88R1036 MCF-F

By:  Hall S.B. No. 304

A BILL TO BE ENTITLED

AN ACT

relating to prohibited immunization status discrimination and vaccine mandates; authorizing administrative penalties.

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

ARTICLE 1. PROHIBITED IMMUNIZATION STATUS DISCRIMINATION

SECTION 1.01.  Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 122 to read as follows:

CHAPTER 122. PROHIBITED IMMUNIZATION STATUS DISCRIMINATION

Sec. 122.001.  DEFINITION. In this chapter, "public accommodation" means a disposition, service, financial aid, or benefit provided to members of the public.

Sec. 122.002.  DISCRIMINATION PROHIBITED. A person may not discriminate against or refuse to provide a public accommodation to an individual based on the individual's vaccination history or immunity status for a communicable disease by:

(1)  providing to the individual a public accommodation that is different or provided in a different manner than the accommodation provided or manner of providing the accommodation to other members of the public;

(2)  subjecting the individual to segregation or separate treatment in any matter related to providing the public accommodation to the individual;

(3)  restricting in any way the individual's enjoyment of a public accommodation in a manner that distinguishes the individual's enjoyment from the enjoyment of other members of the public;

(4)  treating the individual differently from other members of the public in determining whether the individual satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition that individuals must satisfy before a public accommodation is provided; or

(5)  denying the individual an opportunity to participate in a program in a manner that differs from the manner the opportunity is provided to other members of the public.

Sec. 122.003.  COMPLAINT; EQUITABLE RELIEF. (a) A person may file a complaint with the attorney general if the person asserts facts supporting an allegation that another person has violated Section 122.002. The person filing the complaint must include a sworn affidavit stating that to the person's knowledge, all of the facts asserted in the complaint are true and correct.

(b)  If the attorney general determines a complaint filed under Subsection (a) is valid, the attorney general may file a petition for a writ of mandamus or apply for other appropriate equitable relief in a district court in Travis County or in a county in which the person against whom relief is sought resides to compel the person to comply with Section 122.002.

Sec. 122.004.  EFFECT ON OTHER LAW. This chapter prevails to the extent of a conflict between this chapter and any other law.

SECTION 1.02.  Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Sections 161.0057 and 161.0086 to read as follows:

Sec. 161.0057.  PROHIBITED IMMUNIZATION DISCRIMINATION BY LONG-TERM CARE FACILITIES. (a) In this section, "long-term care facility" means a facility licensed or regulated under Chapter 242, 247, or 252.

(b)  A long-term care facility may not refuse to provide services to a resident based on the resident's vaccination history or immunity status for a communicable disease.

(c)  A long-term care facility that violates this section is ineligible to receive state money for services provided to residents.

(d)  A violation of this section is a violation of the long-term care facility's applicable licensing law and subjects the facility to disciplinary action and the imposition of administrative penalties under that law.

(e)  This section prevails to the extent of a conflict between this section and any other law.

Sec. 161.0086.  PROHIBITED IMMUNIZATION DISCRIMINATION. (a) A health care provider or health care facility may not refuse to provide a health care service to a patient based on a patient's vaccination history or immunity status for a communicable disease.

(b)  A health care facility providing clinical experience to satisfy a student's degree requirements may not discriminate against a student or prohibit admission, enrollment, or employment as a student, intern, or resident based on the student's vaccination history or immunity status for a communicable disease.

(c)  Notwithstanding any other law, a health care provider or health care facility that violates this section is ineligible to receive state money for health care services provided to patients.

(d)  A violation of this section is a violation of the health care provider's or health care facility's applicable licensing law and subjects the provider or facility to disciplinary action and the imposition of administrative penalties under that law.

(e)  This section prevails to the extent of a conflict between this section and any other law.

SECTION 1.03.  Chapter 544, Insurance Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. IMMUNIZATION STATUS

Sec. 544.701.  DEFINITIONS. In this subchapter:

(1)  "Health benefit plan issuer" means an issuer, administrator, or sponsor of a health benefit plan described by Section 544.702.

(2)  "Participating provider" means a health care provider who has contracted with a health benefit plan issuer to provide services to enrollees.

Sec. 544.702.  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;

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

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

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

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

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

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

(9)  an exchange operating under Chapter 942.

