PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Health and Safety Code
Chapter 161A
9/15/26

TITLE 2. HEALTH

SUBTITLE H. PUBLIC HEALTH PROVISIONS

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TITLE 2. HEALTH

SUBTITLE H. PUBLIC HEALTH PROVISIONS

CHAPTER 161A. IMMUNIZATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Revised Law

Sec. 161A.001. DEFINITIONS. In this chapter:

(1) "Data elements" means the information:

(A) a health care provider who administers a vaccine is required to record in a medical record under 42 U.S.C. Section 300aa-25, including:

(i) the date the vaccine is administered;

(ii) the vaccine manufacturer and lot number;

(iii) any adverse or unexpected events for a vaccine; and

(iv) the name, the address, and if appropriate, the title of the health care provider administering the vaccine; and

(B) specified in rules adopted to implement Section 161A.117.

(2) "Electronically," as related to a communication authorized under this chapter, means by e-mail, text message, online communication, or another electronic method of communication the department approves.

(3) "First responder" means:

(A) any federal, state, local, or private personnel who may respond to a disaster, including:

(i) public health and public safety personnel;

(ii) commissioned law enforcement personnel;

(iii) fire protection personnel, including volunteer firefighters;

(iv) emergency medical services personnel, including hospital emergency facility staff;

(v) a member of the National Guard;

(vi) a member of the Texas State Guard; or

(vii) any other worker who responds to a disaster in the worker's scope of employment; or

(B) any related personnel who provide support services during the prevention, response, and recovery phases of a disaster.

(4) "Immediate family member" means the parent, spouse, child, or sibling of an individual who resides in the same household as the individual.

(5) "Individual's legally authorized representative" means an individual's:

(A) parent, managing conservator, or guardian, if the individual is a minor;

(B) guardian, if the individual has been adjudicated incompetent to manage the individual's personal affairs; or

(C) agent authorized under a durable power of attorney for health care.

(6) "Payor" means an insurance company, a health maintenance organization, or another organization that pays a health care provider to provide health care benefits, including providing immunizations.

(7) "Vaccines for children program" means the program the department operates under authority of 42 U.S.C. Section 1396s. (H&S Code, Secs. 161.0001, 161.0095(a)(1) (part), 161.0102(a), 161.01035(a) (part).)

Source Law

Sec. 161.0001. DEFINITIONS. In this subchapter:

(1) "Data elements" means the information:

(A) a health care provider who administers a vaccine is required to record in a medical record under 42 U.S.C. Section 300aa-25, as amended, including:

(i) the date the vaccine is administered;

(ii) the vaccine manufacturer and lot number of the vaccine;

(iii) any adverse or unexpected events for a vaccine; and

(iv) the name, the address, and if appropriate, the title of the health care provider administering the vaccine; and

(B) specified in rules adopted to implement Section 161.00705.

(1-a) "First responder" means:

(A) any federal, state, local, or private personnel who may respond to a disaster, including:

(i) public health and public safety personnel;

(ii) commissioned law enforcement personnel;

(iii) fire protection personnel, including volunteer firefighters;

(iv) emergency medical services personnel, including hospital emergency facility staff;

(v) a member of the National Guard;

(vi) a member of the Texas State Guard; or

(vii) any other worker who responds to a disaster in the worker's scope of employment; or

(B) any related personnel that provide support services during the prevention, response, and recovery phases of a disaster.

(1-b) "Immediate family member" means the parent, spouse, child, or sibling of a person who resides in the same household as the person.

(1-c) "Individual's legally authorized representative" means:

(A) a parent, managing conservator, or guardian of an individual, if the individual is a minor;

(B) a guardian of the individual, if the individual has been adjudicated incompetent to manage the individual's personal affairs; or

(C) an agent of the individual authorized under a durable power of attorney for health care.

(2) "Payor" means an insurance company, a health maintenance organization, or another organization that pays a health care provider to provide health care benefits, including providing immunizations.

(3) "Electronically," as related to a communication authorized under this chapter, means by e-mail, text message, online communication, or another electronic method of communication approved by the department.

Sec. 161.0095. EDUCATION PROGRAMS AND INFORMATION. (a) [The department shall develop:

(1) continuing education programs for . . . the] vaccines for children program operated by the department under authority of 42 U.S.C. Section 1396s; and

. . .

Sec. 161.0102. VACCINES FOR CHILDREN PROGRAM; INFLUENZA VACCINES. (a) In this section, "vaccines for children program" means the program operated by the department under authority of 42 U.S.C. Section 1396s, as amended.

Sec. 161.01035. PROVIDER CHOICE SYSTEM. (a) [The department shall implement a provider choice system for the] vaccines for children program operated by the department under authority of 42 U.S.C. Section 1396s and . . . .

Revisor's Note

(1) Section 161.0001, Health and Safety Code, provides definitions for "this subchapter." The revised law substitutes "this chapter" for "this subchapter" because the provisions of Subchapter A, Chapter 161, Health and Safety Code, are revised as Chapter 161A of that code.

(2) Section 161.0001(1), Health and Safety Code, refers to information recorded in "a medical record under 42 U.S.C. Section 300aa-25, as amended." The revised law omits "as amended" because under Section 311.027, Government Code (Code Construction Act), a reference to a statute applies to all reenactments, revisions, or amendments of that statute, unless expressly provided otherwise.

(3) Section 161.0001(1-b), Health and Safety Code, defines "immediate family member" to mean "the parent, spouse, child, or sibling of a person who resides in the same household as the person." Throughout this chapter, the revised law substitutes "individual" for "person" for clarity and consistency where the context clearly references a natural person and not an entity described by the definition of "person" provided by Section 311.005(2), Government

Code (Code Construction Act).

(4) Section 161.0001(3), Health and Safety Code, refers to "communication authorized under this chapter," meaning Chapter 161 of that code. Although parts of Chapter 161 are revised elsewhere in this code, the revised law maintains "this chapter," meaning Subchapter A, Chapter 161, because the relevant authorized communications are limited to Subchapter A, which is revised as this chapter.

(5) Section 161.0102(a), Health and Safety Code, defines "vaccines for children program" to mean "the program operated by the department under authority of 42 U.S.C. Section 1396s, as amended." As a drafting convenience and to eliminate unnecessary repetition of the substance of the definition, the revised law expands the definition to apply to all references to the program in this chapter. The revised law omits "as amended" for the reason stated in Revisor's Note (2) to this section.

Revised Law

Sec. 161A.002. LIABILITY FOR IMMUNIZATION ADMINISTRATION. (a) A person who administers or authorizes the administration of a vaccine or immunizing agent is not liable for an injury caused by the vaccine or immunizing agent if the immunization is required by department rule or is otherwise required by law or other rules.

(b) A person who administers or authorizes the administration of a vaccine or immunizing agent is not liable or responsible for the failure to immunize a child because of the failure or refusal of a parent, managing conservator, or guardian to consent to the vaccination or immunization required under this chapter. Consent to the vaccination or immunization must be given in the manner authorized by Chapter 32, Family Code.

(c) A person who fails to comply with Section 161A.051 is not liable or responsible for that failure, and that failure does

not create a cause of action.

(d) This section does not apply to a negligent act in administering the vaccine or immunizing agent. (H&S Code, Sec. 161.001.)

Source Law

> Sec. 161.001. LIABILITY OF PERSON WHO ORDERS OR ADMINISTERS IMMUNIZATION. (a) A person who administers or authorizes the administration of a vaccine or immunizing agent is not liable for an injury caused by the vaccine or immunizing agent if the immunization is required by department rule or is otherwise required by law or other rules.
>
> (b) A person who administers or authorizes the administration of a vaccine or immunizing agent is not liable or responsible for the failure to immunize a child because of the failure or refusal of a parent, managing conservator, or guardian to consent to the vaccination or immunization required under this chapter. Consent to the vaccination or immunization must be given in the manner authorized by Chapter 32, Family Code.
>
> (c) A person who fails to comply with Section 161.004 is not liable or responsible for that failure, and that failure does not create a cause of action.
>
> (d) This section does not apply to a negligent act in administering the vaccine or immunizing agent.

Revisor's Note

Section 161.001(b), Health and Safety Code, refers to "[c]onsent to the vaccination or immunization required under this chapter," meaning Chapter 161 of that code. Although parts of Chapter 161 are revised elsewhere in this code, the revised law maintains "this chapter," meaning Subchapter A, Chapter 161, because the vaccination and immunization requirements are limited to Subchapter A, which is revised as this chapter.

Revised Law

Sec. 161A.003. INADMISSIBILITY OF IMMUNIZATION SURVEY INFORMATION. Information obtained from a physician's medical records by a person conducting an immunization survey for the department is not admissible as evidence in an action against the physician that involves an injury relating to the immunization of an individual. (H&S Code, Sec. 161.002.)

Source Law

Sec. 161.002. INADMISSIBILITY OF IMMUNIZATION SURVEY INFORMATION. Information obtained from a physician's medical records by a person conducting an immunization survey for the department is not admissible as evidence in a suit against the physician that involves an injury relating to the immunization of an individual.

Revisor's Note

Section 161.002, Health and Safety Code, refers to a "suit" against certain physicians in relation to an individual's immunization. The revised law substitutes "action" for "suit" because the terms have the same meaning and "action" is more consistent with modern usage.

Revised Law

Sec. 161A.004. BIENNIAL REPORT. (a) Not later than September 30 of each even-numbered year, the department shall submit a report to the Legislative Budget Board, the governor, the lieutenant governor, the speaker of the house of representatives, and appropriate committees of the legislature.

(b) The report must:

(1) include the current immunization rates by geographic region of this state, where available;

(2) focus on the geographic regions of this state with immunization rates below the state average for preschool children;

(3) describe the approaches identified to increase immunization rates in underserved areas and the estimated cost for each approach;

(4) identify changes to department procedures needed to increase immunization rates;

(5) identify the services provided under and provisions of department contracts entered into to increase immunization rates in underserved areas;

(6) identify performance measures used in contracts described by Subdivision (5);

(7) include the number and type of exemptions from

required immunizations used in the preceding year;

(8) include the number of complaints received by the department related to the department's failure to comply with requests for:

(A) exclusion of individuals from the immunization registry established under Section 161A.104;

(B) removal of information from the registry under Section 161A.113(e); and

(C) removal of information from the database as required by Section 161A.117(g);

(9) identify all reported incidents of discrimination for requesting exclusion from the registry or for using an exemption from a required immunization; and

(10) include methods to increase provider participation in the registry.

(c) If a public health disaster was declared under Chapter 81 during the preceding two years, in addition to the information required under Subsection (b), for immunizations that immunize an individual against the communicable disease subject to the declaration, the report must:

(1) include de-identified information by county on the accessibility to the immunizations for county residents by age, race, and geographic location;

(2) identify and assess disparities in access to the immunizations by age, race, and geographic location, including an assessment of immunization accessibility in each county;

(3) include the estimated economic benefit to this state of reducing disparities in immunization accessibility;

(4) include recommendations for reducing disparities in immunization accessibility; and

(5) include recommendations for legislative action to increase immunization rates.

(d) The department shall use the report to develop methods to increase immunization rates using state and federal resources.

(e) The executive commissioner shall adopt rules necessary to implement Subsection (b)(8)(C). (H&S Code, Secs. 161.00705(h), (i), 161.00706(f), 161.0074.)

Source Law

[Sec. 161.00705]

(h) The report required under Section 161.0074 must also include the number of complaints received by the department related to the department's failure to remove information from the registry as required by Subsection (f).

(i) The executive commissioner shall adopt rules necessary to implement this section.

[Sec. 161.00706]

(f) The report required under Section 161.0074 must also include the number of complaints received by the department related to the department's failure to comply with requests for removal of information from the registry under Subsection (e).

Sec. 161.0074. REPORT TO LEGISLATURE. (a) The department shall report to the Legislative Budget Board, the governor, the lieutenant governor, the speaker of the house of representatives, and appropriate committees of the legislature not later than September 30 of each even-numbered year.

(b) The department shall use the report required under Subsection (a) to develop ways to increase immunization rates using state and federal resources.

(c) The report must:

(1) include the current immunization rates by geographic region of the state, where available;

(2) focus on the geographic regions of the state with immunization rates below the state average for preschool children;

(3) describe the approaches identified to increase immunization rates in underserved areas and the estimated cost for each;

(4) identify changes to department procedures needed to increase immunization rates;

(5) identify the services provided under and provisions of contracts entered into by the department to increase immunization rates in underserved areas;

(6) identify performance measures used in contracts described by Subdivision (5);

(7) include the number and type of exemptions used in the past year;

(8) include the number of complaints received by the department related to the department's failure to comply with requests for exclusion of individuals from the registry;

(9) identify all reported incidents of discrimination for requesting exclusion from the registry or for using an exemption for a required immunization; and

(10) include ways to increase provider participation in the registry.

