

# 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.

LBD15106-01-2

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.