

By: Howard

H.B. No. 241

A BILL TO BE ENTITLED

AN ACT

relating to a health care practitioner counseling requirement for persons claiming an immunization exemption on the basis of conscience, including a religious belief.

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

SECTION 1. Section 38.001(c), Education Code, is 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) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief, and a completed health care practitioner counseling certification stating that the practitioner has provided information on the risks and benefits of immunization; or

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

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

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

(1) 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 vaccination required would be injurious to the health and well-being of the student; or

(2) an affidavit signed by the student stating that the student declines the vaccination for bacterial meningitis for reasons of conscience, including a religious belief, or confirmation that the student has completed the Internet-based process described by Subsection (d-3) for declining the vaccination on that basis, if applicable to the student, and a completed health care practitioner counseling certification stating that the practitioner has provided information on the risks and benefits of immunization.

(d-3) The Department of State Health Services shall develop and implement a secure, Internet-based process to be used exclusively at those public junior colleges that elect to use the process to allow an entering student to apply online for an exemption from the vaccination requirement under this section for

1 reasons of conscience. The online process portal must be designed
2 to ensure that duplicate exemption requests are avoided to the
3 greatest extent possible. The exemption form used by a student to
4 claim an exemption under the process must contain a statement
5 indicating that the student understands the benefits and risks of
6 the immunization and the benefits and risks of not receiving the
7 immunization. A student who uses the Internet-based process under
8 this section is required to submit, in the manner prescribed by the
9 college, a completed health care practitioner counseling
10 certification stating that the practitioner has provided
11 information on the risks and benefits of immunization.

12 SECTION 3. Section 51.933(d), Education Code, is amended to
13 read as follows:

14 (d) No form of immunization is required for a person's
15 admission to an institution of higher education if the person
16 applying for admission:

17 (1) submits to the admitting official:

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

24 (B) an affidavit signed by the applicant or, if a
25 minor, by the applicant's parent or guardian stating that the
26 applicant declines immunization for reasons of conscience,
27 including a religious belief, and a completed health care

1 practitioner counseling certification stating that the
2 practitioner has provided information on the risks and benefits of
3 immunization; or

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

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

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

10 (1) a parent, managing conservator, or guardian states
11 that:

12 (A) the immunization is being declined for
13 reasons of conscience, including a religious belief; and

14 (B) the parent, managing conservator, or
15 guardian has been counseled by a physician, advanced practice
16 registered nurse, or physician assistant on the risks and benefits
17 of immunization; or

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

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

23 Sec. 161.0041. IMMUNIZATION EXEMPTION AFFIDAVIT FORM AND
24 HEALTH CARE PRACTITIONER COUNSELING CERTIFICATION FORM.

25 SECTION 6. Section 161.0041, Health and Safety Code, is
26 amended by amending Subsections (a) and (c) and adding Subsections
27 (a-1), (d-1), and (d-2) to read as follows:

1 (a) A person claiming an exemption from a required
2 immunization based on reasons of conscience, including a religious
3 belief, under Section 161.004 of this code, Section 38.001,
4 51.9192, or 51.933, Education Code, or Section 42.043, Human
5 Resources Code, must:

6 (1) complete an affidavit on a form provided by the
7 department stating the reason for the exemption; and

8 (2) submit a completed health care practitioner
9 counseling certification.

10 (a-1) Subsection (a)(1) [This subsection] does not apply to
11 a person claiming the exemption using the Internet-based process
12 under Section 51.9192(d-3), Education Code.

13 (c) A person claiming an exemption from a required
14 immunization under this section may only obtain the affidavit form
15 by submitting a written request for the affidavit form to the
16 department. The department shall include a blank copy of the health
17 care practitioner counseling certification form described by
18 Subsection (d-1) with each affidavit form sent to a person.

19 (d-1) The department shall develop a blank health care
20 practitioner counseling certification form to be completed by a
21 physician, advanced practice registered nurse, or physician
22 assistant who has counseled a person and, if the person is a minor,
23 the person's parent, managing conservator, or guardian, about the
24 risks and benefits of immunization. The form must contain:

25 (1) spaces for:

26 (A) the name, signature, and license number of
27 the health care practitioner providing counsel;

1 (B) the name of the person claiming the
2 exemption, the name of the person's parent, managing conservator,
3 or guardian, as applicable, and the signature of the person or the
4 person's parent, managing conservator, or guardian, as applicable;
5 and

6 (C) the date; and

7 (2) the following statement or substantially similar
8 language:

9 "I certify that I have provided medically accurate
10 information on the risks and benefits of immunization."

11 (d-2) The department shall make the printable health care
12 practitioner counseling certification form available on the
13 department's Internet website.

14 SECTION 7. Section 224.002(c), Health and Safety Code, is
15 amended to read as follows:

16 (c) The policy may include procedures for a covered
17 individual to be exempt from the required vaccines based on reasons
18 of conscience, including a religious belief, provided that the
19 policy requires an individual claiming an exemption based on
20 reasons of conscience to certify that the individual has received
21 counseling from a physician, advanced practice registered nurse, or
22 physician assistant on the risks and benefits of vaccines.

23 SECTION 8. Section 42.043(d), Human Resources Code, is
24 amended to read as follows:

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

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

5 (2) an affidavit signed by the child's parent or
6 guardian stating that the applicant declines immunization for
7 reasons of conscience, including a religious belief, and a
8 completed health care practitioner counseling certification
9 stating that the practitioner has provided information on the risks
10 and benefits of immunization.

11 SECTION 9. Section [42.04305](#)(d), Human Resources Code, is
12 amended to read as follows:

13 (d) The policy shall include procedures for a facility
14 employee to be exempt from the required vaccines based on reasons of
15 conscience, including a religious belief, and those procedures must
16 include the requirement that the employee claiming the exemption
17 certify that the employee has received counseling from a physician,
18 advanced practice registered nurse, or physician assistant on the
19 risks and benefits of vaccines.

20 SECTION 10. (a) Not later than December 1, 2017, the
21 Department of State Health Services shall make the health care
22 practitioner counseling certification form required by Section
23 [161.0041](#), Health and Safety Code, as amended by this Act, available
24 on the department's Internet website.

25 (b) A person claiming an immunization exemption on the basis
26 of conscience, including a religious belief, on or after January 1,
27 2018, is required to submit a completed health care practitioner

1 counseling certification or otherwise affirm that the person has
2 received counseling from a health care practitioner, as applicable.

3 (c) A person claiming an immunization exemption on the basis
4 of conscience, including a religious belief, before January 1,
5 2018, is required to submit a completed health care practitioner
6 counseling certification or otherwise affirm that the person has
7 received counseling from a health care practitioner, as applicable,
8 before September 1, 2018, to continue to be eligible for the
9 exemption.

10 SECTION 11. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this Act takes effect September 1, 2017.