

By: Hall

S.B. No. 308

A BILL TO BE ENTITLED

AN ACT

1
2 relating to prohibited vaccination status discrimination and
3 requirements for COVID-19 vaccines; authorizing administrative
4 penalties.

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

6 ARTICLE 1. PROHIBITED COVID-19 VACCINATION STATUS DISCRIMINATION

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

9 CHAPTER 122. PROHIBITED DISCRIMINATION BASED ON COVID-19

10 VACCINATION STATUS

11 Sec. 122.001. DEFINITIONS. In this chapter:

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

14 (2) "Public accommodation" means a disposition,
15 service, financial aid, or benefit provided to members of the
16 public.

17 Sec. 122.002. DISCRIMINATION PROHIBITED. A person may not
18 discriminate against or refuse to provide a public accommodation to
19 an individual based on the individual's COVID-19 vaccination status
20 by:

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

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

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

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

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

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

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

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

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

6 Sec. 161.0057. LONG-TERM CARE FACILITY: PROHIBITED
7 DISCRIMINATION BASED ON COVID-19 VACCINATION STATUS. (a) In this
8 section:

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

11 (2) "Long-term care facility" means a facility
12 licensed or regulated under Chapter 242, 247, or 252.

13 (b) A long-term care facility may not refuse to provide
14 services to a resident based on the resident's COVID-19 vaccination
15 status.

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

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

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

25 Sec. 161.0086. PROHIBITED DISCRIMINATION BASED ON COVID-19
26 VACCINATION STATUS. (a) In this section, "COVID-19" means the 2019
27 novel coronavirus disease.

1 (b) A health care provider or health care facility may not
2 refuse to provide a health care service to a patient because the
3 patient has not received a COVID-19 vaccine.

4 (c) A health care facility providing clinical experience to
5 satisfy a student's degree requirements may not discriminate
6 against a student or prohibit admission, enrollment, or employment
7 as a student, intern, or resident based on the student's COVID-19
8 vaccination status.

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

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

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

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

20 SUBCHAPTER O. COVID-19 VACCINATION STATUS

21 Sec. 544.701. DEFINITIONS. In this subchapter:

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

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

27 (3) "Participating provider" means a health care

1 provider who has contracted with a health benefit plan issuer to
2 provide services to enrollees.

3 Sec. 544.702. APPLICABILITY OF SUBCHAPTER. (a) This
4 subchapter applies only to a health benefit plan that provides
5 benefits for medical or surgical expenses incurred as a result of a
6 health condition, accident, or sickness, including a group,
7 blanket, or franchise insurance policy or insurance agreement, a
8 group hospital service contract, or a group evidence of coverage or
9 similar coverage document that is offered by:

- 10 (1) an insurance company;
- 11 (2) a group hospital service corporation operating
12 under Chapter 842;
- 13 (3) a health maintenance organization operating under
14 Chapter 843;
- 15 (4) an approved nonprofit health corporation that
16 holds a certificate of authority under Chapter 844;
- 17 (5) a multiple employer welfare arrangement that holds
18 a certificate of authority under Chapter 846;
- 19 (6) a stipulated premium company operating under
20 Chapter 884;
- 21 (7) a fraternal benefit society operating under
22 Chapter 885;
- 23 (8) a Lloyd's plan operating under Chapter 941; or
24 (9) an exchange operating under Chapter 942.

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

- 27 (1) a small employer health benefit plan subject to

1 Chapter 1501, including coverage provided through a health group
2 cooperative under Subchapter B of that chapter;

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

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

6 (4) a basic plan under Chapter 1575;

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

8 (6) a plan providing basic coverage under Chapter
9 1601;

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

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

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

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

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

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

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

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

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

1 state; or

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

3 Sec. 544.703. PROHIBITED DISCRIMINATION AGAINST
4 INDIVIDUAL. A group health benefit plan issuer or a life insurance
5 company may not use an individual's COVID-19 vaccination status to:

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

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

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

13 Sec. 544.704. PROHIBITED DISCRIMINATION IN GROUP PLAN
14 RATING. The COVID-19 vaccination status of individuals covered
15 under a group health benefit plan that provides coverage in this
16 state may not be used as a factor in the rating of the plan.

