

By: Zaffirini

S.B. No. 54

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. Sections 161.007(a), (a-2), (b), (b-1), (c), and
6 (d), Health and Safety Code, are amended to read as follows:

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

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

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

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

23 [~~4~~] permit the individual or the individual's
24 legally authorized representative to request that the individual's

1 information be removed from [~~withdraw consent for the individual to~~
2 ~~be included in~~] the registry[, ~~and~~

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

7 (a-2) [~~The written or electronic consent required by~~
8 ~~Subsection (a)(3) for an individual who is 18 years of age or older~~
9 ~~is required to be obtained only one time and must be received from~~
10 ~~the individual before the information may be released.] An~~

11 individual's legally authorized representative or the individual,
12 after the individual has attained 18 years of age, may submit a
13 request [~~consent~~] in writing or electronically for the individual's
14 information to be removed from [~~remain in~~] the registry. [~~The~~
15 ~~consent of the representative or individual is valid until the~~
16 ~~individual or the individual's legally authorized representative~~
17 ~~withdraws consent in writing or electronically. The department may~~
18 ~~not include in the registry the immunization information of an~~
19 ~~individual who is 26 years of age or older until written or~~
20 ~~electronic consent has been obtained as provided by this~~
21 ~~subsection.] The department shall coordinate with the Texas~~

22 Education Agency to distribute materials described in Section
23 [161.0095](#)(a)(2) to students and parents through local school
24 districts.

25 (b) Except as provided by Section [161.0071](#), the
26 immunization registry must contain information on the immunization
27 history that is obtained by the department under:

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

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

11 (3) Section 161.00706 of first responders or their
12 immediate family members; and

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

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

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

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

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

27 [~~(4) for whom consent for continued inclusion in the~~

1 ~~registry following the end of a disaster has not been received under~~
2 ~~Section 161.00735(f), or~~

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

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

19 (d) A health care provider who administers an immunization
20 to an individual younger than 18 years of age shall provide data
21 elements regarding an immunization to the department. A health
22 care provider who administers an immunization to an individual 18
23 years of age or older may submit data elements regarding an
24 immunization to the department. At the request and with the
25 authorization of the health care provider, the data elements may be
26 submitted through a health information exchange as defined by
27 Section 182.151. The data elements shall be submitted in a format

1 prescribed by the department. [~~The department shall verify consent~~
2 ~~before including the information in the immunization registry. The~~
3 ~~department may not retain individually identifiable information~~
4 ~~about an individual for whom consent cannot be verified.~~]

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

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

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

16 (a) The first time the department receives registry data for
17 an individual [~~for whom the department has received consent~~] to be
18 included in the registry, the department shall send notice to the
19 individual or the individual's legally authorized representative
20 disclosing:

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

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

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

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

27 (5) the procedure to exclude an individual from the

1 registry; and

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

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

12 SECTION 4. Sections 161.00735(c), (g), and (h), Health and
13 Safety Code, are amended to read as follows:

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

23 (g) If an individual or, if a child, the child's parent,
24 managing conservator, or guardian requests in writing or
25 electronically that the individual's or child's information
26 obtained under Subsection (c) be removed from the registry, the
27 department shall remove that information from the registry.

1 (h) The executive commissioner shall make every effort to
2 enter into a memorandum of agreement with each state to which
3 residents of this state are likely to evacuate in a disaster on:

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

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

12 SECTION 5. Section 161.008(c), Health and Safety Code, is
13 amended to read as follows:

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

24 SECTION 6. Section 161.0095(a), Health and Safety Code, is
25 amended to read as follows:

26 (a) The department shall develop:

27 (1) continuing education programs for health care

1 providers relating to immunizations and the vaccines for children
2 program operated by the department under authority of 42 U.S.C.
3 Section 1396s; and

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

12 SECTION 7. Section 161.0107(c), Health and Safety Code, is
13 amended to read as follows:

14 (c) The executive commissioner by rule shall specify:

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

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

20 SECTION 8. The following provisions of the Health and
21 Safety Code are repealed:

22 (1) Sections 161.007(a-1), (a-3), (a-4), (a-5),
23 (a-6), and (e);

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

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

26 SECTION 9. The changes in law made by this Act to Subchapter
27 A, Chapter 161, Health and Safety Code, apply only to immunization

1 information received by the Department of State Health Services on
2 or after the effective date of this Act. The information received
3 by the department before the effective date of this Act is covered
4 by the law in effect immediately before that date, and that law is
5 continued in effect for that purpose.

6 SECTION 10. This Act takes effect September 1, 2017.