

By: Howard, Zerwas, Callegari,
Sheffield of Coryell,
Bonnen of Galveston

H.B. No. 772

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the immunization data included in and excluded from the
3 immunization registry.

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

5 SECTION 1. Section 161.007, Health and Safety Code, is
6 amended by amending Subsections (a), (a-2), (b), (b-1), (c), (d),
7 and (e) and adding Subsections (e-1), (l), and (m) to read as
8 follows:

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

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

18 (2) inform the individual or the individual's legally
19 authorized representative about the registry and that registry
20 information may be released under Section 161.00735;

21 ~~(3) [require the written or electronic consent of the~~
22 ~~individual or the individual's legally authorized representative~~
23 ~~before any information relating to the individual is included in~~
24 ~~the registry,~~

1 ~~[(4)]~~ permit the individual or the individual's
2 legally authorized representative to request that the individual's
3 information be removed from ~~[withdraw consent for the individual to~~
4 ~~be included in]~~ the registry;

5 (4) provide opportunities for the individual or the
6 individual's legally authorized representative to request removal
7 at any time, including:

8 (A) at the time of the individual's birth if
9 attended by a health care provider who administers immunizations;

10 (B) each time the individual receives any
11 immunization administered by a health care provider in this state;

12 (C) through electronic submission of a request
13 for removal using a request for removal procedure available on the
14 department's Internet website;

15 (D) through submission to the department of a
16 written request for removal; and

17 (E) following a natural or man-made disaster;

18 ~~[and]~~

19 (5) ensure that an individual or the individual's
20 legally authorized representative is not required to request
21 removal from the registry more than one time and that, after a
22 request for removal is made, the individual's immunization
23 information will not be included in the registry unless the
24 individual or the individual's legally authorized representative
25 submits to the department a written request for inclusion of the
26 individual's information in the registry; and

27 (6) include on each immunization record generated by

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

6 (a-2) An individual's legally authorized representative or
7 the individual, after the individual has attained 18 years of age,
8 may submit a request ~~[consent]~~ in writing or electronically for the
9 individual's information to be removed from ~~[remain in]~~ the
10 registry ~~[after the individual's 18th birthday and for the~~
11 ~~individual's subsequent immunizations to be included in the~~
12 ~~registry. The written or electronic consent of the minor's legally~~
13 ~~authorized representative as described by Section 161.0001(1-c)(A)~~
14 ~~must be submitted to the department before the individual's 18th~~
15 ~~birthday. The written or electronic consent of the individual or~~
16 ~~the individual's legally authorized representative as described by~~
17 ~~Section 161.0001(1-c)(B) or (C) must be submitted to the department~~
18 ~~not later than the individual's 19th birthday. The consent of the~~
19 ~~representative or individual is valid until the individual or the~~
20 ~~individual's legally authorized representative withdraws consent~~
21 ~~in writing or electronically. The department may not include in the~~
22 ~~registry the immunization information of an individual who is 18~~
23 ~~years of age or older until written or electronic consent has been~~
24 ~~obtained as provided by this subsection].~~ The department shall
25 coordinate with the Texas Education Agency to distribute materials
26 described in Section 161.0095(a)(2) to students and parents through
27 local school districts.

1 (b) Except as provided by Section 161.0071, the
2 immunization registry must contain information on the immunization
3 history that is obtained by the department under:

4 (1) this section of each individual for whom
5 immunization information [consent] has been obtained, unless the
6 individual or the individual's legally authorized representative
7 has requested that the individual's information be removed from the
8 registry in accordance with guidelines adopted under Subsection (a)
9 ~~[or (a-3), as applicable];~~

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;

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

16 (4) Section 161.00735 of persons evacuated or
17 relocated to this state because of a disaster.

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

22 ~~[(1) for whom consent has been withdrawn,~~

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

1 ~~[(3) for whom a request to be removed from the registry~~
2 ~~has been received under Section 161.00706(e),~~

3 ~~[(4) for whom consent for continued inclusion in the~~
4 ~~registry following the end of a disaster has not been received under~~
5 ~~Section 161.00735(f), or~~

6 ~~[(5) for whom]~~ a request to remove information from
7 the registry has been received under this subchapter [~~Section~~
8 ~~161.00735(g)~~].

