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## OLR Bill Analysis

### sHB 6820 (as amended by House "A")\*

#### ***AN ACT PREVENTING AN ADVERSE ACTION AGAINST A HEALTH CARE PROVIDER DUE TO AN ADVERSE ACTION TAKEN BY ANOTHER STATE AS A RESULT OF SUCH PROVIDER'S INVOLVEMENT IN THE TERMINATION OF A PREGNANCY.***

#### **SUMMARY**

This bill generally prevents health care providers from being disciplined or adversely affected by Connecticut licensing agencies, institutional employers, and professional liability insurers due to other states' disciplinary actions for certain reproductive health care services. It similarly limits when these employers or insurers can take adverse actions not involving other states' discipline based on allegations of these services. Specifically, this applies to the providing or receiving of reproductive health care services; assistance in doing so; material support for these services; or any theory of vicarious, joint, several, or conspiracy liability arising from them, that (1) are allowed under Connecticut law and (2) were provided under the applicable standard of care (hereinafter, "participation in reproductive health care services").

The bill generally prohibits the Department of Public Health (DPH), DPH professional licensing boards and commission, the Department of Consumer Protection (DCP), and Commission of Pharmacy from denying a credential or disciplining a credentialed provider due to disciplinary actions (or pending actions or complaints) in other U.S. jurisdictions solely based on the person's alleged participation in reproductive health care services. The bill creates an exception to these prohibitions if the person's underlying conduct would be subject to disciplinary action under Connecticut law had the conduct occurred in Connecticut.

Additionally, the bill generally prohibits DPH-licensed health care

institutions from revoking a provider’s credentials or privileges or taking related adverse actions (1) based solely on the provider’s alleged participation in reproductive health care services or (2) due to another U.S. jurisdiction’s disciplinary actions solely based on this alleged participation. Among other exceptions, the bill generally allows institutions to discipline a provider for conduct that violates the institution’s policies or rules and is provided within the scope of employment.

Lastly, the bill prohibits, without exception, professional liability insurers from taking adverse action against a health care provider (such as denying coverage or increasing rates) if it was based solely on (1) the provider’s alleged participation in reproductive health care services or (2) another U.S. jurisdiction’s disciplinary actions solely based on this alleged participation.

In all cases, the bill’s prohibitions apply regardless of whether the patient receiving the reproductive health care services was a Connecticut resident. Under the bill, “reproductive health care services” include all medical, surgical, counseling, or referral services related to the human reproductive system, including services related to pregnancy, contraception, and pregnancy termination, and all medical care related to gender dysphoria treatment.

\*House Amendment “A” strikes the underlying bill and replaces it with generally similar provisions. Among various other changes, the amendment (1) adds provisions on DPH licensing boards and the Commission of Pharmacy; (2) specifies the types of prohibited actions involving applicants; and (3) makes several changes to exceptions in the underlying bill, such as allowing health care institutions to take adverse actions for conduct that violates the institution’s policies and that occurred during the scope of employment.

EFFECTIVE DATE: Upon passage

## **§§ 1 & 2 — LIMITATIONS ON DPH AND DCP ACTIONS**

### ***Applicability***

The bill's DPH- and DCP-related provisions restrict what actions they can take based on pending disciplinary actions, unresolved complaints, or disciplinary actions by professional disciplinary agencies in other states; the District of Columbia; or U.S. commonwealths, territories, or possessions for the reasons noted above.

***DPH and DPH Board and Commission Actions (§ 1)***

Under the circumstances noted above, the bill generally prohibits DPH from denying an applicant's eligibility for the following:

1. a permit;
2. a license by examination, endorsement, or reciprocity; or
3. license reinstatement, whether the license was voided due to failure to renew, surrendered voluntarily, or not renewed or reinstated by agreement to resolve a disciplinary action.

Similarly, the bill generally prohibits DPH and its professional licensing boards and commissions, for the reasons noted above, from disciplining someone who is licensed, certified, or registered under their jurisdiction.

***DCP and Commission of Pharmacy Actions (§ 2)***

Under the circumstances noted above, the bill generally prohibits DCP and the Commission of Pharmacy from:

1. denying an applicant's eligibility for a license, permit, or registration under the pharmacy laws, or
2. disciplining someone who is licensed, permitted, or registered under these laws.

***Exceptions***

The bill's prohibitions on actions by DPH and its professional licensing boards or commissions, DCP, and the Commission of Pharmacy, do not apply if the person's underlying conduct would be subject to disciplinary action under Connecticut law had the conduct occurred in Connecticut.

### **§ 3 — LIMITATIONS ON HEALTH CARE INSTITUTION ACTIONS**

#### ***Applicability and Actions***

The bill generally prohibits health care institutions from revoking, suspending, or refusing to issue or renew credentials or privileges; issuing a reprimand; penalizing; or taking any other adverse action related to credentialing or privileging, (1) based solely on the provider's alleged participation in reproductive health care services or (2) based on pending disciplinary actions, unresolved complaints, or disciplinary actions by professional disciplinary agencies in other U.S. jurisdictions based solely on this alleged participation.

For the prohibition to apply, the provider must have provided these services (1) before starting to work for the institution or (2) outside the scope of his or her employment with the institution.

Under the bill, "credentialing" is the process of assessing and validating the qualifications of a health care provider applying for approval to provide treatment, care, or services in or for a health care institution. "Privileging" is the process of authorizing a provider to provide specific treatment, care, or services at an institution.

#### ***Exceptions***

The bill does not prevent health care institutions from taking any of the adverse actions described above against a provider for conduct that does not conform to the standards of care for the provider's profession or is illegal under Connecticut law.

The bill also does not prevent them from taking these actions against a provider for conduct that violates the institution's policies or rules on the scope of services it provides, if (1) the conduct occurs within the scope of the provider's employment or delivery of care at the institution and (2) enforcing the rule or policy is not otherwise prohibited by law or regulation.

### **§ 4 — LIMITATIONS ON PROFESSIONAL LIABILITY INSURER ACTIONS**

The bill prohibits professional liability insurers from taking any

adverse action against a health care provider, including denying or revoking coverage; imposing sanctions, fines, or penalties; or increasing rates. The prohibition applies to these actions based solely on:

1. the provider's alleged participation in reproductive health care services, or
2. pending disciplinary actions, unresolved complaints, or disciplinary actions by professional disciplinary agencies in other U.S. jurisdictions based solely on this alleged participation.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 36 Nay 2 (03/10/2023)