

BILL ANALYSIS

S.B. 346
By: Nelson
Public Health
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, parental consent is required for a child to be included in ImmTrac, and records in ImmTrac are automatically deleted when a child becomes 18 years of age. However, there are many instances after a person's 18th birthday when immunization records are required. For example, entry into college, the military, and study abroad programs all usually occur after a person becomes 18 years of age and necessitate proof of certain immunizations.

S.B. 346 authorizes a person to maintain an immunization record in ImmTrac beyond the person's 18th birthday and sets out procedures for the submission of information to and maintenance of information in the registry.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 2 of this bill.

ANALYSIS

Section 531.0055, Government Code, as amended by Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, expressly grants to the executive commissioner of the Health and Human Services Commission all rulemaking authority for the operation of and provision of services by the health and human services agencies. Similarly, Sections 1.16-1.29, Chapter 198 (H.B. 2292), Acts of the 78th Legislature, Regular Session, 2003, provide for the transfer of a power, duty, function, program, or activity from a health and human services agency abolished by that act to the corresponding legacy agency. To the extent practicable, this bill analysis is written to reflect any transfer of rulemaking authority and to update references as necessary to an agency's authority with respect to a particular health and human services program.

S.B. 346 amends the Health and Safety Code to expand the immunization registry to allow information regarding an individual 18 years of age or older to be submitted and maintained by the registry. The bill authorizes an individual's legally authorized representative or the individual, after the individual has attained 18 years of age, to consent in writing or electronically for the individual's information to remain in the registry after the individual's 18th birthday and for the individual's subsequent immunizations to be included in the registry. The bill requires the consent of the minor's legally authorized representative to be submitted to the Department of State Health Services (DSHS) before the individual's 18th birthday and consent of an individual or the individual's legally authorized representative to be submitted not later than the individual's 19th birthday. The bill provides that the consent is valid until the individual or representative withdraws consent in writing or electronically. The bill prohibits DSHS from including in the registry information of an individual who is 18 years of age or older until written or electronic consent has been obtained. The bill requires DSHS to coordinate with the Texas Education Agency to distribute educational materials regarding the immunization registry to students and parents through local school districts. The bill requires the executive commissioner of the Health and Human Services Commission to develop guidelines and procedures by rule for obtaining consent from an individual after the individual's 18th birthday, including procedures

for retaining immunization information in a separate database that is inaccessible by any person other than DSHS during the one-year period during which an 18-year-old may consent to continued inclusion in the registry.

S.B. 346 authorizes an insurance company, a health maintenance organization, or another organization that pays a health care provider to provide health care benefits that receives data elements from a provider who administers an immunization to an individual 18 years of age or older to submit the data elements to DSHS. The bill authorizes a health care provider who administers an immunization to an individual 18 years of age or older to submit data elements regarding an immunization to DSHS. The bill makes conforming changes relating to an immunization schedule for individuals 18 years of age or older that is analogous to the immunization schedule for children for purposes of providing notice regarding an overdue or past due immunization, procedures for reporting a violation if an individual's information is included in the registry when consent has been withdrawn, excluding an individual from the registry on withdrawal of consent, and the definition of "payor."

S.B. 346 adds to DSHS duties relating to immunization education and the development of educational information for health care providers, health care clinics, hospitals, and any other health care facility that provides health care to children 14 to 18 years of age relating to the immunization registry and the option for an individual who is 18 years of age or older to consent to submission and retention of the individual's information in the immunization registry.

S.B. 346 defines "individual's legally authorized representative" to mean a parent, managing conservator, or guardian of an individual, if the individual is a minor; a guardian of the individual, if the individual has been adjudicated incompetent to manage the individual's personal affairs; or an agent of the individual authorized under a durable power of attorney for health care. The bill defines "electronically," as related to a communication, to mean by electronic mail, text message, online communication, or other electronic method of communication approved by DSHS. The bill makes conforming changes.

EFFECTIVE DATE

September 1, 2009.