(d) If a public health disaster was declared under Chapter 81 during the preceding two years, in addition to the information required under Subsection (c), for immunizations that immunize an individual against the communicable disease subject to the

declaration the report must:

(1) include information by county on the accessibility to the immunizations of county residents by age, race, and geographic location, provided the information does not personally identify any individual;

(2) identify and assess disparities in access to the immunizations by age, race, and geographic location, including an assessment of immunization accessibility in each county;

(3) include the estimated economic benefit to this state of reducing disparities in immunization accessibility;

(4) include recommendations for reducing disparities in immunization accessibility; and

(5) include recommendations for legislative action to increase immunization rates.

Revisor's Note

Section 161.00705(h), Health and Safety Code, requires the report under Section 161.0074, Health and Safety Code, to include the number of complaints the department received related to the department's failure to remove information from the registry established under Section 161.00705, Health and Safety Code. The revised law substitutes "database" for "registry" to avoid confusion with the immunization registry established under Section 161.007, Health and Safety Code, revised in pertinent part as Section 161A.104 of this chapter.

SUBCHAPTER B. IMMUNIZATION REQUIREMENTS AND EXEMPTIONS

Revised Law

Sec. 161A.051. STATEWIDE IMMUNIZATION OF CHILDREN; EXEMPTIONS. (a) In this section, "child" means an individual younger than 18 years of age.

(b) Each child in this state shall be immunized against vaccine preventable diseases caused by infectious agents in accordance with an immunization schedule prescribed by department rules.

(c) A hospital is responsible for:

(1) referring newborns for immunization at the time the newborn screening test is performed;

(2) reviewing the immunization history of every child

admitted to the hospital or examined in the hospital's emergency room or outpatient clinic; and

(3) administering needed vaccinations or referring the child for immunization.

(d) A physician is responsible for reviewing the immunization history of each child examined and administering any needed vaccinations or referring the child for immunization.

(e) A child's parent, managing conservator, or guardian may choose the health care provider who administers the vaccine or immunizing agent to the child under this chapter.

(f) A child is exempt from an immunization required by this section if:

(1) the child's parent, managing conservator, or guardian states that the immunization is declined for reasons of conscience, including a religious belief; or

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

(g) The executive commissioner shall adopt rules necessary to administer this section. (H&S Code, Sec. 161.004.)

Source Law

Sec. 161.004. STATEWIDE IMMUNIZATION OF CHILDREN. (a) Every child in the state shall be immunized against vaccine preventable diseases caused by infectious agents in accordance with the immunization schedule adopted in department rules.

(b) Hospitals shall be responsible for:

(1) referring newborns for immunization at the time the newborn screening test is performed;

(2) reviewing the immunization history of every child admitted to the hospital or examined in the hospital's emergency room or outpatient clinic; and

(3) administering needed vaccinations or referring the child for immunization.

(c) Physicians shall be responsible for reviewing the immunization history of every child examined and administering any needed vaccinations or referring the child for immunization.

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

(1) a parent, managing conservator, or guardian states that the immunization is being declined for reasons of conscience, including a religious belief; or

(2) the immunization is medically contraindicated based on the opinion of a physician

licensed by any state in the United States who has examined the child.

(e) For purposes of this section, "child" means a person under 18 years of age.

(f) The executive commissioner shall adopt rules that are necessary to administer this section.

(g) A parent, managing conservator, or guardian may choose the health care provider who administers the vaccine or immunizing agent under this chapter.

Revised Law

Sec. 161A.052. IMMUNIZATION EXEMPTION AFFIDAVIT FORM. (a) Except as provided by Subsection (b), an individual shall complete an affidavit on a form provided by the department stating the reason for an immunization exemption if the individual claims an exemption from a required immunization based on reasons of conscience, including a religious belief, under:

(1) Section 161A.051 of this code;

(2) Section 38.001, 51.9192, or 51.933, Education Code; or

(3) Section 42.043, Human Resources Code.

(b) Subsection (a) does not apply to an individual claiming the exemption using the Internet-based process under Section 51.9192(d-3), Education Code.

(c) The affidavit must:

(1) be signed by:

(A) the individual claiming the exemption; or

(B) if the individual is a minor, the individual's parent, managing conservator, or guardian; and

(2) be notarized.

(d) The department shall develop a blank affidavit form for an individual to use in claiming an exemption from a required immunization under this section and post the affidavit form in a printable format on the department's Internet website. An individual claiming an exemption from a required immunization may also obtain a blank affidavit form by submitting to the department a written request for the affidavit form.

(e) An individual may not be required to provide any information to obtain a blank affidavit form under Subsection (d).

(f) The affidavit form must contain a statement indicating the individual or, if the individual is a minor, the individual's parent, managing conservator, or guardian understands the benefits and risks of immunizations and the benefits and risks of not being immunized.

(g) The department may maintain a record of the total number of times an affidavit form was accessed on the department's Internet website or requested under Subsection (d). The department may not maintain a record of any personally identifying information of individuals who download, access, request, or submit an affidavit form under this section. (H&S Code, Sec. 161.0041.)

Source Law

> Sec. 161.0041. IMMUNIZATION EXEMPTION AFFIDAVIT FORM. (a) A person claiming an exemption from a required immunization based on reasons of conscience, including a religious belief, under Section 161.004 of this code, Section 38.001, 51.9192, or 51.933, Education Code, or Section 42.043, Human Resources Code, must complete an affidavit on a form provided by the department stating the reason for the exemption. This subsection does not apply to a person claiming the exemption using the Internet-based process under Section 51.9192(d-3), Education Code.
>
> (b) The affidavit must be signed by the person claiming the exemption or, if the person is a minor, the person's parent, managing conservator, or guardian, and the affidavit must be notarized.
>
> (c) The department shall develop a blank affidavit form for a person to use in claiming an exemption from a required immunization under this section and post the affidavit form in a printable format on the department's Internet website. A person claiming an exemption from a required immunization may also obtain the affidavit form by submitting a written request for the affidavit form to the department. A person may not be required to provide any information to obtain a blank affidavit form under this subsection.
>
> (d) The affidavit form shall contain a statement indicating that the person or, if a minor, the person's parent, managing conservator, or guardian understands the benefits and risks of immunizations and the benefits and risks of not being immunized.
>
> (e) The department may maintain a record of the total number of times an affidavit form was accessed on the department's Internet website or requested under Subsection (c). The department may not maintain a record of any personally identifying information of individuals who download, access, request, or submit an affidavit form under this section.

Revised Law

Sec. 161A.053. IMMUNIZATION REMINDER NOTICES. A reminder

notice sent as part of a department-administered program regarding immunization of a child:

(1) must be sent without discrimination based on the legitimacy of the child;

(2) must be addressed to an adult or parent; and

(3) may not use:

(A) an indication of the marital status of the addressee; or

(B) the terms "Mr.," "Mrs.," "Miss," or "Ms." (H&S Code, Sec. 161.003.)

Source Law

Sec. 161.003. IMMUNIZATION REMINDER NOTICES. (a) In a program administered by the department in which an immunization reminder notice is sent regarding the immunization of a child, the notice must be sent without discrimination based on the legitimacy of the child.

(b) The reminder notice must be addressed to an adult or parent and may not use:

(1) an indication of the marital status of the addressee; or

(2) the terms "Mr.," "Mrs.," "Miss," or "Ms."

Revised Law

Sec. 161A.054. REQUIRED IMMUNIZATIONS FOR CERTAIN STATE FACILITIES. (a) On admission of a child to a mental health facility of the commission, a state supported living center of the commission, or a facility of the Texas Department of Criminal Justice or the Texas Juvenile Justice Department, the facility physician shall review the child's immunization history and administer any needed vaccinations or refer the child for immunization.

(b) The department and the executive commissioner have the same powers and duties under this section as the department and the executive commissioner have under Sections 38.001 and 51.933, Education Code. In addition, the provisions of those sections relating to provisional admissions and exceptions apply to facilities covered by this section.

(c) A facility covered by this section shall keep:

(1) an individual's immunization record during the individual's period of admission, detention, or commitment in the facility; and

(2) immunization records open for inspection at all reasonable times by a representative of the local health department or the department.

(d) This section does not affect the requirements of Section 38.001 or 51.933, Education Code, or Section 42.043, Human Resources Code. (H&S Code, Sec. 161.005.)

Source Law

> Sec. 161.005. IMMUNIZATIONS REQUIRED. (a) On admission of a child to a mental health facility of the department, a state supported living center of the Department of Aging and Disability Services, or a facility of the Texas Department of Criminal Justice or the Texas Juvenile Justice Department, the facility physician shall review the immunization history of the child and administer any needed vaccinations or refer the child for immunization.
>
> (b) The department and the executive commissioner have the same powers and duties under this section as the department and the executive commissioner have under Sections 38.001 and 51.933, Education Code. In addition, the provisions of those sections relating to provisional admissions and exceptions apply to this section.
>
> (c) A facility covered by this section shall keep an individual immunization record during the individual's period of admission, detention, or commitment in the facility, and the records shall be open for inspection at all reasonable times by a representative of the local health department or the department.
>
> (d) This section does not affect the requirements of Section 38.001 or 51.933, Education Code, or Section 42.043, Human Resources Code.

Revisor's Note

(1) Section 161.005(a), Health and Safety Code, refers to "a mental health facility of the [D]epartment" of State Health Services. The revised law substitutes "commission," meaning the Health and Human Services Commission, for "department" because Chapter 837 (S.B. 200), Acts of the 84th Legislature, Regular Session, 2015, transferred to the commission all client services, including services provided through the department other than public health

functions that are not relevant to this section.

(2) Section 161.005(a), Health and Safety Code, refers to the Department of Aging and Disability Services. The Department of Aging and Disability Services was abolished September 1, 2017, in accordance with Section 531.0202(b), Government Code, which is executed law that expired September 1, 2023. The powers and duties of that department were transferred to the Health and Human Services Commission. Because the department no longer exists and the commission has assumed the powers and duties of the department, the revised law substitutes "commission" for "Department of Aging and Disability Services."

Revised Law

Sec. 161A.055. REQUIRED IMMUNIZATIONS FOR CERTAIN NURSING FACILITY RESIDENTS AND STAFF. (a) In this section, "elderly individual" means an elderly person as defined by Section 242.002.

(b) This section applies only to a nursing facility that:

(1) is an institution licensed under Chapter 242; and

(2) serves residents who are elderly individuals.

(c) The executive commissioner by rule may require nursing facilities to offer, in accordance with an immunization schedule prescribed by department rules, immunizations to residents who are elderly individuals or to staff who are in contact with those residents against diseases that the executive commissioner determines to be:

(1) caused by infectious agents;

(2) potentially deadly; and

(3) preventable by vaccine.

(d) The executive commissioner by rule shall require nursing facilities to offer, in accordance with an immunization schedule prescribed by department rules:

(1) the pneumococcal vaccine to residents who are

elderly individuals; and

(2) the influenza vaccine to residents who are elderly individuals and to staff who are in contact with those residents. (H&S Code, Sec. 161.0051.)

Source Law

Sec. 161.0051. REQUIRED IMMUNIZATIONS FOR NURSING HOMES. (a) This section applies only to a nursing home that:

(1) is an institution licensed under Chapter 242; and

(2) serves residents who are elderly persons as defined by Section 242.002.

(b) The executive commissioner by rule may require nursing facilities to offer, in accordance with an immunization schedule adopted in department rules, immunizations to elderly residents or to staff who are in contact with elderly residents against diseases that the executive commissioner determines to be:

(1) caused by infectious agents;

(2) potentially deadly; and

(3) preventable by vaccine.

(c) The executive commissioner by rule shall require nursing homes to offer, in accordance with an immunization schedule adopted in department rules:

(1) pneumococcal vaccine to elderly residents; and

(2) influenza vaccine to elderly residents and to staff who are in contact with elderly residents.

Revised Law

Sec. 161A.056. IMMUNIZATION OF ELDERLY INDIVIDUALS BY HOSPITALS, END STAGE RENAL DISEASE FACILITIES, AND PHYSICIANS' OFFICES. (a) In this section:

(1) "Elderly individual" means an individual who is 65 years of age or older.

(2) "End stage renal disease facility" has the meaning assigned by Section 251.001.

(3) "Hospital" has the meaning assigned by Section 241.003.

(b) The executive commissioner by rule shall require a hospital to inform each elderly individual admitted to the hospital for a period of 24 hours or more that the pneumococcal and influenza vaccines are available. If the elderly individual requests a vaccine, and if a physician, or an advanced nurse practitioner or physician assistant on behalf of a physician, determines that the

vaccine is in the individual's best interest, the hospital must make the vaccination available to the individual before the individual is discharged from the hospital.

