

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2023-2024 Regular Session

SB 487 (Atkins)
Version: March 20, 2023
Hearing Date: March 28, 2023
Fiscal: Yes
Urgency: No
AM

SUBJECT

Abortion: civil actions

DIGEST

This bill clarifies existing law to specify that the law of another state that authorizes a person to bring a civil action against a person who provides an abortion or knowingly engages in conduct that aids or abets the provision of an abortion is contrary to the public policy of the state. The bill prohibits a contract between a health care service plan or health insurer and a health care services provider from containing any term that would result in termination or nonrenewal of the contract or otherwise penalize the provider based on a judgment, conviction, or disciplinary action in another state if it is solely based on the application of another state's law that interferes with a person's right to receive care that would be lawful in California. The bill prohibits a health care service plan or health insurer from discriminating against a licensed provider solely on the basis of a judgment, conviction, or disciplinary action in another state if it is solely based on the application of another state's law that interferes with a person's right to receive care that is lawful in California. The bill prohibits the Department of Health Care Services from suspending an individual or entity as a provider in the Medi-Cal program if the revocation, suspension, or loss of the individual's or entity's license, certificate, or approval authority in another state is based solely on conduct that is not prohibited in California.

EXECUTIVE SUMMARY

Since the 1973 holding in *Roe v. Wade*, the U.S. Supreme Court has continuously held that it is a constitutional right to access abortion before fetal viability. However, on June 24, 2022 in *Dobbs v. Jackson Women's Health Organization*, the Court voted 6-3 to overturn the holding in *Roe* and found that there is no federal constitutional right to an abortion. As a result of the *Dobbs* decision, people in roughly half the country may lose access to abortion services or have them severely restricted. Though California has enacted numerous laws to protect the fundamental right to reproductive freedom, without the federal protections afforded under *Roe* there is nothing prohibiting providers of sexual

and reproductive health care from being criminalized or held liable for providing essential health care services, such as abortion, in other states. This bill seeks to address this issue by providing protections for providers from other states' laws that seek to restrict access to, or punish the provision of, health care services that are legal in California.

The bill is sponsored by the American College of Obstetricians and Gynecologists, Region IX, the California Medical Association, and Planned Parenthood Affiliates of California and supported by various organizations, including reproductive rights and privacy rights organizations and medical associations. There is no known opposition.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Provides, under the state constitution, that all people are by nature free and independent and have inalienable rights, including, among others, the right to privacy. (Cal. Const. art. I. § 1.)
- 2) Prohibits the state from denying or interfering with an individual's reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives. Specifies that this provision is intended to further the constitutional right to privacy guaranteed by Section 1 of Article I of the California Constitution, and the constitutional right to not be denied equal protection guaranteed by Section 7 of Article I of the California Constitution, and that nothing herein narrows or limits the right to privacy or equal protection. (Cal. Const., art. I, § 1.1.)
- 3) Establishes the Reproductive Privacy Act and provides that the Legislature finds and declares that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care. (Health & Saf. Code § 123460 et. seq., § 123462.)
- 4) Provides that a law of another state that authorizes a person to bring a civil action against a person or entity who does any of the following is contrary to the public policy of this state:
 - a) receives or seeks an abortion;
 - b) performs or induces an abortion;
 - c) knowingly engages in conduct that aids or abets the performance or inducement of an abortion; or
 - d) attempts or intends to engage in the conduct described in a) through c). (Health & Safe. Code § 123467.5(a).)

