

By: Howard

H.B. No. 1674

A BILL TO BE ENTITLED

AN ACT

1
2 relating to a physician counseling requirement for persons claiming
3 an immunization exemption on the basis of conscience, including a
4 religious belief.

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

6 SECTION 1. Section 38.001(c), Education Code, is amended to
7 read as follows:

8 (c) Immunization is not required for a person's admission to
9 any elementary or secondary school if the person applying for
10 admission:

11 (1) submits to the admitting official:

12 (A) an affidavit or a certificate signed by a
13 physician who is duly registered and licensed to practice medicine
14 in the United States, in which it is stated that, in the physician's
15 opinion, the immunization required poses a significant risk to the
16 health and well-being of the applicant or any member of the
17 applicant's family or household; or

18 (B) an affidavit signed by the applicant or, if a
19 minor, by the applicant's parent or guardian stating that the
20 applicant declines immunization for reasons of conscience,
21 including a religious belief, and a completed physician counseling
22 certification stating that the physician has provided information
23 on the risks and benefits of immunization; or

24 (2) is a member of the armed forces of the United

1 States and is on active duty.

2 SECTION 2. Sections 51.9192(d) and (d-3), Education Code,
3 are amended to read as follows:

4 (d) A student to whom this section applies or a parent or
5 guardian of the student is not required to comply with Subsection
6 (c) if the student or a parent or guardian of the student submits to
7 the institution:

8 (1) an affidavit or a certificate signed by a
9 physician who is duly registered and licensed to practice medicine
10 in the United States in which it is stated that, in the physician's
11 opinion, the vaccination required would be injurious to the health
12 and well-being of the student; or

13 (2) an affidavit signed by the student stating that
14 the student declines the vaccination for bacterial meningitis for
15 reasons of conscience, including a religious belief, or
16 confirmation that the student has completed the Internet-based
17 process described by Subsection (d-3) for declining the vaccination
18 on that basis, if applicable to the student, and a completed
19 physician counseling certification stating that the physician has
20 provided information on the risks and benefits of immunization.

21 (d-3) The Department of State Health Services shall develop
22 and implement a secure, Internet-based process to be used
23 exclusively at those public junior colleges that elect to use the
24 process to allow an entering student to apply online for an
25 exemption from the vaccination requirement under this section for
26 reasons of conscience. The online process portal must be designed
27 to ensure that duplicate exemption requests are avoided to the

1 greatest extent possible. The exemption form used by a student to
2 claim an exemption under the process must contain a statement
3 indicating that the student understands the benefits and risks of
4 the immunization and the benefits and risks of not receiving the
5 immunization. A student who uses the Internet-based process under
6 this section is required to submit, in the manner prescribed by the
7 college, a completed physician counseling certification stating
8 that the physician has provided information on the risks and
9 benefits of immunization.

10 SECTION 3. Section 51.933(d), Education Code, is amended to
11 read as follows:

12 (d) No form of immunization is required for a person's
13 admission to an institution of higher education if the person
14 applying for admission:

15 (1) submits to the admitting official:

16 (A) an affidavit or a certificate signed by a
17 physician who is duly registered and licensed to practice medicine
18 within the United States in which it is stated that, in the
19 physician's opinion, the immunization required poses a significant
20 risk to the health and well-being of the applicant or any member of
21 the applicant's family or household; or

22 (B) an affidavit signed by the applicant or, if a
23 minor, by the applicant's parent or guardian stating that the
24 applicant declines immunization for reasons of conscience,
25 including a religious belief, and a completed physician counseling
26 certification stating that the physician has provided information
27 on the risks and benefits of immunization; or

1 (2) is a member of the armed forces of the United
2 States and is on active duty.

3 SECTION 4. Section 161.004(d), Health and Safety Code, is
4 amended to read as follows:

5 (d) A child is exempt from an immunization required by this
6 section if:

7 (1) a parent, managing conservator, or guardian states
8 that:

9 (A) the immunization is being declined for
10 reasons of conscience, including a religious belief; and

11 (B) the parent, managing conservator, or
12 guardian has been counseled by a physician on the risks and benefits
13 of immunization; or

14 (2) the immunization is medically contraindicated
15 based on the opinion of a physician licensed by any state in the
16 United States who has examined the child.

