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SENATE BILL 119

**50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012**

INTRODUCED BY

Sue Wilson Beffort

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTIONS OF THE HEALTH INFORMATION SYSTEM ACT TO TRANSFER DATA MANAGEMENT DUTIES FROM THE NEW MEXICO HEALTH POLICY COMMISSION TO THE DEPARTMENT OF HEALTH; ENACTING A TEMPORARY PROVISION TO TRANSFER ALL PROPERTY, RECORDS AND CONTRACTS DIRECTLY RELATING TO DATA MANAGEMENT DUTIES UNDER THE HEALTH INFORMATION SYSTEM ACT TO THE DEPARTMENT OF HEALTH, WITH THE EXCEPTION OF THE HEALTH CARE WORK FORCE DATABASE THAT THE UNIVERSITY OF NEW MEXICO ADMINISTERS PURSUANT TO THE HEALTH CARE WORK FORCE DATA COLLECTION, ANALYSIS AND POLICY ACT; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 24-14A-2 NMSA 1978 (being Laws 1989, Chapter 29, Section 2, as amended) is amended to read:

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1 "24-14A-2. DEFINITIONS.--As used in the Health  
2 Information System Act:

3 A. "aggregate data" means data that are obtained by  
4 combining like data elements in a manner that precludes  
5 specific identification of a single client or provider;

6 [~~B.~~] "~~commission~~" ~~means the New Mexico health policy~~  
7 ~~commission;~~

8 ~~G.]~~ B. "data source" or "data provider" means a  
9 person that possesses health information, including any public  
10 or private sector licensed health care practitioner, primary  
11 care clinic, ambulatory surgery center, ambulatory urgent care  
12 center, ambulatory dialysis unit, home health agency, long-term  
13 care facility, hospital, pharmacy, third-party payer and any  
14 public entity that has health information;

15 [~~D.]~~ C. "department" means the department of  
16 health;

17 [~~E.]~~ D. "health information" or "health data" means  
18 any data relating to health care; health status, including  
19 environmental, social and economic factors; the health system;  
20 or health costs and financing;

21 [~~F.]~~ E. "hospital" means any general or special  
22 hospital licensed by the department, whether publicly or  
23 privately owned;

24 [~~G.]~~ F. "long-term care facility" means any skilled  
25 nursing facility or nursing facility licensed by the

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1 department, whether publicly or privately owned;

2 [H.] G. "record-level data" means a medical record  
3 that contains unique and nonaggregated data elements that  
4 relate to a single identifiable individual, provider or  
5 hospital; and

6 [F.] H. "third-party payer" means any public or  
7 private payer of health care services and includes health  
8 maintenance organizations and health insurers."

9 SECTION 2. Section 24-14A-3 NMSA 1978 (being Laws 1989,  
10 Chapter 29, Section 3, as amended by Laws 2005, Chapter 321,  
11 Section 12 and by Laws 2005, Chapter 322, Section 1) is amended  
12 to read:

13 "24-14A-3. HEALTH INFORMATION SYSTEM--CREATION--DUTIES OF  
14 [COMMISSION] DEPARTMENT.--

15 A. The "health information system" is created for  
16 the purpose of assisting the [~~commission~~] department,  
17 legislature and other agencies and organizations in the state's  
18 efforts in collecting, analyzing and disseminating health  
19 information to assist:

20 (1) in the performance of health planning and  
21 policymaking functions, including identifying personnel,  
22 facility, education and other resource needs and allocating  
23 financial, personnel and other resources where appropriate;

24 (2) consumers in making informed decisions  
25 regarding health care; and

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1 (3) in administering, monitoring and  
2 evaluating a statewide health plan.

3 B. In carrying out its powers and duties pursuant  
4 to the Health Information System Act, the [~~commission~~]  
5 department shall not duplicate databases that exist in the  
6 public sector or databases in the private sector to which it  
7 has electronic access. Every governmental entity shall provide  
8 the [~~commission~~] department with access to its health-related  
9 data as needed by the [~~commission~~] department. The  
10 [~~commission~~] department shall collect data from data sources in  
11 the most cost-effective and efficient manner.