- 5) Prohibits the application of an out-of-state law described in 1) from being applied to a case or controversy heard in state court and prohibits the enforcement or satisfaction of a civil judgment received through an adjudication under an out-of-state law described in 1). (Health & Safe. Code § 123467.5(b).)
- 6) Prohibits a clerk of a superior court in the county in which discovery in a foreign action is sought, or an attorney licensed in this state and retained by a party in a foreign action, from issuing a subpoena for discovery in this state based on a foreign subpoena if the foreign subpoena is based on an anti-gender-affirming care action. (Code of Civ. Proc. § 2029.300(e).)
- 7) Requires the Department of Managed Health Care (DMHC) to regulate health plans under the Knox-Keene Health Care Service Plan Act of 1975 (Knox-Keene). (Health & Safe. Code § 1340, et seq.)
- 8) Requires the California Department of Insurance (CDI) to regulate health insurers. (Ins. Code § 10110 et. seq.)
- 9) Requires the Department of Health Care Services (DHCS) to administer the Medi-Cal program. (Welf. & Inst. Code § 14000, et. seq.)
 - a) Requires DHCS to automatically suspend, as a provider in the Medi-Cal program, any individual who, or any entity that, has a license, certificate, or other approval to provide health care, which is revoked or suspended by a federal, California, or another state's licensing certification or approval authority, has otherwise lost that license, certificate, or approval, or has surrendered that license, certificate, or approval while a disciplinary hearing was pending. (Welf. & Inst. Code § 14043.6.)

This bill:

- 1) Additionally clarifies that a law of another state that authorizes a person to bring a civil action against a person that provides an abortion or knowingly engages in conduct that aids or abets the provision of an abortion is contrary to the public policy of the state.
- 2) Prohibits, on and after January 1, 2024, a contract issued, amended, or renewed between a health care service plan or a health insurer and a provider of health care services from containing any term that would result in the termination or nonrenewal of the contract or otherwise penalize the provider based solely on a civil judgment, criminal conviction, or another disciplinary action in another state if that other state judgment, conviction, of disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive care that would be lawful if provided in this state.

- 3) Prohibits a health care service plan or a health insurer from discriminating, with respect to the provision of, or contracts for, professional services against a licensed provider solely on the basis of a civil judgment, criminal conviction, or another disciplinary action in another state if that other state judgment, conviction, or disciplinary action is based solely on the application of another state's law that interferes with a person's right to receive care that would be lawful if provided in this state.
- 4) Provides that the provisions in 2) and 3) above do not apply to a civil judgment, criminal conviction, or another disciplinary action in another state for which a similar claim, charge, or action would exist against the provider under the laws of this state.
- 5) Prohibits DHCS from suspending an individual or entity as a provider in the Medi-Cal program if the revocation, suspension, or loss of the individual's or entity's license, certificate, or approval authority in another state or the pending disciplinary hearing during which the individual or entity surrendered the license, certificate, or approval authority in another state is based solely on conduct that is not prohibited in California.

COMMENTS

1. Stated need for the bill

The author writes:

On June 24, 2022, the U.S. Supreme Court overturned the long-standing legal protections for abortion under *Roe v. Wade* in *Dobbs v. Jackson Women's Health Organization*. The court based its ruling on the fact that the right to abortion was not specifically in the text of the U. S. Constitution and on the assumption that the framers of the fourteenth amendment in 1868 did not regard abortion as a fundamental liberty. The court found there was no basis for a constitutional right to privacy protecting a women's right to choose. The decision did not impact the legality of abortion in California, but did remove the federal constitutional right to abortion - opening the door for states to ban and criminalize abortion services as well as the possibility of federal restrictions on abortion.

In the wake of this decision, at least 43 states have enacted laws prohibiting abortions after a specified point in pregnancy, with limited exceptions. The allowable circumstances are generally when an abortion is necessary to protect the patient's life or health. According to the Guttmacher Institute, the vague wording of exceptions place a physician or other provider at substantial legal risk – including large fines, imprisonment, or loss of a medical license – if they provide an abortion that is not deemed to meet the narrow allowable circumstances.

