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:

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

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

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

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

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

(ii) emergency contraception as defined in paragraph (c) of this subdivision; 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 provided by a health care professional consistent with and subject to applicable laws of New York state and applicable and authorized regulations governing health care procedures in New York state.

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

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(c) "Emergency contraception" means one or more prescription drugs used separately or in combination, to prevent pregnancy, when administered to or self-administered by a patient, within a medically recommended amount of time after sexual intercourse, and dispensed for that purpose in accordance with professional standards of practice and determined by the United States food and drug administration to be safe.

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

2. Notwithstanding any contrary provision of law, the performance, recommendation, or provision of an abortion or any other such authorized reproductive health services as defined in subdivision one of this section, by a licensed medical professional for a patient who resides in a state wherein the performance, recommendation, or provision of such abortion or any other such authorized reproductive health services is illegal, shall not, 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 licensure of medical professionals, nor shall any license, certification, registration or authorization of a licensed medical professional 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 licensee performed, recommended, or provided an abortion or any other authorized reproductive health services for a patient who resides in a state wherein the performance, recommendation, or provision of such abortion or other authorized reproductive health services is illegal.

§ 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 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 an abortion or any other such authorized 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 abortion or other authorized reproductive health services is illegal.

(b) When a licensee, acting in accordance with paragraph e of subdivision four of section sixty-five hundred twenty-seven of the education law, performs, recommends or provides an abortion or any other authorized reproductive health services for a patient who resides in a state wherein the performance, recommendation, or provision of such an abortion or any other such authorized reproductive health services is illegal, such performance, recommendation, or provision of such abortion or any other such authorized 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. 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.