17 Sec. 544.705. PROHIBITED DISCRIMINATION AGAINST
18 PARTICIPATING PROVIDER. (a) A health benefit plan issuer may not
19 use the COVID-19 vaccination status of a health care provider's
20 patients as a qualification or requirement for contracting with the
21 provider or as a basis for terminating a contract with the provider.

22 (b) A health benefit plan issuer may not use the COVID-19
23 vaccination status of enrollees as a factor in providing a
24 financial incentive or assessing a financial or other penalty
25 against a participating provider.

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

1 other law.

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

4 SUBCHAPTER H-1. VACCINATION STATUS DISCRIMINATION

5 Sec. 21.421. PROHIBITED DISCRIMINATION BASED ON COVID-19
6 VACCINATION STATUS. (a) In this subchapter, "COVID-19" means the
7 2019 novel coronavirus disease.

8 (b) An employer commits an unlawful employment practice if
9 the employer fails or refuses to hire, discharges, or otherwise
10 discriminates against an individual with respect to the
11 compensation or the terms, conditions, or privileges of employment
12 because the individual has not received a COVID-19 vaccine.

13 (c) A labor organization commits an unlawful employment
14 practice if the labor organization excludes or expels from
15 membership or otherwise discriminates against an individual
16 because the individual has not received a COVID-19 vaccine.

17 (d) An employment agency commits an unlawful employment
18 practice if the employment agency classifies or refers for
19 employment, fails or refuses to refer for employment, or otherwise
20 discriminates against an individual because the individual has not
21 received a COVID-19 vaccine.

22 (e) An employer, labor organization, or employment agency
23 commits an unlawful employment practice if the employer, labor
24 organization, or employment agency limits, segregates, or
25 classifies an employee, member, or applicant for employment or
26 membership in a way that would deprive or tend to deprive the
27 employee, member, or applicant of employment opportunities or

1 otherwise adversely affect the status of the employee, member, or
2 applicant because the employee, member, or applicant has not
3 received a COVID-19 vaccine.

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

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

9 CHAPTER 60. VACCINATION STATUS DISCRIMINATION

10 Sec. 60.001. PROHIBITED DISCRIMINATION BASED ON COVID-19
11 VACCINATION STATUS. (a) In this chapter, "COVID-19" means the 2019
12 novel coronavirus disease.

13 (b) A licensing authority may not deny an application for an
14 occupational license, suspend, revoke, or refuse to renew an
15 occupational license, or take any other disciplinary action against
16 an individual based on:

- 17 (1) the individual's COVID-19 vaccination status; or
18 (2) the individual's refusal to receive a COVID-19
19 vaccine.

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

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

24 CHAPTER 103A. RIGHT TO OBJECT TO COVID-19 VACCINATIONS

25 Sec. 103A.001. DEFINITION. In this chapter, "COVID-19"
26 means the 2019 novel coronavirus disease.

27 Sec. 103A.002. RIGHT TO OBJECT. A hospital or other health

1 care facility may not require as a condition of employment that an
2 employee, including a physician, nurse, or staff member, receive a
3 COVID-19 vaccine.

4 Sec. 103A.003. DISCRIMINATION PROHIBITED. (a) A hospital
5 or other health care facility may not discriminate against an
6 employee, including a physician, nurse, or staff member, or an
7 applicant who refuses to receive a COVID-19 vaccine.

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

11 (1) the applicant's vaccination status with respect to
12 a COVID-19 vaccine; or

13 (2) the applicant's refusal to receive a COVID-19
14 vaccine.

