

AN ACT

relating to provider discrimination against a Medicaid recipient or child health plan program enrollee based on immunization status.

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

SECTION 1. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02119 to read as follows:

Sec. 531.02119. DISCRIMINATION BASED ON IMMUNIZATION STATUS PROHIBITED. (a) A provider who participates in Medicaid or the child health plan program, including a provider participating in the provider network of a managed care organization that contracts with the commission to provide services under Medicaid or the child health plan program, may not refuse to provide health care services to a Medicaid recipient or child health plan program enrollee based solely on the recipient's or enrollee's refusal or failure to obtain a vaccine or immunization for a particular infectious or communicable disease.

(a-1) Notwithstanding Subsection (a), a provider is not in violation of this section if the provider:

(1) adopts a policy requiring some or all of the provider's patients, including patients who are Medicaid recipients or child health plan program enrollees, to be vaccinated or immunized against a particular infection or communicable disease to receive health care services from the provider; and

(2) provides an exemption to the policy described by

1 Subdivision (1) under which the provider accepts from a patient who
2 is a Medicaid recipient or child health plan program enrollee an
3 oral or written request for an exemption from each required
4 vaccination or immunization based on:

5 (A) a reason of conscience, including a sincerely
6 held religious belief, observance, or practice, that is
7 incompatible with the administration of the vaccination or
8 immunization; or

9 (B) a recognized medical condition for which the
10 vaccination or immunization is contraindicated.

11 (b) The commission may not provide any reimbursement under
12 Medicaid or the child health plan program, as applicable, to a
13 provider who violates this section unless and until the commission
14 finds that the provider is in compliance with this section.

15 (c) Subsection (b) applies only with respect to an
16 individual physician. The commission may not refuse to provide
17 reimbursement to a provider who did not violate this section based
18 on that provider's membership in a provider group or medical
19 organization with an individual physician who violated this
20 section.

21 (d) This section does not apply to a provider who is a
22 specialist in:

23 (1) oncology; or

24 (2) organ transplant services.

25 (e) The executive commissioner shall adopt rules necessary
26 to implement this section, including rules establishing the right
27 of a provider who is alleged to have violated this section to seek

1 administrative and judicial review of the alleged violation.

2 SECTION 2. If before implementing any provision of this Act
3 a state agency determines that a waiver or authorization from a
4 federal agency is necessary for implementation of that provision,
5 the agency affected by the provision shall request the waiver or
6 authorization and may delay implementing that provision until the
7 waiver or authorization is granted.

8 SECTION 3. This Act takes effect September 1, 2023.

President of the Senate

Speaker of the House

I certify that H.B. No. 44 was passed by the House on April 25, 2023, by the following vote: Yeas 93, Nays 54, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 44 on May 26, 2023, by the following vote: Yeas 104, Nays 32, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 44 was passed by the Senate, with amendments, on May 24, 2023, by the following vote: Yeas 18, Nays 12.

Secretary of the Senate

APPROVED: _____

Date

Governor