12 C. The [~~commission~~] department shall establish,  
13 operate and maintain the health information system.

14 D. In establishing, operating and maintaining the  
15 health information system, the [~~commission~~] department shall:

16 (1) obtain information on the following health  
17 factors:

18 (a) mortality and natality, including  
19 accidental causes of death;

20 (b) morbidity;

21 (c) health behavior;

22 (d) disability;

23 (e) health system costs, availability,  
24 utilization and revenues;

25 (f) environmental factors;

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- 1 (g) health personnel;  
2 (h) demographic factors;  
3 (i) social, cultural and economic  
4 conditions affecting health, including language preference;  
5 (j) family status;  
6 (k) medical and practice outcomes as  
7 measured by nationally accepted standards and quality of care;  
8 and

9 (1) participation in clinical research  
10 trials;

11 (2) give the highest priority in data  
12 gathering to information needed to implement and monitor  
13 progress toward achievement of the state health policy,  
14 including determining where additional health resources such as  
15 personnel, programs and facilities are most needed, what those  
16 additional resources should be and how existing resources  
17 should be reallocated;

18 (3) standardize collection and specific  
19 methods of measurement across databases and use scientific  
20 sampling or complete enumeration for collecting and reporting  
21 health information;

22 (4) take adequate measures to provide health  
23 information system security for all health data acquired under  
24 the Health Information System Act and protect individual  
25 patient and provider confidentiality. The right to privacy for

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1 the individual shall be a major consideration in the collection  
2 and analysis of health data and shall be protected in the  
3 reporting of results;

4 (5) adopt and promulgate rules necessary to  
5 establish and administer the provisions of the Health  
6 Information System Act, including an appeals process for data  
7 sources and procedures to protect data source proprietary  
8 information from public disclosure;

9 (6) establish definitions, formats and other  
10 common information standards for core health data elements of  
11 the health information system in order to provide an integrated  
12 financial, statistical and clinical health information system,  
13 including a geographic information system, that allows data  
14 sharing and linking across databases maintained by data sources  
15 and federal, state and local public agencies;

16 (7) develop and maintain health and health-  
17 related data inventories and technical documentation on data  
18 holdings in the public and private sectors;

19 (8) collect, analyze and make available health  
20 data to support preventive health care practices and to  
21 facilitate the establishment of appropriate benchmark data to  
22 measure performance improvements over time;

23 (9) establish and maintain a systematic  
24 approach to the collection and storage of health data for  
25 longitudinal, demographic and policy impact studies;

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1 (10) use expert system-based protocols to  
2 identify individual and population health risk profiles and to  
3 assist in the delivery of primary and preventive health care  
4 services;

5 (11) collect health data sufficient for  
6 consumers to be able to evaluate health care services, plans,  
7 providers and payers and to make informed decisions regarding  
8 quality, cost and outcome of care across the spectrum of health  
9 care services, providers and payers;

10 (12) collect comprehensive information on  
11 major capital expenditures for facilities, equipment by type  
12 and by data source and significant facility capacity  
13 reductions; provided that for the purposes of this paragraph  
14 and Section 24-14A-5 NMSA 1978, "major capital expenditure"  
15 means purchases of at least one million dollars (\$1,000,000)  
16 for construction or renovation of facilities and at least five  
17 hundred thousand dollars (\$500,000) for purchase or lease of  
18 equipment, and "significant facility capacity reductions" means  
19 those reductions in facility capacities as defined by the  
20 [~~commission~~] department;

21 (13) serve as a health information  
22 clearinghouse, including facilitating private and public  
23 collaborative, coordinated data collection and sharing and  
24 access to appropriate data and information, maintaining patient  
25 and client confidentiality in accordance with state and federal

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1 requirements;

2 (14) collect data in the most cost-efficient  
3 and effective method feasible and adopt [~~regulations~~] rules  
4 that place a limit on the maximum amount of unreimbursed costs  
5 that a data source can incur in any year for the purposes of  
6 complying with the data requirements of the Health Information  
7 System Act; and

8 (15) identify disparities in health care  
9 access and quality by aggregating the information collected  
10 pursuant to Paragraph (1) of this subsection [~~D of this~~  
11 ~~section~~] by population subgroups to include race, ethnicity,  
12 gender and age.

13 E. The president of the university of New Mexico  
14 shall provide to the department, in a manner that conforms to  
15 department rules, access to health care work force data that  
16 the university administers pursuant to the Health Care Work  
17 Force Data Collection, Analysis and Policy Act. The provisions  
18 of this subsection are contingent upon the enactment into law  
19 of legislation by the second session of the fiftieth  
20 legislature to transfer administration of health care work  
21 force data administration from the department of health to the  
22 university of New Mexico."