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

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

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

(3)  a basic coverage plan under Chapter 1551;

(4)  a basic plan under Chapter 1575;

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 544.703.  PROHIBITED DISCRIMINATION AGAINST INDIVIDUAL. A group health benefit plan issuer or a life insurance company may not use an individual's vaccination history or immunity status for a communicable disease to:

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

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

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

Sec. 544.704.  PROHIBITED DISCRIMINATION IN GROUP PLAN RATING. The vaccination history or immunity status for a communicable disease of individuals covered under a group health benefit plan that provides coverage in this state may not be used as a factor in the rating of the plan.

Sec. 544.705.  PROHIBITED DISCRIMINATION AGAINST PARTICIPATING PROVIDER. (a) A health benefit plan issuer may not use the vaccination history or immunity status for a communicable disease of a health care provider's patients as a qualification or requirement for contracting with the provider or as a basis for terminating a contract with the provider.

(b)  A health benefit plan issuer may not use the vaccination history or immunity status for a communicable disease of enrollees as a factor in providing a financial incentive or assessing a financial or other penalty against a participating provider.

Sec. 544.706.  EFFECT ON OTHER LAW. This subchapter prevails to the extent of a conflict between this subchapter and any other law.

SECTION 1.04.  Chapter 21, Labor Code, is amended by adding Subchapter H-1 to read as follows:

SUBCHAPTER H-1. DISCRIMINATION BASED ON IMMUNIZATION STATUS

Sec. 21.421.  PROHIBITED DISCRIMINATION BASED ON IMMUNIZATION STATUS. (a) An employer commits an unlawful employment practice if the employer fails or refuses to hire, discharges, or otherwise discriminates against an individual with respect to the compensation or the terms, conditions, or privileges of employment based on the individual's vaccination history or immunity status for a communicable disease.

(b)  A labor organization commits an unlawful employment practice if the labor organization excludes or expels from membership or otherwise discriminates against an individual based on the individual's vaccination history or immunity status for a communicable disease.

(c)  An employment agency commits an unlawful employment practice if the employment agency classifies or refers for employment, fails or refuses to refer for employment, or otherwise discriminates against an individual based on the individual's vaccination history or immunity status for a communicable disease.

(d)  An employer, labor organization, or employment agency commits an unlawful employment practice if the employer, labor organization, or employment agency limits, segregates, or classifies an employee, member, or applicant for employment or membership in a way that would deprive or tend to deprive the employee, member, or applicant of employment opportunities or otherwise adversely affect the status of the employee, member, or applicant based on the employee's, member's, or applicant's vaccination history or immunity status for a communicable disease.

Sec. 21.422.  EFFECT ON OTHER LAW. This subchapter prevails to the extent of a conflict between this subchapter and any other law.

SECTION 1.05.  Title 2, Occupations Code, is amended by adding Chapter 60 to read as follows:

CHAPTER 60. IMMUNIZATION DISCRIMINATION

Sec. 60.001.  PROHIBITED IMMUNIZATION DISCRIMINATION. A licensing authority may not deny an application for an occupational license, suspend, revoke, or refuse to renew an occupational license, or take any other disciplinary action against an individual based on:

(1)  the individual's vaccination history or immunity status for a communicable disease; or

(2)  the individual's refusal to be vaccinated or participate in administering a vaccine.

Sec. 60.002.  EFFECT ON OTHER LAW. This chapter prevails to the extent of a conflict between this chapter and any other law.

SECTION 1.06.  Subtitle A, Title 3, Occupations Code, is amended by adding Chapter 103A to read as follows:

CHAPTER 103A. RIGHT TO OBJECT TO VACCINATIONS; PROHIBITED IMMUNIZATION DISCRIMINATION

Sec. 103A.001.  RIGHT TO OBJECT. A hospital or other health care facility may not require as a condition of employment that an employee, including a physician, nurse, or staff member:

(1)  be vaccinated; or

(2)  participate in administering a vaccine.

Sec. 103A.002.  PROHIBITED IMMUNIZATION DISCRIMINATION. (a) A hospital or other health care facility may not discriminate against an employee, including a physician, nurse, or staff member, or an applicant who:

(1)  refuses to:

(A)  be vaccinated; or

(B)  participate in administering a vaccine; or

(2)  is not immune to a communicable disease.