17 SECTION 5. The heading to Section 161.0041, Health and
18 Safety Code, is amended to read as follows:

19 Sec. 161.0041. IMMUNIZATION EXEMPTION AFFIDAVIT FORM AND
20 PHYSICIAN COUNSELING CERTIFICATION FORM.

21 SECTION 6. Section 161.0041, Health and Safety Code, is
22 amended by amending Subsections (a) and (c) and adding Subsections
23 (a-1), (d-1), and (d-2) to read as follows:

24 (a) A person claiming an exemption from a required
25 immunization based on reasons of conscience, including a religious
26 belief, under Section 161.004 of this code, Section 38.001,
27 51.9192, or 51.933, Education Code, or Section 42.043, Human

1 Resources Code, must:

2 (1) complete an affidavit on a form provided by the
3 department stating the reason for the exemption; and

4 (2) submit a completed physician counseling
5 certification.

6 (a-1) Subsection (a)(1) [~~This subsection~~] does not apply to
7 a person claiming the exemption using the Internet-based process
8 under Section 51.9192(d-3), Education Code.

9 (c) A person claiming an exemption from a required
10 immunization under this section may only obtain the affidavit form
11 by submitting a written request for the affidavit form to the
12 department. The department shall include a blank copy of the
13 physician counseling certification form described by Subsection
14 (d-1) with each affidavit form sent to a person.

15 (d-1) The department shall develop a blank physician
16 counseling certification form to be completed by a physician who
17 has counseled a person and, if the person is a minor, the person's
18 parent, managing conservator, or guardian, about the risks and
19 benefits of immunization. The form must contain:

20 (1) spaces for:

21 (A) the name, signature, and license number of
22 the physician providing counsel;

23 (B) the name of the person claiming the
24 exemption, the name of the person's parent, managing conservator,
25 or guardian, as applicable, and the signature of the person or the
26 person's parent, managing conservator, or guardian, as applicable;

27 and

1 (C) the date; and
2 (2) the following statement or substantially similar
3 language:

4 "I certify that I have provided medically accurate
5 information on the risks and benefits of immunization."

6 (d-2) The department shall make the printable physician
7 counseling certification form available on the department's
8 Internet website.

9 SECTION 7. Section 224.002(c), Health and Safety Code, is
10 amended to read as follows:

11 (c) The policy may include procedures for a covered
12 individual to be exempt from the required vaccines based on reasons
13 of conscience, including a religious belief, provided that the
14 policy requires an individual claiming an exemption based on
15 reasons of conscience to certify that the individual has received
16 counseling from a physician on the risks and benefits of vaccines.

17 SECTION 8. Section 42.043(d), Human Resources Code, is
18 amended to read as follows:

19 (d) No immunization may be required for admission to a
20 facility regulated under this chapter if a person applying for a
21 child's admission submits [~~one of the following affidavits~~]:

22 (1) an affidavit signed by a licensed physician
23 stating that the immunization poses a significant risk to the
24 health and well-being of the child or a member of the child's family
25 or household; or

26 (2) an affidavit signed by the child's parent or
27 guardian stating that the applicant declines immunization for

1 reasons of conscience, including a religious belief, and a
2 completed physician counseling certification stating that the
3 physician has provided information on the risks and benefits of
4 immunization.

5 SECTION 9. Section 42.04305(d), Human Resources Code, is
6 amended to read as follows:

7 (d) The policy shall include procedures for a facility
8 employee to be exempt from the required vaccines based on reasons of
9 conscience, including a religious belief, and those procedures must
10 include the requirement that the employee claiming the exemption
11 certify that the employee has received counseling from a physician
12 on the risks and benefits of vaccines.

13 SECTION 10. (a) Not later than December 1, 2015, the
14 Department of State Health Services shall make the physician
15 counseling certification form available on the department's
16 Internet website.

17 (b) A person claiming an immunization exemption on the basis
18 of conscience, including a religious belief, on or after January 1,
19 2016, is required to submit a completed physician counseling
20 certification or otherwise affirm that the person has received
21 physician counseling, as applicable.

22 (c) A person claiming an immunization exemption on the basis
23 of conscience, including a religious belief, before January 1,
24 2016, is required to submit a completed physician counseling
25 certification or otherwise affirm that the person has received
26 physician counseling, as applicable, before September 1, 2016, to
27 continue to be eligible for the exemption.

1 SECTION 11. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas Constitution.
4 If this Act does not receive the vote necessary for immediate
5 effect, this Act takes effect September 1, 2015.