(c) The executive commissioner by rule shall require an end stage renal disease facility to offer, to the extent possible as determined by the facility, the opportunity to receive the pneumococcal and influenza vaccines to each elderly individual who receives ongoing care at the facility if a physician, or an advanced nurse practitioner or physician assistant on behalf of a physician, determines that the vaccine is in the individual's best interest. If the facility decides it is not feasible to offer the vaccine, the facility must provide the individual with information on other options for obtaining the vaccine.

(d) The Texas Medical Board by rule shall require a physician responsible for the management of a physician's office that provides ongoing medical care to elderly individuals to offer, to the extent possible as determined by the physician, the opportunity to receive the pneumococcal and influenza vaccines to each elderly individual who receives ongoing care at the office. If the physician decides it is not feasible to offer the vaccine, the physician must provide the individual with information on other options for obtaining the vaccine.

(e) Rules adopted under this section must require that:

(1) a hospital, end stage renal disease facility, or physician's office:

(A) offer the influenza vaccine in October and November, and if the vaccine is available, December; and

(B) offer the pneumococcal vaccine year-round; and

(2) an individual administering a vaccine:

(A) ask whether the elderly individual is currently vaccinated against the influenza virus or pneumococcal disease, as appropriate;

(B) administer the vaccine under

institution-approved or physician-approved protocols after making an assessment for contraindications; and

(C) permanently document the vaccination in the elderly individual's medical records.

(f) In adopting rules under this section, the executive commissioner and the Texas Medical Board shall consider the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(g) Rules adopted under this section may consider the potential for a shortage of a vaccine.

(h) The department shall make available to hospitals and end stage renal disease facilities, and the Texas Medical Board shall make available to physicians' offices, educational and informational materials concerning vaccination against the influenza virus and pneumococcal disease. (H&S Code, Sec. 161.0052.)

Source Law

Sec. 161.0052. IMMUNIZATION OF ELDERLY PERSONS BY HOSPITALS, END STAGE RENAL DISEASE FACILITIES, AND PHYSICIANS' OFFICES. (a) In this section:

(1) "Elderly person" means a person who is 65 years of age or older.

(2) "End stage renal disease facility" has the meaning assigned by Section 251.001.

(3) "Hospital" has the meaning assigned by Section 241.003.

(b) The executive commissioner by rule shall require a hospital to inform each elderly person admitted to the hospital for a period of 24 hours or more that the pneumococcal and influenza vaccines are available. If the elderly person requests a vaccine, and if a physician, or an advanced nurse practitioner or physician assistant on behalf of a physician, determines that the vaccine is in the person's best interest, the hospital must make the vaccination available to the person before the person is discharged from the hospital.

(c) The executive commissioner by rule shall require an end stage renal disease facility to offer, to the extent possible as determined by the facility, the opportunity to receive the pneumococcal and influenza vaccines to each elderly person who receives ongoing care at the facility if a physician, or an advanced nurse practitioner or physician assistant on behalf of a physician, determines that the vaccine is in the person's best interest. If the facility decides it is not feasible to offer the vaccine, the facility must provide the person with information on other options for obtaining the vaccine.

(d) The Texas Medical Board by rule shall

require a physician responsible for the management of a physician's office that provides ongoing medical care to elderly persons to offer, to the extent possible as determined by the physician, the opportunity to receive the pneumococcal and influenza vaccines to each elderly person who receives ongoing care at the office. If the physician decides it is not feasible to offer the vaccine, the physician must provide the person with information on other options for obtaining the vaccine.

(e) Rules adopted under this section must require that:

(1) a hospital, end stage renal disease facility, or physician's office:

(A) offer the influenza vaccine in October and November, and if the vaccine is available, December; and

(B) offer the pneumococcal vaccine year-round; and

(2) a person administering a vaccine:

(A) ask whether the elderly person is currently vaccinated against the influenza virus or pneumococcal disease, as appropriate;

(B) administer the vaccine under institution-approved or physician-approved protocols after making an assessment for contraindications; and

(C) permanently document the vaccination in the elderly person's medical records.

(f) In adopting rules under this section, the executive commissioner and the Texas Medical Board shall consider the recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(g) Rules adopted under this section may consider the potential for a shortage of a vaccine.

(h) The department shall make available to hospitals and end stage renal disease facilities, and the Texas Medical Board shall make available to physicians' offices, educational and informational materials concerning vaccination against influenza virus and pneumococcal disease.

Revised Law

Sec. 161A.057. COVID-19 VACCINATION ADMINISTRATION REQUIREMENTS. (a) In this section:

(1) "COVID-19" means the 2019 novel coronavirus disease.

(2) "Health care provider" means an individual licensed or otherwise authorized by this state to administer vaccines.

(b) Before administering a COVID-19 vaccination to an individual, a health care provider must obtain the individual's written informed consent, or if the individual is a minor or lacks the mental capacity to provide informed consent, the individual's parent, guardian, or conservator who may provide written informed

consent on the individual's behalf. The informed consent must include an acknowledgment that the individual providing informed consent received the information sheet described by Subsection (c).

(c) The department shall develop a standardized information sheet that includes information on:

(1) the benefits and risks associated with COVID-19 vaccination, including potential side effects;

(2) the expedited manner in which the COVID-19 vaccine was developed;

(3) whether long-term scientific studies have been performed on the COVID-19 vaccine;

(4) whether manufacturers of the COVID-19 vaccine are subject to civil liability for any injuries caused by the vaccine; and

(5) the federal Vaccine Adverse Event Reporting System, including clear instructions for reporting any vaccine-related injury or reaction.

(d) The appropriate licensing authority may impose disciplinary action on a health care provider who administers a COVID-19 vaccination in violation of this section in the same manner and using the same procedures as the authority uses to impose disciplinary action on a provider who violates the authority's licensing or other regulatory laws or rules. (H&S Code, Sec. 161.0086.)

Source Law

Sec. 161.0086. COVID-19 VACCINATION ADMINISTRATION REQUIREMENTS. (a) In this section:

(1) "COVID-19" means the 2019 novel coronavirus disease.

(2) "Health care provider" means an individual licensed or otherwise authorized by this state to administer vaccines.

(b) Before administering a COVID-19 vaccination to an individual, a health care provider must obtain the individual's written informed consent, or if the individual is a minor or lacks the mental capacity to provide informed consent, the parent, guardian, or conservator who may provide written informed consent on the individual's behalf. The informed consent required under this section must include an acknowledgment that the individual providing informed consent received the information sheet described by

Subsection (c).

(c) The department shall develop a standardized information sheet that includes information on:

(1) the benefits and risks associated with COVID-19 vaccination, including potential side effects;

(2) the expedited manner in which the COVID-19 vaccine was developed;

(3) whether long-term scientific studies have been performed on the COVID-19 vaccine;

(4) whether manufacturers of the COVID-19 vaccine are subject to civil liability for any injuries caused by the vaccine; and

(5) the federal Vaccine Adverse Event Reporting System, including clear instructions for reporting any vaccine-related injury or reaction.

(d) The appropriate licensing authority may impose disciplinary action on a health care provider who administers a COVID-19 vaccination in violation of this section in the same manner and using the same procedures as the authority uses to impose disciplinary action on a provider who violates the authority's licensing or other regulatory laws or rules.

Revised Law

Sec. 161A.058. COVID-19 VACCINE PASSPORTS PROHIBITED. (a) In this section, "COVID-19" means the 2019 novel coronavirus disease.

(b) A governmental entity in this state may not issue a vaccine passport, vaccine pass, or other standardized documentation to certify an individual's COVID-19 vaccination status to a third party for a purpose other than health care or otherwise publish or share any individual's COVID-19 immunization record or similar health information for a purpose other than health care.

(c) A business in this state may not require a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the business. A business that fails to comply with this subsection is not eligible to receive a grant or enter into a contract payable with state money.

(d) Notwithstanding any other law, each appropriate state agency shall ensure that businesses in this state comply with Subsection (c) and may require compliance with that subsection as a condition for a license, permit, or other state authorization necessary for conducting business in this state.

(e) This section may not be construed to:

(1) restrict a business from implementing COVID-19 screening and infection control protocols in accordance with state and federal law to protect public health; or

(2) interfere with an individual's right to access the individual's personal health information under federal law. (H&S Code, Sec. 161.0085.)

Source Law

Sec. 161.0085. COVID-19 VACCINE PASSPORTS PROHIBITED. (a) In this section, "COVID-19" means the 2019 novel coronavirus disease.

(b) A governmental entity in this state may not issue a vaccine passport, vaccine pass, or other standardized documentation to certify an individual's COVID-19 vaccination status to a third party for a purpose other than health care or otherwise publish or share any individual's COVID-19 immunization record or similar health information for a purpose other than health care.

(c) A business in this state may not require a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the business. A business that fails to comply with this subsection is not eligible to receive a grant or enter into a contract payable with state funds.

(d) Notwithstanding any other law, each appropriate state agency shall ensure that businesses in this state comply with Subsection (c) and may require compliance with that subsection as a condition for a license, permit, or other state authorization necessary for conducting business in this state.

(e) This section may not be construed to:

(1) restrict a business from implementing COVID-19 screening and infection control protocols in accordance with state and federal law to protect public health; or

(2) interfere with an individual's right to access the individual's personal health information under federal law.

Revisor's Note

Section 161.0085(c), Health and Safety Code, provides that the failure of a business to comply with that subsection results in the business's ineligibility to enter into a contract payable with state "funds." The revised law substitutes "money" for "funds" because, in context, the terms have the same meaning and "money" is more commonly used.

Revised Law

Sec. 161A.059. DEPARTMENT EMPLOYEE IMMUNIZATION SERVICE COMPENSATION. The department, to the extent permitted by law, may pay employees, regardless of exemption for purposes of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), on a straight-time basis for work directly related to immunizations on a holiday or for regular compensatory time hours when using regular compensatory time would be disruptive to normal business operations. (H&S Code, Sec. 161.006.)

Source Law

> Sec. 161.006. DEPARTMENT IMMUNIZATION SERVICE. The department, to the extent permitted by law, is authorized to pay employees who are exempt or not exempt for purposes of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) on a straight-time basis for work on a holiday or for regular compensatory time hours when the taking of regular compensatory time off would be disruptive to normal business operations. Authorization for payment under this section is limited to work directly related to immunizations.

Revised Law

Sec. 161A.060. REQUIRED REPORT ON ADVERSE EVENTS FROM CERTAIN VACCINES; CORRECTIVE ACTION. (a) In this section, "serious adverse event" means an event that:

(1) results in death;

(2) is considered life-threatening;

(3) results in inpatient hospitalization or an extension of the duration of an existing hospitalization;

(4) results in a persistent or significant incapacity or substantial disruption of an individual's ability to perform normal life functions;

(5) results in a congenital anomaly or birth defect; or

(6) results in a medically important condition that, based on a physician's reasonable medical judgment, may require medical or surgical intervention to prevent an outcome described by Subdivisions (1) through (5).

(b) This section applies only to a vaccine that is:

(1) experimental or investigational; or

(2) authorized or approved for emergency use by the United States Food and Drug Administration.

(c) Notwithstanding Subsection (b), this section does not apply to a vaccine administered as part of a clinical trial.

(d) Notwithstanding any other law, a physician shall report to the federal Vaccine Adverse Event Reporting System any serious adverse event the physician's patient suffers if:

(1) the physician:

(A) diagnoses the patient with a condition related to the serious adverse event; and

(B) knows the patient received a vaccination to which this section applies; and

(2) the patient suffers the serious adverse event before the first anniversary of the date the patient was vaccinated.

(e) A physician who violates this section is subject to:

(1) for an initial violation, non-disciplinary corrective action by the Texas Medical Board; and

(2) for each subsequent violation, disciplinary action by the Texas Medical Board as if the physician violated Subtitle B, Title 3, Occupations Code.

(f) For purposes of non-disciplinary corrective action or disciplinary action imposed under Subsection (e), the Texas Medical Board may not consider a violation of this section after the third anniversary of the date of the violation.

(g) The Texas Medical Board shall retain information on each violation of this section in the physician's permanent record.

(h) The executive commissioner shall adopt rules necessary to implement this section. (H&S Code, Sec. 161.0103.)

Source Law

Sec. 161.0103. REQUIRED REPORT OF CERTAIN VACCINE-RELATED ADVERSE EVENTS. (a) In this section, "serious adverse event" means an event that:

(1) results in death;

(2) is considered life-threatening;

(3) results in inpatient hospitalization or an extension of the duration of an existing hospitalization;

(4) results in a persistent or significant incapacity or substantial disruption of an individual's ability to perform normal life functions;

(5) results in a congenital anomaly or birth defect; or

(6) results in a medically important condition that, based on the physician's reasonable medical judgment, may require medical or surgical intervention to prevent an outcome described by Subdivisions (1) through (5).

