

By: Zaffirini

S.B. No. 1427

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 by rule shall
15 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 excluded from ~~[withdraw consent for the individual~~
4 ~~to be included in]~~ the registry;

5 (4) provide opportunities for the individual or the
6 individual's legally authorized representative to request
7 exclusion 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 exclusion using a request for exclusion procedure available on
14 the department's Internet website;

15 (D) through submission to the department of a
16 written request for exclusion; 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 exclusion from the registry more than one time and that, after a
22 request for exclusion 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 exclusion 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) ~~[The written or electronic consent required by~~
7 ~~Subsection (a)(3) for an individual who is 18 years of age or older~~
8 ~~is required to be obtained only one time and must be received from~~
9 ~~the individual before the information may be released.]~~ An
10 individual's legally authorized representative or the individual,
11 after the individual has attained 18 years of age, may submit a
12 request ~~[consent]~~ in writing or electronically for the individual's
13 information to be excluded from ~~[remain in]~~ the registry. ~~[The~~
14 ~~consent of the representative or individual is valid until the~~
15 ~~individual or the individual's legally authorized representative~~
16 ~~withdraws consent in writing or electronically. The department may~~
17 ~~not include in the registry the immunization information of an~~
18 ~~individual who is 26 years of age or older until written or~~
19 ~~electronic consent has been obtained as provided by this~~
20 ~~subsection.]~~ The department shall coordinate with the Texas
21 Education Agency to distribute materials described in Section
22 [161.0095](#)(a)(2) to students and parents through local school
23 districts.

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

27 (1) this section of each individual for whom

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

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

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

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

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

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

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

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

26 [~~(4) for whom consent for continued inclusion in the~~
27 ~~registry following the end of a disaster has not been received under~~

1 ~~Section 161.00735(f), or~~

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

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

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

1 administers an immunization to any individual and provides data
2 elements to the department shall notify the individual or the
3 individual's legally authorized representative of:

4 (1) the inclusion in the registry of the individual's
5 immunization information unless exclusion from the registry is
6 requested in accordance with the guidelines adopted under
7 Subsection (a); and

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

13 (e) The department shall:

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

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

27 (e-1) A health care provider may use the printable form

1 described by Subsection (e) to provide the notification required
2 under Subsection (d).

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

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

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

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

18 SECTION 3. Sections 161.00706(e) and (f), Health and Safety
19 Code, are amended to read as follows:

20 (e) A person whose immunization records are included in the
21 immunization registry as authorized by this section may request in
22 writing or electronically that the department exclude [~~remove~~] that
23 information from the registry. Not later than the 10th day after
24 receiving a request under this subsection, the department shall
25 exclude [~~remove~~] the person's immunization records from the
26 registry.

27 (f) The report required under Section 161.0074 must also

1 include the number of complaints received by the department related
2 to the department's failure to comply with requests for exclusion
3 [~~removal~~] of information from the registry under Subsection (e).

4 SECTION 4. Sections 161.0071(a) and (b), Health and Safety
5 Code, are amended to read as follows:

6 (a) The first time the department receives registry data for
7 an individual [~~for whom the department has received consent~~] to be
8 included in the registry, the department shall send notice to the
9 individual or the individual's legally authorized representative
10 disclosing:

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

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

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

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

17 (5) the procedure to request exclusion of an
18 individual's information [~~exclude an individual~~] from the
19 registry; and

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

23 (b) The [~~On discovering that consent to be included in the~~
24 ~~registry has not been granted or has been withdrawn, the~~]
25 department shall exclude [~~the individual's immunization records~~]
26 from the registry ~~and any other registry-related department record~~
27 ~~that individually identifies the individual~~ the immunization

1 record of any individual from whom a request for exclusion has been
2 received by the department.

3 SECTION 5. Section 161.0073, Health and Safety Code, is
4 amended by amending Subsection (a) and adding Subsections (e), (f),
5 (g), and (h) to read as follows:

6 (a) Except as provided by this section and Sections 161.007,
7 161.00705, 161.00706, [and] 161.00735, and 161.008, information
8 that individually identifies an individual that is received by the
9 department for the immunization registry is confidential and may be
10 used by the department for registry purposes only.

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

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

16 (1) the individual or the individual's legally
17 authorized representative submits a written authorization to the
18 department for release of the individual's registry data;

19 (2) the department does not disclose individually
20 identifiable information; or

21 (3) the department's institutional review board
22 approves the release of individually identifiable information
23 subject to Subsection (g).

24 (g) The department's institutional review board may not
25 approve the release of individually identifiable information for a
26 research proposal unless the proposal includes a provision
27 requiring the proposal's researchers to obtain informed consent

1 from each individual or the individual's legally authorized
2 representative before the department releases the individual's
3 registry data to the researchers.

