

By: Howard, Zerwas, Callegari

H.B. No. 772

Substitute the following for H.B. No. 772:

By: Collier

C.S.H.B. No. 772

A BILL TO BE ENTITLED

AN ACT

1  
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                   (A) at the time of the individual's birth if  
8 attended by a health care provider who administers immunizations;

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

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

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

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

17           (5) include on each immunization record generated by  
18 the registry the procedures for requesting removal from the  
19 registry ~~[determine the process by which consent is verified,~~  
20 ~~including affirmation by a health care provider, birth registrar,~~  
21 ~~regional health information exchange, or local immunization~~  
22 ~~registry that consent has been obtained].~~

23           (a-2) An individual's legally authorized representative or  
24 the individual, after the individual has attained 18 years of age,  
25 may submit a request ~~[consent]~~ in writing or electronically for the  
26 individual's information to be removed from ~~[remain in]~~ the  
27 registry ~~[after the individual's 18th birthday and for the~~

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

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

21 (1) this section of each individual for whom  
22 immunization information [consent] has been obtained, unless the  
23 individual or the individual's legally authorized representative  
24 has requested that the individual's information be removed from the  
25 registry in accordance with guidelines adopted under Subsection (a)  
26 [or (a-3), as applicable];

27 (2) Section 161.00705 of persons immunized to prepare

1 for or in response to a declared disaster, public health emergency,  
2 terrorist attack, hostile military or paramilitary action, or  
3 extraordinary law enforcement emergency;

4 (3) Section 161.00706 of first responders or their  
5 immediate family members; and

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

8 (b-1) The department shall remove from the registry  
9 information for any individual for whom ~~[consent has been~~  
10 ~~withdrawn. The department may not retain individually identifiable~~  
11 ~~information about any individual:~~

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

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

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

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

23 ~~[(5) for whom]~~ a request to remove information from  
24 the registry has been received under this subchapter ~~[Section~~  
25 ~~161.00735(g)]~~.

26 (c) A payor that receives data elements from a health care  
27 provider who administers an immunization to an individual younger

1 than 18 years of age shall provide the data elements to the  
2 department. A payor is required to provide the department with only  
3 the data elements the payor receives from a health care provider. A  
4 payor that receives data elements from a health care provider who  
5 administers an immunization to an individual 18 years of age or  
6 older may provide the data elements to the department. 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 an individual for whom consent cannot be verified.]~~

12 (d) A health care provider who administers an immunization  
13 to an individual younger than 18 years of age shall provide data  
14 elements regarding an immunization to the department. A health  
15 care provider who administers an immunization to an individual 18  
16 years of age or older may submit data elements regarding an  
17 immunization to the department. The data elements shall be  
18 submitted in a format prescribed by the department. A health care  
19 provider who administers an immunization to any individual and  
20 provides data elements to the department shall notify the  
21 individual or the individual's legally authorized representative:

22 (1) that the individual's immunization information  
23 will be included in the registry unless removal from the registry is  
24 requested in accordance with the guidelines adopted under  
25 Subsection (a); and

26 (2) of the procedures for requesting removal from the  
27 registry. ~~[The department shall verify consent before including the~~

1 ~~information in the immunization registry. The department may not~~  
2 ~~retain individually identifiable information about an individual~~  
3 ~~for whom consent cannot be verified.]~~

4 (e) The department shall:

5 (1) make available on the department's Internet  
6 website a printable form that states an individual's immunization  
7 information will be included in the registry unless removal from  
8 the registry is requested and that details the procedures for  
9 submitting an electronic or written request for removal from the  
10 registry [~~provide notice to a health care provider that submits an~~  
11 ~~immunization history for an individual for whom consent cannot be~~  
12 ~~verified. The notice shall contain instructions for obtaining~~  
13 ~~consent]~~ in accordance with guidelines adopted under Subsection  
14 [~~Subsections]~~ (a); and

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

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

21 (1) Registry information may not be used to exclude any  
22 individual from the receipt of any service during a natural or  
23 man-made disaster unless the service is withheld because of a  
24 medical contraindication.

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

27 SECTION 2. Section 161.00705(f), Health and Safety Code, is

1 amended to read as follows:

2 (f) Unless an individual or the individual's legally  
3 authorized representative [~~consents~~] in writing or electronically  
4 requests that [~~to continued inclusion of~~] the individual's  
5 information be removed from [~~in~~] the registry, the department shall  
6 include [~~remove~~] the immunization records collected under this  
7 section in [~~from~~] the registry [~~on expiration of the period~~  
8 ~~prescribed under Subsection (e)]~~.