(b)  An educational institution may not discriminate against an applicant for admission or employment as a student, intern, or resident based on:

(1)  the applicant's vaccination history or immunity status for a communicable disease; or

(2)  the applicant's refusal to be vaccinated or participate in administering a vaccine.

Sec. 103A.003.  REMEDIES. A person aggrieved by a violation of this chapter may bring an action against a hospital, other health care facility, or educational institution that administers a hospital or other health care facility in a district court in the county where the hospital, facility, or institution is located for:

(1)  an injunction against any further violation;

(2)  appropriate equitable relief, including:

(A)  admission or reinstatement of employment; and

(B)  back pay and 10 percent interest on the back pay; and

(3)  any other relief necessary to ensure compliance with this chapter.

Sec. 103A.004.  EFFECT ON OTHER LAW. This chapter prevails to the extent of a conflict between this chapter and any other law.

SECTION 1.07.  Subchapter A, Chapter 521, Transportation Code, is amended by adding Section 521.015 to read as follows:

Sec. 521.015.  PROHIBITED IMMUNIZATION DISCRIMINATION. (a) The department may not use an individual's vaccination history or immunity status for a communicable disease as a requirement for the issuance or renewal of a driver's license, election identification certificate, or personal identification certificate.

(b)  The department may not discriminate against, deny services or access to, or otherwise penalize any individual based on the individual's vaccination history or immunity status or refusal to provide proof of vaccination or immunity to a communicable disease.

(c)  This section prevails to the extent of a conflict between this section and any other law.

ARTICLE 2. PROHIBITED VACCINATION MANDATES

SECTION 2.01.  Section 25.002(a), Education Code, is amended to read as follows:

(a)  If a parent or other person with legal control of a child under a court order enrolls the child in a public school, the parent or other person or the school district in which the child most recently attended school shall furnish to the school district:

(1)  the child's birth certificate or another document suitable as proof of the child's identity; and

(2)  a copy of the child's records from the school the child most recently attended if the child has been previously enrolled in a school in this state or another state[~~; and~~

[~~(3) a record showing that the child has the immunizations as required under Section 38.001, in the case of a child required under that section to be immunized, proof as required by that section showing that the child is not required to be immunized, or proof that the child is entitled to provisional admission under that section and under rules adopted under that section~~].

SECTION 2.02.  The heading to Section 38.001, Education Code, is amended to read as follows:

Sec. 38.001.  RECOMMENDED IMMUNIZATIONS AND VACCINES [~~IMMUNIZATION; REQUIREMENTS; EXCEPTIONS~~].

SECTION 2.03.  Section 38.001(b-1), Education Code, is amended to read as follows:

(b-1)  Each year, the Department of State Health Services shall prepare a list of the immunizations and vaccines [~~required under this section for admission to public schools and of any additional immunizations~~] the department recommends for school-age children. The department shall prepare the list in English and Spanish and make the list available in a manner that permits a school district to easily post the list on the district's Internet website as required by Section 38.019. A school district or a school, including a private school, may not require any immunization or vaccine as a condition of admission to or attendance at an elementary or secondary school.

SECTION 2.04.  Sections 38.019(a) and (b), Education Code, are amended to read as follows:

(a)  A school district that maintains an Internet website shall post prominently on the website[~~:~~

[~~(1)~~] a list, in English and Spanish, of:

(1)  [~~(A) the immunizations required for admission to public school by rules of the Department of State Health Services adopted under Section 38.001;~~

[~~(B)~~] any immunizations or vaccines recommended for public school students by the Department of State Health Services; and

(2) [~~(C)~~]  health clinics in the district that offer the influenza vaccine, to the extent those clinics are known to the district[~~; and~~

[~~(2) a link to the Department of State Health Services Internet website where a person may obtain information relating to the procedures for claiming an exemption from the immunization requirements of Section 38.001~~].

(b)  The list of recommended immunizations or vaccines under Subsection (a)(1) [~~(a)(2)~~] must include the influenza vaccine[~~, unless the Department of State Health Services requires the influenza vaccine for admission to public school~~].

SECTION 2.05.  The heading to Section 51.933, Education Code, is amended to read as follows:

Sec. 51.933.  IMMUNIZATION INFORMATION [~~REQUIREMENTS; EXCEPTION~~].

