FISCAL IMPACT REPORT

SPONSOR Montoya/Dow/Vincent/Duncan/Reeb
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SHORT TITLE Hormone Therapy & Puberty Blocker Protection
BILL NUMBER House Bill 466
ANALYST Chilton

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT*

(dollars in thousands)

Agency/Program	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
CYFD	No fiscal impact	Indeterminate but minimal	Indeterminate but minimal	Indeterminate but minimal	Recurring	General Fund
AODA	No fiscal impact	$150.0 to $450.0	$150.0 to $450.0	$300.0 to $900.0	Recurring	General Fund
NMAG	No fiscal impact	$150.0 to $450.0	$150.0 to $450.0	$300.0 to $900.0	Recurring	General Fund
LOPD	No fiscal impact	$150.0 to $450.0	$150.0 to $450.0	$300.0 to $900.0	Recurring	General Fund
HCA	No fiscal impact	$48.7	$48.7	$97.4	Recurring	General Fund
HCA	No fiscal impact	$48.6	$48.6	$97.4	Recurring	Federal Funds
Medicaid Program	No fiscal impact	($84.5)	($84.5)	($169.1)	Recurring	General Fund
Medicaid Program	No fiscal impact	($253.0)	($253.0)	($505.9)	Recurring	Federal Funds
Total State Fund Impact	**No fiscal impact**	**$414.2 to $864.2**	**$414.2 to $864.2**	**$818.4 to $1728.4**	**Recurring**	**General Fund**

Parentheses ( ) indicate expenditure decreases.
*Amounts reflect most recent analysis of this legislation.

Relates to House Bill 185, Senate Bill 459, Senate Bill 258, Senate Bill 356, and Senate Bill 500.
Conflicts with House Bill 543

Sources of Information

LFC Files

Agency Analysis Received From
New Mexico Attorney General (NMAG)
Children, Youth and Family Department (CYFD)
Health Care Authority (HCA)

Agency Analysis was Solicited but Not Received From
Department of Health (DOH)

SUMMARY

Synopsis of House Bill 466

House Bill 466 (HB466) would enact the Hormone Therapy and Puberty Blocker Child Protection Act, creating new sections of Chapter 24 NMSA 1978, which deals with health and safety, as well as amending several sections of Chapter 24 to comport with this act.

Section 2 provides definitions to be used in this new act. It includes defining "gender-affirming action" as an act to change a minor's sex, including using desired pronouns, requesting counseling to support a minor's gender identity choice, and changing a minor's name to one used by a different sex. "Medical procedure" includes surgical care or prescribing a puberty blocker or hormone." "Minor" explicitly excepts "emancipated minors," which is also defined. "Parent" includes adoptive, biological or legal parents, and guardians. "Parent notifications" of reproductive health care must be written and must be acknowledged in writing by the parent.

Section 3 prohibits medical procedures to change a minor's sex or to treat a minor's distress at the sex assigned at birth, except when treating birth defects, precocious puberty, disease (specifically excluding gender dysphoria), or injury. If medical procedures that would be prohibited have begun before the act goes into effect, they could be continued, but must be concluded before December 31, 2025, and cannot be changed after July 1, 2025. Parental consent would not be enough to excuse the practitioner from liability for having provided gender-affirming care, though counseling is permitted.

Section 5 requires healthcare providers to notify parents of any of a minor's actions having to do with gender affirmation.

Section 6 allows a private right of action against a healthcare provider by a minor or parent "injured" as a result of a violation of this act unless the parent had consented to the action; this would include a "wrongful death" action if the act resulted in death, and the healthcare provider's licensing agency would be notified. The licensing agency could suspend the provider's license for up to two years. Compensatory damages for all related expenses could be sought from the provider.

Section 7 provides for penalties to be sought by the Office of Attorney General (NMAG) or district attorneys against offending practitioners. Section 8 provides for severability.

Section 10 amends Section 24-34-3, which deals with prohibited actions by public bodies. It removes minors from the list of people for whom provision of reproductive healthcare is protected and requires parental notification and consent before providing any sort of reproductive healthcare to an unemancipated minor. It forbids providing gender-affirming care to a minor and requires a healthcare provider to notify a parent of any request for such care.

Section 13 amends Section 24-35-2, adding definitions. In addition to the same definitions in Section 9, Section 13 defines "sex" as "an individual's immutable characteristics of the human reproductive system that define the individual as male or female, as determined by anatomy and genetics existing in that individual at the time of birth."

Section 14 amends Section 24-35-3 removes the exemption of individuals from prohibition on

releasing information regarding foreign investigations that might lead to civil or criminal liability or professional licensing actions on a provider, an adult or an emancipated minor. If a parent has consented to reproductive care activities, public bodies do not need to respond to public information requests, must notify a parent of the request, and move to quash the subpoena for the information. Section 15 amends Section 24-35-4 and regards foreign subpoenas and summonses and removes minors from the group of individuals from whose information about reproductive health services can be protected from summonses or subpoenas.