4 (h) The executive commissioner shall adopt rules to ensure
5 that the use or release of registry information under this
6 subchapter complies with all state and federal laws relating to the
7 privacy, protection, confidentiality, and transmission of health
8 information, including the Health Insurance Portability and
9 Accountability Act of 1996 (Pub. L. No. 104-191) and rules adopted
10 under that Act.

11 SECTION 6. Sections 161.00735(c), (g), and (h), Health and
12 Safety Code, are amended to read as follows:

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

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

27 (h) The executive commissioner shall make every effort to

1 enter into a memorandum of agreement with each state to which
2 residents of this state are likely to evacuate in a disaster on:

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

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

11 SECTION 7. Sections 161.008(c) and (e), Health and Safety
12 Code, are amended to read as follows:

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

23 (e) An individual or the individual's legally authorized
24 representative may obtain and on request to the department shall be
25 provided with all individually identifiable immunization registry
26 information concerning the individual and information on the
27 procedure for requesting exclusion from the registry.

1 SECTION 8. Section 161.009(a), Health and Safety Code, is
2 amended to read as follows:

3 (a) A person commits an offense if the person:

4 (1) negligently releases or discloses immunization
5 registry information in violation of Section 161.007, 161.0071,
6 161.0073, or 161.008;

7 (2) fails to exclude an individual's immunization
8 information in violation of Section 161.0071;

9 (3) fails to exclude [~~remove~~] a person's immunization
10 information in violation of Section 161.00705, 161.00706, or
11 161.00735; or

12 (4) negligently uses information in the immunization
13 registry to solicit new patients or clients or for other purposes
14 that are not associated with immunization or quality-of-care
15 purposes, unless authorized under this section.

16 SECTION 9. Section 161.0095(a), Health and Safety Code, is
17 amended to read as follows:

18 (a) The department shall develop:

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

23 (2) educational information, for health care
24 providers, health care clinics, hospitals, and any other health
25 care facility that provides health care to children 14 to 18 years
26 of age, relating to the immunization registry and the option for an
27 individual or the individual's legally authorized representative

1 to request exclusion [~~who is 18 years of age or older to consent to~~
2 ~~submission and retention~~] of the individual's information from [~~in~~]
3 the immunization registry.

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

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

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

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

12 SECTION 11. The following provisions of the Health and
13 Safety Code are repealed:

14 (1) Sections 161.007(a-1), (a-3), (a-4), (a-5), and
15 (a-6);

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

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

18 SECTION 12. (a) The changes in law made by this Act to
19 Subchapter A, Chapter 161, Health and Safety Code, apply to
20 immunization information received by the Department of State Health
21 Services before, on, or after January 1, 2021. An individual whose
22 immunization information was included immediately before January
23 1, 2021, in the immunization registry established under Subchapter
24 A, Chapter 161, Health and Safety Code, is subject to the changes in
25 law made by this Act to that subchapter, including the procedures
26 established by that subchapter as amended by this Act.

27 (b) The changes in law made by this Act do not authorize the

1 Department of State Health Services to include in the immunization
2 registry established under Subchapter A, Chapter 161, Health and
3 Safety Code, immunization information of an individual who is 18
4 years of age or older and whose immunization information was not
5 included in the registry on or before January 1, 2021, unless the
6 department receives immunization data from a health care provider
7 who:

8 (1) administers an immunization to the individual
9 after that date and elects to provide the individual's immunization
10 information to the department; and

11 (2) notifies the individual before submission of the
12 information to the department:

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

15 (B) that the information will remain in the
16 registry until exclusion is requested by the individual or the
17 individual's legally authorized representative; and

18 (C) of the procedures for requesting exclusion
19 from the registry under Subchapter A, Chapter 161, Health and
20 Safety Code, as amended by this Act.

21 (c) The changes in law made by this Act apply only to an
22 offense committed on or after the effective date of this Act. An
23 offense committed before the effective date of this Act is governed
24 by the law in effect on the date the offense was committed, and the
25 former law is continued in effect for that purpose. For purposes of
26 this section, an offense was committed before the effective date of
27 this Act if any element of the offense occurred before that date.

1 SECTION 13. (a) As soon as practicable after the effective
2 date of this section, the Department of State Health Services shall
3 conduct a public awareness campaign to educate health care
4 providers, parents, payors, schools, and the public about the
5 changes in law made by this Act.

6 (b) As soon as practicable after the effective date of this
7 section, the executive commissioner of the Health and Human
8 Services Commission shall adopt the rules required by Section
9 [161.0073](#)(h), Health and Safety Code, as added by this Act.

10 SECTION 14. (a) Except as provided by Subsection (b) of this
11 section, this Act takes effect January 1, 2021.

12 (b) Section 13 of this Act takes effect September 1, 2019.