(b) This section applies only to a vaccine that is:

(1) experimental or investigational; or

(2) authorized or approved for emergency use by the United States Food and Drug Administration.

(c) Notwithstanding Subsection (b), this section does not apply to a vaccine administered as part of a clinical trial.

(d) Notwithstanding any other law, a physician shall report to the federal Vaccine Adverse Event Reporting System any serious adverse event the physician's patient suffers if:

(1) the physician:

(A) diagnoses the patient with a condition related to the serious adverse event; and

(B) knows the patient received a vaccination to which this section applies; and

(2) the patient suffers the serious adverse event before the first anniversary of the date the patient was vaccinated.

(e) A physician who violates this section is subject to:

(1) for an initial violation, non-disciplinary corrective action by the Texas Medical Board; and

(2) for each subsequent violation, disciplinary action by the Texas Medical Board as if the physician violated Subtitle B, Title 3, Occupations Code.

(f) For purposes of non-disciplinary corrective action or disciplinary action imposed under Subsection (e), the Texas Medical Board may not consider a violation of this section after the third anniversary of the date of the violation. The Texas Medical Board shall retain information on each violation of this section in the physician's permanent record.

(g) The executive commissioner shall adopt rules necessary to implement this section.

SUBCHAPTER C. IMMUNIZATION REGISTRY

Revised Law

Sec. 161A.101. DEFINITIONS. In this subchapter:

(1) "Immunization registry" means the immunization registry established under Section 161A.104.

(2) "Minor" means an individual younger than 18 years of age. (New.)

Revisor's Note

The definitions of "immunization registry" and "minor" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Revised Law

Sec. 161A.102. CONSTRUCTION OF SUBCHAPTER. Except as provided by Section 161A.051(f), nothing in Sections 161A.104, 161A.105(a), 161A.106, 161A.111, and 161A.112 diminishes a parent's, managing conservator's, or guardian's responsibility for having a child immunized properly. (H&S Code, Sec. 161.007(h).)

Source Law

(h) Nothing in this section diminishes a parent's, managing conservator's, or guardian's responsibility for having a child immunized properly, subject to Section 161.004(d).

Revisor's Note

Section 161.007(h), Health and Safety Code, provides that "[n]othing in this section diminishes" certain responsibilities to properly immunize a child. The portion of Section 161.007, Health and Safety Code, regarding the responsibility of a parent, managing conservator, or guardian to immunize a child is revised in this chapter as Sections 161A.104, 161A.105(a), 161A.106, 161A.111, and 161A.112, and the revised law is drafted accordingly.

In addition, the rulemaking authority portion of Section 161.007, Health and Safety Code, is revised in this chapter as Section 161A.103. Throughout this chapter, unless rules are explicitly included in a revised provision, the revised law omits a reference to Section 161A.103 as unnecessary when revising a reference to immunization responsibility under Section 161.007 that does not address the nonsubstantive rulemaking authority.

Revised Law

Sec. 161A.103. RULES. The executive commissioner shall adopt rules to implement:

(1) Section 161A.104;

(2) Section 161A.105(a);

(3) Section 161A.106;

(4) Section 161A.108;

(5) Section 161A.109;

(6) Section 161A.111;

(7) Section 161A.112;

(8) Section 161A.113;

(9) Section 161A.117;

(10) Section 161A.119;

(11) Section 161A.120; and

(12) Section 161A.122. (H&S Code, Secs. 161.007(k), 161.00705(i), 161.00706(c) (part), 161.008(h).)

Source Law

[Sec. 161.007]
(k) The executive commissioner shall adopt rules to implement this section.

[Sec. 161.00705]
(i) The executive commissioner shall adopt rules necessary to implement this section.

[Sec. 161.00706]
(c) The executive commissioner shall:
. . .
(3) adopt rules necessary for the implementation of this section.

[Sec. 161.008]
(h) The executive commissioner shall adopt rules to implement this section.

Revised Law

Sec. 161A.104. ESTABLISHMENT AND MAINTENANCE; INFORMATION INCLUDED AND EXCLUDED. (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.

(b) The executive commissioner by rule shall develop immunization registry 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 161A.118;

(3) require the written or electronic consent of the individual or the individual's legally authorized representative before any of the individual's information 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 of obtained consent by a health care provider, birth registrar, regional health information exchange, or local immunization registry.

(c) Except as provided by Section 161A.110, the immunization registry must contain information on the immunization history obtained by the department under:

(1) this section of each individual for whom consent has been obtained in accordance with guidelines adopted under Subsection (b);

(2) Section 161A.113 of first responders or their immediate family members;

(3) Section 161A.117 of individuals immunized to prepare for or in response to a declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency; and

(4) Section 161A.118 of individuals evacuated or relocated to this state because of a disaster.

(d) The department shall remove from the immunization registry information for any individual for whom consent has been

withdrawn. The department may not retain individually identifiable information about any individual for whom:

(1) consent has been withdrawn;

(2) a consent for continued inclusion in the registry following the end of the declared disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency has not been received under Section 161A.117(g);

(3) a request to be removed from the registry has been received under Section 161A.113(e);

(4) consent for continued inclusion in the registry following the end of a disaster has not been received under Section 161A.118(g); or

(5) a request to remove information from the registry has been received under Section 161A.118(h). (H&S Code, Secs. 161.007(a), (b), (b-1).)

Source Law

> Sec. 161.007. IMMUNIZATION REGISTRY; REPORTS TO DEPARTMENT. (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.
>
> (b) Except as provided by Section 161.0071, the

immunization registry must contain information on the immunization history that is obtained by the department under:

(1) this section of each individual for whom consent has been obtained in accordance with guidelines adopted under Subsection (a);

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

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

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

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

(1) for whom consent has been withdrawn;

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

(3) for whom a request to be removed from the registry has been received under Section 161.00706(e);

(4) for whom consent for continued inclusion in the registry following the end of a disaster has not been received under Section 161.00735(f); or

(5) for whom a request to remove information from the registry has been received under Section 161.00735(g).

Revisor's Note

Sections 161.007(b)(2) and (3), Health and Safety Code, refer respectively to Sections 161.00705 and 161.00706, Health and Safety Code, addressing immunization history obtained by the Department of State Health Services. A portion of Sections 161.00705 and 161.00706 related to a biennial report to the legislature is revised in this chapter as Section 161A.004. Throughout this chapter, the revised law omits a reference to Section 161A.004 as unnecessary when revising a reference to Section 161.00705 or 161.00706 because each reference to one of those sections is related to the information included in the immunization registry and not to the report.

In addition, the rulemaking authority of Sections 161.00705 and 161.00706, Health and Safety Code, is revised in this chapter as Section 161A.103. Throughout this chapter, the revised law omits a reference to Section 161A.103 as unnecessary when revising a reference to Section 161.00705 or 161.00706 because each reference to one of those sections is related to the information included in the immunization registry and not to the rulemaking authority.

Revised Law

Sec. 161A.105. CONFIDENTIALITY. (a) Except as provided by Sections 161A.108, 161A.109, 161A.113, 161A.117, 161A.118(b), 161A.119, 161A.120, and 161A.122, an individual's 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.

(b) Except as provided by Sections 161A.117 and 161A.118, information the department receives for the immunization registry that individually identifies an individual is confidential and may be used by the department for registry purposes only.

(c) Unless specifically authorized under this chapter, the department may not release an individual's immunization registry information to any other individual or entity without the consent of the individual or the individual's legally authorized representative.

(d) A person required to report information to the department for immunization registry purposes or authorized to receive information from the registry may not disclose an individual's individually identifiable information to any other person without the written or electronic consent of the individual or the individual's legally authorized representative, except as provided by:

(1) Subsection (a);

(2) Section 161A.104;

(3) Section 161A.106;

(4) Section 161A.108;

(5) Section 161A.111;

(6) Section 161A.112;

(7) Section 161A.113;

(8) Section 161A.117;

(9) Section 161A.119;

(10) Section 161A.120;

(11) Section 161A.122;

(12) Subchapter D;

(13) Chapter 159, Occupations Code; or

(14) Section 602.053, Insurance Code.

(e) Immunization registry information is not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person except as provided by this chapter; or

(2) admissible in any civil, administrative, or criminal proceeding. (H&S Code, Secs. 161.007(j), 161.0073.)

Source Law

[Sec. 161.007]

(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.

Sec. 161.0073. REGISTRY CONFIDENTIALITY. (a) Except as provided by 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.

(b) Unless specifically authorized under this subchapter, the department may not release registry information to any individual or entity without the consent of the individual or the individual's legally authorized representative.

(c) A person required to report information to the department for registry purposes or authorized to receive information from the registry may not disclose the individually identifiable information of an individual to any other person without the written or

electronic consent of the individual or the individual's legally authorized representative, except as provided by Sections 161.007, 161.00705, 161.00706, and 161.008 of this code, Chapter 159, Occupations Code, or Section 602.053, Insurance Code.

(d) Registry information is not:

(1) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity except as provided by this subchapter; or

(2) admissible in any civil, administrative, or criminal proceeding.

Revisor's Note

(1) Section 161.007(j), Health and Safety Code, refers to Section 161.008 of that code as an exception for confidentiality of immunization registry information obtained by the Department of State Health Services. The rulemaking authority of Section 161.008 is revised in this chapter as Section 161A.103. Throughout this chapter, unless rules are explicitly included, the revised law omits a reference to Section 161A.103 as unnecessary when revising a reference to Section 161.008 because the reference is related to the confidentiality provision and not to the rulemaking authority.

(2) Section 161.0073(d)(1), Health and Safety Code, refers to a "person or entity." The revised law substitutes "person" for the quoted language because under Section 311.005(2), Government Code (Code Construction Act), "person" is defined to include any legal entity.

Revised Law

Sec. 161A.106. GENERAL PROVISION OF DATA ELEMENTS TO DEPARTMENT; LIABILITY. (a) A payor that receives data elements from a health care provider who administers an immunization to a minor shall provide the data elements to the department. A payor is required to provide the department with only the data elements the payor receives from a health care provider. A payor that receives data elements from a health care provider who administers an immunization to an individual 18 years of age or older may provide

the data elements to the department.

(b) A health care provider who administers an immunization to a minor shall provide data elements regarding the immunization to the department. A health care provider who administers an immunization to an individual 18 years of age or older may submit data elements regarding the immunization to the department. At the request and with the authorization of the health care provider, the data elements may be submitted through a health information exchange as defined by Section 182.151.

(c) A payor or health care provider shall submit the data elements described by Subsections (a) and (b) in a format the department prescribes. The department shall verify consent before including the information submitted under those subsections in the immunization registry. The department may not retain individually identifiable information about an individual for whom consent cannot be verified.

(d) A person, including a health care provider, payor, or department employee who submits or obtains in good faith immunization data elements to or from the department in compliance with this section and any rules adopted under this section is not liable for any civil damages. (H&S Code, Secs. 161.007(c), (d), (i).)

Source Law

> (c) A payor that receives data elements from a health care provider who administers an immunization to an individual younger than 18 years of age shall provide the data elements to the department. A payor is required to provide the department with only the data elements the payor receives from a health care provider. A payor that receives data elements from a health care provider who administers an immunization to an individual 18 years of age or older may provide the data elements to the department. The data elements shall be submitted in a format prescribed by the department. The department shall verify consent before including the reported information in the immunization registry. The department may not retain individually identifiable information about an individual for whom consent cannot be verified.
>
> (d) A health care provider who administers an immunization to an individual younger than 18 years of age shall provide data elements regarding an immunization to the department. A health care provider who administers an immunization to an

individual 18 years of age or older may submit data elements regarding an immunization to the department. At the request and with the authorization of the health care provider, the data elements may be submitted through a health information exchange as defined by Section 182.151. The data elements shall be submitted in a format prescribed by the department. The department shall verify consent before including the information in the immunization registry. The department may not retain individually identifiable information about an individual for whom consent cannot be verified.

(i) A person, including a health care provider, payor, or an employee of the department who submits or obtains in good faith immunization data elements to or from the department in compliance with the provisions of this section and any rules adopted under this section is not liable for any civil damages.

Revised Law

Sec. 161A.107. DIRECT PROVISION OF IMMUNIZATION INFORMATION TO DEPARTMENT. (a) If an individual or the individual's legally authorized representative has reasonable concern that the individual's health care provider is not submitting the individual's immunization history to the department, the individual or the individual's legally authorized representative may provide the individual's immunization history directly to the department to be included in the immunization registry.

