

LFC Requester:

Emily Hilla

### AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

#### SECTION I: GENERAL INFORMATION

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 2/12/26

*Check all that apply:*

**Bill Number:** HB 279s

Original  Correction   
Amendment  Substitute

**Sponsor:** Rep. Christine Chandler and  
Sen. Linda M. Trujillo

**Agency Name and Code Number:** 305 – New Mexico  
Department of Justice

**Short Title:** Healthcare Info Privacy  
Protections

**Person Writing Analysis:** Kori Nau

**Phone:** 505-645-5980

**Email:** Fir.request@nmdoj.gov

#### SECTION II: FISCAL IMPACT

##### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

(Parenthesis ( ) indicate expenditure decreases)

##### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		

(Parenthesis ( ) indicate revenue decreases)

#### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
 Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

*This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.*

**BILL SUMMARY**

Synopsis of House Health & Human Services Committee Substitute HB 279s: HB 279 amends several statutes to limit disclosure of certain health care information of patients and providers; to limit location tracking at certain facilities; and to allow reproductive health care and gender-affirming health care providers to participate in the Confidential Substitute Address Act.

**Section 1** amends the Reproductive and Gender-Affirming Health Care Protection Act, NMSA 1978, Section 24-35-4. It adds a new paragraph prohibiting a covered entity or business associate, as defined in the federal Health Insurance Portability and Accountability Act of 1966 (HIPAA) and related regulations, operating in the state from releasing an individual’s reproductive health care or gender-affirming health care information in response to a foreign request if the covered entity or business associate knows or has reasons to believe the request is based on another state’s law that interferes with a protected health care activity or with a person’s rights under the Reproductive and Gender-Affirming Health Care Freedom Act or the Reproductive and Gender-Affirming Health Care Protection Act, unless the individual consents to the release or the release is ordered by a court of competent jurisdiction. It requires the covered entity to make a reasonable effort to notify an individual whose information is requested and to notify each provider that rendered pertinent care. It precludes liability for any covered entity or business associate that refuses to disclose health care information in accordance with this section.

Section 1 is similar to Section 7 of the original HB 279, with two changes. First, it places these provisions in the Reproductive and Gender-Affirming Health Care Protection Act instead of the Electronic Medical Records Act. Second, it applies provisions to covered entities or business associates as defined in HIPAA and related regulations instead of “a provider, health care service plan, a health care group purchaser, a health information exchange or an electronic health care service provider.”

**Section 2** is the same as Section 9 of the original HB 279.

**Section 3** is the same as Section 10 of the original HB 279.

**Section 4** is the same as Section 11 of the original HB 279.

**Section 5** is the same as Section 12 of the original HB 279.

**Section 6** is the same as Section 13 of the original HB 279.

**Section 7** is the same as Section 14 of the original HB 279.

**Section 8** is the same as Section 15 of the original HB 279.

**Section 9** is the same as Section 16 of the original HB 279.

**Section 10** is the same as Section 17 of the original HB 279.

Synopsis of Original HB 279: HB 279 amends several statutes to limit disclosure of certain health care information of patients and providers; to limit location tracking at certain facilities; and to allow reproductive health care and gender-affirming health care providers to participate in the Confidential Substitute Address Act.

**Section 1** amends the purpose of the Electronic Medical Records Act, NMSA 1978, Sections 24-14B-1 to -10, to add a reference to the privacy of electronic medical records.

**Section 2** adds and amends the definitions in the Electronic Medical Records Act. It adds definitions of “electronic health care service provider,” “electronic medical record system,” “gender-affirming health care,” “health care service plan,” “medical record,” “protected health care activity,” and “reproductive health care.” It amends the definition of “electronic medical record” to “a medical record that is maintained, displayed or provided electronically,” removing reference to demographic information. It amends the definitions of “health care group purchaser,” “health care institution,” and “record locator service” to include contractors or employees of each entity. It amends the definition of “health care information” to include health care claims and administrative data from a provider, health care institution, a health care group purchaser or an electronic health care service provider.