SECTION 2.06.  Section 51.933(a), Education Code, is amended to read as follows:

(a)  An institution of higher education may not require students or applicants for admission to be immunized against any communicable disease [~~diphtheria, rubeola, rubella, mumps, tetanus, and poliomyelitis, except as provided in Subsection (d)~~].

SECTION 2.07.  Section 264.1076(d), Family Code, is amended to read as follows:

(d)  A physician or other health care provider conducting an examination under Subsection (b) may not administer a vaccination as part of the examination without parental consent[~~, except that a physician or other health care provider may administer a tetanus vaccination to a child in a commercially available preparation if the physician or other health care provider determines that an emergency circumstance requires the administration of the vaccination~~]. The prohibition on the administration of a vaccination under this subsection does not apply after the department has been named managing conservator of the child after a hearing conducted under Subchapter C, Chapter 262.

SECTION 2.08.  Section 531.0335(b), Government Code, is amended to read as follows:

(b)  The executive commissioner by rule shall prohibit a health and human services agency from taking a punitive action against a person responsible for a child's care, custody, or welfare for declining [~~failure of the person~~] to immunize or vaccinate the child for any communicable disease [~~ensure that the child receives the immunization series prescribed by Section 161.004, Health and Safety Code~~].

SECTION 2.09.  Section 12.033(a), Health and Safety Code, is amended to read as follows:

(a)  Except as otherwise provided by this section, the executive commissioner by rule shall adopt fees to be collected by the department for the distribution and administration of vaccines and sera provided under[~~:~~

[~~(1) Section 38.001, Education Code;~~

[~~(2) Section 42.043, Human Resources Code;~~

[~~(3)~~] Chapter 826 (Rabies Control Act of 1981)[~~;~~

[~~(4) Chapter 81 (Communicable Disease Prevention and Control Act); and~~

[~~(5) Section 161.005~~].

SECTION 2.10.  Section 81.082(f), Health and Safety Code, is amended to read as follows:

(f)  In this section, "control measures" does not include administration of a vaccine and includes:

(1)  [~~immunization;~~

[~~(2)~~] detention;

(2) [~~(3)~~]  restriction;

(3) [~~(4)~~]  disinfection;

(4) [~~(5)~~]  decontamination;

(5) [~~(6)~~]  isolation;

(6) [~~(7)~~]  quarantine;

(7) [~~(8)~~]  disinfestation;

(8) [~~(9)~~]  chemoprophylaxis;

(9) [~~(10)~~]  preventive therapy;

(10) [~~(11)~~]  prevention; and

(11) [~~(12)~~]  education.

SECTION 2.11.  Section 81.085(i), Health and Safety Code, is amended to read as follows:

(i)  On request of the department during a public health disaster, an individual shall disclose the individual's immunization information. If the individual does not have updated or appropriate immunizations, the department may take appropriate action during a quarantine to protect that individual and the public from the communicable disease, but the department may not administer a vaccine to the individual without the individual's consent.

SECTION 2.12.  The heading to Section 161.0051, Health and Safety Code, is amended to read as follows:

Sec. 161.0051.  REQUIRED OFFER OF IMMUNIZATIONS FOR NURSING HOMES.

SECTION 2.13.  Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0055 to read as follows:

Sec. 161.0055.  PROHIBITED VACCINE MANDATES AND DISCRIMINATION. (a) A governmental entity or official, including the governor, a state agency, a political subdivision, or a political subdivision official, may not:

(1)  require an individual to be vaccinated;

(2)  require an individual to participate in the administration of a vaccine; or

(3)  discriminate or impose a civil or criminal penalty against an individual who refuses vaccination or participation in the administration of a vaccine.

(b)  This section applies to all other law, including a state agency rule, executive order, or emergency order.

(c)  This section prevails to the extent of a conflict between this section and any other law.