9 (c) A payor that receives data elements from a health care
10 provider who administers an immunization to an individual younger
11 than 18 years of age shall provide the data elements to the
12 department. A payor is required to provide the department with only
13 the data elements the payor receives from a health care provider. A
14 payor that receives data elements from a health care provider who
15 administers an immunization to an individual 18 years of age or
16 older may provide the data elements to the department. The data
17 elements shall be submitted in a format prescribed by the
18 department. [~~The department shall verify consent before including~~
19 ~~the reported information in the immunization registry. The~~
20 ~~department may not retain individually identifiable information~~
21 ~~about an individual for whom consent cannot be verified.]~~

22 (d) A health care provider who administers an immunization
23 to an individual younger than 18 years of age shall provide data
24 elements regarding an immunization to the department. A health
25 care provider who administers an immunization to an individual 18
26 years of age or older may submit data elements regarding an
27 immunization to the department. The data elements shall be

1 submitted in a format prescribed by the department. A health care
2 provider who administers an immunization to any individual and
3 provides data elements to the department shall notify the
4 individual or the individual's legally authorized representative:

5 (1) that the individual's immunization information
6 will be included in the registry unless removal from the registry is
7 requested in accordance with the guidelines adopted under
8 Subsection (a); and

9 (2) of the procedures for requesting removal from the
10 registry. [~~The department shall verify consent before including the~~
11 ~~information in the immunization registry. The department may not~~
12 ~~retain individually identifiable information about an individual~~
13 ~~for whom consent cannot be verified.~~]

14 (e) The department shall:

15 (1) make available on the department's Internet
16 website a printable form that states an individual's immunization
17 information will be included in the registry unless removal from
18 the registry is requested and that details the procedures for
19 submitting an electronic or written request for removal from the
20 registry [~~provide notice to a health care provider that submits an~~
21 ~~immunization history for an individual for whom consent cannot be~~
22 ~~verified. The notice shall contain instructions for obtaining~~
23 ~~consent~~] in accordance with guidelines adopted under Subsection
24 [~~Subsections~~] (a); and

25 (2) make the form described by Subdivision (1)
26 available for distribution to health care providers [~~and (a-3) and~~
27 ~~resubmitting the immunization history to the department~~].

1 (e-1) A health care provider may use the printable form
2 described by Subsection (e) to provide the notification required
3 under Subsection (d).

4 (l) Registry information may not be used to exclude any
5 individual from the receipt of any service during a natural or
6 man-made disaster unless the service is withheld because of a
7 medical contraindication.

8 (m) The department may not sell registry information to any
9 public or private entity.

10 SECTION 2. Section 161.00705(f), Health and Safety Code, is
11 amended to read as follows:

12 (f) Unless an individual or the individual's legally
13 authorized representative [~~consents~~] in writing or electronically
14 requests that [~~to continued inclusion of~~] the individual's
15 information be removed from [~~in~~] the registry, the department shall
16 include [~~remove~~] the immunization records collected under this
17 section in [~~from~~] the registry [~~on expiration of the period~~
18 ~~prescribed under Subsection (e)~~].

19 SECTION 3. Sections 161.0071(a) and (b), Health and Safety
20 Code, are amended to read as follows:

21 (a) The first time the department receives registry data for
22 an individual [~~for whom the department has received consent~~] to be
23 included in the registry, the department shall send notice to the
24 individual or the individual's legally authorized representative
25 disclosing:

26 (1) that providers and payors may be sending the
27 individual's immunization information to the department;

- 1 (2) the information that is included in the registry;
- 2 (3) the persons to whom the information may be
3 released under Sections 161.00735(b) and 161.008(d);
- 4 (4) the purpose and use of the registry;
- 5 (5) the procedure to exclude an individual from the
6 registry; and
- 7 (6) the procedure to report a violation if an
8 individual's information is included in the registry after
9 exclusion has been requested [~~or consent has been withdrawn~~].

10 (b) The [~~On discovering that consent to be included in the~~
11 ~~registry has not been granted or has been withdrawn, the~~]
12 department shall exclude [~~the individual's immunization records~~]
13 from the registry and any other registry-related department record
14 that individually identifies the individual the immunization
15 record of any individual from whom a request for exclusion has been
16 received by the department.

17 SECTION 4. Section 161.0073, Health and Safety Code, is
18 amended by amending Subsection (a) and adding Subsections (e), (f),
19 and (g) to read as follows:

20 (a) Except as provided by this section and Sections 161.007,
21 161.00705, 161.00706, [and] 161.00735, and 161.008, information
22 that individually identifies an individual that is received by the
23 department for the immunization registry is confidential and may be
24 used by the department for registry purposes only.

25 (e) The department may use registry information for
26 internal public health research on approval of the department's
27 institutional review board.

1 (f) The department may release registry information for
2 external public health research if:

3 (1) the individual or the individual's legally
4 authorized representative submits a written authorization to the
5 department for release of the individual's registry data;

6 (2) the department does not disclose individually
7 identifiable information; or

8 (3) the department's institutional review board
9 approves the release of individually identifiable information
10 subject to Subsection (g).