**Section 3** amends NMSA 1978, Section 24-14B-6 to include electronic health care service providers within the prohibitions on disclosure without consent of the individual patient.

It requires a health information exchange or an electronic medical record system operating in New Mexico to develop capabilities for: (1) segregating information regarding reproductive health care and gender-affirming health care from the rest of an individual’s information; (2) allowing an individual to provide written authorization to allow or disallow access to segregated information; and (3) limiting access privileges of a user of electronic medical records systems that contain reproductive health care and gender-affirming health care records to only those persons with whom the individual has provided written authorization for access. These capabilities must be developed no later than July 1, 2028.

It also requires a provider, health care service plan, a health care group purchaser, a health information exchange, or an electronic health care service provider to: (1) not release health care information in response to a foreign subpoena, summons or other civil criminal or regulatory inquiry or investigation request if the entity “knows or has reason to believe that the request is based on another state’s law that interferes with a protected health care activity or with a person’s rights under the Reproductive and Gender-Affirming Health Care Freedom Act or the Reproductive and Gender-Affirming Health Care Protection Act”; (2) notify an individual of the existence of a request described in paragraph (1); and (3) notify each provider that rendered reproductive or gender-affirming health care sought in a request

described in paragraph (1).

It provides that an entity shall not be subject to liability for refusing to disclose information in accordance with the previous paragraph prohibiting disclosure if the entity knows or has reason to believe the request is based on another state's law that interferes with protected health care activity.

**Section 4** amends reference to Subsection (E) in the previous section, NMSA 1978, Section 24-14B-6, to Subsection (F), to reflect renumbering of Subsections.

**Section 5** adds a new section of the Electronic Medical Records Act to be codified at NMSA 1978, Section 24-14B-11. The new section, titled "ENFORCEMENT," subjects defined entities who violate Electronic Medical Records Act to: (1) injunctive relief, (2) a civil penalty of \$2,500 for each "negligent" violation, and (3) a civil penalty of \$10,000 for each "intentional" violation.

**Section 6** adds a new section of the Electronic Medical Records Act to be codified at NMSA 1978, Section 24-4B-12. The new section, titled "VIOLATIONS - - REMEDIES," allows an individual who claims to have suffered a loss or deprivation of rights under the Electronic Medical Records Act to file an action to establish liability and recover damages and equitable or injunctive relief in a New Mexico district court. The attorney general or a district attorney would be able to bring civil actions to enforce the Act.

**Section 7** amends the short title of the Reproductive and Gender-Affirming Health Care Protection Act, NMSA 1978, Chapter 24, Article 35 to reflect additions to the Act.

**Section 8** amends NMSA 1978, Section 24-35-6 to prohibit requests for or transmission of protected health care activity with the intent to identify or track an individual engaged in a protected health care activity.

**Section 9** adds a new section to the Reproductive and Gender-Affirming Health Care Protection Act. The new section makes it unlawful to "geofence" facilities providing gender-affirming or reproductive health care to track individuals, collect and disseminate personal data, or target advertisements to a person based on their personal data. It prohibits selling personal data to, or sharing personal data with, a third party if the data is used to identify or track a person engaged in a protected health care activity. It defines the following terms as used in this section: "collect," "geofence," "personal data," "precise geolocation," and "share."

**Section 10** amends NMSA 1978, Section 24A-1-7, which contains legislative findings regarding the Health Care Code and licensing requirements for certain hospitals. It adds a definition of "emergency medical condition" to include situations that could result in placing the health of an individual at risk, impairing bodily functions, or causing dysfunction of any bodily organ or part; situations with respect to emergencies experienced by a pregnant person; and any other conditions a health care practitioner acting within the practitioner's lawful scope of practice determines to be an emergency medical condition. It adds a definition of "stabilize."

