

By: Zaffirini

S. B. No. 40

A BILL TO BE ENTITLED

1 AN ACT

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:

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) An individual's legally authorized representative or
8 the individual, after the individual has attained 18 years of age,
9 may submit a request [~~consent~~] in writing or electronically for the
10 individual's information to be removed from [~~remain in~~] the
11 registry [~~after the individual's 18th birthday and for the~~
12 ~~individual's subsequent immunizations to be included in the~~
13 ~~registry. The written or electronic consent of the minor's legally~~
14 ~~authorized representative as described by Section 161.0001(1-c)(A)~~
15 ~~must be submitted to the department before the individual's 18th~~
16 ~~birthday. The written or electronic consent of the individual or~~
17 ~~the individual's legally authorized representative as described by~~
18 ~~Section 161.0001(1-c)(B) or (C) must be submitted to the department~~
19 ~~not later than the individual's 19th birthday. The consent of the~~
20 ~~representative or individual is valid until the individual or the~~
21 ~~individual's legally authorized representative withdraws consent~~
22 ~~in writing or electronically. The department may not include in the~~
23 ~~registry the immunization information of an individual who is 18~~
24 ~~years of age or older until written or electronic consent has been~~
25 ~~obtained as provided by this subsection~~]. The department shall
26 coordinate with the Texas Education Agency to distribute materials
27 described in Section 161.0095(a)(2) to students and parents through

1 local school districts.

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

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

11 (2) Section 161.00705 of persons immunized to prepare
12 for or in response to a declared disaster, public health emergency,
13 terrorist attack, hostile military or paramilitary action, or
14 extraordinary law enforcement emergency;

15 (3) Section 161.00706 of first responders or their
16 immediate family members; and

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

19 (b-1) The department shall remove from the registry
20 information for any individual for whom ~~[consent has been~~
21 ~~withdrawn. The department may not retain individually identifiable~~
22 ~~information about any individual.~~

23 [~~(1) for whom consent has been withdrawn;~~

24 [~~(2) for whom a consent for continued inclusion in the~~
25 ~~registry following the end of the declared disaster, public health~~
26 ~~emergency, terrorist attack, hostile military or paramilitary~~
27 ~~action, or extraordinary law enforcement emergency has not been~~

1 ~~received under Section 161.00705(f);~~

2 ~~[+3) for whom a request to be removed from the registry~~

3 ~~has been received under Section 161.00706(e);~~

4 ~~[+4) for whom consent for continued inclusion in the~~

5 ~~registry following the end of a disaster has not been received under~~

6 ~~Section 161.00735(f); or~~

7 ~~[+5) for whom] a request to remove information from~~

8 the registry has been received under this subchapter [~~Section~~

9 ~~161.00735(g)].~~

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

23 (d) A health care provider who administers an immunization
24 to an individual younger than 18 years of age shall provide data
25 elements regarding an immunization to the department. A health
26 care provider who administers an immunization to an individual 18
27 years of age or older may submit data elements regarding an

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

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

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

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

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

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

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

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

- 1 (4) the purpose and use of the registry;
- 2 (5) the procedure to exclude an individual from the
- 3 registry; and

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

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

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

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

25 (h) The executive commissioner of the Health and Human
26 Services Commission shall make every effort to enter into a
27 memorandum of agreement with each state to which residents of this

1 state are likely to evacuate in a disaster on:

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

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

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

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

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

24 (a) The department shall develop:

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

1 Section 1396s; and

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

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

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

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

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

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

21 (1) Sections 161.007(a-1), (a-3), and (e);

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

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

24 SECTION 9. The changes in law made by this Act to Subchapter
25 A, Chapter 161, Health and Safety Code, apply only to immunization
26 information received by the Department of State Health Services on
27 or after the effective date of this Act. The information received

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1 by the department before the effective date of this Act is covered
2 by the law in effect immediately before that date, and that law is
3 continued in effect for that purpose.

4 SECTION 10. This Act takes effect September 1, 2013.