

1-1 By: Nelson S.B. No. 347
1-2 (In the Senate - Filed December 8, 2008; February 11, 2009,
1-3 read first time and referred to Committee on Health and Human
1-4 Services; March 9, 2009, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
1-6 March 9, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 347 By: Shapleigh

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the receipt and release of immunization information by
1-11 the immunization registry in connection with a disaster; providing
1-12 penalties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsections (a), (b), (b-1), and (j), Section
1-15 161.007, Health and Safety Code, are amended to read as follows:

1-16 (a) The department, for the primary purpose of establishing
1-17 and maintaining a single repository of accurate, complete, and
1-18 current immunization records to be used in aiding, coordinating,
1-19 and promoting efficient and cost-effective childhood communicable
1-20 disease prevention and control efforts, shall establish and
1-21 maintain an immunization registry. The department by rule shall
1-22 develop guidelines to:

1-23 (1) protect the confidentiality of patients in
1-24 accordance with Section 159.002, Occupations Code;

1-25 (2) inform a parent, managing conservator, or guardian
1-26 of each patient younger than 18 years of age about the registry and
1-27 that registry information may be released under Section 161.00735;

1-28 (3) require the written consent of a parent, managing
1-29 conservator, or guardian of a patient younger than 18 years of age
1-30 before any information relating to the patient is included in the
1-31 registry;

1-32 (4) permit a parent, managing conservator, or guardian
1-33 of a patient younger than 18 years of age to withdraw consent for
1-34 the patient to be included in the registry; and

1-35 (5) determine the process by which consent is
1-36 verified, including affirmation by a health care provider, birth
1-37 registrar, regional health information exchange, or local
1-38 immunization registry that consent has been obtained.

1-39 (b) The immunization registry must contain information on
1-40 the immunization history that is obtained by the department under:

1-41 (1) this section of each person who is younger than 18
1-42 years of age and for whom consent has been obtained in accordance
1-43 with guidelines adopted under Subsection (a);

1-44 (2) Section 161.00705 of persons immunized to prepare
1-45 for or in response to a declared disaster, public health emergency,
1-46 terrorist attack, hostile military or paramilitary action, or
1-47 extraordinary law enforcement emergency; ~~and~~

1-48 (3) Section 161.00706 of first responders or their
1-49 immediate family members; and

1-50 (4) Section 161.00735 of persons evacuated or
1-51 relocated to this state because of a disaster.

1-52 (b-1) The department shall remove from the registry
1-53 information for any person for whom consent has been
1-54 withdrawn. The department may not retain individually
1-55 identifiable information about any person:

1-56 (1) for whom consent has been withdrawn;

1-57 (2) for whom a consent for continued inclusion in the
1-58 registry following the end of the declared disaster, public health
1-59 emergency, terrorist attack, hostile military or paramilitary
1-60 action, or extraordinary law enforcement emergency has not been
1-61 received under Section 161.00705(f); ~~or~~

1-62 (3) for whom a request to be removed from the registry
1-63 has been received under Section 161.00706(e);

2-1 (4) for whom consent for continued inclusion in the
 2-2 registry following the end of a disaster has not been received under
 2-3 Section 161.00735(f); or

2-4 (5) for whom a request to remove information from the
 2-5 registry has been received under Section 161.00735(g).

2-6 (j) Except as provided by Sections 161.00705, 161.00706,
 2-7 161.00735(b), and 161.008, information obtained by the department
 2-8 for the immunization registry is confidential and may be disclosed
 2-9 only with the written consent of the individual or, if a child, the
 2-10 child's parent, managing conservator, or guardian.

2-11 SECTION 2. Subsections (c) and (d), Section 161.00706,
 2-12 Health and Safety Code, are amended to read as follows:

2-13 (c) The executive commissioner of the Health and Human
 2-14 Services Commission shall:

2-15 (1) develop rules to ensure that immunization history
 2-16 submitted under Subsection (a)(2) is medically verified
 2-17 immunization information;

2-18 (2) develop guidelines for use by the department in
 2-19 informing first responders about the registry and that registry
 2-20 information may be released under Section 161.00735; and

2-21 (3) adopt rules necessary for the implementation of
 2-22 this section.

2-23 (d) Except as provided by Section 161.00735, a [A] person's
 2-24 immunization history or data received by the department under this
 2-25 section may be released only on consent of the person or to any
 2-26 health care provider licensed or otherwise authorized to administer
 2-27 vaccines.

