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

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

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

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

D. This section shall not apply to an investigation or proceeding in which the conduct subject to potential liability would be subject to liability under the
laws of this state.

SECTION 4. FOREIGN SUBPOENAS AND SUMMONSES.--

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

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

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

SECTION 5. ABUSIVE LITIGATION--INTERFERENCE WITH A
PROTECTED HEALTH CARE ACTIVITY--CIVIL ACTIONS.--

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

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

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

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

A. For purposes of this section, "third party" means an individual or entity who transmits information related to a protected health care activity, in the normal
course of business, in an electronic format. "Third party" does not mean a covered entity or business associate as defined by the federal Health Insurance Portability and Accountability Act of 1996 and related regulations.

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

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

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

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

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

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

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

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

SECTION 7. ENFORCEMENT--PENALTIES.--

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

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

SECTION 8. PRIVATE RIGHT OF ACTION.--

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

B. In an action brought pursuant to Subsection A
of this section, the district court shall award a prevailing plaintiff reasonable attorney fees and costs.

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

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

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

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

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

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

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

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