establish and maintain an [a childhood] immunization registry. The  
 2-58 department by rule shall develop guidelines to:

2-59                   (1) protect the confidentiality of patients in  
 2-60 accordance with Section 159.002, Occupations Code;

2-61                   (2) inform a parent, managing conservator, or guardian  
 2-62 of each patient younger than 18 years of age about the registry;

2-63                   (3) require the written consent of a parent, managing  
 2-64 conservator, or guardian of a patient younger than 18 years of age  
 2-65 before any information relating to the patient is included in the  
 2-66 registry; and

2-67                   (4) permit a parent, managing conservator, or guardian  
 2-68 of a patient younger than 18 years of age to withdraw consent for  
 2-69 the patient to be included in the registry.

3-1 (b) The [~~childhood~~] immunization registry must contain  
3-2 information on the immunization history that is obtained by the  
3-3 department under:

3-4 (1) this section of each person who is younger than 18  
3-5 years of age and for whom consent has been obtained in accordance  
3-6 with guidelines adopted under Subsection (a);

3-7 (2) Section 161.00705 of persons in a disaster area  
3-8 immunized during a declared disaster; and

3-9 (3) Section 161.00706 of first responders or their  
3-10 immediate family members.

3-11 (b-1) The department shall remove from the registry  
3-12 information for any person for whom consent has been withdrawn. The  
3-13 department may not retain individually identifiable information  
3-14 about any person:

3-15 (1) for whom consent has been withdrawn;

3-16 (2) for whom a consent for continued inclusion in the  
3-17 registry following the end of the disaster has not been received  
3-18 under Section 161.00705(d); or

3-19 (3) for whom a request to be removed from the registry  
3-20 has been received under Section 161.00706(e).

3-21 (j) Except as provided by Sections 161.00705, 161.00706,  
3-22 and [Section] 161.008, information obtained by the department for  
3-23 the immunization registry is confidential and may be disclosed only  
3-24 with the written consent of the individual or, if a child, the  
3-25 child's parent, managing conservator, or guardian.

3-26 SECTION 4. Subsections (a) and (c), Section 161.0073,  
3-27 Health and Safety Code, are amended to read as follows:

3-28 (a) Except as provided by Section 161.00705, [The]  
3-29 information that individually identifies a child or other  
3-30 individual that is received by the department for the immunization  
3-31 registry is confidential and may be used by the department for  
3-32 registry purposes only.

3-33 (c) A person required to report information to the  
3-34 department for registry purposes or authorized to receive  
3-35 information from the registry may not disclose the individually  
3-36 identifiable information of a child or other individual to any  
3-37 other person without written consent of the individual or, if a  
3-38 child, the parent, managing conservator, or guardian of the child,  
3-39 except as provided by Chapter 159, Occupations Code, or Section  
3-40 602.053, Insurance Code.

3-41 SECTION 5. Section 161.0075, Health and Safety Code, is  
3-42 amended to read as follows:

3-43 Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as  
3-44 provided by Section 161.009, the following persons subject to this  
3-45 subchapter that act in compliance with Sections 161.007, 161.00705,  
3-46 161.00706, 161.0071, 161.0073, 161.0074, and 161.008 are not  
3-47 civilly or criminally liable for furnishing the information  
3-48 required under this subchapter:

3-49 (1) a payor;

3-50 (2) a health care provider who administers  
3-51 immunizations; and

3-52 (3) an employee of the department.

3-53 SECTION 6. Subsection (a), Section 161.009, Health and  
3-54 Safety Code, is amended to read as follows:

3-55 (a) A person commits an offense if the person:

3-56 (1) negligently releases or discloses immunization  
3-57 registry information in violation of Section 161.007, 161.0071,  
3-58 161.0073, or 161.008;

3-59 (2) fails to exclude a child's immunization  
3-60 information in violation of Section 161.0071; [~~or~~]

3-61 (3) fails to remove a person's immunization  
3-62 information in violation of Section 161.00705 or 161.00706; or

3-63 (4) negligently uses information in the immunization  
3-64 registry to solicit new patients or clients or for other purposes  
3-65 that are not associated with immunization or quality-of-care  
3-66 purposes, unless authorized under this section.

3-67 SECTION 7. Subsection (a), Section 161.0105, Health and  
3-68 Safety Code, is amended to read as follows:

3-69 (a) A health care provider who acts in compliance with

4-1 Sections 161.007, 161.00705, 161.00706, and 161.008 and any rules  
4-2 adopted under those sections is not civilly or criminally liable  
4-3 for furnishing the information required under those sections. This  
4-4 subsection does not apply to criminal liability established under  
4-5 Section 161.009.

4-6 SECTION 8. As soon as practicable after the effective date  
4-7 of this Act, the executive commissioner of the Health and Human  
4-8 Services Commission shall adopt the rules required under Sections  
4-9 161.00705 and 161.00706, Health and Safety Code, as added by this  
4-10 Act.

4-11 SECTION 9. The change in law made by this Act to Section  
4-12 161.009, Health and Safety Code, applies only to an offense  
4-13 committed on or after the effective date of this Act. An offense  
4-14 committed before the effective date of this Act is covered by the  
4-15 law in effect when the offense was committed, and the former law is  
4-16 continued in effect for that purpose. For the purposes of this  
4-17 section, an offense was committed before the effective date of this  
4-18 Act if any element of the offense was committed before that date.

4-19 SECTION 10. This Act takes effect September 1, 2007.

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