

STATE OF NEW YORK

9079

IN SENATE

May 9, 2022

Introduced by Sen. KAPLAN -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law and the public health law, in relation to prohibiting disciplinary measures against licensed medical professionals for providing abortion and 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:

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

3 § 6531-b. Exceptions; authorized abortion and reproductive health
4 services. 1. As used in this section, the following terms shall have the
5 following meanings:

6 (a) "Abortion" means the termination of a pregnancy for purposes other
7 than producing a live birth, including but not limited to surgical
8 procedures performed by a licensed medical professional in accordance
9 with section twenty-five hundred ninety-nine-bb of the public health
10 law, termination using pharmacological agents administered by a licensed
11 medical professional or provided by a licensed medical professional to a
12 patient for self-administration, and termination using any other such
13 procedures or treatments as are consistent with professional standards
14 of practice and the laws of New York state.

15 (b) "Authorized reproductive health services" includes but is not
16 limited to:

17 (i) abortion as defined in paragraph (a) of this subdivision;

18 (ii) emergency contraception as defined in paragraph (c) of this
19 subdivision; and

20 (iii) medical, surgical, counseling or referral services relating to
21 the human reproductive system, including services relating to pregnancy
22 or the termination of a pregnancy provided by a health care professional
23 consistent with and subject to applicable laws of New York state and
24 applicable and authorized regulations governing health care procedures
25 in New York state.

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

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1 (c) "Emergency contraception" means one or more prescription drugs
2 used separately or in combination, to prevent pregnancy, when adminis-
3 tered to or self-administered by a patient, within a medically recom-
4 mended amount of time after sexual intercourse, and dispensed for that
5 purpose in accordance with professional standards of practice and deter-
6 mined by the United States food and drug administration to be safe.

7 (d) "Licensed medical professional" means a person who is licensed,
8 certified, or authorized under articles one hundred thirty-one, one
9 hundred thirty-one-A, one hundred thirty-one-B, one hundred thirty-nine
10 and one hundred forty of this title to provide medical services, includ-
11 ing authorized reproductive health services as defined in paragraph (b)
12 of this subdivision.

13 2. Notwithstanding any contrary provision of law, the performance,
14 recommendation, or provision of an abortion or any other such authorized
15 reproductive health services as defined in subdivision one of this
16 section, by a licensed medical professional for a patient who resides in
17 a state wherein the performance, recommendation, or provision of such
18 abortion or any other such authorized reproductive health services is
19 illegal, shall not, by itself, constitute professional misconduct under
20 this title, or title two-A of article two of the public health law, or
21 any other law, rule or regulation governing licensure of medical profes-
22 sionals, nor shall any license, certification, registration or authori-
23 zation of a licensed medical professional be revoked, suspended, or
24 annulled or otherwise subject to any other penalty or discipline
25 provided in the public health law or this title solely on the basis that
26 such licensee performed, recommended, or provided an abortion or any
27 other authorized reproductive health services for a patient who resides
28 in a state wherein the performance, recommendation, or provision of such
29 abortion or other authorized reproductive health services is illegal.

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

32 9-c. (a) Neither the board for professional medical conduct nor the
33 office of professional medical conduct shall charge a licensee with
34 misconduct as defined in sections sixty-five hundred thirty and sixty-
35 five hundred thirty-one of the education law, or cause a report made to
36 the director of such office to be investigated beyond a preliminary
37 review as set forth in clause (A) of subparagraph (i) of paragraph (a)
38 of subdivision ten of this section, where such report is determined to
39 be based solely upon the performance, recommendation, or provision of an
40 abortion or any other such authorized reproductive health services as
41 defined in section sixty-five hundred thirty-one-b of the education law
42 for a particular patient by such licensee where such patient resides in
43 a state wherein the performance, recommendation or provision of such
44 abortion or other authorized reproductive health services is illegal.

45 (b) When a licensee, acting in accordance with paragraph e of subdivi-
46 sion four of section sixty-five hundred twenty-seven of the education
47 law, performs, recommends or provides an abortion or any other author-
48 ized reproductive health services for a patient who resides in a state
49 wherein the performance, recommendation, or provision of such an
50 abortion or any other such authorized reproductive health services is
51 illegal, such performance, recommendation, or provision of such abortion
52 or any other such authorized reproductive health services for such
53 patient, shall not, by itself, constitute professional misconduct. The
54 licensee shall otherwise abide by all other applicable professional
55 requirements.

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

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

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