2-28 SECTION 3. Subsection (a), Section 161.0071, Health and
 2-29 Safety Code, is amended to read as follows:

2-30 (a) The first time the department receives registry data for
 2-31 a child for whom the department has received consent to be included
 2-32 in the registry, from a person other than the child's parent,
 2-33 managing conservator, or guardian, the department shall send a
 2-34 written notice to the child's parent, managing conservator, or
 2-35 guardian disclosing:

2-36 (1) that providers and payors may be sending the
 2-37 child's immunization information to the department;

2-38 (2) the information that is included in the registry;

2-39 (3) the persons to whom the information may be
 2-40 released under Sections 161.00735(b) and [Section] 161.008(d);

2-41 (4) the purpose and use of the registry;

2-42 (5) the procedure to exclude a child from the
 2-43 registry; and

2-44 (6) the procedure to report a violation if a parent,
 2-45 managing conservator, or guardian discovers a child is included in
 2-46 the registry after exclusion has been requested.

2-47 SECTION 4. Subsection (a), Section 161.0073, Health and
 2-48 Safety Code, is amended to read as follows:

2-49 (a) Except as provided by Sections [Section] 161.00705 and
 2-50 161.00735, information that individually identifies a child or
 2-51 other individual that is received by the department for the
 2-52 immunization registry is confidential and may be used by the
 2-53 department for registry purposes only.

2-54 SECTION 5. Subchapter A, Chapter 161, Health and Safety
 2-55 Code, is amended by adding Section 161.00735 to read as follows:

2-56 Sec. 161.00735. RELEASE AND RECEIPT OF REGISTRY DATA IN
 2-57 DISASTER. (a) In this section, "disaster" has the meaning
 2-58 assigned by Section 418.004, Government Code.

2-59 (b) If the department determines that residents of this
 2-60 state have evacuated or relocated to another state in response to a
 2-61 disaster, the department may release registry data, except registry
 2-62 data obtained under Section 161.00705, to the appropriate health
 2-63 authority of that state or to local health authorities in that
 2-64 state.

2-65 (c) The department may receive immunization information
 2-66 from a health authority of another state or from a local health
 2-67 authority in another state if the department determines that
 2-68 residents of that state have evacuated or relocated to this state in
 2-69 response to a disaster. The department shall include information

3-1 received under this subsection in the registry. Notwithstanding
3-2 Section 161.007, the department is not required to obtain written
3-3 consent for the inclusion in the registry of information received
3-4 under this subsection.

3-5 (d) Immunization information received under Subsection (c)
3-6 is subject to Section 161.0073, and may not be released except as
3-7 authorized by this chapter.

3-8 (e) The executive commissioner of the Health and Human
3-9 Services Commission, by rule, shall determine the period during
3-10 which the information collected under Subsection (c) must remain in
3-11 the immunization registry following the end of the disaster.

3-12 (f) Unless an individual or, if a child, the child's parent,
3-13 managing conservator, or guardian consents in writing to continued
3-14 inclusion of the individual's or child's information in the
3-15 registry, the department shall remove the immunization records
3-16 collected under Subsection (c) from the registry on the expiration
3-17 of the period prescribed by Subsection (e).

3-18 (g) If an individual or, if a child, the child's parent,
3-19 managing conservator, or guardian requests in writing that the
3-20 individual's or child's information obtained under Subsection (c)
3-21 be removed from the registry, the department shall remove that
3-22 information from the registry.

3-23 (h) The executive commissioner of the Health and Human
3-24 Services Commission shall make every effort to enter into a
3-25 memorandum of agreement with each state to which residents of this
3-26 state are likely to evacuate in a disaster on:

3-27 (1) the release and use of registry information under
3-28 this section to the appropriate health authority or local health
3-29 authority of that state, including the length of time the
3-30 information may be retained by that state; and

3-31 (2) the receipt and use of information submitted by
3-32 the health authority or local health authority of that state for
3-33 inclusion in the registry under this section.

3-34 SECTION 6. Subsection (a), Section 161.009, Health and
3-35 Safety Code, is amended to read as follows:

3-36 (a) A person commits an offense if the person:

3-37 (1) negligently releases or discloses immunization
3-38 registry information in violation of Section 161.007, 161.0071,
3-39 161.0073, or 161.008;

3-40 (2) fails to exclude a child's immunization
3-41 information in violation of Section 161.0071;

3-42 (3) fails to remove a person's immunization
3-43 information in violation of Section 161.00705, ~~or~~ 161.00706, or
3-44 161.00735; or

3-45 (4) negligently uses information in the immunization
3-46 registry to solicit new patients or clients or for other purposes
3-47 that are not associated with immunization or quality-of-care
3-48 purposes, unless authorized under this section.

3-49 SECTION 7. This Act takes effect September 1, 2009.

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