

By: Nelson
(Zerwas, Naishtat)

S.B. No. 1177

Substitute the following for S.B. No. 1177:

By: Kolkhorst

C.S.S.B. No. 1177

A BILL TO BE ENTITLED

AN ACT

relating to the adoption by health care facilities of a policy on vaccine preventable diseases; imposing penalties.

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

SECTION 1. The heading to Subtitle A, Title 4, Health and Safety Code, is amended to read as follows:

SUBTITLE A. FINANCING, CONSTRUCTING, REGULATING, AND INSPECTING HEALTH FACILITIES

SECTION 2. Subtitle A, Title 4, Health and Safety Code, is amended by adding Chapter 224 to read as follows:

CHAPTER 224. POLICY ON VACCINE PREVENTABLE DISEASES

Sec. 224.001. DEFINITIONS. In this chapter:

(1) "Covered individual" means:

(A) an employee of the health care facility;

(B) an individual providing direct patient care under a contract with a health care facility; or

(C) an individual to whom a health care facility has granted privileges to provide direct patient care.

(2) "Health care facility" means:

(A) a facility licensed under Subtitle B, including a hospital as defined by Section 241.003; or

(B) a hospital maintained or operated by this state.

(3) "Regulatory authority" means a state agency that

1 regulates a health care facility under this code.

2 (4) "Vaccine preventable diseases" means the diseases
3 included in the most current recommendations of the Advisory
4 Committee on Immunization Practices of the Centers for Disease
5 Control and Prevention.

6 Sec. 224.002. VACCINE PREVENTABLE DISEASES POLICY
7 REQUIRED. (a) Each health care facility shall develop and
8 implement a policy to protect its patients from vaccine preventable
9 diseases.

10 (b) The policy must:

11 (1) require covered individuals to receive vaccines
12 for the vaccine preventable diseases specified by the facility
13 based on the level of risk the individual presents to patients by
14 the individual's routine and direct exposure to patients;

15 (2) specify the vaccines a covered individual is
16 required to receive based on the level of risk the individual
17 presents to patients by the individual's routine and direct
18 exposure to patients;

19 (3) include procedures for verifying whether a covered
20 individual has complied with the policy;

21 (4) include procedures for a covered individual to be
22 exempt from the required vaccines for the medical conditions
23 identified as contraindications or precautions by the Centers for
24 Disease Control and Prevention;

25 (5) for a covered individual who is exempt from the
26 required vaccines, include procedures the individual must follow to
27 protect facility patients from exposure to disease, such as the use

1 of protective medical equipment, such as gloves and masks, based on
2 the level of risk the individual presents to patients by the
3 individual's routine and direct exposure to patients;

4 (6) prohibit discrimination or retaliatory action
5 against a covered individual who is exempt from the required
6 vaccines for the medical conditions identified as
7 contraindications or precautions by the Centers for Disease Control
8 and Prevention, except that required use of protective medical
9 equipment, such as gloves and masks, may not be considered
10 retaliatory action for purposes of this subdivision;

11 (7) require the health care facility to maintain a
12 written or electronic record of each covered individual's
13 compliance with or exemption from the policy; and

14 (8) include disciplinary actions the health care
15 facility is authorized to take against a covered individual who
16 fails to comply with the policy.

17 (c) The policy may include procedures for a covered
18 individual to be exempt from the required vaccines based on reasons
19 of conscience, including a religious belief.

20 Sec. 224.003. DISASTER EXEMPTION. (a) In this section,
21 "public health disaster" has the meaning assigned by Section
22 81.003.

23 (b) During a public health disaster, a health care facility
24 may prohibit a covered individual who is exempt from the vaccines
25 required in the policy developed by the facility under Section
26 224.002 from having contact with facility patients.

27 Sec. 224.004. DISCIPLINARY ACTION. A health care facility

1 that violates this chapter is subject to an administrative or civil
2 penalty in the same manner, and subject to the same procedures, as
3 if the facility had violated a provision of this code that
4 specifically governs the facility.

5 Sec. 224.005. RULES. The appropriate rulemaking authority
6 for each regulatory authority shall adopt rules necessary to
7 implement this chapter.

8 SECTION 3. Not later than June 1, 2012, a state agency that
9 regulates a health care facility subject to Chapter 224, Health and
10 Safety Code, as added by this Act, shall adopt the rules necessary
11 to implement that chapter.

12 SECTION 4. Notwithstanding Chapter 224, Health and Safety
13 Code, as added by this Act, a health care facility subject to that
14 chapter is not required to have a policy on vaccine preventable
15 diseases in effect until September 1, 2012.

16 SECTION 5. This Act takes effect September 1, 2011.