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

11 (a) The first time the department receives registry data for  
12 an individual [~~for whom the department has received consent~~] to be  
13 included in the registry, the department shall send notice to the  
14 individual or the individual's legally authorized representative  
15 disclosing:

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

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

19 (3) the persons to whom the information may be  
20 released under Sections 161.00735(b) and 161.008(d);

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

22 (5) the procedure to exclude an individual from the  
23 registry; and

24 (6) the procedure to report a violation if an  
25 individual's information is included in the registry after  
26 exclusion has been requested [~~or consent has been withdrawn~~].

27 (b) The [~~On discovering that consent to be included in the~~

1 ~~registry has not been granted or has been withdrawn, the]~~  
2 department shall exclude [~~the individual's immunization records]~~  
3 from the registry and any other registry-related department record  
4 that individually identifies the individual the immunization  
5 record of any individual from whom a request for exclusion has been  
6 received by the department.

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

10 (a) Except as provided by this section and Sections 161.007,  
11 161.00705, 161.00706, [and] 161.00735, and 161.008, information  
12 that individually identifies an individual that is received by the  
13 department for the immunization registry is confidential and may be  
14 used by the department for registry purposes only.

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

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

20 (1) the individual or the individual's legally  
21 authorized representative submits a written authorization to the  
22 department for release of the individual's registry data;

23 (2) the department does not disclose individually  
24 identifiable information; or

25 (3) the department's institutional review board  
26 approves the release of individually identifiable information  
27 subject to Subsection (g).



1       (g) The department's institutional review board may not  
2 approve the release of individually identifiable information for a  
3 research proposal unless the proposal includes a provision  
4 requiring the proposal's researchers to obtain informed consent  
5 from each individual or the individual's legally authorized  
6 representative before the department releases the individual's  
7 registry data to the researchers.

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

10       (c) The department may receive immunization information  
11 from a health authority of another state or from a local health  
12 authority in another state if the department determines that  
13 residents of that state have evacuated or relocated to this state in  
14 response to a disaster. The department shall include information  
15 received under this subsection in the registry. [~~Notwithstanding~~  
16 ~~Section 161.007, the department is not required to obtain written~~  
17 ~~consent for the inclusion in the registry of information received~~  
18 ~~under this subsection.~~]

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

23           (1) the release to and use by [~~of registry information~~  
24 ~~under this section to~~] the appropriate health authority or local  
25 health authority of that state of registry information under this  
26 section[~~, including the length of time the information may be~~  
27 ~~retained by that state~~]; and

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

4           SECTION 6. Sections 161.008(c) and (e), Health and Safety  
5 Code, are amended to read as follows:

6           (c) The department may obtain the data constituting an  
7 immunization record for an individual from a public health  
8 district, a local health department, the individual or the  
9 individual's legally authorized representative, a physician to the  
10 individual, a payor, or any health care provider licensed or  
11 otherwise authorized to administer vaccines. ~~[The department shall  
12 verify consent before including the reported information in the  
13 immunization registry. The department may not retain individually  
14 identifiable information about an individual for whom consent  
15 cannot be verified.]~~

16           (e) An individual or the individual's legally authorized  
17 representative may obtain and on request to the department shall be  
18 provided with all individually identifiable immunization registry  
19 information concerning the individual and information on the  
20 procedure for requesting removal from the registry.

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

23           (a) The department shall develop:

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

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

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

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

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

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

18           SECTION 9. The following provisions of the Health and  
19 Safety Code are repealed:

20           (1) Sections 161.007(a-1) and (a-3);

21           (2) Sections 161.00705(e) and (h); and

22           (3) Sections 161.00735(e) and (f).

23           SECTION 10. The changes in law made by this Act to  
24 Subchapter A, Chapter 161, Health and Safety Code, apply to  
25 immunization information received by the Department of State Health  
26 Services before, on, or after January 1, 2015. An individual whose  
27 immunization information was included immediately before January

1 1, 2015, in the immunization registry established under Subchapter  
2 A, Chapter 161, Health and Safety Code, is subject to the changes in  
3 law made by this Act to that subchapter, including the procedures  
4 established by that subchapter as amended by this Act.

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

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

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