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AN ACT

RELATING TO HEALTH; PROTECTING THE PRIVACY OF PROVIDERS,  
RECIPIENTS AND OTHERS ENGAGING IN REPRODUCTIVE AND GENDER-  
AFFIRMING HEALTH CARE; PROTECTING PROVIDERS, RECIPIENTS AND  
OTHERS ENGAGING IN REPRODUCTIVE AND GENDER-AFFIRMING HEALTH  
CARE FROM CERTAIN CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL  
DISCIPLINARY ACTION; PROVIDING FOR ENFORCEMENT; IMPOSING  
PENALTIES; PRESCRIBING RELIEF.

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

SECTION 1. SHORT TITLE.--Sections 1 through 8 of this  
act may be cited as the "Reproductive and Gender-Affirming  
Health Care Protection Act".

SECTION 2. DEFINITIONS.--As used in the Reproductive  
and Gender-Affirming Health Care Protection Act:

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

B. "protected health care activity" means:

(1) seeking, providing or receiving  
reproductive or gender-affirming health care; or

(2) assisting an individual who is seeking,  
receiving or providing reproductive or gender-affirming  
health care, including providing:

- (a) information;
- (b) transportation;
- (c) lodging; or
- (d) material support;

C. "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 a branch of government that receives public funding, including political subdivisions, special tax districts, school districts and institutions of higher education; and

D. "reproductive health care" means psychological, behavioral, surgical, pharmaceutical and medical care, services and supplies that relate to the human reproductive system, including services related to:

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

1           SECTION 3. PUBLIC BODY--PROHIBITED RELEASE OF  
2 INFORMATION RELATED TO A PROTECTED HEALTH CARE ACTIVITY.--

3           A. A public body or an individual or entity acting  
4 on behalf of or within the scope of the authority of a public  
5 body shall not release information or use resources available  
6 to it in furtherance of a foreign investigation or proceeding  
7 that seeks to impose civil or criminal liability or  
8 professional disciplinary action upon an individual or entity  
9 for engaging in a protected health care activity.

10           B. A public body or an individual or entity acting  
11 on behalf of or within the scope of the authority of a public  
12 body that receives a request for information related to a  
13 protected health care activity shall notify the individual or  
14 entity that is the subject of the information request and  
15 shall move to modify or quash the subpoena to prevent the  
16 release of protected health care activity information. Any  
17 request for information related to a protected health care  
18 activity shall be made in writing.

19           C. The provisions of this section shall not apply  
20 if the individual or entity that is the subject of the  
21 investigation or proceeding provides affirmative written  
22 consent to release the requested information.

23           D. This section shall not apply to an  
24 investigation or proceeding in which the conduct subject to  
25 potential liability would be subject to liability under the

1 laws of this state.

2 SECTION 4. FOREIGN SUBPOENAS AND SUMMONSES.--

3 A. A party shall not submit a foreign subpoena or  
4 summons for discovery or a witness to provide testimony  
5 related to an interstate investigation or proceeding that  
6 seeks to impose civil or criminal liability or professional  
7 disciplinary action related to a protected health care  
8 activity unless the requesting party submits an attestation,  
9 signed under the penalty of perjury, that the foreign  
10 subpoena or summons relates to an out-of-state action for  
11 which the same claim exists under the laws of this state.

12 B. An individual or entity served with a subpoena  
13 that is in violation of this section shall notify the issuing  
14 court and the moving party of the defect and shall not comply  
15 with the subpoena until the defect is cured by order of the  
16 issuing court.

17 C. A party that omits or submits a false  
18 attestation pursuant to this section shall be subject to the  
19 jurisdiction of the courts of this state in a suit for  
20 damages, penalties or both arising out of the omission or  
21 false attestation. A court shall assess a statutory penalty  
22 of ten thousand dollars (\$10,000) per violation if the court  
23 finds the omission or false attestation was made  
24 intentionally, knowingly, willingly or recklessly.

25 SECTION 5. ABUSIVE LITIGATION--INTERFERENCE WITH A

1 PROTECTED HEALTH CARE ACTIVITY--CIVIL ACTIONS.--

2 A. For purposes of this section, "abusive  
3 litigation" means legal action initiated to deter, prevent,  
4 sanction or penalize an individual or entity for engaging in  
5 a protected health care activity by initiating a legal action  
6 in another state where civil or criminal liability is based  
7 on engaging in a protected health care activity in this state  
8 or attempting to enforce an order or judgment issued in  
9 connection with such legal action.

10 B. An individual or entity claiming to be  
11 aggrieved by abusive litigation may file an action in  
12 district court and seek relief pursuant to Section 8 of the  
13 Reproductive and Gender-Affirming Health Care Protection Act,  
14 as well as the amount of a judgment issued in connection with  
15 the abusive litigation.

16 C. This section shall not apply to a lawsuit or  
17 judgment entered in another state that is based on conduct  
18 for which a cause of action exists under the laws of  
19 New Mexico.