SECTION 2.14.  Section 161.0074(c), Health and Safety Code, is amended to read as follows:

(c)  The report must:

(1)  include the current immunization rates by geographic region of the state, where available;

(2)  focus on the geographic regions of the state with immunization rates below the state average for preschool children;

(3)  describe the approaches identified to increase immunization rates in underserved areas and the estimated cost for each;

(4)  identify changes to department procedures needed to increase immunization rates;

(5)  identify the services provided under and provisions of contracts entered into by the department to increase immunization rates in underserved areas;

(6)  identify performance measures used in contracts described by Subdivision (5);

(7)  include the number and type of exemptions used in the past year;

(8)  include the number of complaints received by the department related to the department's failure to comply with requests for exclusion of individuals from the registry;

(9)  identify all reported incidents of discrimination for requesting exclusion from the registry [~~or for using an exemption for a required immunization~~]; and

(10)  include ways to increase provider participation in the registry.

SECTION 2.15.  Section 161.0105(c), Health and Safety Code, is amended to read as follows:

(c)  The immunity created by this section is in addition to any immunity created by Section [~~Sections 161.001 and~~] 161.007(i).

SECTION 2.16.  Section 224.002, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b)  The policy must:

(1)  encourage [~~require~~] covered individuals to receive vaccines for the vaccine preventable diseases specified by the facility based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;

(2)  specify the recommended vaccines a covered individual is encouraged [~~required~~] to receive based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;

(3)  [~~include procedures for verifying whether a covered individual has complied with the policy;~~

[~~(4) include procedures for a covered individual to be exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention;~~

[~~(5)~~] for a covered individual who declines to receive [~~is exempt from~~] the recommended [~~required~~] vaccines, include procedures the individual must follow to protect facility patients from exposure to disease, such as the use of protective medical equipment, such as gloves and masks, based on the level of risk the individual presents to patients by the individual's routine and direct exposure to patients;

(4) [~~(6)~~]  prohibit discrimination or retaliatory action against a covered individual who declines to receive [~~is exempt from~~] the recommended [~~required~~] vaccines [~~for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention~~], except that required use of protective medical equipment, such as gloves and masks, may not be considered retaliatory action for purposes of this subdivision; and

(5) [~~(7)~~]  require the health care facility to maintain a written or electronic record of each covered individual's immunization history [~~compliance with or exemption from the policy; and~~

[~~(8) include disciplinary actions the health care facility is authorized to take against a covered individual who fails to comply with the policy~~].

(b-1)  A health care facility shall maintain as confidential an immunization history described by Subsection (b)(5) and may not disclose the history to any other person unless the disclosure is otherwise required by law.

SECTION 2.17.  Section 31.0031(d), Human Resources Code, is amended to read as follows:

(d)  The responsibility agreement shall require that:

(1)  the parent of a dependent child cooperate with the commission and the Title IV-D agency if necessary to establish the paternity of the dependent child and to establish or enforce child support;

(2)  if adequate and accessible providers of the services are available in the geographic area and subject to the availability of funds, each dependent child, as appropriate, complete early and periodic screening, diagnosis, and treatment checkups on schedule [~~and receive the immunization series prescribed by Section 161.004, Health and Safety Code, unless the child is exempt under that section~~];

(3)  each adult recipient, or teen parent recipient who has completed the requirements regarding school attendance in Subdivision (6), not voluntarily terminate paid employment of at least 30 hours each week without good cause in accordance with rules adopted by the executive commissioner;

(4)  each adult recipient for whom a needs assessment is conducted participate in an activity to enable that person to become self-sufficient by:

(A)  continuing the person's education or becoming literate;

(B)  entering a job placement or employment skills training program;

(C)  serving as a volunteer in the person's community; or

(D)  serving in a community work program or other work program approved by the commission;

(5)  each caretaker relative or parent receiving assistance not use, sell, or possess marihuana or a controlled substance in violation of Chapter 481, Health and Safety Code, or abuse alcohol;

(6)  each dependent child younger than 18 years of age or teen parent younger than 19 years of age attend school regularly, unless the child has a high school diploma or high school equivalency certificate or is specifically exempted from school attendance under Section 25.086, Education Code;

(7)  each recipient comply with commission rules regarding proof of school attendance; and

(8)  each recipient attend appropriate parenting skills training classes, as determined by the needs assessment.