States are also enacting burdensome and unnecessary requirements on providers that not only further limit access, are not medically required or appropriate, but also make it more challenging for providers to act within the law of the state. For instance in Kentucky only a licensed physician may prescribe or dispense medication abortion pills and the pills may not be mailed. Consent forms for medication abortion must also include misleading counseling on the possibility of reversing an abortion. In Indiana, the law requires the pregnant person seeking an abortion to receive counseling from medical personnel explaining that being coerced into an abortion is illegal. Alabama, Mississippi, Ohio and Florida allow criminal prosecutions of abortion providers. Texas and Oklahoma enacted laws that incentivize individuals to sue providers and anyone suspected of helping a woman obtain an abortion – and awards at least \$10,000 to people who do so successfully. Providers who are successfully sued can be barred from continuing to provide abortions, as well as be subject to paying statutory damages and potentially compensatory damages.

Last session, the California Legislature passed a number of measures to reinforce meaningful protections for providers who travel to other states to provide abortion services and may become subject to attempts to enforce these restrictive laws against California -licensed providers. Many of the measures were also intended to protect providers from retaliation if they care for those who come to California due to lack of access in their home state. In assessing the successes of last session, gaps in provider protections were identified. This bill proposes to close a few of those gaps by adding protections from payers who may attempt to penalize providers who were sanctioned by another state.

2. Post-Dobbs access to reproductive healthcare is being restricted across the nation

Roe v. Wade was the landmark U.S. Supreme Court decision that held the implied constitutional right to privacy extended to a person's decision whether to terminate a pregnancy, while allowing that some state regulation of abortion access could be permissible. ((1973) 410 U.S. 113.) *Roe* has been one of the most debated U.S. Supreme Court decisions and its application and validity have been challenged numerous times, but its fundamental holding had continuously been upheld by the Court until June 2022. On June 24, 2022 the Court published its official opinion in *Dobbs* and voted 6-3 to overturn the holding in *Roe*.¹ The case involved a Mississippi law enacted in 2018 that banned most abortions after the first 15 weeks of pregnancy, which is before what is generally accepted as the period of viability. (*see* Miss. Code Ann. §41-41-191.) The majority opinion upholds the Mississippi law finding that, contrary to almost 50 years of precedent, there is no fundamental constitutional right to have an abortion. The opinion further provides that states should be allowed to decide how to regulate

¹ *Dobbs v. Jackson Women's Health* (2022) 597 U.S. _ (142 S.Ct. 2228) at p. 5, available at https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf.

abortion and that a strong presumption of validity should be afforded to those state laws.²

The *Roe* decision was the foundation for allowing people the ability to control their reproductive lives because it established a federal constitutional right for anyone who could become pregnant in the United States to decide when and if to have children and prevented the criminalization of having an abortion or providing an abortion. Prior to *Roe* legal abortion did exist in some states, but the choices available to those seeking to terminate an unwanted pregnancy were limited and disproportionately affected those who were younger, lower income, and members of communities of color.³ In the wake of the *Dobbs* decision it is very probable that abortion will be banned or severely restricted in 24 states,⁴ with 13 states already having total abortion bans in effect.⁵ Almost one-third of women and people who can become pregnant of reproductive age in the United States live in a state where abortion is not legal or is severely restricted.⁶ If all the states expected to enact a total ban on abortion actually do, the number of patients who would find that their nearest clinic is in California could increase to 1.4 million, an almost 3,000 percent increase.⁷

3. Healthcare providers are often the targets of abortion bans

Many abortion bans target providers of abortions through criminal, civil, and administrative penalties. For example, in Texas it is a felony to perform an abortion, unless it is needed to save the life of the patient, and provides for civil liability and licensure revocation. (Tex. Health & Safety Code § 171.201 et. seq.) Texas law also prohibits a physician from knowingly performing or inducing an abortion on a pregnant woman if the physician detected a fetal heartbeat for the unborn child, as specified, or failed to perform a test to detect a fetal heartbeat. (Tex. Health & Safety Code § 171.201 et seq. (enacted through Texas Senate Bill 8).) SB 8 provides that any person, other than an officer or employee of a state or local governmental entity in Texas, and regardless if they suffered any actual harm, may bring a civil action to

² *Id.* at 77.