(b) An individual or the individual's legally authorized representative may send evidence of the individual's immunization history to the department electronically, by facsimile transmission, or by mail. The evidence may include a copy of:

(1) the individual's medical record indicating the immunization history;

(2) an invoice from a health care provider for an immunization; or

(3) documentation showing that a claim for an immunization was paid by a payor.

(c) The executive commissioner shall develop rules to ensure that the immunization history submitted by an individual or the individual's legally authorized representative is medically verified immunization information. (H&S Code, Sec. 161.0072.)

Source Law

Sec. 161.0072. PROVIDING IMMUNIZATION INFORMATION TO DEPARTMENT. (a) If the individual or the individual's legally authorized representative has reasonable concern that the individual's health care provider is not submitting the immunization history to the department, the individual or the individual's legally authorized representative may provide the individual's immunization history directly to the department to be included in the immunization registry.

(b) The individual or the individual's legally authorized representative may send evidence of the individual's immunization history to the department electronically, by facsimile transmission, or by mail. The evidence may include a copy of:

(1) the individual's medical record indicating the immunization history;

(2) an invoice from a health care provider for the immunization; or

(3) documentation showing that a claim for the immunization was paid by a payor.

(c) The executive commissioner shall develop rules to ensure that the immunization history submitted by an individual or the individual's legally authorized representative is medically verified immunization information.

Revised Law

Sec. 161A.108. IMMUNIZATION RECORD INCLUSION AND CONTENT. (a) An immunization record is part of the immunization registry.

(b) An immunization record contains the:

(1) name and date of birth of the immunized individual;

(2) dates of immunization;

(3) types of immunization administered; and

(4) name and address of the health care provider administering the immunization.

(c) An immunization record provided by a health care provider as required by Section 161A.117 for inclusion in the immunization registry during a public health disaster declared under Chapter 81 must contain the race, age, ethnicity, and county of residence of the immunized individual. This subsection applies only to immunizations that immunize an individual against the communicable disease subject to the declaration. (H&S Code, Secs. 161.008(a), (b), (b-1).)

Source Law

Sec. 161.008. IMMUNIZATION RECORD. (a) An immunization record is part of the immunization registry.

(b) An immunization record contains the:

(1) name and date of birth of the person immunized;

(2) dates of immunization;

(3) types of immunization administered; and

(4) name and address of the health care provider administering the immunization.

(b-1) An immunization record provided by a health care provider as required by Section 161.00705 for inclusion in the immunization registry during a public health disaster declared under Chapter 81 must contain the race, age, ethnicity, and county of residence of the individual immunized. This subsection applies only to immunizations that immunize an individual against the communicable disease subject to the declaration.

Revised Law

Sec. 161A.109. REQUEST FOR INDIVIDUAL'S IMMUNIZATION DATA. An individual or the individual's legally authorized representative may obtain and shall receive on request to the department all individually identifiable immunization registry information concerning the individual. (H&S Code, Sec. 161.008(e).)

Source Law

(e) An individual or the individual's legally authorized representative may obtain and on request to the department shall be provided with all individually identifiable immunization registry information concerning the individual.

Revised Law

Sec. 161A.110. NOTICE OF RECEIPT OF IMMUNIZATION REGISTRY DATA; EXCLUSION FROM IMMUNIZATION REGISTRY. (a) The first time the department receives immunization 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 health care providers and payors may be sending the individual's immunization information to the department;

(2) the information included in the registry;

(3) the persons to whom the information may be released under Sections 161A.118(b) and 161A.119(c);

(4) the purpose and use of the registry;

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

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

(b) The department, on discovering that consent to be included in the immunization registry has not been granted or has been withdrawn, shall exclude an individual's immunization records from the registry and any other registry-related department record that individually identifies the individual.

(c) The department, on receipt of a written or electronic request to exclude an individual's immunization records from the immunization registry, shall:

(1) send to the individual or the individual's legally authorized representative who made the request a written confirmation of receipt of the request for exclusion; and

(2) exclude the individual's records from the registry.

(d) The department shall accept as a request for exclusion under Subsection (c) a written or electronic statement from an individual or the individual's legally authorized representative communicating to the department that the individual's immunization records should be excluded from the immunization registry, including a statement on a minor's birth certificate.

(e) The department commits a violation if the department fails to exclude an individual's immunization records from the immunization registry as required by Subsection (b) or (c). (H&S Code, Sec. 161.0071.)

Source Law

Sec. 161.0071. NOTICE OF RECEIPT OF REGISTRY DATA; EXCLUSION FROM REGISTRY. (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 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.

(b) On discovering that consent to be included in the registry has not been granted or has been withdrawn, the department shall exclude the individual's immunization records from the registry and any other registry-related department record that individually identifies the individual.

(c) On receipt of a written or electronic request to exclude an individual's immunization records from the registry, the department shall send to the individual or the individual's legally authorized representative who makes the request a written confirmation of receipt of the request for exclusion and shall exclude the individual's records from the registry.

(d) The department commits a violation if the department fails to exclude an individual's immunization information from the registry as required by Subsection (b) or (c).

(e) The department shall accept a written or electronic statement from an individual or the individual's legally authorized representative communicating to the department that an individual's information should be excluded from the registry, including a statement on a minor's birth certificate, as a request for exclusion under Subsection (c).

Revisor's Note

Sections 161.0071(d) and (e), Health and Safety Code, address the Department of State Health Services excluding an individual's "immunization information" and "information" from the immunization registry. The revised law substitutes "immunization records" for clarity and consistency in terminology used in the revised section and because it is clear, in this context, that an "individual's immunization information" and an individual's "information" are the "immunization records" referenced in Sections 161.0071(b) and (c), revised as Subsections (b) and

(c) of this section.

Revised Law

Sec. 161A.111. NOTICE OF DUE OR OVERDUE IMMUNIZATIONS. (a) The department and health care providers may use the immunization registry to provide notices by mail, telephone, personal contact, or other means to an individual or the individual's legally authorized representative regarding an individual who is due or overdue for a particular type of immunization according to the department's immunization schedule for children or another analogous schedule recognized by the department for individuals 18 years of age or older.

(b) The department shall consult with health care providers to determine the most efficient and cost-effective manner of using the immunization registry to provide the notices under Subsection (a). (H&S Code, Sec. 161.007(f).)

Source Law

> (f) The department and health care providers may use the registry to provide notices by mail, telephone, personal contact, or other means to an individual or the individual's legally authorized representative regarding an individual who is due or overdue for a particular type of immunization according to the department's immunization schedule for children or another analogous schedule recognized by the department for individuals 18 years of age or older. The department shall consult with health care providers to determine the most efficient and cost-effective manner of using the registry to provide those notices.

Revised Law

Sec. 161A.112. IMMUNIZATION REGISTRY EDUCATION FOR HEALTH CARE PROVIDERS. The department shall provide instruction and education to health care providers about the immunization registry provider application and enrollment process. The department shall:

(1) initially target providers in the geographic regions of this state with immunization rates below the state average for preschool children; and

(2) expedite the processing of provider applications. (H&S Code, Sec. 161.007(g).)

Source Law

(g) The department shall provide instruction and education to providers about the immunization registry provider application and enrollment process. The department shall:

(1) initially target providers in the geographic regions of the state with immunization rates below the state average for preschool children; and

(2) expedite the processing of provider applications.

Revised Law

Sec. 161A.113. FIRST RESPONDER IMMUNIZATION INFORMATION. (a) An individual 18 years of age or older who is a first responder or an immediate family member of a first responder may:

(1) request that a health care provider who administers an immunization to the individual provide data elements regarding the immunization to the department for inclusion in the immunization registry; or

(2) provide the individual's immunization history directly to the department for inclusion in the immunization registry.

(b) A health care provider, on receipt of a request under Subsection (a)(1), shall submit the data elements to the department in a format the department prescribes. At the request and with the authorization of the health care provider, the data elements may be submitted through a health information exchange as defined by Section 182.151. The department shall verify the individual's request before including the information in the immunization registry.

(c) The executive commissioner shall develop:

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

(2) guidelines for use by the department in informing first responders about the immunization registry and that registry information may be released under Section 161A.118.

(d) Except as provided by Section 161A.118, the department

may release an individual's immunization history or data the department receives under this section only:

(1) on consent of the individual; or

(2) to any health care provider licensed or otherwise authorized to administer vaccines.

(e) An individual whose immunization records are included in the immunization registry as authorized by this section may request in writing or electronically that the department remove that information from the registry. Not later than the 10th day after receiving a request under this subsection, the department shall remove the individual's immunization records from the registry. (H&S Code, Secs. 161.00706(a), (b), (c) (part), (d), (e).)

Source Law

> Sec. 161.00706. FIRST RESPONDER IMMUNIZATION INFORMATION. (a) A person 18 years of age or older who is a first responder or an immediate family member of a first responder may:
>
> (1) request that a health care provider who administers an immunization to the person provide data elements regarding the immunization to the department for inclusion in the immunization registry; or
>
> (2) provide the person's immunization history directly to the department for inclusion in the immunization registry.
>
> (b) A health care provider, on receipt of a request under Subsection (a)(1), shall submit the data elements to the department in a format prescribed by the department. At the request and with the authorization of the health care provider, the data elements may be submitted through a health information exchange as defined by Section 182.151. The department shall verify the person's request before including the information in the immunization registry.
>
> (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 . . . .
>
> (d) 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.
>
> (e) A person whose immunization records are

included in the immunization registry as authorized by this section may request in writing or electronically that the department remove that information from the registry. Not later than the 10th day after receiving a request under this subsection, the department shall remove the person's immunization records from the registry.

Revised Law

Sec. 161A.114. INFORMATION AND EDUCATION FOR FIRST RESPONDERS. The department shall develop a program for informing first responders about the immunization registry and educating first responders about the benefits of being included in the registry, including:

(1) ensuring first responders receive necessary immunizations to prevent the spread of communicable diseases to which a first responder may be exposed during a public health emergency, declared disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency; and

(2) preventing duplication of vaccinations. (H&S Code, Sec. 161.00707.)

Source Law

Sec. 161.00707. INFORMATION AND EDUCATION FOR FIRST RESPONDERS. The department shall develop a program for informing first responders about the immunization registry and educating first responders about the benefits of being included in the immunization registry, including:

(1) ensuring that first responders receive necessary immunizations to prevent the spread of communicable diseases to which a first responder may be exposed during a public health emergency, declared disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency; and

(2) preventing duplication of vaccinations.

Revised Law

Sec. 161A.115. ACCESS TO FIRST RESPONDER IMMUNIZATION INFORMATION. (a) The department shall establish a process to provide an employer of a first responder with direct access to the first responder's immunization information in the immunization registry for verification of the first responder's immunization history.

(b) The process developed under Subsection (a) must require a first responder to provide electronic or written consent before the employer is provided direct access to the first responder's immunization information in the immunization registry. A first responder may withdraw consent at any time.

(c) The department may establish a process to provide a first responder with access to the first responder's immunization information in the immunization registry. (H&S Code, Sec. 161.00708.)

Source Law

> Sec. 161.00708. ACCESS TO FIRST RESPONDER IMMUNIZATION HISTORY. (a) The department shall establish a process to provide an employer of a first responder with direct access to the first responder's immunization information in the immunization registry for verification of the first responder's immunization history. The process must require a first responder to provide electronic or written consent before the employer is granted direct access to the first responder's immunization information in the immunization registry. A first responder may withdraw consent at any time.
>
> (b) The department may establish a process to provide a first responder with access to the first responder's immunization information in the immunization registry.

Revised Law

Sec. 161A.116. EMERGENCY PREPARATION. The department shall consult with public health departments and appropriate health care providers to identify adult immunizations that may be necessary to respond to or prepare for a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency. (H&S Code, Sec. 161.0104.)

Source Law

> Sec. 161.0104. DISASTER PREPARATION. The department shall consult with public health departments and appropriate health care providers to identify adult immunizations that may be necessary to respond to or prepare for a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

Revised Law

Sec. 161A.117. RECORDING ADMINISTRATION OF IMMUNIZATION

AND ANTIVIRAL DATABASE FOR EMERGENCIES. (a) The department shall maintain a database of individuals who receive an immunization or antiviral administered to prepare for a potential or respond to a declared disaster, public health disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

(b) A health care provider who administers an immunization or antiviral described by Subsection (a) shall provide the data elements to the department. At the request and with the authorization of the provider, the data elements may be provided through a health information exchange as defined by Section 182.151.

(c) The department shall maintain the database as part of the immunization registry.

(d) The department shall track adverse reactions to an immunization or antiviral administered as described by Subsection (a). A health care provider who administers the immunization or antiviral may provide adverse reaction data to the department.

(e) Sections 161A.004, 161A.104, 161A.105(a), 161A.106, 161A.107, 161A.110, 161A.111, and 161A.112 and Subchapter D apply to the data elements submitted to the department under this section, unless a provision in those sections or that subchapter conflicts with a requirement in this section.