This section specifies which emergency medical services an acute-care, general, or limited services hospital is required to agree to provide in an emergency department. These services include medical screenings, stabilizing treatment, transfer to another hospital, provision of

abortion, and other services determined by the Health Care Authority.

**Section 11** amends NMSA 1978, Section 26-1-16 to allow a practitioner that prescribes a drug used for medication abortion to request that the drug be dispensed in a container marked with the name and address of the health care facility at which the practitioner practices and not marked with the practitioner's name or address.

**Sections 12 through 17** amend the Confidential Substitute Address Act, NMSA 1978, Sections 40-13B-1 to -9, to allow health care practitioners engaged in a protected health care activity as defined in the Reproductive and Gender-Affirming Health Care Protection Act to participate in the Confidential Substitute Address program.

**Section 12** adds a definition of "protected health care provider" to NMSA 1978, Section 40-13B-2.

**Section 13** allows a protected health care provider to submit an application for the program.

**Section 14** makes grammatical changes to Section 40-13B-4 to accord with the addition of protected health care providers to the program.

**Section 15** makes grammatical changes to Section 40-13B-5 to accord with addition of protected health care providers to the program.

**Section 16** adds a provision to the decertification provisions to make clear that noncompliance with the provisions of the Intimate Partner Violence Survivor Suffrage Act only applies to participants who are survivors of domestic violence.

**Section 17** adds a clause to accord with the addition of protected health care providers to the program.

## **FISCAL IMPLICATIONS**

Analysis of Original HB 279: Section 5(B) of HB 279 empowers the attorney general or a district attorney to institute a civil action in district court if the Electronic Medical Records Act has been violated or to prevent a violation of that act. Initiation of civil cases against a health information exchange or an electronic medical record system may require additional funds and staff hours that do not receive commensurate appropriations in this bill.

## **SIGNIFICANT ISSUES**

None apparent.

## **PERFORMANCE IMPLICATIONS**

Analysis of House Health & Human Services Committee Substitute HB 279s: The substitute bill does not include Civil Investigatory Demands (CIDs) that was raised as a performance implication for the original HB 279.

Analysis of Original HB 279: The NMDOJ will have authority to enforce the civil liability provisions added to the Electronic Medical Records Act. However, HB 279 does not also authorize Civil Investigatory Demands (CIDs). The absence of CID authority will impede the effective civil enforcement.

## **ADMINISTRATIVE IMPLICATIONS**

None for the NMDOJ.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None apparent.

## **TECHNICAL ISSUES**

None.

## **OTHER SUBSTANTIVE ISSUES**

Analysis of House Health & Human Services Committee HB279s: The HB 279 substitute contains the same provision regarding other state laws that “interfere with” protected health care activity that raises a potential issue of ambiguity. Consider replacing “*interferes with* a protected health care activity...” with “*does not recognize* a protected health care activity.”

Analysis of Original HB 279: Section 3(H)(1) of HB 279 prohibits the release of health care information in response to a request if the entity receiving the request “knows or has reason to believe that the request is based on another state’s law that *interferes with* a protected health care activity or with a person’s rights under the Reproductive and Gender-Affirming Health Care Freedom Act or the Reproductive and Gender Affirming Health Care Protection Act” (emphasis added). The meaning of *interferes with* may be ambiguous in the context of this legislation. The degree of interference (i.e., minor burdens versus complete inability to engage in an activity) with a protected health care activity could be the subject of litigation due to potential ambiguity.

## **ALTERNATIVES**

Analysis of House Health & Human Services Committee HB 279s: Consider replacing “*interferes with* a protected health care activity...” with “*does not recognize* a protected health care activity.”

Analysis of Original HB 279:

The inclusion of specific instances of “interference with” a protected health care activity or with a person’s rights under the Reproductive and Gender-Affirming Health Care Freedom Act or the Reproductive and Gender-Affirming Health Care Protection Act may be worth consideration.

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo

## **AMENDMENTS**

N/A