20 SECTION 6. HEIGHTENED PROTECTION FOR ELECTRONICALLY  
21 TRANSMITTED INFORMATION RELATED TO A PROTECTED HEALTH CARE  
22 ACTIVITY.--

23 A. For purposes of this section, "third party"  
24 means an individual or entity who transmits information  
25 related to a protected health care activity, in the normal

1 course of business, in an electronic format. "Third party"  
2 does not mean a covered entity or business associate as  
3 defined by the federal Health Insurance Portability and  
4 Accountability Act of 1996 and related regulations.

5 B. It shall be a violation of the Reproductive and  
6 Gender-Affirming Health Care Protection Act to request from a  
7 third party, or for a third party to transmit, information  
8 related to an individual's or entity's protected health care  
9 activity with the intent to:

10 (1) harass, humiliate or intimidate that  
11 individual or entity;

12 (2) incite another to harass, humiliate or  
13 intimidate that individual or entity;

14 (3) cause that individual to reasonably fear  
15 for that individual's own or family members' safety;

16 (4) cause that individual to suffer unwanted  
17 physical contact or injury;

18 (5) cause that individual to suffer  
19 substantial emotional distress; or

20 (6) deter, prevent, sanction or penalize an  
21 individual or entity for engaging in a protected health care  
22 activity.

23 C. This section shall not apply to a lawsuit or  
24 judgment entered in another state that is based on conduct  
25 for which a cause of action exists under the laws of

1 New Mexico.

2 SECTION 7. ENFORCEMENT--PENALTIES.--

3 A. The attorney general or a district attorney is  
4 authorized to enforce the provisions of the Reproductive and  
5 Gender-Affirming Health Care Protection Act.

6 B. In an action brought under Subsection A of this  
7 section, the court may award appropriate relief, including  
8 temporary, preliminary or permanent injunctive relief. The  
9 court may also assess a civil penalty for a violation of the  
10 Reproductive and Gender-Affirming Health Care Protection Act  
11 in the amount of ten thousand dollars (\$10,000) or actual  
12 damages resulting from each violation, whichever is greater.

13 SECTION 8. PRIVATE RIGHT OF ACTION.--

14 A. An individual or entity claiming to be  
15 aggrieved by a violation of the Reproductive and Gender-  
16 Affirming Health Care Protection Act may file an action in  
17 district court for appropriate relief, including temporary,  
18 preliminary or permanent injunctive relief, compensatory  
19 damages or punitive damages, or for the sum of ten thousand  
20 dollars (\$10,000) per violation, whichever is greater.  
21 Claims may be brought against a public body or third party  
22 that intentionally, knowingly, willingly or recklessly  
23 released information related to a protected health care  
24 activity.

25 B. In an action brought pursuant to Subsection A

1 of this section, the district court shall award a prevailing  
2 plaintiff reasonable attorney fees and costs.

3 SECTION 9. Section 31-4-6 NMSA 1978 (being Laws 1937,  
4 Chapter 65, Section 6) is amended to read:

5 "31-4-6. EXTRADITION OF PERSONS NOT PRESENT IN  
6 DEMANDING STATE AT TIME OF COMMISSION OF CRIME.--The governor  
7 of this state:

8 A. may also surrender, on demand of the executive  
9 authority of any other state, any person in this state  
10 charged in such other state in the manner provided in Section  
11 31-4-3 NMSA 1978 with committing an act in this state, or in  
12 a third state, intentionally resulting in a crime in the  
13 state whose executive authority is making the demand. The  
14 provisions of the Uniform Criminal Extradition Act not  
15 otherwise inconsistent shall apply to such cases, even though  
16 the accused was not in that state at the time of the  
17 commission of the crime and has not fled therefrom; and

18 B. shall not arrest or deliver a person if the  
19 charge is based on engaging in a protected health care  
20 activity, pursuant to the provisions of the Reproductive and  
21 Gender-Affirming Health Care Protection Act, including a  
22 charge based on vicarious, joint or several liability or  
23 conspiracy, unless the executive authority of the demanding  
24 state alleges in writing that the accused was physically  
25 present in the demanding state at the time of the commission



1 of the alleged offense and that thereafter, the accused fled  
2 from the demanding state."

3 SECTION 10. A new section of the Uniform Licensing Act  
4 is enacted to read:

5 "PROHIBITING CERTAIN ACTIONS BY BOARDS AGAINST LICENSEES  
6 OR LICENSE APPLICANTS.--A board shall not take an action  
7 pursuant to the Uniform Licensing Act against a license  
8 holder or license applicant based solely on a licensee's or  
9 license applicant's:

10 A. provision of, authorization of, recommendation  
11 of, assistance in, referral for or other participation in a  
12 protected health care activity, as defined in the  
13 Reproductive and Gender-Affirming Health Care Protection Act,  
14 in accordance with the laws of New Mexico, including the  
15 medical standards of care, whether the protected health care  
16 activity is provided to a resident of this state or to a  
17 resident of another state; or

18 B. actual or alleged violation of another state's  
19 laws prohibiting the provision of, authorization of,  
20 recommendation of, assistance in, referral for or other  
21 participation in a protected health care activity, as defined  
22 in the Reproductive and Gender-Affirming Health Care  
23 Protection Act, if the protected health care activity  
24 provided would have been in accordance with the laws of  
25 New Mexico, including the medical standards of care."=====