| **House Bill 44**  Senate Amendments  Section-by-Section Analysis | | |
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| HOUSE VERSION | SENATE VERSION (IE) | CONFERENCE |
| 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.  (b) The commission:  (1) may not provide Medicaid or child health plan program reimbursement to a provider who violates this section; and  (2) shall disenroll the provider from participation as a Medicaid or child health plan program provider.  (b-1) Subsection (b) applies only to an individual physician who violates this section. The commission may not refuse to reimburse or disenroll 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) The executive commissioner may adopt rules as necessary to implement this section. | 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 infections or communicable disease to receive health care services from the provider; and  (2) provides an exemption to the policy described by Subdivision (1) under which the provider accepts from a patient who is a Medicaid recipient or child health plan program enrollee an oral or written request for an exemption from each required vaccination or immunization based on:  (A) a reason of conscience, including a sincerely held religious belief, observance, or practice, that is incompatible with the administration of the vaccination or immunization; or  (B) a recognized medical condition for which the vaccinations or immunization is contraindicated. [FA2(1)]  (b) The commission may not provide any reimbursement under Medicaid or the child health plan program, as applicable, to a provider who violates this section unless and until the commission finds that the provider is in compliance with this section.  (c) Subsection (b) applies only with respect to an individual physician. The commission may not refuse to provide reimbursement to a provider who did not violate this section based on that provider's membership in a provider group or medical organization with an individual physician who violated this section.  (d) This section does not apply to a provider who is a specialist in:  (1) oncology; or  (2) organ transplant services.  (e) The executive commissioner shall adopt rules necessary to implement this section, including rules establishing the right of a provider who is alleged to have violated this section to seek administrative and judicial review of the alleged violation. [FA2(2)] |  |
| SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted. | SECTION 2. Same as House version. |  |
| SECTION 3. This Act takes effect September 1, 2023. | SECTION 3. Same as House version. |  |