

By: Noble

H.B. No. 39

A BILL TO BE ENTITLED

AN ACT

relating to prohibited vaccination status discrimination and requirements for COVID-19 vaccines.

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

ARTICLE 1. COVID-19 VACCINATION STATUS DISCRIMINATION PROHIBITED

SECTION 1.01. Chapter 544, Insurance Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. COVID-19 VACCINATION STATUS

Sec. 544.651. DEFINITIONS. In this subchapter:

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

(2) "Health benefit plan issuer" means an issuer, administrator, or sponsor of a health benefit plan described by Section 544.652.

Sec. 544.652. APPLICABILITY OF SUBCHAPTER. (a) This subchapter applies only to a health benefit plan that provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including a group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or a group evidence of coverage or similar coverage document that is offered by:

(1) an insurance company;

(2) a group hospital service corporation operating under Chapter 842;

1           (3) a health maintenance organization operating under  
2 Chapter 843;

3           (4) an approved nonprofit health corporation that  
4 holds a certificate of authority under Chapter 844;

5           (5) a multiple employer welfare arrangement that holds  
6 a certificate of authority under Chapter 846;

7           (6) a stipulated premium company operating under  
8 Chapter 884;

9           (7) a fraternal benefit society operating under  
10 Chapter 885;

11           (8) a Lloyd's plan operating under Chapter 941; or

12           (9) an exchange operating under Chapter 942.

13           (b) Notwithstanding any other law, this subchapter applies  
14 to:

15           (1) a small employer health benefit plan subject to  
16 Chapter 1501, including coverage provided through a health group  
17 cooperative under Subchapter B of that chapter;

18           (2) a standard health benefit plan issued under  
19 Chapter 1507;

20           (3) a basic coverage plan under Chapter 1551;

21           (4) a basic plan under Chapter 1575;

22           (5) a primary care coverage plan under Chapter 1579;

23           (6) a plan providing basic coverage under Chapter  
24 1601;

25           (7) health benefits provided by or through a church  
26 benefits board under Subchapter I, Chapter 22, Business  
27 Organizations Code;

1           (8) the state Medicaid program, including the Medicaid  
2 managed care program operated under Chapter 533, Government Code;

3           (9) the child health plan program under Chapter 62,  
4 Health and Safety Code;

5           (10) a regional or local health care program operated  
6 under Section 75.104, Health and Safety Code;

7           (11) a self-funded health benefit plan sponsored by a  
8 professional employer organization under Chapter 91, Labor Code;

9           (12) county employee group health benefits provided  
10 under Chapter 157, Local Government Code; and

11           (13) health and accident coverage provided by a risk  
12 pool created under Chapter 172, Local Government Code.

13           (c) This subchapter applies to a life insurance company  
14 that:

15           (1) issues or delivers a life insurance policy in this  
16 state; or

17           (2) is organized under the laws of this state.

18           Sec. 544.653. PROHIBITED DISCRIMINATION AGAINST  
19 INDIVIDUAL. A group health benefit plan issuer or a life insurance  
20 company may not use an individual's COVID-19 vaccination status to:

21           (1) reject, deny, limit, cancel, refuse to renew, or  
22 increase the premiums for coverage of the individual under a plan  
23 offered by the issuer or company;

24           (2) limit the amount, extent, or kind of coverage  
25 available to the individual; or

26           (3) otherwise adversely affect the individual's  
27 eligibility for coverage.

1 Sec. 544.654. EFFECT ON OTHER LAW. This subchapter  
2 prevails to the extent of a conflict between this subchapter and any  
3 other law.

4 SECTION 1.02. Chapter 21, Labor Code, is amended by adding  
5 Subchapter H-1 to read as follows:

6 SUBCHAPTER H-1. DISCRIMINATION BASED ON COVID-19 VACCINATION  
7 STATUS

8 Sec. 21.421. DEFINITION. In this subchapter, "COVID-19"  
9 means the 2019 novel coronavirus disease.

10 Sec. 21.422. PROHIBITED DISCRIMINATION BASED ON COVID-19  
11 VACCINATION STATUS. (a) An employer commits an unlawful  
12 employment practice if the employer fails or refuses to hire,  
13 discharges, or otherwise discriminates against an individual with  
14 respect to the compensation or the terms, conditions, or privileges  
15 of employment because the individual has not received a COVID-19  
16 vaccine.

17 (b) A labor organization commits an unlawful employment  
18 practice if the labor organization excludes or expels from  
19 membership or otherwise discriminates against an individual  
20 because the individual has not received a COVID-19 vaccine.

21 (c) An employment agency commits an unlawful employment  
22 practice if the employment agency classifies or refers for  
23 employment, fails or refuses to refer for employment, or otherwise  
24 discriminates against an individual because the individual has not  
25 received a COVID-19 vaccine.

26 Sec. 21.423. LIMITATION OF LIABILITY. An employer, labor  
27 organization, or employment agency is not liable for a claim

1 arising from exposure to COVID-19 on the basis that the employer,  
2 labor organization, or employment agency failed to require an  
3 individual to receive a COVID-19 vaccine.

