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,
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 fertility;
(7) treating cancers of the reproductive system; or
(8) preventing or treating sexually transmitted infections."

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

"PUBLIC BODY PROHIBITED ACTION.--

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

B. A public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not deny, restrict or interfere with a person's
ability to access or provide reproductive health care or 
gender-affirming health care within the medical standard of 
care.

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

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

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

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

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

(3) when an individual does not provide
payment or a source of payment for the service when it is
required in the ordinary course of business, unless the
health care provider has a duty to provide services under
state or federal law, regardless of the ability to pay.

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

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

"ENFORCEMENT--PENALTIES.--

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

B. In any action brought under Subsection A of
this section, the court may award appropriate relief,
including temporary, preliminary or permanent injunctive
relief. The court may assess a civil penalty for a violation
of the Reproductive and Gender-Affirming Health Care Freedom
Act in the amount of five thousand dollars ($5,000) or actual
damages resulting from each violation, whichever is greater.

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

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

"PRIVATE RIGHT OF ACTION.--

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

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

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