



House of Representatives

File No. 811

General Assembly

January Session, 2023

(Reprint of File No. 282)

Substitute House Bill No. 6820
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 22, 2023

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 PROVIDING REPRODUCTIVE HEALTH CARE SERVICES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section,
2 "reproductive health care services" has the same meaning as provided
3 in section 52-571m of the general statutes.

4 (b) Notwithstanding the provisions of subsection (a) of section 19a-
5 14 of the general statutes, the Department of Public Health shall not
6 deny the eligibility of an applicant for a (1) permit, (2) license by
7 examination, endorsement or reciprocity, or (3) reinstatement of a
8 license (A) voided pursuant to the provisions of subsection (f) of section
9 19a-88 of the general statutes, (B) voluntarily surrendered, or (C) by
10 agreement, not renewed or reinstated pursuant to the provisions of
11 subsection (d) of section 19a-17 of the general statutes based on pending

12 disciplinary action, an unresolved complaint or the imposition of
13 disciplinary action against the applicant by a duly authorized
14 professional disciplinary agency of another state, the District of
15 Columbia or a commonwealth, territory or possession of the United
16 States that is based solely on the alleged provision of, receipt of,
17 assistance in provision or receipt of, material support for, or any theory
18 of vicarious, joint, several or conspiracy liability derived therefrom,
19 reproductive health care services that are permitted under the laws of
20 this state and were provided in accordance with the standard of care
21 applicable to such services, regardless of whether the patient receiving
22 such services was a resident of this state. The provisions of this
23 subsection shall not apply where the underlying conduct of the
24 applicant would constitute the basis of disciplinary action against the
25 applicant under the laws of this state if the applicant had been licensed
26 or permitted in this state and the conduct had occurred in this state.

27 (c) Notwithstanding the provisions of section 19a-17 of the general
28 statutes, a board or commission established under title 20 of the general
29 statutes that has jurisdiction over persons licensed, certified or
30 registered under said title who provide reproductive health care
31 services, and the Department of Public Health, with respect to
32 professions under the department's jurisdiction that are not subject to
33 discipline by such a board or commission, shall not impose disciplinary
34 action against a licensed, certified or registered person based on
35 pending disciplinary action, an unresolved complaint or the imposition
36 of disciplinary action against such persons before or by a duly
37 authorized professional disciplinary agency of another state, the District
38 of Columbia, or a commonwealth, territory or possession of the United
39 States that is based solely on the alleged provision of, receipt of,
40 assistance in provision or receipt of, material support for, or any theory
41 of vicarious, joint, several or conspiracy liability derived therefrom,
42 reproductive health care services that are permitted under the laws of
43 this state and were provided in accordance with the standard of care
44 applicable to such services, regardless of whether the patient receiving
45 such services was a resident of this state. The provisions of this

46 subsection shall not apply where the underlying conduct of the licensed,
47 certified or registered person would constitute the basis of disciplinary
48 action against such person under the laws of this state if the conduct had
49 occurred in this state.

50 Sec. 2. (NEW) (*Effective from passage*) (a) As used in this section,
51 "reproductive health care services" has the same meaning as provided
52 in section 52-571m of the general statutes.

53 (b) Notwithstanding any provision of chapter 400j of the general
54 statutes, the Commissioner of Consumer Protection and the
55 Commission of Pharmacy shall not deny the eligibility of an applicant
56 for a license, permit or registration under chapter 400j of the general
57 statutes based on pending disciplinary action, an unresolved complaint
58 or the imposition of disciplinary action against the applicant by a duly
59 authorized professional disciplinary agency of another state, the District
60 of Columbia or a commonwealth, territory or possession of the United
61 States that is based solely on the alleged provision of, receipt of,
62 assistance in provision or receipt of, material support for, or any theory
63 of vicarious, joint, several or conspiracy liability derived therefrom,
64 reproductive health care services that are permitted under the laws of
65 this state and were provided in accordance with the standard of care
66 applicable to such services, regardless of whether the patient receiving
67 such services was a resident of this state. The provisions of this
68 subsection shall not apply where the underlying conduct of the
69 applicant would constitute the basis of disciplinary action against the
70 applicant under the laws of this state if the applicant had been licensed,
71 permitted or registered in this state and the conduct had occurred in this
72 state.

73 (c) Notwithstanding any provision of chapter 400j of the general
74 statutes, the Commissioner of Consumer Protection and the
75 Commission of Pharmacy shall not impose disciplinary action against
76 any person licensed, permitted or registered pursuant to the provisions
77 of chapter 400j of the general statutes based on pending disciplinary
78 action, an unresolved complaint or the imposition of disciplinary action

79 against the applicant by a duly authorized professional disciplinary
80 agency of another state, the District of Columbia, or a commonwealth,
81 territory or possession of the United States that is based solely on the
82 alleged provision of, receipt of, assistance in provision or receipt of,
83 material support for, or any theory of vicarious, joint, several or
84 conspiracy liability derived therefrom, reproductive health care services
85 that are permitted under the laws of this state and were provided in
86 accordance with the standard of care applicable to such services,
87 regardless of whether the patient receiving such services was a resident
88 of this state. The provisions of this subsection shall not apply where the
89 underlying conduct of the person licensed, permitted or registered
90 would constitute the basis of disciplinary action against such person
91 under the laws of this state if such person had been licensed, permitted
92 or registered in this state and the conduct had occurred in this state.