23 SECTION 3. Section 24-14A-4 NMSA 1978 (being Laws 1989,  
24 Chapter 29, Section 4, as amended) is amended to read:

25 "24-14A-4. HEALTH INFORMATION SYSTEM--APPLICABILITY.--

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1           A. All data sources shall participate in the health  
2 information system. Requests for health data under the Health  
3 Information System Act from a member of a data source category  
4 shall, where reasonable and equitable, be made to all members  
5 of that data source category.

6           B. Upon making any request for health data pursuant  
7 to the Health Information System Act, the [~~commission~~]  
8 department shall provide reasonable deadlines for compliance  
9 and shall give notice that noncompliance may subject the person  
10 to a civil penalty pursuant to Section 24-14A-10 NMSA 1978.

11           C. To the extent possible, the health information  
12 system shall be established in a manner to facilitate the  
13 exchange of information with other databases, including those  
14 maintained by the Indian health service and various agencies of  
15 the federal government."

16           SECTION 4. Section 24-14A-4.1 NMSA 1978 (being Laws 1994,  
17 Chapter 59, Section 11, as amended) is amended to read:

18           "24-14A-4.1. ANNUAL REVIEW OF DATA NEEDS.--At least once  
19 each year, the [~~commission~~] department shall review its data  
20 collection requirements to determine the relevancy of the data  
21 elements on which it collects data and review its regulations  
22 and procedures for collecting, analyzing and reporting data for  
23 efficiency, effectiveness and appropriateness. The review  
24 shall consider the cost incurred by data sources to collect and  
25 submit data."

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1           SECTION 5. Section 24-14A-4.2 NMSA 1978 (being Laws 1994,  
2 Chapter 59, Section 12) is amended to read:

3           "24-14A-4.2. INVESTIGATORY POWERS.--The [~~commission~~  
4 department] has the right to verify the accuracy of data  
5 provided by any data source. The verification may include  
6 requiring the data source to submit documentation sufficient to  
7 verify the accuracy of the data in question or to provide  
8 direct inspection during normal business hours of only the  
9 records and documents that pertain directly to the data in  
10 question; provided that no data source shall be required to  
11 expend more than twenty-five thousand dollars (\$25,000) each  
12 year to comply with the provisions of this section."

13           SECTION 6. Section 24-14A-4.3 NMSA 1978 (being Laws 1994,  
14 Chapter 59, Section 15) is amended to read:

15           "24-14A-4.3. AGENCY COOPERATION.--All state agencies and  
16 political subdivisions shall cooperate with and assist the  
17 [~~commission~~] department in carrying out the provisions of the  
18 Health Information System Act, including sharing information  
19 and joining in any appropriate health information system."

20           SECTION 7. Section 24-14A-6 NMSA 1978 (being Laws 1989,  
21 Chapter 29, Section 6, as amended) is amended to read:

22           "24-14A-6. HEALTH INFORMATION SYSTEM--ACCESS.--

23           A. Access to data in the health information system  
24 shall be provided in accordance with regulations adopted by the  
25 [~~commission~~] department pursuant to the Health Information

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1 System Act.

2 B. A data provider may obtain data it has submitted  
3 to the system, as well as aggregate data, but, except as  
4 provided in [~~Subsections D and E~~] Subsection D of this section,  
5 it shall not have access to data submitted by another provider  
6 that is limited only to that provider. Except as provided in  
7 [~~Subsections D and E~~] Subsection D of this section, in no event  
8 may a data provider obtain data regarding an individual patient  
9 except in instances where the data were originally submitted by  
10 the requesting provider. Prior to the release of any data, in  
11 any form, data sources shall be permitted the opportunity to  
12 verify the accuracy of the data pertaining to that data source.  
13 Data identified in writing as inaccurate shall be corrected  
14 prior to the data's release. Time limits shall be set for the  
15 submission and review of data by data sources, and penalties  
16 shall be established for failure to submit and review the data  
17 within the established time.

