

By: Zaffirini

S.B. No. 466

A BILL TO BE ENTITLED

AN ACT

relating to excluding a child from the immunization registry.

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

SECTION 1. Sections 161.007(a), (b), (b-1), (c), (d), (f), and (k), Health and Safety Code, are amended to read as follows:

(a) The department, for the primary purpose of establishing and maintaining a single repository of accurate, complete, and current immunization records to be used in aiding, coordinating, and promoting efficient and cost-effective childhood communicable disease prevention and control efforts, shall establish and maintain an immunization registry. The executive commissioner of the Health and Human Services Commission [~~department~~] by rule shall develop guidelines to:

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

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

(3) permit [~~require the written consent of~~] a parent, managing conservator, or guardian of a patient younger than 18 years of age to have the patient excluded from [~~before any information relating to the patient is included in~~] the registry[~~,~~

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

1 ~~[(5) determine the process by which consent is~~
2 ~~verified, including affirmation by a health care provider, birth~~
3 ~~registrar, regional health information exchange, or local~~
4 ~~immunization registry that consent has been obtained].~~

5 (b) The immunization registry must contain information on
6 the immunization history that is obtained by the department under:

7 (1) this section of each person who is younger than 18
8 years of age ~~[and for whom consent has been obtained in accordance~~
9 ~~with guidelines adopted under Subsection (a)]~~;

10 (2) Section 161.00705 of persons immunized to prepare
11 for or in response to a declared disaster, public health emergency,
12 terrorist attack, hostile military or paramilitary action, or
13 extraordinary law enforcement emergency; and

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

16 (b-1) ~~[The department shall remove from the registry~~
17 ~~information for any person for whom consent has been~~
18 ~~withdrawn.]~~ The department may not retain individually
19 identifiable information about any person:

20 (1) for whom a request to be excluded from the registry
21 has been received under this section ~~[consent has been withdrawn]~~;

22 (2) for whom a consent for continued inclusion in the
23 registry following the end of the declared disaster, public health
24 emergency, terrorist attack, hostile military or paramilitary
25 action, or extraordinary law enforcement emergency has not been
26 received under Section 161.00705(f); or

27 (3) for whom a request to be removed from the registry

1 has been received under Section 161.00706(e).

2 (c) A payor that receives data elements from a health care
3 provider who administers an immunization to a person younger than
4 18 years of age shall provide the data elements to the department.
5 A payor is required to provide the department with only the data
6 elements the payor receives from a health care provider. The data
7 elements shall be submitted in a format prescribed by the
8 department. [~~The department shall verify consent before including~~
9 ~~the reported information in the immunization registry.~~] The
10 department may not retain individually identifiable information
11 about a person for whom the department receives a request to be
12 excluded from the registry [~~consent cannot be verified~~].

13 (d) A health care provider who administers an immunization
14 to a person younger than 18 years of age shall provide data elements
15 regarding an immunization to the department. The data elements
16 shall be submitted in a format prescribed by the department. [~~The~~
17 ~~department shall verify consent before including the information in~~
18 ~~the immunization registry.~~] The department may not retain
19 individually identifiable information about a person for whom the
20 department receives a request to be excluded from the registry
21 [~~consent cannot be verified~~].

22 (f) The department and health care providers may use the
23 registry to provide notices by mail, telephone, personal contact,
24 or other means to a parent, managing conservator, or guardian
25 regarding the person's [~~his or her~~] child or ward who is due or
26 overdue for a particular type of immunization according to the
27 department's immunization schedule. The notice must contain

1 instructions for the parent, managing conservator, or guardian to
2 request that future notices not be sent and to remove the child's
3 immunization record from the registry and any registry-related
4 records. The notice must describe the procedure to report a
5 violation if a child's immunization record is included in the
6 registry after requesting exclusion. The department shall consult
7 with health care providers to determine the most efficient and
8 cost-effective manner of using the registry to provide those
9 notices.

10 (k) The executive commissioner of the Health and Human
11 Services Commission [~~board~~] shall adopt rules to administer this
12 section.

13 SECTION 2. Sections 161.0071(a) and (b), Health and Safety
14 Code, are amended to read as follows:

15 (a) The first time the department receives registry data for
16 a child [~~for whom the department has received consent to be included~~
17 ~~in the registry,~~] from a person other than the child's parent,
18 managing conservator, or guardian, the department shall send a
19 written notice to the child's parent, managing conservator, or
20 guardian disclosing:

21 (1) that providers and payors may be sending the
22 child's immunization information to the department, but the
23 department may not keep the information if the parent, managing
24 conservator, or guardian chooses to exclude the child from the
25 registry;

26 (2) the information that is included in the registry;

27 (3) the persons to whom the information may be

1 released under Section 161.008(d);

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

3 (5) the procedure to exclude a child from the
4 registry; and

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

8 (b) On receipt of a written request to exclude a child's
9 immunization records from [~~discovering that consent to be included~~
10 ~~in~~] the registry [~~has not been granted~~], the department shall
11 exclude the child's immunization records from the registry and any
12 other registry-related department record that individually
13 identifies the child.

14 SECTION 3. Sections 161.008(c) and (h), Health and Safety
15 Code, are amended to read as follows:

16 (c) The department may obtain the data constituting an
17 immunization record for a child from a public health district, a
18 local health department, the child's parent, managing conservator,
19 or guardian, a physician to the child, a payor, or any health care
20 provider licensed or otherwise authorized to administer vaccines.
21 [~~The department shall verify consent before including the reported~~
22 ~~information in the immunization registry.~~] The department may not
23 retain individually identifiable information about a person for
24 whom the department receives a request to be excluded from the
25 registry [~~consent cannot be verified~~].

26 (h) The executive commissioner of the Health and Human
27 Services Commission [~~board~~] shall adopt rules to implement this

1 section.

2 SECTION 4. Section 161.0107(c), Health and Safety Code, as
3 added by Chapter 352 (S.B. 204), Acts of the 80th Legislature,
4 Regular Session, 2007, is amended to read as follows:

5 (c) The executive commissioner of the Health and Human
6 Services Commission by rule shall specify:

7 (1) the fields necessary to populate the immunization
8 registry[, ~~including a field that indicates the patient's consent~~
9 ~~to be listed in the immunization registry has been obtained~~]; and

10 (2) the data standards that must be used for
11 electronic submission of immunization information.

12 SECTION 5. Sections 161.007(a-1) and (e), Health and Safety
13 Code, are repealed.

14 SECTION 6. This Act takes effect September 1, 2009.