(f) The executive commissioner by rule shall determine the period during which the information collected under this section must remain in the database following the end of the disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

(g) Unless an individual or the individual's legally authorized representative consents in writing or electronically to continued inclusion of the individual's information in the database, the department shall remove the immunization records collected under this section from the database on expiration of the period prescribed under Subsection (f).

(h) 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 the parent, managing conservator, or guardian of the child; or

(2) to a state agency or health care provider consistent with the purposes of:

(A) this chapter; or

(B) 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. (H&S Code, Secs. 161.00705(a), (b), (c), (d), (e), (f), (g).)

Source Law

> Sec. 161.00705. RECORDING ADMINISTRATION OF IMMUNIZATION AND MEDICATION FOR DISASTERS AND EMERGENCIES. (a) The department shall maintain a registry of persons who receive an immunization or antiviral administered to prepare for a potential disaster, public health disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency or in response to a declared disaster, public health disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency. A health care provider who administers an immunization or antiviral shall provide the data elements to the department. At the request and with the authorization of the health care provider, the data elements may be provided through a health information exchange as defined by Section 182.151.
>
> (b) The department shall maintain the registry as part of the immunization registry required by Section 161.007.
>
> (c) The department shall track adverse reactions to an immunization or antiviral administered to prepare for a potential disaster, public health disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency or in response to a declared disaster, public health disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency. A health care provider who administers an immunization or antiviral may provide data related to adverse reactions to the department.
>
> (d) Sections 161.007, 161.0071, 161.0072, and 161.0074 apply to the data elements submitted to the department under this section, unless a provision in those sections conflicts with a requirement in this section.
>
> (e) The executive commissioner by rule shall determine the period during which the information collected under this section must remain in the

immunization registry following the end of the disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

(f) Unless an individual or the individual's legally authorized representative consents in writing or electronically to continued inclusion of the individual's information in the registry, the department shall remove the immunization records collected under this section from the registry on expiration of the period prescribed under Subsection (e).

(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.

Revisor's Note

(1) Section 161.00705(b), Health and Safety Code, refers to the immunization registry "required by Section 161.007." The revised law omits the quoted language as unnecessary. Section 161A.101 of the revised law defines "immunization registry," which applies by its own terms to this section.

(2) Section 161.00705(a), Health and Safety Code, provides for a registry of immunizations or antivirals "administered to prepare for a potential disaster, public health disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency or in response to a declared disaster, public health disaster, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency." The revised law substitutes "administered as described by Subsection (a)" where the quoted language appears in Section 161.00705(c), which is revised in this chapter as Section 161A.117(d), to avoid unnecessary repetition of the content of the provision.

(3) Section 161.00705, Health and Safety Code, requires the Department of State Health Services to maintain a "registry" of persons who receive an immunization or antiviral in preparation for certain disasters and emergencies. The revised law substitutes "database" for "registry" for the reason stated in the revisor's note to Section 161A.004.

Revised Law

Sec. 161A.118. RELEASE AND RECEIPT OF IMMUNIZATION REGISTRY DATA IN DISASTER. (a) In this section, "disaster" means a disaster declared by the president of the United States, the governor of this state, or the governor of another state.

(b) If the department determines residents of this state have evacuated or relocated to another state in response to a disaster, the department may release immunization registry data, except registry data obtained under Section 161A.117, to the appropriate health authority of that state or to local health authorities in that state.

(c) The department may receive immunization information from a health authority of another state or from a local health authority in another state if the department determines residents of that state have evacuated or relocated to this state in response to a disaster. The department shall include information received under this subsection in the immunization registry.

(d) Notwithstanding Sections 161A.104 and 161A.106 and Subchapter D, the department is not required to obtain written consent for the inclusion in the immunization registry of information received under Subsection (c).

(e) Immunization information received under Subsection (c) is subject to Sections 161A.105(b), (c), and (d) and may not be released except as authorized by this chapter.

(f) The executive commissioner by rule shall determine the period during which the information collected under Subsection (c) must remain in the immunization registry following the end of the

disaster.

(g) Unless an individual or, if a child, the child's parent, managing conservator, or guardian consents in writing to continued inclusion of the individual's or child's information in the immunization registry, the department shall remove the immunization records collected under Subsection (c) from the registry on the expiration of the period prescribed by Subsection (f).

(h) If an individual or, if a child, the child's parent, managing conservator, or guardian requests in writing that the individual's or child's information obtained under Subsection (c) be removed from the immunization registry, the department shall remove that information from the registry.

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

(1) the release and use of immunization 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. (H&S Code, Sec. 161.00735.)

Source Law

Sec. 161.00735. RELEASE AND RECEIPT OF REGISTRY DATA IN DISASTER. (a) In this section, "disaster" means a disaster declared by the president of the United States, the governor of this state, or the governor of another state.

(b) If the department determines that residents of this state have evacuated or relocated to another state in response to a disaster, the department may release registry data, except registry data obtained under Section 161.00705, to the appropriate health authority of that state or to local health authorities in that state.

(c) The department may receive immunization information from a health authority of another state or from a local health authority in another state if

the department determines that residents of that state have evacuated or relocated to this state in response to a disaster. The department shall include information received under this subsection in the registry. Notwithstanding Section 161.007, the department is not required to obtain written consent for the inclusion in the registry of information received under this subsection.

(d) Immunization information received under Subsection (c) is subject to Section 161.0073, and may not be released except as authorized by this chapter.

(e) The executive commissioner by rule shall determine the period during which the information collected under Subsection (c) must remain in the immunization registry following the end of the disaster.

(f) Unless an individual or, if a child, the child's parent, managing conservator, or guardian consents in writing to continued inclusion of the individual's or child's information in the registry, the department shall remove the immunization records collected under Subsection (c) from the registry on the expiration of the period prescribed by Subsection (e).

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

(h) The executive commissioner shall make every effort to enter into a memorandum of agreement with each state to which residents of this state are likely to evacuate 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.

Revisor's Note

Section 161.00735(c), Health and Safety Code, provides that "[n]otwithstanding Section 161.007," the Department of State Health Services is not required to obtain written consent for the inclusion in the immunization registry of information received under that subsection. The portion of Section 161.007 related to the department obtaining consent for the inclusion of an individual's immunization information in the immunization registry is revised in this chapter as Sections 161A.104 and 161A.106 and Subchapter D, and the revised law is drafted

accordingly.

Revised Law

Sec. 161A.119. DEPARTMENT IMMUNIZATION RECORD POWERS AND DUTIES. (a) The department may obtain the data constituting an immunization record for an individual from:

(1) a public health district;

(2) a local health department;

(3) the individual or the individual's legally authorized representative;

(4) a physician to the individual;

(5) a payor; or

(6) any health care provider licensed or otherwise authorized to administer vaccines.

(b) The department:

(1) shall verify consent before including the reported information in the immunization registry; and

(2) may not retain individually identifiable information about an individual for whom consent cannot be verified.

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

(1) any entity that is described by Subsection (a);

(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 161A.115.

(d) The department may release nonidentifying immunization registry summary statistics that do not individually identify an individual. (H&S Code, Secs. 161.008(c), (d), (g).)

Source Law

(c) The department may obtain the data constituting an immunization record for an individual from a public health district, a local health

department, the individual or the individual's legally authorized representative, a physician to the individual, a payor, or any health care provider licensed or otherwise authorized to administer vaccines. The department shall verify consent before including the reported information in the immunization registry. The department may not retain individually identifiable information about an individual for whom consent cannot be verified.

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

(1) any entity that is described by Subsection (c);

(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.

(g) The department may release nonidentifying summary statistics related to the registry that do not individually identify an individual.

Revised Law

Sec. 161A.120. HEALTH INFORMATION EXCHANGE SUBMISSION OR RELEASE OF IMMUNIZATION DATA. At the request and with the authorization of the applicable health care provider, immunization history or data may be submitted to or obtained by the department through a health information exchange as defined by Section 182.151. (H&S Code, Sec. 161.008(i).)

Source Law

(i) At the request and with the authorization of the applicable health care provider, immunization history or data may be submitted to or obtained by the department through a health information exchange as defined by Section 182.151.

Revised Law

Sec. 161A.121. ELECTRONIC MEDICAL RECORDS SYSTEMS; INJUNCTION. (a) In this section:

(1) "Electronic medical records software package or system" means an electronic system for maintaining medical records in the clinical setting.

(2) "Medical records" has the meaning assigned by Section 151.002, Occupations Code.

(b) A person who sells, leases, or otherwise provides an electronic medical records software package or system to another person who administers immunizations in this state or to an entity

that manages records for the person shall provide, as part of the electronic medical records software package or system, the ability to:

(1) electronically interface with the immunization registry; and

(2) generate electronic reports that contain the fields necessary to populate the immunization registry.

(c) The executive commissioner by rule shall specify:

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

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

(d) The data standards specified under Subsection (c) must be compatible with the standards for immunization information transmission adopted by the Healthcare Information Technology Standards Panel sponsored by the American National Standards Institute and included in certification criteria by the Certification Commission for Healthcare Information Technology.

(e) The attorney general may bring an action in the name of the state to enjoin a violation of this section.

(f) If the state prevails in an action brought under this section, the attorney general may recover on behalf of the state reasonable attorney's fees, court costs, and reasonable investigative costs incurred in relation to the proceeding. (H&S Code, Secs. 161.0107, 161.0108.)

Source Law

Sec. 161.0107. ELECTRONIC MEDICAL RECORDS SYSTEMS. (a) In this section:

(1) "Electronic medical records software package or system" means an electronic system for maintaining medical records in the clinical setting.

(2) "Medical records" has the meaning assigned by Section 151.002, Occupations Code.

(b) A person who sells, leases, or otherwise provides an electronic medical records software package or system to a person who administers immunizations in this state or to an entity that manages records for the person shall provide, as part of the electronic medical records software package or

system, the ability to:

(1) electronically interface with the immunization registry created under this subchapter; and

(2) generate electronic reports that contain the fields necessary to populate the immunization registry.

(c) The executive commissioner by rule shall specify:

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

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

(d) The data standards specified under Subsection (b) must be compatible with the standards for immunization information transmission adopted by the Healthcare Information Technology Standards Panel sponsored by the American National Standards Institute and included in certification criteria by the Certification Commission for Healthcare Information Technology.

Sec. 161.0108. INJUNCTION. (a) The attorney general may bring an action in the name of the state to enjoin a violation of Section 161.0107.

(b) If the state prevails in a suit under this section, the attorney general may recover on behalf of the state reasonable attorney's fees, court costs, and reasonable investigative costs incurred in relation to the proceeding.

Revisor's Note

(1) Section 161.0107(d), Health and Safety Code, refers to "data standards specified under Subsection (b)." The revised law substitutes "Subsection (c)" for "Subsection (b)" because the reference to Subsection (b) is a drafting error. The referenced data standards are specified in Subsection (c).

(2) Section 161.0108(b), Health and Safety Code, provides that the state may recover certain costs if the state prevails in a "suit under this section." The revised law substitutes "action" for "suit" for the reason stated in the revisor's note to Section 161A.003.

Revised Law

Sec. 161A.122. CIVIL LIABILITY REGARDING IMMUNIZATION DATA. A person, including a health care provider, payor, or department employee, who submits in good faith an immunization

history or data to or obtains in good faith an immunization history or data from the department in compliance with the provisions of Sections 161A.108, 161A.109, 161A.119, and 161A.120 and any rules adopted under those sections is not liable for any civil damages. (H&S Code, Sec. 161.008(f).)

Source Law

> (f) A person, including a health care provider, a payor, or an employee of the department, that submits in good faith an immunization history or data to or obtains in good faith an immunization history or data from the department in compliance with the provisions of this section and any rules adopted under this section is not liable for any civil damages.

Revised Law

Sec. 161A.123. IMMUNITY FROM LIABILITY. (a) A health care provider who acts in compliance with Sections 161A.104, 161A.105(a), 161A.106, 161A.108, 161A.109, 161A.111, 161A.112, 161A.113, 161A.117, 161A.119, 161A.120, and 161A.122 and Subchapter D and any rules adopted under Sections 161A.103 and 161A.153 is not civilly or criminally liable for furnishing the information required under Sections 161A.104, 161A.105(a), 161A.106, 161A.108, 161A.109, 161A.111, 161A.112, 161A.113, 161A.117, 161A.119, 161A.120, and 161A.122 and Subchapter D. This subsection does not apply to criminal liability established under Section 161A.124.