Section 16 amends Section 24-35-5 regarding abusive litigation and interference with a protected healthcare activity, again removing minors from being among the protected individuals.

Section 17 amends Section 24-35-6, regarding electronically transmitted information, again exempts minors from the protections against transmission of electronic information regarding reproductive health activities, unless that minor has parental consent.

Section 18 amends Section 24-35-8 and again exempts minors from being able to sue for relief for violations of the Reproductive and Gender-Affirming Care Act. It adds a section again noting that if a parent of a minor brings action against a healthcare provider and the parent prevails, the licensing board is to be notified and authorized to suspend the provider's license for two years.

The effective date of this bill is July 1, 2025.

FISCAL IMPLICATIONS

There is no appropriation in HB466. Both the Children, Youth and Family Department (CYFD) and NMAG indicate the possibility that enactment of HB466 might increase their workload in prosecuting violations of the Hormone Therapy and Puberty Blocker Child Protection Act, and in dealing with the consequences to minors in denying their need for reproductive or gender-affirming care. LFC estimates each of the following agencies would need one to three attorneys: NMAG, the Public Defender Department, and district attorneys collectively, at an average cost of $150 thousand per year per attorney.

The Health Care Authority states that it would need 1 FTE employee to implement, monitor, and enforce HB466, with the cost of that employee split between state and federal funds. On the other hand, the restrictions on procedures would decrease costs that would be paid from Medicaid funds of an estimated $335 thousand, 75 percent paid from federal funds.

SIGNIFICANT ISSUES

The effects of reproductive health problems and of gender dysphoria can be profound. Teen pregnancy and sexually transmitted diseases at any age have severe dangers. Children and adolescents with gender dysphoria are at increased risk of suicide and mental disorders, homelessness, and substance abuse.

NMAG comments at length on the constitutionality of many provisions in this bill, including both federal and state constitution issues and including First Amendment rights over such concerns as whether children can choose their own names or pronouns. NMAG also makes note of the act's threats to providers' licenses, which may discourage providers from locating or

remaining in New Mexico.

Specifically, NMAG cites federal law that would appear to be contradicted by this act:

> Ultimately, the bill proposes to restrict medical care for minors whose gender identity does not match their assigned biological sex. This may have the effect of restricting medical care in a discriminatory way. The U.S. Supreme Cort has held that discrimination against transgender individuals may violate prohibitions against sex-based discrimination. See *Bostock v. Clayton County, Georgia*, 590 U.S. 644 (2020)."

Section 5 of the bill requires that a healthcare provider who knows of a violation of the act report that to a parent. Thus, if a nurse observed a doctor prescribing a hormone to a minor, the nurse would have to report it in writing to the parent within seven days, and if a doctor observed a nurse calling a minor by a preferred name that does not comport with "generally accepted norms," the doctor would have to report that within seven days to a parent.

CYFD comments:

> Restrictions on gender-affirming care could lead to more minors experiencing family rejection, increasing their risk of homelessness, depression, and suicide. If families refuse to support their child's gender identity, more youth may enter the foster care system, further straining [CYFD] resources.

HCA quotes expert recommendations regarding the use of gender-affirming care as follows:

> The American Academy of Pediatrics, the largest professional organization of pediatricians in the United States, recommends, "that youth who identify as transgender have access to comprehensive, gender-affirming, and developmentally appropriate health care that is provided in a safe and inclusive clinical space[.]" (AAP 2018).
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> The American Association of Clinical Endocrinology "strongly recommend that transgender and gender diverse adolescents seek gender affirming hormone therapy and/or puberty blockers from multi-specialty care teams…" with additional comments that "strongly oppose legislation that limits access of endocrine patients to established medical therapies recommended for treatment of transgender and gender diverse youth. AACE recommends that decisions impacting health care of endocrine patients are best left to the health professional, the patient, and the patient's families."
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> AACE guideline recommends the use of puberty blockers only once an individual first display physical changes related to puberty. [This] recommendation [is] echoed by the World Professional Association for Transgender Health's Standards of Care.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB466 is related to the following bills, all relating to LGBTQ+ persons:

- House Bill 185/Senate Bill 459, identical bills entitled Protection of Women's Sports Act;
- Senate Bill 258, Human Sexuality Education;
- Senate Bill 356, State Diversity Act; and
- Senate Bill 500, Detransitioner Protection Act.

The bill conflicts in part and overlaps with House Bill 543, Parental Consent for Minor's Health Care, and with Article 24-7A-6.2 NMSA 1978, which permits 14-year-olds to consent for care for certain conditions.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

HCA states that its Medicaid Division "will continue to allow and reimburse services for recipients with age requirements (i) Recipients twelve years to seventeen years of age are eligible for hormone therapy only, (ii) Recipients eighteen years of age and older are eligible for hormone therapy, procedural and surgical interventions as detailed in LOD #22 and supplement 24-15."

LAC/rl/hg/sgs/hj/SL2