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AN ACT

RELATING TO HEALTH; PROTECTING ACCESS TO REPRODUCTIVE AND
GENDER-AFFIRMING HEALTH CARE; PROVIDING FOR ENFORCEMENT;
IMPOSING PENALTIES; PRESCRIBING RELIEF.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 24 NMSA 1978 is
enacted to read:

"SHORT TITLE.--This act may be cited as the
"Reproductive and Gender-Affirming Health Care Freedom Act"."

SECTION 2. A new section of Chapter 24 NMSA 1978 is
enacted to read:

"DEFINITIONS.--As used in the Reproductive and Gender-
Affirming Health Care Freedom Act:

A. "gender-affirming health care" means
psychological, behavioral, surgical, pharmaceutical and
medical care, services and supplies provided to support a
person's gender identity;

B. "public body" means a state or local
government, an advisory board, a commission, an agency or an
entity created by the constitution of New Mexico or any
branch of government that receives public funding, including
political subdivisions, special tax districts, school
districts and institutions of higher education; and

C. "reproductive health care" means psychological, HB 7/a
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1 behavioral, surgical, pharmaceutical and medical care,
2 services and supplies that relate to the human reproductive
3 system, including services related to:

- 4 (1) preventing a pregnancy;
- 5 (2) abortion;
- 6 (3) managing a pregnancy loss;
- 7 (4) prenatal, birth, perinatal and
8 postpartum health;
- 9 (5) managing perimenopause and menopause;
- 10 (6) managing fertility;
- 11 (7) treating cancers of the reproductive
12 system; or
- 13 (8) preventing or treating sexually
14 transmitted infections."

15 SECTION 3. A new section of Chapter 24 NMSA 1978 is
16 enacted to read:

17 "PUBLIC BODY PROHIBITED ACTION.--

18 A. A public body or an entity or individual acting
19 on behalf of or within the scope of the authority of a public
20 body shall not discriminate against a person based on that
21 person's use of or refusal to use reproductive health care or
22 gender-affirming health care services.

23 B. A public body or an entity or individual acting
24 on behalf of or within the scope of the authority of a public
25 body shall not deny, restrict or interfere with a person's

1 ability to access or provide reproductive health care or
2 gender-affirming health care within the medical standard of
3 care.

4 C. A public body or an entity or individual acting
5 on behalf of or within the scope of the authority of a public
6 body shall not deprive, through prosecution, punishment or
7 other means, a person's ability to act or refrain from acting
8 during the person's pregnancy based on the potential, actual
9 or perceived effect on the pregnancy.

10 D. A public body or an entity or individual acting
11 on behalf of or within the scope of the authority of a public
12 body shall not impose or continue in effect any law,
13 ordinance, policy or regulation that violates or conflicts
14 with the provisions of the Reproductive and Gender-Affirming
15 Health Care Freedom Act.

16 E. Nothing in the Reproductive and
17 Gender-Affirming Health Care Freedom Act shall be construed
18 to require a health care provider or entity to provide care:

19 (1) that the health care provider or entity
20 does not otherwise provide or have a duty to provide under
21 state or federal law;

22 (2) when the provision of service is against
23 the medical judgment of the treating health care provider
24 while acting within the standard of care; or

25 (3) when an individual does not provide

1 payment or a source of payment for the service when it is
2 required in the ordinary course of business, unless the
3 health care provider has a duty to provide services under
4 state or federal law, regardless of the ability to pay.

5 F. Nothing in the Reproductive and
6 Gender-Affirming Health Care Freedom Act shall be construed
7 to require a managed care organization or health insurance
8 company to cover claims that are not otherwise required to be
9 covered by the terms and conditions of an insurance contract,
10 managed care contract or state or federal law."

11 SECTION 4. A new section of Chapter 24 NMSA 1978 is
12 enacted to read:

13 "ENFORCEMENT--PENALTIES.--

14 A. The attorney general or a district attorney may
15 institute a civil action in district court if the attorney
16 general or district attorney has reasonable cause to believe
17 that a violation has occurred or to prevent a violation of
18 the Reproductive and Gender-Affirming Health Care Freedom Act
19 from occurring.

20 B. In any action brought under Subsection A of
21 this section, the court may award appropriate relief,
22 including temporary, preliminary or permanent injunctive
23 relief. The court may assess a civil penalty for a violation
24 of the Reproductive and Gender-Affirming Health Care Freedom
25 Act in the amount of five thousand dollars (\$5,000) or actual

1 damages resulting from each violation, whichever is greater.

2 C. Claims pursuant to the Reproductive and Gender-
3 Affirming Health Care Freedom Act may be brought against
4 public bodies and entities acting in the course and scope of
5 authority of a public body, but not against an individual."

6 SECTION 5. A new section of Chapter 24 NMSA 1978 is
7 enacted to read:

8 "PRIVATE RIGHT OF ACTION.--

9 A. A person claiming to be aggrieved by a
10 violation of the Reproductive and Gender-Affirming Health
11 Care Freedom Act may maintain an action in district court for
12 appropriate relief, including temporary, preliminary or
13 permanent injunctive relief, compensatory damages or punitive
14 damages, or the sum of five thousand dollars (\$5,000) for
15 each violation of the Reproductive and Gender-Affirming
16 Health Care Freedom Act, whichever is greater.

17 B. In any action brought pursuant to Subsection A
18 of this section, the court shall award a prevailing plaintiff
19 reasonable attorney fees and costs to be paid by the
20 defendant.

21 C. Claims pursuant to the Reproductive and Gender-
22 Affirming Health Care Freedom Act may be brought against
23 public bodies and entities acting in the course and scope of
24 authority of a public body, but not against an individual."