(b) Except as provided by Section 161A.124, the following persons subject to this chapter who act in compliance with Sections 161A.004, 161A.104, 161A.105, 161A.106, 161A.108, 161A.109, 161A.110, 161A.111, 161A.112, 161A.113, 161A.117, 161A.119, 161A.120, and 161A.122 and Subchapter D are not civilly or criminally liable for furnishing the information required under this chapter:

(1) a payor;

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

(3) a department employee.

(c) A person who administers a vaccination under a

department program may be held liable only to the extent the person would be liable if the person administered the vaccination outside the program. The person is not liable for damages arising from the acts or omissions of another person acting under the program or the department.

(d) The immunity created by Subsections (a) and (c) is in addition to any immunity created by Sections 161A.002 and 161A.106(d). (H&S Code, Secs. 161.0075, 161.0105.)

Source Law

Sec. 161.0075. IMMUNITY FROM LIABILITY. Except as provided by Section 161.009, 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.

Sec. 161.0105. LIMITATION ON LIABILITY. (a) A health care provider who acts in compliance with Sections 161.007, 161.00705, 161.00706, and 161.008 and any rules adopted under those sections is not civilly or criminally liable for furnishing the information required under those sections. This subsection does not apply to criminal liability established under Section 161.009.

(b) A person who administers a vaccination under a department program may be held liable only to the extent the person would be liable if the person administered the vaccination outside the program. The person is not liable for damages arising from the acts or omissions of another person acting under the program or the department.

(c) The immunity created by this section is in addition to any immunity created by Sections 161.001 and 161.007(i).

Revisor's Note

Section 161.0105(c), Health and Safety Code, states that the immunity created by "this section" is in addition to any immunity created by Sections 161.001 and 161.007(i) of that code. The provisions of Section 161.0105 creating an immunity from liability are revised in this chapter as Sections 161A.123(a) and (c), and the revised law is drafted accordingly.

Revised Law

Sec. 161A.124. CRIMINAL OFFENSE FOR IMPROPER DISCLOSURE OF INFORMATION. (a) A person commits an offense if the person:

(1) negligently releases or discloses immunization registry information in violation of Sections 161A.104, 161A.105, 161A.106, 161A.108, 161A.109, 161A.110, 161A.111, 161A.112, 161A.119, 161A.120, and 161A.122 and Subchapter D;

(2) fails to exclude an individual's immunization information in violation of Section 161A.110;

(3) fails to remove an individual's immunization information in violation of Section 161A.113, 161A.117, or 161A.118; or

(4) negligently uses information in the immunization registry to solicit new patients or clients or for other purposes that are not associated with immunization or quality-of-care purposes.

(b) An offense under this section is a Class A misdemeanor. (H&S Code, Sec. 161.009.)

Source Law

Sec. 161.009. PENALTIES FOR DISCLOSURE OF INFORMATION. (a) A person commits an offense if the person:

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

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

(3) fails to remove a person's immunization information in violation of Section 161.00705, 161.00706, or 161.00735; or

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

(b) An offense under this section is a Class A misdemeanor.

Revisor's Note

Section 161.009, Health and Safety Code, provides that a person commits an offense if the person, in relevant part, negligently uses information for certain purposes "unless authorized under this

section." The revised law omits the quoted language as unnecessary because Section 161.009 creates a criminal offense and does not authorize other uses of the information.

Revised Law

Sec. 161A.125. COMPLIANCE WITH FEDERAL LAW. If the provisions of this chapter relating to the use or disclosure of information in the immunization registry are more stringent than the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, then the use or disclosure of information in the registry is governed by this chapter. (H&S Code, Sec. 161.0076.)

Source Law

> Sec. 161.0076. COMPLIANCE WITH FEDERAL LAW. If the provisions of this chapter relating to the use or disclosure of information in the registry are more stringent than the Health Insurance Portability and Accountability Act and Privacy Standards, as defined by Section 181.001, then the use or disclosure of information in the registry is governed by this chapter.

SUBCHAPTER D. CONSENT REQUIREMENTS

Revised Law

Sec. 161A.151. DEFINITIONS. In this subchapter:

(1) "Immunization registry" means the immunization registry established under Section 161A.104.

(2) "Minor" means an individual younger than 18 years of age. (New.)

Revisor's Note

The definitions of "immunization registry" and "minor" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.

Revised Law

Sec. 161A.152. CONSTRUCTION OF SUBCHAPTER. Except as provided by Section 161A.051(f), nothing in this subchapter diminishes a parent's, managing conservator's, or guardian's

responsibility for having a child immunized properly. (H&S Code, Sec. 161.007(h).)

Source Law

> (h) Nothing in this section diminishes a parent's, managing conservator's, or guardian's responsibility for having a child immunized properly, subject to Section 161.004(d).

Revisor's Note

Section 161.007(h), Health and Safety Code, provides that "nothing in this section diminishes" certain responsibilities to properly immunize a child. The applicable portion of Section 161.007 that may affect a parent's, managing conservator's, or guardian's responsibility to immunize a child to which this subchapter applies is revised in this chapter as Subchapter D, and the revised law is drafted accordingly.

Revised Law

Sec. 161A.153. RULES. The executive commissioner shall adopt rules to implement this subchapter. (H&S Code, Sec. 161.007(k).)

Source Law

> (k) The executive commissioner shall adopt rules to implement this section.

Revised Law

Sec. 161A.154. CONSENT REQUIREMENTS FOR MINORS. (a) The written or electronic consent required by Section 161A.104(a)(3) for a minor is required to be obtained only one time. The written or electronic consent of the minor's parent, managing conservator, or guardian must be submitted to the department before the minor's 18th birthday.

(b) After consent is submitted, the minor's immunization information may be included in the immunization registry until the minor becomes 26 years of age unless the consent is withdrawn in writing or electronically, or renewed after the minor's 18th birthday as provided by Section 161A.155.

(c) A parent, managing conservator, or guardian of a minor may provide the consent by using an electronic signature on the minor's birth certificate. (H&S Code, Sec. 161.007(a-1).)

Source Law

> (a-1) The written or electronic consent required by Subsection (a)(3) for an individual younger than 18 years of age is required to be obtained only one time. The written or electronic consent of the individual's parent, managing conservator, or guardian must be submitted to the department before the individual's 18th birthday. After consent is submitted, the individual's immunization information may be included in the registry until the individual becomes 26 years of age unless the consent is withdrawn in writing or electronically, or renewed after the individual's 18th birthday as provided by Subsection (a-2). A parent, managing conservator, or guardian of a minor may provide the consent by using an electronic signature on the minor's birth certificate.

Revised Law

Sec. 161A.155. CONSENT REQUIREMENTS FOR ADULTS. (a) The written or electronic consent required by Section 161A.104(a)(3) for an individual who is 18 years of age or older is required to be obtained only one time and must be received from the individual before the information may be released. An individual's legally authorized representative or the individual, after the individual has attained 18 years of age, may consent in writing or electronically for the individual's information to remain in the immunization registry. The consent of the representative or individual is valid until the individual or the individual's legally authorized representative withdraws consent in writing or electronically.

(b) The department may not include in the immunization registry the immunization information of an individual who is 26 years of age or older until written or electronic consent has been obtained as provided by Subsection (a).

(c) The department shall coordinate with the Texas Education Agency to distribute materials described by Section 161A.201(a)(2) to students and parents through local school districts. (H&S Code, Sec. 161.007(a-2).)

Source Law

(a-2) The written or electronic consent required by Subsection (a)(3) for an individual who is 18 years of age or older is required to be obtained only one time and must be received from the individual before the information may be released. An individual's legally authorized representative or the individual, after the individual has attained 18 years of age, may consent in writing or electronically for the individual's information to remain in the registry. The consent of the representative or individual is valid until the individual or the individual's legally authorized representative withdraws consent in writing or electronically. The department may not include in the registry the immunization information of an individual who is 26 years of age or older until written or electronic consent has been obtained as provided by this subsection. The department shall coordinate with the Texas Education Agency to distribute materials described in Section 161.0095(a)(2) to students and parents through local school districts.

Revised Law

Sec. 161A.156. GUIDELINES AND PROCEDURES FOR ADULT CONSENT. The executive commissioner by rule shall develop guidelines and procedures for obtaining consent from an individual after the individual's 18th birthday, including procedures for retaining immunization information in a separate database that is inaccessible by any person other than the department during the eight-year period during which an individual who is 18 years of age or older may consent to inclusion in the immunization registry under Section 161A.155. (H&S Code, Sec. 161.007(a-3).)

Source Law

(a-3) The executive commissioner by rule shall develop guidelines and procedures for obtaining consent from an individual after the individual's 18th birthday, including procedures for retaining immunization information in a separate database that is inaccessible by any person other than the department during the eight-year period during which an individual who is 18 years of age or older may consent to inclusion in the registry under Subsection (a-2).

Revised Law

Sec. 161A.157. NOTICE OF CONSENT VERIFICATION PROCEDURES. The department shall provide notice to a health care provider that submits an immunization history for an individual for whom consent cannot be verified. The notice shall contain instructions for

obtaining consent in accordance with guidelines adopted under Section 161A.104(b) and resubmitting the immunization history to the department. (H&S Code, Sec. 161.007(e).)

Source Law

> (e) The department shall provide notice to a health care provider that submits an immunization history for an individual for whom consent cannot be verified. The notice shall contain instructions for obtaining consent in accordance with guidelines adopted under Subsection (a) and resubmitting the immunization history to the department.

Revised Law

Sec. 161A.158. NOTICE AFTER 18TH BIRTHDAY. After an individual's 18th birthday, the department shall make a reasonable effort to provide notice to an individual whose immunization information is included in the immunization registry with consent that was provided by a parent, managing conservator, or guardian under Section 161A.154. The reasonable effort must include at least two attempts by the department to provide the notice required by this subsection by telephone or e-mail, by regular mail to the individual's last known address, or by general outreach efforts through the individual's health care provider, school district, or institution of higher education. The notice must inform the individual that the individual's immunization records will be included in the registry until the date of the individual's 26th birthday unless the individual or the individual's legally authorized representative:

(1) withdraws consent in writing or electronically before that date; or

(2) provides consent for the records to continue to be included in the registry as provided by Section 161A.155. (H&S Code, Sec. 161.007(a-4).)

Source Law

> (a-4) After an individual's 18th birthday, the department shall make a reasonable effort to provide notice to an individual whose immunization information is included in the registry with consent that was provided by a parent, managing conservator, or guardian under Subsection (a-1). The reasonable effort shall include at least two attempts by the

department to provide the notice required by this subsection by telephone or e-mail, by regular mail to the individual's last known address, or by general outreach efforts through the individual's health care provider, school district, or institution of higher education. The notice must inform the individual that the individual's immunization records will be included in the registry until the date of the individual's 26th birthday unless the individual or the individual's legally authorized representative:

(1) withdraws consent in writing or electronically before that date; or

(2) provides consent for the records to continue to be included in the registry as provided by Subsection (a-2).

Revised Law

Sec. 161A.159. NOTICE AFTER 25TH BIRTHDAY. (a) After an individual's 25th birthday, the department shall make a reasonable effort to provide notice to an individual whose immunization information is included in the immunization registry with consent that was provided under Section 161A.154 and has not been renewed under Section 161A.155.

(b) The reasonable effort must include at least two attempts by the department to provide the notice required by Subsection (a) by telephone or e-mail, by regular mail to the individual's last known address, or by general outreach efforts through the individual's health care provider or institution of higher education.

(c) The notice sent under Subsection (a) must inform the individual that the individual's immunization records will be included in the immunization registry until the individual's 26th birthday unless the individual or the individual's legally authorized representative renews consent as provided by Section 161A.155.

(d) The department shall make a reasonable effort to obtain current contact information for written or electronic notices sent by the department under Subsection (a) that are returned due to incorrect address information. (H&S Code, Secs. 161.007(a-5), (a-6).)

Source Law

(a-5) After an individual's 25th birthday, the department shall make a reasonable effort to provide

notice to an individual whose immunization information is included in the registry with consent that was provided under Subsection (a-1) and has not been renewed under Subsection (a-2). The reasonable effort shall include at least two attempts by the department to provide the notice required by this subsection by telephone or e-mail, by regular mail to the individual's last known address, or by general outreach efforts through the individual's health care provider or institution of higher education. The notice must inform the individual that the individual's immunization records will be included in the immunization registry until the individual's 26th birthday unless the individual or the individual's legally authorized representative renews consent as provided by Subsection (a-2).

(a-6) The department shall make a reasonable effort to obtain current contact information for written or electronic notices sent by the department under Subsection (a-5) that are returned due to incorrect address information.

SUBCHAPTER E. DEPARTMENT EDUCATION AND OTHER PROGRAMS

Revised Law

Sec. 161A.201. EDUCATION PROGRAMS AND INFORMATION; WORK GROUP. (a) The department shall develop:

(1) for health care providers, continuing education programs relating to immunizations and the vaccines for children program; and

(2) for health care providers, health care clinics, hospitals, and any other health care facility that provides health care to children 14 to 18 years of age, educational information relating to the immunization registry established under Section 161A.104 and the option for an individual who is 18 years of age or older to consent to submission and retention of the individual's information in the registry.

