

STATE OF NEW YORK

9079--B

IN SENATE

May 9, 2022

Introduced by Sens. KAPLAN, COONEY, JACKSON, LIU, MAY, MAYER, RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, 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:

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

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

5 (a) "Reproductive health services" shall include:

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

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

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

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

16 2. The performance, recommendation, or provision of any reproductive
17 health services as defined in subdivision one of this section, by a
18 health care practitioner acting within their scope of practice, for a
19 patient who resides in a state wherein the performance, recommendation,
20 or provision of such reproductive health services is illegal, shall not,
21 by itself, constitute professional misconduct under this title, or title
22 two-A of article two of the public health law, or any other law, rule or

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

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1 regulation governing the licensure, certification, or authorization of
2 such practitioner, nor shall any license, certification or authorization
3 of a health care practitioner be revoked, suspended, or annulled or
4 otherwise subject to any other penalty or discipline provided in the
5 public health law or this title solely on the basis that such health
6 care practitioner performed, recommended, or provided any such reproduc-
7 tive health services for a patient who resides in a state wherein the
8 performance, recommendation, or provision of such reproductive health
9 services is illegal.

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

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

16 9-c. (a) Neither the board for professional medical conduct nor the
17 office of professional medical conduct shall charge a licensee, acting
18 within their scope of practice, with misconduct as defined in sections
19 sixty-five hundred thirty and sixty-five hundred thirty-one of the
20 education law, or cause a report made to the director of such office to
21 be investigated beyond a preliminary review as set forth in clause (A)
22 of subparagraph (i) of paragraph (a) of subdivision ten of this section,
23 where such report is determined to be based solely upon the performance,
24 recommendation, or provision of any reproductive health services as
25 defined in section sixty-five hundred thirty-one-b of the education law
26 for a particular patient by such licensee where such patient resides in
27 a state wherein the performance, recommendation or provision of such
28 reproductive health services is illegal.

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

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

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

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

53 § 6505-d. Evaluation of prior disciplinary history for authorization
54 to practice. An applicant seeking licensure, certification, or authori-
55 zation pursuant to this title who has been subject to disciplinary
56 action by a duly authorized professional disciplinary agency of another

1 jurisdiction solely on the basis of having performed, recommended, or
2 provided an abortion pursuant to section twenty-five hundred ninety-
3 nine-bb of the public health law, shall not be denied such licensure,
4 certification, or authorization, unless the department determines that
5 such action would have constituted professional misconduct in this
6 state. Provided however, that nothing in this section shall be construed
7 as prohibiting the department from evaluating the conduct of such appli-
8 cant and making a determination to be licensed, certified, or authorized
9 to practice a profession under this title.

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