93 Sec. 3. (NEW) (*Effective from passage*) (a) As used in this section, (1)
94 "credentialing" means the process of assessing and validating the
95 qualifications of a health care provider applying to be approved to
96 provide treatment, care or services in or for an institution, (2) "health
97 care provider" means a person licensed pursuant to title 20 of the general
98 statutes who provides reproductive health care services, (3) "institution"
99 has the same meaning as provided in section 19a-490 of the general
100 statutes, (4) "privileging" means the process of authorizing a health care
101 provider to provide specific treatment, care or services at an institution,
102 and (5) "reproductive health care services" has the same meaning as
103 provided in section 52-571m of the general statutes.

104 (b) An institution shall not revoke, suspend, reprimand, penalize,
105 refuse to issue or renew credentials or privileges or take any other
106 adverse action against a health care provider with respect to
107 credentialing or privileging based solely on the alleged provision of,
108 receipt of, assistance in provision or receipt of, material support for, or
109 any theory of vicarious, joint, several or conspiracy liability derived
110 therefrom, reproductive health care services that (1) are permitted
111 under the laws of this state, (2) were provided in accordance with the
112 standard of care applicable to such services, and (3) were provided by

113 the health care provider (A) before the date on which the health care
114 provider entered an employment relationship with the institution, or (B)
115 outside the scope of the health care provider's employment with the
116 institution, regardless of whether the patient receiving such services
117 was a resident of this state.

118 (c) An institution shall not revoke, suspend, reprimand, penalize,
119 refuse to issue or renew credentials or privileges or take any other
120 adverse action against a health care provider based on pending
121 disciplinary action, an unresolved complaint or the imposition of
122 disciplinary action against the applicant by a duly authorized
123 professional disciplinary agency of another state, the District of
124 Columbia, or a commonwealth, territory or possession of the United
125 States that is based solely on the alleged provision of, receipt of,
126 assistance in provision or receipt of, material support for, or any theory
127 of vicarious, joint, several or conspiracy liability derived therefrom,
128 reproductive health care services that (1) are permitted under the laws
129 of this state, (2) were provided in accordance with the standard of care
130 applicable to such services, and (3) were provided by the health care
131 provider (A) before the date on which the health care provider entered
132 an employment relationship with the institution, or (B) outside the
133 scope of the health care provider's employment with the institution,
134 regardless of whether the patient receiving such services was a resident
135 of this state.

136 (d) The provisions of this section shall not be construed to prevent an
137 institution from taking any of the actions described in subsections (b)
138 and (c) of this section against a health care provider for conduct that (1)
139 does not conform to the standards of care for the provider's profession,
140 (2) is illegal under the laws of this state, or (3) violates policies or rules
141 of the institution that define the scope of services provided by the
142 institution if (A) such conduct occurs within the scope of the health care
143 provider's employment with, or delivery of care at, the institution, and
144 (B) the institution's enforcement of such policies or rules is not otherwise
145 prohibited by law or regulation.

146 Sec. 4. (NEW) (*Effective from passage*) (a) As used in this section, (1)
 147 "health care provider" means a person licensed pursuant to title 20 of
 148 the general statutes who provides reproductive health care services, (2)
 149 "insurer" means an insurer that insures a health care provider against
 150 professional liability, and (3) "reproductive health care services" has the
 151 same meaning as provided in section 52-571m of the general statutes.

152 (b) An insurer shall not take any adverse action, including, but not
 153 limited to, denial or revocation of coverage, sanctions, fines, penalties or
 154 rate increases against a health care provider, if such action is based
 155 solely on:

156 (1) Such health care provider's alleged provision of, receipt of,
 157 assistance in provision or receipt of, material support for, or any theory
 158 of vicarious, joint, several or conspiracy liability derived therefrom,
 159 reproductive health care services that are permitted under the laws of
 160 this state and were provided in accordance with the standard of care
 161 applicable to such services, regardless of whether the patient receiving
 162 such services was a resident of this state; or

163 (2) Pending disciplinary action, an unresolved complaint or the
 164 imposition of disciplinary action against such health care provider by a
 165 duly authorized professional disciplinary agency of another state, the
 166 District of Columbia, or a commonwealth, territory or possession of the
 167 United States that is based solely on the alleged provision of, receipt of,
 168 assistance in provision or receipt of, material support for, or any theory
 169 of vicarious, joint, several or conspiracy liability derived therefrom,
 170 reproductive health care services that are permitted under the laws of
 171 this state and were provided in accordance with the standard of care
 172 applicable to such services, regardless of whether the patient receiving
 173 such services was a resident of this state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill as amended does not result in a fiscal impact to the State or municipalities. It prevents the Departments of Public Health and Consumer Protection, the Commission of Pharmacy, health care institutions, and medical malpractice insurers from acting against a health care provider due to adverse actions taken by another state because of a provider's provision of reproductive health care services that are permitted under Connecticut law. It is not anticipated that entities would choose to take adverse actions against health care providers for the provision of reproductive health care services in another state.

House "A" struck the language of the underlying bill, replacing it with language that does not result in a fiscal impact to the State or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

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)