³ Rachel Benson Gold, *Lessons from Before Roe: Will Past be Prologue*, Guttmacher Institute (Mar. 1, 2003), available at <https://www.guttmacher.org/gpr/2003/03/lessons-roe-will-past-be-prologue>.

⁴ Elizabeth Nash and Isabel Guarnieri, *Six Months Post-Roe, 24 US States Have Banned Abortion or Are Likely to Do So: A Roundup*, Guttmacher Institute (Jan. 10, 2023), available at <https://www.guttmacher.org/2023/01/six-months-post-roe-24-us-states-have-banned-abortion-or-are-likely-to-do-so-roundup>.

⁵ Sharon Bernstein, *Factbox: US. abortion restrictions mount after overturn of Roe v. Wade*, Reuters, (Oct. 4, 2022), available at <https://www.reuters.com/business/healthcare-pharmaceuticals/us-abortion-restrictions-mount-after-overturn-roe-v-wade-2022-10-04/#:~:text=ACTIVE%20BANS,an%20abortion%20rights%20research%20group>.

⁶ Katie Shepherd, Rachel Roubein, and Caroline Kitchner, *1 in 3 American women have already lost abortion access. More restrictive laws are coming*, The Washington Post, (Aug. 22, 2022).

⁷ April Dembosky, *As states ban abortion, Californians open their arms and wallets*, NPR (June 27, 2022), available at <https://www.npr.org/sections/health-shots/2022/06/27/1103479722/as-states-ban-abortion-californians-open-their-arms-and-wallets>.

enforce its provisions, which includes liability of \$10,000 plus costs and fees if a plaintiff prevails while a defendant is prohibited from recovering their own costs and fees if they prevail. (*Id.* at § 171.201(b) & (i).) Idaho enacted a similar law via Idaho Senate Bill 1309, which provides for liability of \$20,000 plus costs and fees if a plaintiff prevails (Idaho Code § 18-8701 et. seq.) Oklahoma also enacted a similar law to Texas and enacted criminal penalties for the performance of an abortion, except when performed to save the life of a pregnant person, with punishment of up to 10 years in prison or fines of up to \$100,000.⁸ Similar legislation to SB 8 has also been introduced in Arizona, Florida, Minnesota, and Wisconsin.⁹ In six states with abortion bans – Arkansas, Georgia, Idaho, Missouri, North Dakota, and Tennessee – prosecutors can criminally prosecute health care professionals for performing abortions and providers are only allowed to offer evidence that the procedure was necessary to save the patient until after they are charged.¹⁰ These laws put providers in extremely difficult positions where they have to make legal and ethical judgments about treating a patient whose health or life may be in jeopardy while facing the very real potential of being held criminally or civilly liable or having their medical license threatened.

4. California is a Reproductive Freedom State

The California Supreme Court held in 1969 that the state constitution's implied right to privacy extends to an individual's decision about whether or not to have an abortion. (*People v. Belous* (1969) 71 Cal.2d 954.) This was the first time an individual's right to abortion was upheld in a court and came before the *Roe* decision. In 1972 the California voters passed a constitutional amendment that explicitly provided for the right to privacy in the state constitution. (Prop. 11, Nov. 7, 1972 gen. elec.) California statutory law provides, under the Reproductive Privacy Act, that the Legislature finds and declares every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy; therefore, it is the public policy of the State of California that every individual has the fundamental right to choose or refuse birth control, and every individual has the fundamental right to choose to bear a child or to choose to obtain an abortion. (Health & Saf. Code § 123462.) In 2019, Governor Newsom issued a proclamation reaffirming California's commitment to making

⁸ Dana Branham and Chris Casteel, *Another anti-abortion law goes into effect in Oklahoma. Here's what's changing*, *The Oklahoman* (Aug, 26, 2022), available at <https://www.oklahoman.com/story/news/2022/08/26/oklahoma-senate-bill-612-another-anti-abortion-law-goes-into-effect/65419612007/>.