(b) The department shall establish a work group to assist the department in developing the continuing education programs and educational information. The work group shall include:

(1) physicians;

(2) nurses;

(3) department representatives;

(4) representatives of managed care organizations that provide health care services under Chapter 540 or 540A, Government Code, as applicable;

(5) representatives of health plan providers that provide health care services under Chapter 62; and

(6) members of the public. (H&S Code, Sec. 161.0095 (part).)

Source Law

> Sec. 161.0095. EDUCATION PROGRAMS AND INFORMATION. (a) The department shall develop:
>
> (1) continuing education programs for health care providers relating to immunizations and the vaccines for children program . . . ; and
>
> (2) educational information, for health care providers, health care clinics, hospitals, and any other health care facility that provides health care to children 14 to 18 years of age, relating to the immunization registry and the option for an individual who is 18 years of age or older to consent to submission and retention of the individual's information in the immunization registry.
>
> (b) The department shall establish a work group to assist the department in developing the continuing education programs and educational information. The work group shall include physicians, nurses, department representatives, representatives of managed care organizations that provide health care services under Chapter 540 or 540A, Government Code, as applicable, representatives of health plan providers that provide health care services under Chapter 62, and members of the public.

Revised Law

Sec. 161A.202. STATEWIDE IMMUNIZATION EDUCATION. (a) The department shall establish a continuous statewide education program to educate the public about the importance of immunizing children and the risks and contraindications of an immunization.

(b) The department shall increase coordination among public and private local, regional, and statewide entities that have an interest in immunizations. (H&S Code, Sec. 161.010.)

Source Law

> Sec. 161.010. IMMUNIZATION EDUCATION; STATEWIDE COALITION. (a) The department shall establish a continuous statewide education program to educate the public about the importance of immunizing children and the risks and contraindications of an immunization.
>
> (b) The department shall increase coordination among public and private local, regional, and statewide entities that have an interest in immunizations.

Revised Law

Sec. 161A.203. EARLY CHILDHOOD IMMUNIZATION AWARENESS

PROGRAMS. (a) The department shall develop new public-private partnerships and maintain existing public-private partnership programs, including the Seniors and Volunteers Program For Childhood Immunization, to increase public and private awareness of and support for early childhood immunizations.

(b) The department shall collaborate with the Texas Education Agency to increase immunization awareness and participation among parents of preschool and school-age children by:

(1) jointly applying for federal money for immunization awareness and vaccination programs; and

(2) creating partnerships with public and private health, service, and education organizations, including parent-teacher associations, the United Way, schools, local businesses, community-based organizations, chambers of commerce, and athletic booster clubs, to increase awareness and participation in the state's early childhood vaccination program.

(c) The department shall attempt to increase immunization awareness and participation among parents of children in child-care facilities, as defined by Section 42.002, Human Resources Code, in the state's early childhood vaccination program by publishing on the department's Internet website information about the benefits of annual immunization against influenza for children aged six months to five years. The department shall collaborate with the commission and with child-care facilities to ensure the information is annually distributed to parents in August or September. (H&S Code, Sec. 161.0101.)

Source Law

> Sec. 161.0101. INCREASE IMMUNIZATION AWARENESS. (a) The department shall develop new public-private partnerships and work with existing public-private partnership programs, including the Seniors and Volunteers Program For Childhood Immunization, to increase public and private awareness of and support for early childhood immunizations.
>
> (b) The department shall work with the Texas Education Agency to increase immunization awareness and participation among parents of preschool and school-age children by:

(1) jointly applying for federal funds for immunization awareness and vaccination programs; and

(2) creating partnerships with public and private health, service, and education organizations, including parent-teacher associations, the United Way, schools, local businesses, community-based organizations, chambers of commerce, and athletic booster clubs, to increase awareness and participation in the state's early childhood vaccination program.

(c) The department shall work to increase immunization awareness and participation among parents of children in child-care facilities, as defined by Section 42.002, Human Resources Code, in the state's early childhood vaccination program by publishing on the department's website information about the benefits of annual immunization against influenza for children aged six months to five years. The department shall work with the Department of Family and Protective Services and with child-care facilities to ensure that the information is annually distributed to parents in August or September.

Revisor's Note

(1) Section 161.0101(b), Health and Safety Code, provides that the Department of State Health Services shall work with the Texas Education Agency to increase immunization awareness by jointly applying for "federal funds" for immunization awareness and vaccination programs. The revised law substitutes "money" for "funds" for the reason stated in the revisor's note to Section 161A.058.

(2) Section 161.0101(c), Health and Safety Code, refers to the Department of State Health Services collaborating with the Department of Family and Protective Services to ensure that parents of children in child-care facilities licensed by the Department of Family and Protective Services receive information about the early childhood vaccination program. The Department of Family and Protective Services' regulatory functions, including regulatory functions related to child-care facilities, were transferred to the Health and Human Services Commission in accordance with Section 531.02011(3), Government Code, which is executed law that expired September 1, 2023. Therefore, the revised law

substitutes the commission for the Department of Family and Protective Services in references relating to the regulation or licensing of child-care facilities.

Revised Law

Sec. 161A.204. RESPIRATORY SYNCYTIAL VIRUS. As part of the education programs under Sections 161A.201 and 161A.202, the department shall include information about:

(1) respiratory syncytial virus and the importance of preventative activities for children at risk of contracting the virus;

(2) respiratory syncytial virus prophylaxis for children who are at high risk of complications from the disease; and

(3) immunization for respiratory syncytial virus when a vaccine is recommended and available. (H&S Code, Sec. 161.0106.)

Source Law

Sec. 161.0106. RESPIRATORY SYNCYTIAL VIRUS; IMMUNIZATION. As part of the education programs under Sections 161.0095 and 161.010, the department shall include information about:

(1) respiratory syncytial virus and the importance of preventative activities for children at risk of contracting the virus;

(2) respiratory syncytial virus prophylaxis for children who are at high risk of complications from the disease; and

(3) immunization for respiratory syncytial virus when a vaccine is recommended and available.

Revised Law

Sec. 161A.205. HUMAN PAPILLOMAVIRUS EDUCATION MATERIALS. (a) The department, using existing resources, shall produce and distribute informational materials regarding vaccines against human papillomavirus that are approved by the United States Food and Drug Administration for human use. The materials must:

(1) include information relating to the effectiveness, availability, and contraindications of the vaccines; and

(2) be available in English and in Spanish.

(b) The department shall collaborate with the Cancer

Prevention and Research Institute of Texas or its successor entity to develop educational programs for parents regarding human papillomavirus and promoting awareness of a minor's need for preventive services for cervical cancer and its precursors.

(c) The department shall develop and maintain an Internet website that targets the public and health care professionals and provides accurate, comprehensive information on all aspects of cervical cancer prevention, including vaccination against human papillomavirus. (H&S Code, Sec. 161.0109.)

Source Law

> Sec. 161.0109. HUMAN PAPILLOMAVIRUS; VACCINES EDUCATION MATERIALS. (a) The department, using existing resources, shall produce and distribute informational materials regarding vaccines against human papillomavirus that are approved by the United States Food and Drug Administration for human use. The materials must include information relating to the effectiveness, availability, and contraindications of the vaccines. The materials must be available in English and in Spanish.
>
> (b) The department shall collaborate with the Cancer Prevention and Research Institute of Texas or its successor entity to develop educational programs for parents regarding human papillomavirus and promoting awareness of a minor's need for preventive services for cervical cancer and its precursors.
>
> (c) The department shall develop and maintain an Internet website that targets the public and health care professionals and provides accurate, comprehensive information on all aspects of cervical cancer prevention, including vaccination against human papillomavirus.

Revised Law

Sec. 161A.206. INFLUENZA VACCINES FOR VACCINES FOR CHILDREN PROGRAM. The department shall allow each health care provider participating in the vaccines for children program to:

(1) select influenza vaccines from the list of all influenza vaccines that:

(A) are approved by the United States Food and Drug Administration and recommended by the federal Advisory Committee on Immunization Practices; and

(B) are either:

(i) within the limits of the vaccines annually allocated by the Centers for Disease Control and

Prevention to the department for the vaccines for children program; or

(ii) not offered in the annual allocation described by Subparagraph (i), but are available from the Centers for Disease Control and Prevention and for which the Centers for Disease Control and Prevention awards to the department additional money; and

(2) use both inactivated influenza vaccines and live, attenuated influenza vaccines. (H&S Code, Sec. 161.0102(b).)

Source Law

(b) The department shall allow each health care provider participating in the vaccines for children program to:

(1) select influenza vaccines from the list of all influenza vaccines that:

(A) are approved by the United States Food and Drug Administration and recommended by the federal Advisory Committee on Immunization Practices; and

(B) are either:

(i) within the limits of the vaccines annually allocated by the Centers for Disease Control and Prevention of the United States Public Health Service to the department for the vaccines for children program; or

(ii) not offered in the annual allocation under Subparagraph (i), but are available from the Centers for Disease Control and Prevention of the United States Public Health Service and for which the Centers for Disease Control and Prevention awards to the department additional funds; and

(2) use both inactivated influenza vaccines and live, attenuated influenza vaccines.

Revisor's Note

Section 161.0102(b), Health and Safety Code, provides that health care providers participating in the vaccines for children program may select certain influenza vaccines from the Centers for Disease Control and Prevention for which the Centers for Disease Control and Prevention awards the department "additional funds." The revised law substitutes "money" for "funds" for the reason stated in the revisor's note to Section 161A.058.

Revised Law

Sec. 161A.207. PROVIDER CHOICE SYSTEM. (a) In this

section, "equivalent vaccines" means two or more vaccines, excluding the influenza vaccine, that:

(1) protect a vaccine recipient against the same infection or infections;

(2) require the same number of doses;

(3) have similar safety and efficacy profiles; and

(4) are recommended for comparable populations by the Centers for Disease Control and Prevention.

(b) This section does not apply in the event of a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

(c) The department shall implement a provider choice system for the vaccines for children program and the adult safety net vaccination program and ensure eligible participating health care providers may select any licensed vaccine, including combination vaccines and any dosage forms that:

(1) are recommended by the federal Advisory Committee on Immunization Practices;

(2) are made available to the department by the Centers for Disease Control and Prevention; and

(3) for adult vaccines, are on the department-approved list of vaccines offered by the adult safety net vaccination program.

(d) The department shall provide a vaccine selected by a health care provider under Subsection (c) only if the cost to the department of providing the vaccine is not more than 115 percent of the lowest-priced equivalent vaccine.

(e) The department shall convene the work group established under Section 161A.201 and solicit its recommendations regarding development of a plan for the implementation of the provider choice system under this section. The plan shall include the education of participating health care providers about:

(1) procedures and distribution systems of the Centers for Disease Control and Prevention; and

(2) vaccine options, the enrollment process, ordering, accountability, and reporting procedures. (H&S Code, Secs. 161.01035(a) (part), (b), (c), (d), (e), (f).)

Source Law

Sec. 161.01035. PROVIDER CHOICE SYSTEM. (a) The department shall implement a provider choice system for the vaccines for children program . . . and the adult safety net vaccination program.

(b) The department shall ensure that eligible health care providers participating in the vaccines for children program or the adult safety net vaccination program may select any licensed vaccine, including combination vaccines and any dosage forms that:

(1) are recommended by the federal Advisory Committee on Immunization Practices;

(2) are made available to the department by the Centers for Disease Control and Prevention of the United States Public Health Service; and

(3) for adult vaccines, are on the department-approved list of vaccines offered by the adult safety net vaccination program.

(c) For the purposes of this section, "equivalent vaccines" means two or more vaccines, excluding the influenza vaccine, that meet all of the following:

(1) protect a recipient of a vaccine against the same infection or infections;

(2) require the same number of doses;

(3) have similar safety and efficacy profiles; and

(4) are recommended for comparable populations by the Centers for Disease Control and Prevention of the United States Public Health Service.

(d) The department shall provide a vaccine selected by a health care provider under Subsection (b) only if the cost to the department of providing the vaccine is not more than 115 percent of the lowest-priced equivalent vaccine.

(e) This section does not apply in the event of a disaster or public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency.

(f) The department shall convene the immunization work group established under Section 161.0095 and solicit its recommendations regarding development of a plan for the implementation of the provider choice system under this section. The plan shall include the education of participating health care providers about:

(1) procedures and distribution systems of the Centers for Disease Control and Prevention of the United States Public Health Service; and

(2) vaccine options, the enrollment process, ordering, accountability, and reporting procedures.