18 C. Any person may obtain any aggregate data.

19 [~~D. Through a secure delivery or transmission~~  
20 ~~process, the commission may share with the department record-~~  
21 ~~level data that contain identifiable individual, provider or~~  
22 ~~hospital information.~~

23 ~~E.]~~ D. Through a secure delivery or transmission  
24 process, the [~~commission~~] department may share record-level  
25 data with a federal agency that is authorized to collect,

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1 analyze or disseminate health information. The [~~commission~~]  
2 department shall remove identifiable individual or provider  
3 information from the record-level data prior to its disclosure  
4 to the federal agency. In providing hospital information under  
5 an agreement or arrangement with a federal agency, the  
6 [~~commission~~] department shall ensure that any identifiable  
7 hospital information disclosed is necessary for the agency's  
8 authorized use and that its disclosure meets with state and  
9 federal privacy and confidentiality laws, rules and  
10 regulations."

11 SECTION 8. Section 24-14A-7 NMSA 1978 (being Laws 1989,  
12 Chapter 29, Section 7, as amended) is amended to read:

13 "24-14A-7. HEALTH INFORMATION SYSTEM--REPORTS.--

14 A. A report in printed format that provides  
15 information of use to the general public shall be produced  
16 annually. The report shall be made available upon request.  
17 The [~~commission~~] department may make the report available on  
18 tape or other electronic format.

19 B. The [~~commission~~] department shall provide an  
20 annual report of its activities, including health care system  
21 statistics, to the legislature. The report shall be submitted  
22 by November 15 each year."

23 SECTION 9. Section 24-14A-8 NMSA 1978 (being Laws 1989,  
24 Chapter 29, Section 8, as amended) is amended to read:

25 "24-14A-8. HEALTH INFORMATION SYSTEM--CONFIDENTIALITY.--

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1           A. Health information collected and disseminated  
2 pursuant to the Health Information System Act is strictly  
3 confidential and shall not be a matter of public record or  
4 accessible to the public except as provided in Sections  
5 24-14A-6 and 24-14A-7 NMSA 1978. No data source shall be  
6 liable for damages to any person for having furnished the  
7 information to the [~~commission~~] department.

8           B. Record-level data provided to the department  
9 pursuant to Section 24-14A-6 NMSA 1978 are confidential. The  
10 [~~department~~] agency that receives record-level data shall not  
11 disclose the data except to the extent that they are included  
12 in a compilation of aggregate data.

13           C. The individual forms, electronic information or  
14 other forms of data collected by and furnished for the health  
15 information system shall not be public records subject to  
16 inspection pursuant to Section 14-2-1 NMSA 1978. Compilations  
17 of aggregate data prepared for release or dissemination from  
18 the data collected, except for a report prepared for an  
19 individual data provider or the provider's designee containing  
20 information concerning only its transactions, shall be public  
21 records."

22           **SECTION 10.** Section 24-14A-9 NMSA 1978 (being Laws 1989,  
23 Chapter 29, Section 9, as amended) is amended to read:

24           "24-14A-9. HEALTH INFORMATION SYSTEM--FEES.--Except for  
25 the annual reports required pursuant to the Health Information

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1 System Act, the [~~commission~~] department may collect a fee of up  
2 to one hundred dollars (\$100) per hour to offset partially the  
3 costs of producing public-use data aggregations or data for  
4 single use special studies. Entities contributing data to the  
5 system shall be charged reduced rates. Rates shall be  
6 established by regulation and shall be reviewed annually. Fees  
7 collected pursuant to this section are appropriated to the  
8 [~~commission~~] department to carry out the provisions of the  
9 Health Information System Act."

10 SECTION 11. TEMPORARY PROVISION--TRANSFER OF PROPERTY,  
11 RECORDS AND CONTRACTS DIRECTLY RELATED TO DATA COLLECTION,  
12 ANALYSIS AND DISSEMINATION DUTIES UNDER THE HEALTH INFORMATION  
13 SYSTEM ACT FROM THE NEW MEXICO HEALTH POLICY COMMISSION TO THE  
14 DEPARTMENT OF HEALTH.--On July 1, 2012:

15 A. all appropriations, money, records, equipment,  
16 supplies and other property directly related to the collection,  
17 analysis and dissemination of health information data pursuant  
18 to the Health Information System Act shall be transferred from  
19 the New Mexico health policy commission to the department of  
20 health; and

21 B. all contracts directly related to the  
22 collection, analysis and dissemination of health information  
23 data pursuant to the Health Information System Act shall be  
24 binding and effective on the department of health.