

LFC Requester:

Lance Chilton

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov*(Analysis must be uploaded as a PDF)***SECTION I: GENERAL INFORMATION***{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Date Prepared: February 12, 2026 Check all that apply:
Bill Number: HB 279 HHS sub Original Correction
 Amendment Substitute

Sponsor: Rep. Chandler **Agency Name and Code** University of New Mexico-952
Short Title: HEALTHCARE PRIVACY & SAFETY PROTECTIONS **Number:** _____
Person Writing Kelly O'Donnell
Phone: 505-659-5702 **Email** Kodonnell@unm.edu

SECTION II: FISCAL IMPACT**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		

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
Total						

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

The House Health and Human Services Committee Substitute for HB 279 strengthens New Mexico's protections for reproductive and gender-affirming health care by limiting certain disclosures and compliance with out-of-state legal process, restricting geofencing and the collection/use/sale of sensitive location and health-related data near covered facilities, and making targeted privacy-related updates affecting health care operations (including medication-dispensing label privacy and participation in the Confidential Substitute Address Program).

The substitute eliminates the original EMR/HIE segregation and patient access-control framework that would have required health information exchanges and electronic medical record systems to build functionality to segregate reproductive and gender-affirming health information and implement patient-controlled access restrictions. Instead, the substitute shifts emphasis to disclosure limits and enforcement mechanisms tied to out-of-state requests (including additional procedural requirements and penalties for improper foreign-subpoena submissions) while largely carrying forward the bill's broader privacy objectives related to data practices and protections for providers and patients.

The committee substitute adds a new procedural requirement that a party seeking to submit a foreign subpoena or summons related to reproductive or gender-affirming health care activity must provide a written attestation signed under penalty of perjury and directs covered entities not to comply if the attestation is missing or defective until the defect is cured by court order. The substitute also establishes a statutory civil penalty for intentional, knowing, willful, or reckless violations of the attestation requirement.

FISCAL IMPLICATIONS

SIGNIFICANT ISSUES

The committee substitute addresses UNM's primary concerns about the original bill. However, it will present some general operational challenges that are detailed below. An amendment to clarify the supremacy of federal law is also recommended.

UNM's primary concerns about the original bill related to proposed changes to the Electronic Medical Records Act that would have required health information exchanges and electronic medical record systems to "segregate" reproductive and gender-affirming health information and allow patients to disallow access, raising patient-safety risks from clinical "blind spots," technical feasibility concerns (including the inability to reliably tag data by intent), uncertainty regarding legacy records, potential interference with public health reporting, equity concerns for patients navigating access controls, and a challenging implementation timeline. The committee substitute largely mitigates these concerns by removing the EMR/HIE segregation and patient access-control framework.

The committee substitute adds a new procedural requirement that a party seeking to submit a foreign subpoena or summons related to reproductive or gender-affirming health care activity must provide a written attestation signed under penalty of perjury and directs covered entities not to comply if the attestation is missing or defective until the defect is cured by court order. The

substitute further establishes a statutory civil penalty for intentional, knowing, willful, or reckless violations of the attestation requirement. This structure may require hospitals and health systems to implement additional legal review, intake screening, documentation, and “defect notice” workflows for out-of-state legal process. Institutions may need to update release-of-information policies, train staff to identify qualifying requests, and coordinate closely with legal counsel before responding to certain subpoenas. As a result, although the substitute mitigates the original bill’s EMR re-engineering concerns, it may increase procedural and compliance workload in the handling of foreign legal demands.

The committee substitute establishes procedural requirements and restrictions governing compliance with certain foreign subpoenas and legal process related to reproductive or gender-affirming health care. However, subpoenas issued pursuant to federal law are generally enforceable nationwide and do not require domestication in New Mexico courts. Under the Supremacy Clause of the United States Constitution, federal law may supersede conflicting state statutory limitations. As a result, the substitute’s attestation, defect-cure, and non-compliance provisions may not be enforceable against federal subpoenas, and covered entities could still be compelled to comply under federal authority. This may create legal uncertainty regarding the scope of the bill’s protections and could necessitate clarification to avoid confusion for hospitals, health systems, and other covered entities responding to federal investigative demands. **See Amendments**

The federal Emergency Medical Treatment and Labor Act (EMTALA) requires emergency departments to provide medical screening, stabilization, and appropriate transfer of patients with emergency medical conditions. Hospitals may need to develop additional protocols to ensure that EMTALA-mandated screening, stabilization, consultation, and transfer decisions are not delayed or complicated by ambiguity regarding permissible disclosures. Because EMTALA is federal law and may preempt conflicting state requirements, clarification regarding how the substitute is intended to operate alongside EMTALA could reduce operational uncertainty and mitigate potential legal risk for hospitals. **See Amendments**

The substitute requires that a provider, upon receiving certain out-of-state requests for reproductive or gender-affirming information, “make a reasonable effort to notify” affected individuals and providers “within thirty days”(Section 1(D)(2)–(3)). Compliance with this provision requires implementation of a single, reliable intake process to identify qualifying out-of-state requests, apply the statute’s disclosure limits, and generate/document patient and provider notices within the 30-day window.

Sections 2(A)(1) and 2(A)(3) state that it is “unlawful to geofence” a covered facility to “identify or track” people or “send notifications or advertisements.” To comply with these provisions, the hospital would need to confirm that neither the hospital nor its vendors are using geofencing around covered sites for tracking, data collection, or targeted messaging, and ensure vendor contracts and configurations prevent those uses. This is a compliance risk given the large number of vendors with which the hospital contracts.

The bill’s scope extends beyond the Health Insurance Portability and Accountability Act into “personal data” and precise geolocation. “Personal data” includes information “linked or reasonably linkable” and includes “precise geolocation” (defined using a “radius of two thousand feet”). To be compliant, UNM would need an enterprise-wide inventory of where this type of

personal data is collected/used/shared (especially web, mobile, analytics, and advertising technology ecosystems) and controls to prevent prohibited downstream uses.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

Add a new section at the end of the bill

FEDERAL LAW.--Nothing in this act shall be construed to conflict with, limit or impair compliance with federal law, including but not limited to federal subpoenas, court orders, investigative demands or requirements imposed pursuant to federal statute or regulation. In the event of a conflict between this act and federal law, federal law shall control to the extent required by the Supremacy Clause of the United States Constitution.