SECTION 2.18.  Sections 42.043(b) and (d), Human Resources Code, are amended to read as follows:

(b)  The department shall require that each child at an appropriate age have a test for tuberculosis [~~and be immunized against diphtheria, tetanus, poliomyelitis, mumps, rubella, rubeola, invasive pneumococcal disease, and hepatitis A and against any other communicable disease as recommended by the Department of State Health Services. The immunization must be effective on the date of first entry into the facility. However, a child may be provisionally admitted if the required immunizations have begun and are completed as rapidly as medically feasible~~].

(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) an affidavit signed by the child's parent or guardian stating that the applicant declines immunization for reasons of conscience, including a religious belief~~].

SECTION 2.19.  Section 42.04305, Human Resources Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c)  The policy must:

(1)  encourage [~~require~~] each facility employee to receive vaccines for the vaccine-preventable diseases specified by the child-care facility based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;

(2)  specify the recommended vaccines a facility employee is encouraged [~~required~~] to receive based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;

(3)  [~~include procedures for verifying whether a facility employee has complied with the policy;~~

[~~(4) include procedures for a facility employee to be exempt from the required vaccines for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention;~~

[~~(5)~~] for a facility employee who declines to receive [~~is exempt from~~] the recommended [~~required~~] vaccines, include procedures the employee must follow to protect children in the facility's care from exposure to disease, such as the use of protective medical equipment, including gloves and masks, based on the level of risk the employee presents to children by the employee's routine and direct exposure to children;

(4) [~~(6)~~]  prohibit discrimination or retaliatory action against a facility employee who declines to receive [~~is exempt from~~] the recommended [~~required~~] vaccines [~~for the medical conditions identified as contraindications or precautions by the Centers for Disease Control and Prevention~~], except that required use of protective medical equipment, including gloves and masks, may not be considered retaliatory action for purposes of this subdivision; and

(5) [~~(7)~~]  require the child-care facility to maintain a written or electronic record of each facility employee's immunization history [~~compliance with or exemption from the policy; and~~

[~~(8) state the disciplinary actions the child-care facility is authorized to take against a facility employee who fails to comply with the policy~~].

(c-1)  A facility shall maintain as confidential an immunization history described by Subsection (c)(5) and may not disclose the history to any other person unless the disclosure is otherwise required by law.

SECTION 2.20.  The following provisions are repealed:

(1)  Sections 38.001(a), (c), (c-1), (d), (e), and (f), Education Code;

(2)  Section 38.001(b), Education Code, as amended by Chapters 43 (H.B. 1098) and 94 (H.B. 1059), Acts of the 80th Legislature, Regular Session, 2007;

(3)  Section 38.019(a-1), Education Code;

(4)  Section 51.9192, Education Code;

(5)  Sections 51.933(b), (b-1), (d), (d-1), and (e), Education Code;

(6)  Section 531.0335(c), Government Code;

(7)  Section 81.023, Health and Safety Code;

(8)  Section 161.001, Health and Safety Code;

(9)  Section 161.004, Health and Safety Code;

(10)  Section 161.0041, Health and Safety Code;

(11)  Section 161.005, Health and Safety Code;

(12)  Section 161.007(h), Health and Safety Code;

(13)  Section 224.002(c), Health and Safety Code;

(14)  Section 224.003, Health and Safety Code;

(15)  Sections 31.031(d) and (e), Human Resources Code;

(16)  Sections 42.043(c), (d-1), and (f), Human Resources Code; and

(17)  Section 42.04305(d), Human Resources Code.

ARTICLE 3. TRANSITION AND EFFECTIVE DATE

SECTION 3.01.  Each facility subject to Chapter 224, Health and Safety Code, as amended by this Act, or Section 42.04305, Human Resources Code, as amended by this Act, shall modify the facility's vaccine-preventable disease policy to conform with the changes in law made by this Act not later than January 1, 2024.

SECTION 3.02.  (a) Subchapter O, Chapter 544, Insurance Code, as added by this Act, applies only to a health benefit plan or insurance policy delivered, issued for delivery, or renewed on or after January 1, 2024.

(b)  Section 544.705, Insurance Code, as added by this Act, applies only to a contract entered into on or after the effective date of this Act.

SECTION 3.03.  (a) The changes in law made by this Act to Title 2, Education Code, apply starting with the 2023-2024 school year.

(b)  The changes in law made by this Act to Title 3, Education Code, apply starting with the 2023-2024 academic year.

SECTION 3.04.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.