⁹ Alison Durkee, *Idaho Enacts Law Copying Texas' Abortion Ban – And These States Might Be Next*, *Forbes* (Mar. 23, 2022) available at <https://www.forbes.com/sites/alisdurkee/2022/03/23/idaho-enacts-law-copying-texas-abortion-ban---and-these-states-might-be-next/?sh=340dc49425c0>

¹⁰ Christine Vestal, *Some Abortion Bans Put Patients, Doctors at Risk in Emergencies*, *Pew Trusts* (Sept. 1, 2022), available at <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2022/09/01/some-abortion-bans-put-patients-doctors-at-risk-in-emergencies>.

reproductive freedom a fundamental right in response to the numerous attacks on reproductive rights across the nation.¹¹

In September 2021, more than 40 organizations came together to form the California Future Abortion Council (CA FAB) to identify barriers to accessing abortion services and to recommend policy proposals to support equitable and affordable access for not only Californians, but all who seek care in this state. CA FAB issued its first report in December 2021, which included 45 policy recommendations to protect, strengthen, and expand abortion access in California.¹² In response to the *Dobbs* decision and CA FAB's report, California enacted a comprehensive package of legislation that protects the rights of patients seeking abortion in the state and those supporting them.¹³ Additionally, the voters overwhelmingly approved Proposition 1 (Nov. 8, 2022 gen. elec.), and enacted an express constitutional right in the state constitution that prohibits the state from interfering with an individual's reproductive freedom in their most intimate decisions.

Though California has enacted numerous laws to protect the fundamental right to reproductive freedom, without federal protections there is nothing prohibiting providers of sexual and reproductive health care from being criminalized for providing abortion in other states. In December 2022, CA FAB issued an addendum to its original report and identified additional policy recommendations, including protecting abortion providers "against adverse actions related to their participation in public benefit programs, health plan and insurance contracts, and credentialing due to enforcement of another state's hostile abortion law."¹⁴

5. Out of state bans on gender-affirming care and California policies to protect patients receiving such care

As California and other states have implemented policies to ensure that transgender individuals are not discriminated against and can obtain gender-affirming care, other states have targeted transgender individuals and providers of gender affirming care. According to Human Rights Watch, as of March 2022, legislatures nationwide had introduced over 300 anti-LGBTQ+ bills, over 130 of which specifically targeted transgender people.¹⁵ Many states have been enacting statutes that potentially impose

¹¹ California Proclamation on Reproductive Freedom (May 31, 2019) available at <https://www.gov.ca.gov/wp-content/uploads/2019/05/Proclamation-on-Reproductive-Freedom.pdf>.

¹² *Recommendations to Protect, Strengthen, and Expand Abortion Care in California*, California Future of Abortion Council (Dec. 2021), available at https://www.cafabcouncil.org/files/ugd/ddc900_0beac0c75cb54445a230168863566b55.pdf.

¹³ Kristen Hwang, *Newsom signs abortion protections into law*, CalMatters (Sept. 27, 2022), available at <https://calmatters.org/health/2022/09/california-abortion-bills/>.

¹⁴ *December 2022 Addendum*, California Future of Abortion Council (Dec. 2022), available at https://www.cafabcouncil.org/files/ugd/ddc900_cb34dfb0c1154013a43642b9a95adfd6.pdf?index=true.