4 Sec. 21.424. EFFECT ON OTHER LAW. This subchapter prevails  
5 to the extent of a conflict between this subchapter and any other  
6 law.

7 ARTICLE 2. PROHIBITED COVID-19 VACCINATION REQUIREMENTS

8 SECTION 2.01. Section 38.001(b), Education Code, as amended  
9 by Chapters 43 (H.B. 1098) and 94 (H.B. 1059), Acts of the 80th  
10 Legislature, Regular Session, 2007, is reenacted and amended to  
11 read as follows:

12 (b) Subject to Subsections (b-1), (b-2), and (c), the  
13 executive commissioner of the Health and Human Services Commission  
14 may modify or delete any of the immunizations in Subsection (a) or  
15 may require immunizations against additional diseases as a  
16 requirement for admission to any elementary or secondary school.

17 SECTION 2.02. Section 38.001, Education Code, is amended by  
18 adding Subsection (b-2) to read as follows:

19 (b-2) A student may not be required, as a condition of the  
20 student's admission to or continued enrollment in any elementary or  
21 secondary school, to receive a vaccine for the 2019 novel  
22 coronavirus disease (COVID-19). An elementary or secondary school  
23 is not liable for a claim arising from exposure to COVID-19 on the  
24 basis that the school failed to require a student to receive a  
25 COVID-19 vaccine.

26 SECTION 2.03. Subchapter 7, Chapter 51, Education Code, is  
27 amended by adding Section 51.91921 to read as follows:

1       Sec. 51.91921. COVID-19 VACCINATION REQUIREMENT FOR  
2 PRIVATE OR INDEPENDENT INSTITUTION OF HIGHER EDUCATION STUDENTS  
3 PROHIBITED. (a) In this section:

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

6           (2) "Private or independent institution of higher  
7 education" has the meaning assigned by Section 61.003.

8           (b) A student may not be required, as a condition of the  
9 student's admission to or continued enrollment in a private or  
10 independent institution of higher education, to receive a COVID-19  
11 vaccine.

12           (c) A private or independent institution of higher  
13 education is not liable for a claim arising from exposure to  
14 COVID-19 on the basis that the institution failed to require a  
15 student to receive a COVID-19 vaccine.

16       SECTION 2.04. Section 51.933, Education Code, is amended by  
17 amending Subsection (b) and adding Subsection (b-2) to read as  
18 follows:

19           (b) Except as provided by Subsection (b-2), the [The]  
20 executive commissioner of the Health and Human Services Commission  
21 may require immunizations against the diseases listed in Subsection  
22 (a) and additional diseases for students at any institution of  
23 higher education who are pursuing a course of study in a human or  
24 animal health profession, and the executive commissioner may  
25 require those immunizations for any students in times of an  
26 emergency or epidemic in a county where the commissioner of state  
27 health services has declared such an emergency or epidemic.

1       (b-2) A student may not be required, as a condition of the  
2 student's admission to or continued enrollment in an institution of  
3 higher education, to receive a vaccine for the 2019 novel  
4 coronavirus disease (COVID-19). An institution of higher education  
5 is not liable for a claim arising from exposure to COVID-19 on the  
6 basis that the institution failed to require a student to receive a  
7 COVID-19 vaccine.

8       SECTION 2.05. Section 81.023, Health and Safety Code, is  
9 amended by adding Subsection (d) to read as follows:

10       (d) The department, in developing immunization requirements  
11 under Subsection (c), may not require a child to receive a vaccine  
12 for the 2019 novel coronavirus disease (COVID-19).

13       SECTION 2.06. Section 224.002, Health and Safety Code, is  
14 amended by adding Subsection (b-1) to read as follows:

15       (b-1) The policy may not require a covered individual to  
16 receive a vaccine for the 2019 novel coronavirus disease  
17 (COVID-19).

18                   ARTICLE 3. TRANSITION AND EFFECTIVE DATE

19       SECTION 3.01. Each facility subject to Chapter 224, Health  
20 and Safety Code, as amended by this Act, shall modify the facility's  
21 vaccine-preventable disease policy to conform with the changes in  
22 law made by this Act not later than January 1, 2022.

23       SECTION 3.02. Subchapter N, Chapter 544, Insurance Code, as  
24 added by this Act, applies only to a health benefit plan or  
25 insurance policy delivered, issued for delivery, or renewed on or  
26 after January 1, 2022.

27       SECTION 3.03. Subchapter H-1, Chapter 21, Labor Code, as

1 added by this Act, applies only to an unlawful employment practice  
2 that occurs on or after the effective date of this Act.

3 SECTION 3.04. (a) The changes in law made by this Act to  
4 Title 2, Education Code, apply beginning with the 2021-2022 school  
5 year.

6 (b) The changes in law made by this Act to Title 3, Education  
7 Code, apply beginning with the 2021-2022 academic year.

8 SECTION 3.05. This Act takes effect immediately if it  
9 receives a vote of two-thirds of all the members elected to each  
10 house, as provided by Section 39, Article III, Texas Constitution.  
11 If this Act does not receive the vote necessary for immediate  
12 effect, this Act takes effect on the 91st day after the last day of  
13 the legislative session.