15 Sec. 103A.004. REMEDIES. A person aggrieved by a violation
16 of this chapter may bring an action against a hospital, other health
17 care facility, or educational institution that administers a
18 hospital or other health care facility in a district court in the
19 county where the hospital, facility, or institution is located for:

20 (1) an injunction against any further violation;

21 (2) appropriate equitable relief, including:

22 (A) admission or reinstatement of employment;

23 and

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

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

1 Sec. 103A.005. EFFECT ON OTHER LAW. This chapter prevails
2 to the extent of a conflict between this chapter and any other law.

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

5 Sec. 521.015. PROHIBITED DISCRIMINATION BASED ON COVID-19
6 VACCINATION STATUS. (a) In this section, "COVID-19" means the 2019
7 novel coronavirus disease.

8 (b) The department may not use an individual's COVID-19
9 vaccination status as a requirement for the issuance or renewal of a
10 driver's license, election identification certificate, or personal
11 identification certificate.

12 (c) The department may not discriminate against, deny
13 services or access to, or otherwise penalize any individual for not
14 receiving a COVID-19 vaccine or not providing proof of receiving a
15 COVID-19 vaccine.

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

18 ARTICLE 2. PROHIBITED COVID-19 VACCINATION REQUIREMENTS

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

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

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

3 (b-2) A student may not be required, as a condition of the
4 student's admission to any elementary or secondary school, to
5 receive a vaccine for the 2019 novel coronavirus disease
6 (COVID-19).

7 SECTION 2.03. Section 51.933, Education Code, is amended by
8 amending Subsection (b) and adding Subsection (b-2) to read as
9 follows:

10 (b) Except as provided by Subsection (b-2), the ~~[The]~~
11 executive commissioner of the Health and Human Services Commission
12 may require immunizations against the diseases listed in Subsection
13 (a) and additional diseases for students at any institution of
14 higher education who are pursuing a course of study in a human or
15 animal health profession, and the executive commissioner may
16 require those immunizations for any students in times of an
17 emergency or epidemic in a county where the commissioner of state
18 health services has declared such an emergency or epidemic.

19 (b-2) An applicant for admission may not be required to
20 receive a vaccine for the 2019 novel coronavirus disease
21 (COVID-19).

22 SECTION 2.04. Section 81.023, Health and Safety Code, is
23 amended by adding Subsection (d) to read as follows:

24 (d) The department, in developing immunization requirements
25 under this section, may not require a child to receive a vaccine for
26 the 2019 novel coronavirus disease (COVID-19).

27 SECTION 2.05. Section 81.082, Health and Safety Code, is

1 amended by adding Subsection (c-2) to read as follows:

2 (c-2) In administering a control measure under this
3 subchapter, the department or a health authority may not require an
4 individual to receive a vaccine for the 2019 novel coronavirus
5 disease (COVID-19).

6 SECTION 2.06. Section 161.004(f), Health and Safety Code,
7 is amended to read as follows:

8 (f) The executive commissioner shall adopt rules that are
9 necessary to administer this section. In adopting the rules, the
10 executive commissioner may not require a child to receive a vaccine
11 for the 2019 novel coronavirus disease (COVID-19).

12 SECTION 2.07. Section 161.005, Health and Safety Code, is
13 amended by adding Subsection (e) to read as follows:

14 (e) The department, the executive commissioner, a facility,
15 or a physician may not require a child to receive a vaccine for the
16 2019 novel coronavirus disease (COVID-19).

17 SECTION 2.08. Section 224.002, Health and Safety Code, is
18 amended by adding Subsection (b-1) to read as follows:

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

22 SECTION 2.09. Section 42.043, Human Resources Code, is
23 amended by adding Subsection (c-1) to read as follows:

24 (c-1) Notwithstanding Subsections (b) and (c), a child may
25 not be required to receive a vaccine for the 2019 novel coronavirus
26 disease (COVID-19).

27 SECTION 2.10. Section 42.04305, Human Resources Code, is

1 amended by adding Subsection (c-1) to read as follows:

2 (c-1) The policy may not require a facility employee to
3 receive a vaccine for the 2019 novel coronavirus disease
4 (COVID-19).

5 ARTICLE 3. TRANSITION AND EFFECTIVE DATE

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

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

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

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

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

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