88R12223 MPF-F

By:  Tinderholt H.B. No. 4730

A BILL TO BE ENTITLED

AN ACT

relating to the release or disclosure of vaccination or immunization information to certain persons; providing a civil penalty.

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

SECTION 1.  Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0093 to read as follows:

Sec. 161.0093.  PROHIBITED RELEASE OR DISCLOSURE OF VACCINATION OR IMMUNIZATION INFORMATION TO CERTAIN PERSONS; CIVIL PENALTY. (a) In this section, "health authority" has the meaning assigned by Section 81.003.

(b)  An employee or agent of the department or a health authority may not release or otherwise disclose to any person an individual's vaccination or immunization information received by the department or health authority unless:

(1)  the department or health authority, as applicable, obtains the written or electronic consent of the individual or the individual's legally authorized representative;

(2)  the employee or agent releases or discloses the information to a health care provider in accordance with applicable state and federal laws relating to the privacy, protection, confidentiality, and transmission of health information; or

(3)  the release or disclosure is otherwise authorized by this subchapter.

(c)  A person who obtains an individual's vaccination or immunization information under this subchapter may not release or otherwise disclose the information to a third party, including under a contract or subcontract, for the purpose of encouraging individuals to obtain a vaccine or to provide educational materials on a vaccine.

(d)  A person who releases or discloses vaccination or immunization information in violation of Subsection (b) or (c) is liable to this state for a civil penalty in an amount of not less than $2,000 and not more than $50,000 for each violation. The attorney general may bring an action to collect the civil penalty imposed under this subsection.

SECTION 2.  Sections 161.007(a) and (j), Health and Safety Code, are amended to read as follows:

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

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

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

(3)  require the written or electronic consent of the individual or the individual's legally authorized representative before any information relating to the individual is included in the registry;

(4)  permit the individual or the individual's legally authorized representative to withdraw consent for the individual to be included in the registry; and

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

(j)  Except as provided by Sections 161.00705, 161.00706, [~~161.00735(b),~~] and 161.008, information obtained by the department for the immunization registry is confidential and may be disclosed only with the written or electronic consent of the individual or the individual's legally authorized representative.

SECTION 3.  Section 161.00705(g), Health and Safety Code, is amended to read as follows:

(g)  The immunization information of a child or other individual received by the department under this section, including individually identifiable information, may be released only:

(1)  on consent of the individual or, if a child, the child's parent, managing conservator, or guardian; or

(2)  to a [~~state agency or~~] health care provider consistent with the purposes of this subchapter or the purposes of aiding or coordinating communicable disease prevention and control efforts during a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

SECTION 4.  Sections 161.00706(c) and (d), Health and Safety Code, are amended to read as follows:

(c)  The executive commissioner shall:

(1)  develop rules to ensure that immunization history submitted under Subsection (a)(2) is medically verified immunization information;

(2)  develop guidelines for use by the department in informing first responders about the registry [~~and that registry information may be released under Section 161.00735~~]; and

(3)  adopt rules necessary for the implementation of this section.

(d)  A [~~Except as provided by Section 161.00735, a~~] person's immunization history or data received by the department under this section may be released only on consent of the person or to any health care provider licensed or otherwise authorized to administer vaccines.

SECTION 5.  Section 161.0071(a), Health and Safety Code, is amended to read as follows:

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

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

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

(3)  the persons to whom the information may be released under Section [~~Sections 161.00735(b) and~~] 161.008(d);

(4)  the purpose and use of the registry;

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

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

SECTION 6.  Section 161.0073(a), Health and Safety Code, is amended to read as follows:

(a)  Except as provided by Section [~~Sections~~] 161.00705 [~~and 161.00735~~], information that individually identifies an individual that is received by the department for the immunization registry is confidential and may be used by the department for registry purposes only.

SECTION 7.  The heading to Section 161.00735, Health and Safety Code, is amended to read as follows:

Sec. 161.00735.  [~~RELEASE AND~~] RECEIPT OF REGISTRY DATA IN DISASTER.

SECTION 8.  Section 161.00735(h), Health and Safety Code, is amended to read as follows:

(h)  The executive commissioner shall make every effort to enter into a memorandum of agreement with each state from [~~to~~] which residents of that [~~this~~] state are likely to evacuate to this state in a disaster on[~~:~~

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

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

SECTION 9.  Section 161.0075, Health and Safety Code, is amended to read as follows:

Sec. 161.0075.  IMMUNITY FROM LIABILITY. Except as provided by Sections [~~Section~~] 161.009 and 161.0093, the following persons subject to this subchapter that act in compliance with Sections 161.007, 161.00705, 161.00706, 161.0071, 161.0073, 161.0074, and 161.008 are not civilly or criminally liable for furnishing the information required under this subchapter:

(1)  a payor;

(2)  a health care provider who administers immunizations; and

(3)  an employee of the department.

SECTION 10.  Section 161.008(d), Health and Safety Code, is amended to read as follows:

(d)  The department may release the data constituting an immunization record for the individual to:

(1)  a health care provider treating the individual or an organization to which the individual is a member [~~any entity that is described by Subsection (c)~~]; or

(2)  [~~a school or child care facility in which the individual is enrolled;~~

[~~(3)  a state agency having legal custody of the individual; or~~

[~~(4)~~]  an employer of a first responder or a first responder in accordance with Section 161.00708.

SECTION 11.  Section 161.00735(b), Health and Safety Code, is repealed.

SECTION 12.  The changes in law made by this Act apply only to the release or disclosure of information on or after the effective date of this Act. The release or disclosure of information before the effective date of this Act is governed by the law in effect when the release or disclosure was made, and the former law is continued in effect for that purpose.

SECTION 13.  This Act takes effect September 1, 2023.