

SUBJECT: Prohibiting certain providers from refusing services based on vaccinations

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — Klick, Campos, Jetton, Oliverson, Price, Smith, Tinderholt

3 nays — A. Johnson, J. Jones, V. Jones

1 absent — Collier

WITNESSES: For — Judy Powell, Parent Guidance Center; Jackie Schlegel, Texans for Medical Freedom; Michelle Evans, Rebecca Hardt, Texans for Vaccine Choice; Tom Glass, Texas Constitutional Enforcement; Sheila Hemphill, Texas Right To Know; Sarah Bailey; Frank Gomez; Richard McKenzie; Gregory Porter (*Registered, but did not testify*: Kim Roland, Texas Constitutional Enforcement; Lucy Trainor)

Against — Cesar Lopez, Texas Hospital Association; Jason Terk, TMA TPS TAFP TPHC ACP (*Registered, but did not testify*: Alec Mendoza, Texans Care for Children; Tom Banning, Texas Academy of Family Physicians; David Reynolds, Texas Chapter American College of Physicians; Joshua Houston, Texas Impact; Jill Sutton, Texas Osteopathic Medical Association; Wendolyn Ward, The Immunization Partnersip)

DIGEST: CSHB 44 would prohibit a provider who participates in Medicaid or the Children’s Health Insurance Program (CHIP), including providers who participated in the provider network of a managed care organization, from refusing to provide health care services to Medicaid or CHIP recipients based solely on their refusal or failure to obtain a vaccine or immunization for a particular infectious or communicable disease. The Health and Human Services Commission (HHSC) could not provide Medicaid or CHIP reimbursement to a provider who violated the prohibition and would have to disenroll the provider from the programs. HHSC’s executive commissioner could adopt rules as necessary to implement the bill.

If a state agency determined that a waiver or authorization from a federal agency was necessary to implement the bill, the agency would be required to request the waiver and could delay implementation until the waiver or authorization was granted.

The bill would take effect September 1, 2023.

**SUPPORTERS
SAY:**

CSHB 44 would ensure medical access for low-income and medically fragile people. Patients have a right to refuse vaccination, and Medicaid and CHIP do not require vaccines to be eligible, so being unvaccinated should not risk people's access to care. It is often difficult to find a Medicaid or CHIP provider that will treat individuals who are unvaccinated, which could make some low-income families feel pressured to accept unwanted medical interventions or forgo health insurance. The bill would ensure respect for personal and religious beliefs and improve access to care for those who cannot get vaccinated for medical reasons. Increasing access to primary care also could prevent emergency room visits, which tend to be more expensive.

Providers could continue policies used during the COVID-19 pandemic to protect immunocompromised patients. Because the bill specifies that vaccine status cannot be the sole reason for refusing services, physicians still would have some flexibility to consider vaccination status in addition to other factors, such as practice settings.

**CRITICS
SAY:**

CSHB 44 could limit medical providers' ability to protect immunocompromised and other medically-fragile patients, especially in oncology and transplant care settings. The bill should exempt these settings, since most people receiving oncology and transplant care are immunocompromised. The physician-patient relationship is based on mutual trust, and if a patient does not trust the physician's medical advice, the physician should be able to terminate the relationship. Implementing other safeguards in a doctor's office could pose a financial burden that many providers could not afford. Limiting providers' autonomy to make decisions that ensure the safety of their patients could put people's health at risk.

Requiring HHSC to disenroll certain providers could have the unintended consequence of reducing the number of Medicaid and CHIP providers, which could limit access to care for patients. Too few providers already participate in these programs due to low reimbursement rates and administrative barriers.