¹⁵ Human Rights Watch, Press Release, ICYMI: As Lawmakers Escalate Attacks on Transgender Youth Across the Country, Some GOP Leaders Stand Up for Transgender Youth (Mar. 24, 2022),

civil and criminal liability for providing to a minor, or helping a minor obtain, gender-affirming care. For example, Alabama recently enacted a bill that makes it a felony to provide, or help to provide, certain types of gender-affirming care.¹⁶ Arkansas prohibits a physician or other healthcare provider from providing or referring certain types of gender-affirming care for a minor; a violation or “threatened violation” can be punished through a professional board or a civil action.¹⁷ On September 29, 2022, Governor Newsom issued a signing statement for SB 107 (Wiener, 2022; Ch. 810, Stats. 2022) that said “[i]n California we believe in equality and acceptance. We believe that no one should be prosecuted or persecuted for getting care they need – including gender-affirming care.¹⁸”

6. The bill enacts provisions to protect providers from adverse actions or enforcement of another state’s law that interferes with a person’s right to receive care that is lawful in this state

The bill prohibits a contract issued, amended, or renewed on and after January 1, 2024, between a health care service plan or a health insurer and a provider of health care services, from containing any term that would result in the termination or nonrenewal of the contract or otherwise penalize the provider based solely on a civil judgment, criminal conviction, or another disciplinary action in another state if the other state’s judgment, conviction, or disciplinary action is based solely on the application of another state’s law that interferes with a person’s right to receive care that would be lawful if provided in this state. As this provision only applies to contracts issued, amended, or renewed on and after January 1, 2024, the contract clause of the U.S. Constitution is not implicated. The bill also prohibits a health care service plan or a health insurer from discriminating, with respect to the provision of, or contracts for, professional services against a licensed provider solely on the basis of a civil judgment, criminal conviction, or another disciplinary action in another state if that other state judgment, conviction, or disciplinary action is based solely on the application of another state’s law that interferes with a person’s right to receive care that would be lawful if provided in this state. Under the bill, these provisions do not apply to a civil judgment, criminal conviction, or another disciplinary action in another state for which a similar claim, charge, or action would exist against the provider under the laws of this state.

Existing law requires DHCS to automatically suspend as a provider in the Medi-Cal program any individual who, or any entity that, has a license, certificate, or other approval to provide health care revoked or suspended by a federal, California, or another state’s licensing authority. Additionally, any individual or any entity that has

<https://www.hrc.org/press-releases/icymi-as-lawmakers-escalate-attacks-on-transgender-youth-across-the-country-some-gop-leaders-stand-up-for-transgender-youth> (all links current as of August 29, 2022).

¹⁶ See Al. Code, § 26-26-4.

¹⁷ Ark. Stats. §§ 20-9-1502 & 20-9-1504.

¹⁸ Governor’s signing statement on Sen. Bill 107 (2021-22 Reg. Sess.), available at <https://www.gov.ca.gov/wp-content/uploads/2022/09/SB-107-SIGNING.pdf?emrc=1a80c5>.

lost a license, certificate, or approval or has surrendered a license, certificate, or approval while a disciplinary hearing was pending is to be automatically suspended by DHCS as a provider in the Medi-Cal program. This bill prohibits DHCS from suspending an individual or entity as a provider in the Medi-Cal program if the revocation, suspension, or loss of the individual's or entity's license, certificate, or approval in another state or the pending disciplinary hearing during which the individual or entity surrendered the license, certificate, or approval is based solely on conduct that is not prohibited in California. Lastly, the bill clarifies that a law of another state that authorizes a person to bring a civil action against a person that provides an abortion or knowingly engages in conduct that aids or abets in the provision of an abortion is contrary to the public policy of this state.¹⁹

7. Statements in support

The American College of Obstetricians and Gynecologists, Region IX and the California Medical Association, sponsors of the bill, write in support stating:

SB 487 will prohibit health care service payors – health insurers, health care service plans, and the Medi-Cal program – from discriminating or taking adverse actions against providers who are subjected to civil, criminal or professional license actions for providing reproductive health care services – including abortion and gender affirming care – in another state that prohibits or restricts the service.

