STATE OF NEW YORK

9687--B

IN ASSEMBLY

March 28, 2022

Introduced by M. of A. L. ROSENTHAL, GLICK, FAHY, GALEF, GALLAGHER, SEAWRIGHT, CRUZ, SIMON, DAVILA, GONZALEZ-ROJAS, GRIFFIN, SILLITTI, DICKENS, GOTTFRIED, EPSTEIN, DINOWITZ, BENEDETTO, JACOBSON, COOK, LAVINE, ZEBROWSKI, OTIS -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law and the public health law, in relation to prohibiting disciplinary measures against health care practitioners for providing reproductive health services to patients who reside in states where such services are illegal

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new section 6531-b to read as follows:

§ 6531-b. Exceptions; reproductive health services. 1. As used in this section, the following terms shall have the following meanings:

(a) "Reproductive health services" shall include:

(i) abortion pursuant to section twenty-five hundred ninety-nine-bb of the public health law;

(ii) emergency contraception as defined in section twenty-eight hundred five-p of the public health law; and

(iii) medical, surgical, counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.

(b) "Health care practitioner" means a person who is licensed, certified, or authorized under this title and acting within their lawful scope of practice.

2. The performance, recommendation, or provision of any reproductive health services as defined in subdivision one of this section, by a health care practitioner acting within their scope of practice, for a patient who resides in a state wherein the performance, recommendation, or provision of such reproductive health services is illegal, shall not,

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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by itself, constitute professional misconduct under this title, or title two-A of article two of the public health law, or any other law, rule or regulation governing the licensure, certification, or authorization of such practitioner, nor shall any license, certification or authorization of a health care practitioner be revoked, suspended, or annulled or otherwise subject to any other penalty or discipline provided in the public health law or this title solely on the basis that such health care practitioner performed, recommended, or provided any such reproductive health services for a patient who resides in a state wherein the performance, recommendation, or provision of such reproductive health services is illegal.

3. Nothing in this section shall be construed to expand the scope of practice of any individual licensed, certified or authorized under this title, nor does this section give any such individual the authority to act outside their scope of practice, as defined in this title.

§ 2. Section 230 of the public health law is amended by adding a new subdivision 9-c to read as follows:

9-c. (a) Neither the board for professional medical conduct nor the office of professional medical conduct shall charge a licensee, acting within their scope of practice, with misconduct as defined in sections sixty-five hundred thirty and sixty-five hundred thirty-one of the education law, or cause a report made to the director of such office to be investigated beyond a preliminary review as set forth in clause (A) of subparagraph (i) of paragraph (a) of subdivision ten of this section, where such report is determined to be based solely upon the performance, recommendation, or provision of any reproductive health services as defined in section sixty-five hundred thirty-one-b of the education law for a particular patient by such licensee where such patient resides in a state wherein the performance, recommendation or provision of such reproductive health services is illegal.

(b) When a licensee, acting within their scope of practice, and in accordance with paragraph e of subdivision four of section sixty-five hundred twenty-seven of the education law, performs, recommends or provides any reproductive health services for a patient who resides in a state wherein the performance, recommendation, or provision of any such reproductive health services is illegal, such performance, recommendation, or provision of such reproductive health services for such patient, shall not, by itself, constitute professional misconduct. The licensee shall otherwise abide by all other applicable professional requirements.

§ 3. Paragraph (a) of subdivision 10 of section 230 of the public health law is amended by adding a new subparagraph (i-a) to read as follows:

(i-a) The director shall, in addition to the determination required by clause (A) of subparagraph (i) of this paragraph, determine if a report is based solely upon conduct which is otherwise permissible pursuant to section sixty-five hundred thirty-one-b of the education law and subdivision nine-c of this section, and upon a determination by the director that a report is based solely upon such permissible conduct, no further review shall be conducted and no charges shall be brought. Nothing in this section shall preclude the director from making such a determination earlier in, or subsequent to, a preliminary review.

§ 4. The education law is amended by adding a new section 6505-d to read as follows:

§ 6505-d. Evaluation of prior disciplinary history for authorization to practice. An applicant seeking licensure, certification, or authori-

zation pursuant to this title who has been subject to disciplinary action by a duly authorized professional disciplinary agency of another jurisdiction solely on the basis of having performed, recommended, or provided an abortion pursuant to section twenty-five hundred ninety-nine-bb of the public health law, shall not be denied such licensure, certification, or authorization, unless the department determines that such action would have constituted professional misconduct in this state. Provided however, that nothing in this section shall be construed as prohibiting the department from evaluating the conduct of such applicant and making a determination to be licensed, certified, or authorized to practice a profession under this title.

§ 5. This act shall take effect immediately; provided, however, that the amendments to paragraph (a) of subdivision 10 of section 230 of the public health law made by section three of this act shall not affect the expiration of such paragraph and shall be deemed expired therewith.