

By: Davis of Harris

H.B. No. 126

A BILL TO BE ENTITLED

AN ACT

relating to an educational module certificate requirement for certain immunization exemptions; authorizing a fee.

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

SECTION 1. Sections 38.001(c) and (c-1), Education Code, are amended to read as follows:

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required poses a significant risk to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) the following documents:

(i) an affidavit signed by the applicant or, if the applicant is a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief; and

(ii) a certificate verifying that the applicant or, if the applicant is a minor, the applicant's parent or guardian has completed the immunization educational module

1 described by Section 161.0041(f), Health and Safety Code; or

2 (2) is a member of the armed forces of the United
3 States and is on active duty.

4 (c-1) An affidavit submitted under Subsection (c)(1)(B)(i)
5 [~~Section (c)(1)(B)~~] must be on a form described by Section
6 161.0041, Health and Safety Code, and must be submitted to the
7 admitting official not later than the 90th day after the date the
8 affidavit is notarized.

9 SECTION 2. Sections 51.9192(d), (d-2), and (d-3), Education
10 Code, are amended to read as follows:

11 (d) A student to whom this section applies or a parent or
12 guardian of the student is not required to comply with Subsection
13 (c) if the student or a parent or guardian of the student submits to
14 the institution:

15 (1) an affidavit or a certificate signed by a
16 physician who is duly registered and licensed to practice medicine
17 in the United States in which it is stated that, in the physician's
18 opinion, the vaccination required would be injurious to the health
19 and well-being of the student; or

20 (2) the following documents:

21 (A) an affidavit signed by the student stating
22 that the student declines the vaccination for bacterial meningitis
23 for reasons of conscience, including a religious belief, or a
24 written or electronic confirmation that the student has completed
25 the Internet-based process described by Subsection (d-3) for
26 declining the vaccination on that basis, as [~~if~~] applicable; and

27 (B) a certificate verifying that the student has

1 completed the immunization educational module described by Section
2 161.0041(f), Health and Safety Code ~~[to the student]~~.

3 (d-2) An affidavit submitted under Subsection (d)(2)(A)
4 ~~[(d)(2)]~~ must be:

5 (1) on a form described by Section 161.0041, Health
6 and Safety Code; and

7 (2) submitted to the appropriate admitting official
8 not later than the 90th day after the date the affidavit is
9 notarized.

10 (d-3) The Department of State Health Services shall develop
11 and implement a secure, Internet-based process to be used
12 exclusively at those public junior colleges that elect to use the
13 process to allow an entering student to apply online for an
14 exemption from the vaccination requirement under this section for
15 reasons of conscience. The online process portal must be designed
16 to ensure that duplicate exemption requests are avoided to the
17 greatest extent possible and provide for submission of the
18 immunization educational module certificate under Subsection
19 (d)(2)(B). The exemption form used by a student to claim an
20 exemption under the process must contain a statement indicating
21 that the student understands the benefits and risks of the
22 immunization and the benefits and risks of not receiving the
23 immunization.

24 SECTION 3. Sections 51.933(d) and (d-1), Education Code,
25 are amended to read as follows:

26 (d) No form of immunization is required for a person's
27 admission to an institution of higher education if the person

1 applying for admission:

2 (1) submits to the admitting official:

3 (A) an affidavit or a certificate signed by a
4 physician who is duly registered and licensed to practice medicine
5 within the United States in which it is stated that, in the
6 physician's opinion, the immunization required poses a significant
7 risk to the health and well-being of the applicant or any member of
8 the applicant's family or household; or

9 (B) the following documents:

10 (i) an affidavit signed by the applicant
11 or, if the applicant is a minor, by the applicant's parent or
12 guardian stating that the applicant declines immunization for
13 reasons of conscience, including a religious belief; and

14 (ii) a certificate verifying that the
15 applicant or, if the applicant is a minor, the applicant's parent or
16 guardian has completed the immunization educational module
17 described by Section 161.0041(f), Health and Safety Code; or

18 (2) is a member of the armed forces of the United
19 States and is on active duty.

20 (d-1) An affidavit submitted under Subsection (d)(1)(B)(i)
21 ~~[Section (d)(1)(B)]~~ must be on a form described by Section
22 161.0041, Health and Safety Code, and must be submitted to the
23 admitting official not later than the 90th day after the date the
24 affidavit is notarized.

25 SECTION 4. Section 161.004(d), Health and Safety Code, is
26 amended to read as follows:

27 (d) A child is exempt from an immunization required by this

1 section if:

2 (1) a parent, managing conservator, or guardian states
3 that the immunization is being declined for reasons of conscience,
4 including a religious belief, and completes the immunization
5 educational module described by Section 161.0041(f); or

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

9 SECTION 5. The heading to Section 161.0041, Health and
10 Safety Code, is amended to read as follows:

11 Sec. 161.0041. IMMUNIZATION EXEMPTION AFFIDAVIT FORM;
12 IMMUNIZATION EDUCATIONAL MODULE.

13 SECTION 6. Section 161.0041, Health and Safety Code, is
14 amended by amending Subsection (a) and adding Subsections (a-1),
15 (f), and (g) to read as follows:

16 (a) A person claiming an exemption from a required
17 immunization based on reasons of conscience, including a religious
18 belief, under Section 161.004 of this code, Section 38.001,
19 51.9192, or 51.933, Education Code, or Section 42.043, Human
20 Resources Code, must submit:

21 (1) [complete] an affidavit on a form provided by the
22 department stating the reason for the exemption; and

23 (2) a certificate verifying that the person has
24 completed the immunization educational module described by
25 Subsection (f).

26 (a-1) Subsection (a)(1) [This subsection] does not apply to
27 a person claiming the exemption using the Internet-based process

under Section 51.9192(d-3), Education Code.

(f) The department shall develop and maintain an Internet website that contains an immunization educational module and verification process to certify successful completion of the module. The module must present evidence-based information that is consistent with information published by the Centers for Disease Control and Prevention concerning:

(1) epidemiology;

(2) the prevention of disease through the use of vaccines; and

(3) the safety and efficacy of vaccines.

(g) The department may collect a fee for issuing a certificate described by Subsection (a)(2) in an amount designed to allow the department to recover from module users all of the department's direct and indirect costs in developing and maintaining the Internet website described by Subsection (f).

SECTION 7. Sections 42.043(d) and (d-1), Human Resources Code, are amended to read as follows:

(d) No immunization may be required for admission to a facility regulated under this chapter if a person applying for a child's admission submits ~~[one of the following affidavits]:~~

(1) an affidavit signed by a licensed physician stating that the immunization poses a significant risk to the health and well-being of the child or a member of the child's family or household; or

(2) the following documents:

(A) an affidavit signed by the child's parent or

guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief; and

(B) a certificate verifying that the applicant's parent or guardian has completed the immunization educational module described by Section 161.0041(f), Health and Safety Code.

(d-1) An affidavit submitted under Subsection (d)(2)(A) [~~Section (d)(2)~~] must be on a form described by Section 161.0041, Health and Safety Code, and must be submitted not later than the 90th day after the date the affidavit is notarized.

SECTION 8. Not later than December 1, 2017, the executive commissioner of the Health and Human Services Commission shall adopt rules to implement Sections 161.0041(f) and (g), Health and Safety Code, as added by this Act.

SECTION 9. The change in law made by this Act applies only to a person claiming an immunization exemption on the basis of conscience, including a religious belief, on or after January 1, 2018. A person claiming an immunization exemption on the basis of conscience before January 1, 2018, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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