11 (g) The department's institutional review board may not
12 approve the release of individually identifiable information for a
13 research proposal unless the proposal includes a provision
14 requiring the proposal's researchers to obtain informed consent
15 from each individual or the individual's legally authorized
16 representative before the department releases the individual's
17 registry data to the researchers.

18 SECTION 5. Sections 161.00735(c) and (h), Health and Safety
19 Code, are amended to read as follows:

20 (c) The department may receive immunization information
21 from a health authority of another state or from a local health
22 authority in another state if the department determines that
23 residents of that state have evacuated or relocated to this state in
24 response to a disaster. The department shall include information
25 received under this subsection in the registry. [~~Notwithstanding~~
26 ~~Section 161.007, the department is not required to obtain written~~
27 ~~consent for the inclusion in the registry of information received~~

1 ~~under this subsection.]~~

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

6 (1) the release to and use by [~~of registry information~~
7 ~~under this section to~~] the appropriate health authority or local
8 health authority of that state of registry information under this
9 section[~~, including the length of time the information may be~~
10 ~~retained by that state~~]; and

11 (2) the receipt and use of information submitted by
12 the health authority or local health authority of that state for
13 inclusion in the registry under this section.

14 SECTION 6. Sections 161.008(c) and (e), 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 an individual from a public health
18 district, a local health department, the individual or the
19 individual's legally authorized representative, a physician to the
20 individual, a payor, or any health care provider licensed or
21 otherwise authorized to administer vaccines. [~~The department shall~~
22 ~~verify consent before including the reported information in the~~
23 ~~immunization registry. The department may not retain individually~~
24 ~~identifiable information about an individual for whom consent~~
25 ~~cannot be verified.]~~

26 (e) An individual or the individual's legally authorized
27 representative may obtain and on request to the department shall be

1 provided with all individually identifiable immunization registry
2 information concerning the individual and information on the
3 procedure for requesting removal from the registry.

4 SECTION 7. Section 161.0095(a), Health and Safety Code, is
5 amended to read as follows:

6 (a) The department shall develop:

7 (1) continuing education programs for health care
8 providers relating to immunizations and the vaccines for children
9 program operated by the department under authority of 42 U.S.C.
10 Section 1396s; and

11 (2) educational information, for health care
12 providers, health care clinics, hospitals, and any other health
13 care facility that provides health care to children 14 to 18 years
14 of age, relating to the immunization registry and the option for an
15 individual or the individual's legally authorized representative
16 to request removal [~~who is 18 years of age or older to consent to~~
17 ~~submission and retention~~] of the individual's information from [~~in~~]
18 the immunization registry.

19 SECTION 8. Section 161.0107(c), Health and Safety Code, is
20 amended to read as follows:

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

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

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

1 SECTION 9. The following provisions of the Health and
2 Safety Code are repealed:

- 3 (1) Sections 161.007(a-1) and (a-3);
- 4 (2) Sections 161.00705(e) and (h); and
- 5 (3) Sections 161.00735(e) and (f).

6 SECTION 10. (a) The changes in law made by this Act to
7 Subchapter A, Chapter 161, Health and Safety Code, apply to
8 immunization information received by the Department of State Health
9 Services before, on, or after January 1, 2015. An individual whose
10 immunization information was included immediately before January
11 1, 2015, in the immunization registry established under Subchapter
12 A, Chapter 161, Health and Safety Code, is subject to the changes in
13 law made by this Act to that subchapter, including the procedures
14 established by that subchapter as amended by this Act.

15 (b) The changes in law made by this Act do not authorize the
16 Department of State Health Services to include in the immunization
17 registry established under Subchapter A, Chapter 161, Health and
18 Safety Code, immunization information of an individual who is 18
19 years of age or older and whose immunization information was not
20 included in the registry on or before January 1, 2015, unless the
21 department receives immunization data from a health care provider
22 who:

23 (1) administers an immunization to the individual
24 after that date and elects to provide the individual's immunization
25 information to the department; and

26 (2) notifies the individual before submission of the
27 information to the department:

1 (A) that the health care provider is providing
2 the information to the department for inclusion in the registry;

3 (B) that the information will remain in the
4 registry until removal is requested by the individual or the
5 individual's legally authorized representative; and

6 (C) of the procedures for requesting removal from
7 the registry under Subchapter A, Chapter 161, Health and Safety
8 Code, as amended by this Act.

9 SECTION 11. As soon as practicable after the effective date
10 of this Act, the Department of State Health Services shall conduct a
11 public awareness campaign to educate health care providers,
12 parents, payors, schools, and the public about the changes in law
13 made by this Act.

14 SECTION 12. (a) Except as provided by Subsection (b) of this
15 section, this Act takes effect January 1, 2015.

16 (b) Section 11 of this Act takes effect September 1, 2013.