**BILL ANALYSIS**

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| Senate Research Center | H.B. 44 |
|  | By: Swanson et al. (Middleton) |
|  | Health & Human Services |
|  | 5/5/2023 |
|  | Engrossed |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Current state law establishes the conditions under which a child may be exempt from established

immunization schedules. The testimony of concerned citizens indicates that some providers who accept Medicaid or CHIP have refused to treat children and their family members based on immunization status, and the Austin Regional Clinic's vaccine policy states that it will not accept any new patients who are not vaccinated.

Despite the exemptions offered in current law, there is no statutory mechanism that prevents an individual from being denied health care services by taxpayer-funded programs on this basis. H.B. 44 seeks to address this issue by prohibiting a Medicaid or CHIP provider from refusing to provide health care services to an individual based solely on the individual's refusal or failure to obtain certain immunizations or vaccines.

H.B 44 amends the Government Code to prohibit a Medicaid or CHIP provider from refusing to provide health care services to a Medicaid recipient or CHIP 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. H.B. 44 prohibits the Health and Human Services Commission (HHSC) from providing Medicaid or CHIP reimbursement to a provider who violates that prohibition and requires HHSC to disenroll the provider from participation as a Medicaid or CHIP provider.

The bill authorizes the executive commissioner of HHSC to adopt rules as necessary to implement these provisions and provides for the delayed implementation of any provision for which an applicable state agency determines a federal waiver or authorization is necessary for implementation until the waiver or authorization is requested and granted.

H.B. 44 amends current law relating to provider discrimination against a Medicaid recipient or child health plan program enrollee based on immunization status.

**RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 1 (Section 531.02119, Government Code) of this bill.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.02119, as follows:

Sec. 531.02119. DISCRIMINATION BASED ON IMMUNIZATION STATUS PROHIBITED. (a) Prohibits 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 Health and Human Services Commission (HHSC) to provide services under Medicaid or the child health plan program, from refusing 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.

(b) Provides that HHSC is prohibited from providing Medicaid or child health plan program reimbursement to a provider who violates this section and is required to disenroll the provider from participation as a Medicaid or child health plan program provider.

(b-1) Provides that Subsection (b) applies only to an individual physician who violates this section. Prohibits HHSC from refusing to reimburse or disenrolling an individual physician or other provider who did not violate this section, regardless of whether that physician or provider is a member of a provider group or medical organization with the physician who violated this section.

(c) Authorizes the executive commissioner of HHSC to adopt rules as necessary to implement this section.

SECTION 2. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes a delay of implementation until such a waiver or authorization is granted.

SECTION 3. Effective date: September 1, 2023.