Planned Parenthood Affiliates of California, another sponsor of the bill, writes in support stating:

SB 487 builds off existing protections enacted last year to protect health care providers from automatic suspension from the Medi-Cal program if they are suspended from a Medicaid program in another state as a result of providing health care services that are legal in California. It will also prohibit health insurers from discriminating against or refusing to contract with a health care provider who may have been sanctioned in another state as a result of providing prohibited or restricted health care services that are legal in California. Protecting health care providers from adverse actions stemming from another state's hostile laws and actions, particularly as it relates to being able to continue to serve Medi-Cal patients, is a priority for Planned Parenthood so that all patients can continue to seek care at health centers without disruption.

SUPPORT

American College of Obstetricians and Gynecologists, Region IX (sponsor)
California Medical Association (sponsor)

¹⁹ For a detailed analysis of the bill that enacted this section of law (Health & Saf. Code § 123467.5) refer to the Sen. Jud. Com. analysis for AB 1666 (2021-22 Reg. Sess.) as amended May 5, 2022.

Planned Parenthood Affiliates of California (sponsor)
California Hospital Association
California State Association of Psychiatrists
California Women’s Law Center
NARAL Pro-Choice California
National Health Law Program

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

SB 385 (Atkins, 2023) authorizes a physician assistant who has completed specified training and achieved clinical competency, as described, to perform abortions by aspirations techniques without the personal presence of a supervising physician and surgeon, except as provided. SB 385 is currently pending in the Senate Committee on Business, Professions and Economic Development.

SB 345 (Skinner, 2023), among other things, prohibits a licensing board from denying an application for licensure or suspending, revoking, or otherwise imposing discipline on a licensed person because they were disciplined or convicted of an offense in another state, if that disciplinary action was the result of providing a legally protected health care activity. SB 345 is currently pending in the Senate Public Safety Committee.

AB 571 (Petrie-Norris, 2023) prohibits an insurer from refusing to issue or renew or terminate professional liability insurance for health care providers and from imposing a surcharge or increasing the premium or deductible solely based on any prohibited bases for discrimination, including a health care provider offering or performing abortion, and prohibits an insurer from denying coverage for liability for damages arising from offering, performing, or rendering specified health care services. AB 571 is currently pending in the Assembly Committee on Insurance.

Prior Legislation:

SCA 10 (Atkins and Rendon, Ch. 87, Stats. 2022) expressly provided that the state shall not deny or interfere with an individual’s reproductive freedom in their most intimate decisions, which includes their fundamental right to choose to have an abortion and their fundamental right to choose or refuse contraceptives, and states the measure is intended to further the right to privacy and the right to not be denied equal protection, as guaranteed by the California Constitution and that it does not narrow or limit the right to privacy or equal protection.

SB 107 (Wiener, 2023), among other things, prohibits a clerk of a superior court in the county in which discovery in a foreign action is sought, or an attorney licensed in this state and retained by a party in a foreign action, from issuing a subpoena for discovery in this state based on a foreign subpoena if the foreign subpoena is based on an anti-gender-affirming care action.

AB 1666 (Bauer-Kahan, Ch. 42, Stats. 2022) prohibited the enforcement in this state of out-of-state laws authorizing a civil action against a person or entity that receives or seeks, performs or induces, or aids or abets the performance of an abortion, or who attempts or intends to engage in those actions and declares those out-of-state laws to be contrary to the public policy of this state.

AB 2091 (Mia Bonta, Ch. 628, Stats. 2022), among other things, prohibited compelling a person to identify or provide information that would identify an individual who has sought or obtained an abortion in a state, county, city, or other local criminal, administrative, legislative, or other proceeding if the information is being requested based on another state's laws that interfere with a person's right to choose or obtain an abortion or a foreign penal civil action.

AB 2223 (Wicks, Ch. 629, Stats. 2022), among other things, authorized a party aggrieved by a violation of the Reproductive Privacy Act to bring a civil action against an offending state actor, as specified, and provides that every individual possesses a fundamental right of privacy with respect to personal reproductive decisions, which entails the right to make and effectuate decisions about all matters relating to pregnancy, including prenatal care, childbirth, postpartum care, contraception, sterilization, abortion care, miscarriage management, and infertility care.
