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FISCAL IMPACT REPORT

SPONSOR Ulibarri **ORIGINAL DATE** 1/27/09 **LAST UPDATED** _____ **HB** _____
SHORT TITLE Depart. Of Health Mortality Review Immunity **SB** 198
ANALYST Chabot

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 197, Mortality Review Info Confidentiality

SOURCES OF INFORMATION

LFC Files

Responses Received From

Commission of Public Records (CPR)

Department of Health (DOH)

Health Policy Commission (HPC)

SUMMARY

Synopsis of Bill

Senate Bill 198, Department of Health Mortality Review Immunity amends Section 41-9-1 NMSA 1978 to add the Department of Health under the definitions as a “review organization” when it engaged in mortality review activities pursuant to its duties specified in Subsection U of Section 24-1-3 NMSA 1978.

SIGNIFICANT ISSUES

Subsection U of Section 24-1-3 states the department [DOH] has authority to:

“U. request and inspect, while maintaining federal and state confidentiality requirements, copies of:

(1) medical and clinical records reasonably required for the department’s quality assurance and quality improvement activities; and

(2) All medical and clinical records pertaining to the individual whose death is the subject of inquiry by the department’s mortality review activities...”

This bill would exempt DOH in its role as a review organization for medical and clinical records reviewed under the Review Organization Immunity Act.

DOH states “This is a Department of Health sponsored bill. The Department of Health conducts mortality reviews at its own facilities and of community providers as a means of oversight and improvement. The protection of this information is important as the reviews contain protected health information of clients or consumers. Any critical self-analysis would be chilled if the information were to become public.”

However, in conversation with the DOH General Council, the intent of the act can be accomplished by including DOH facilities in the definition of “review organization” in Section 41.9-2 NMSA 1978 which would negate the need to change the statute by adding subsection (2) under Section 41-9-2E.

TECHNICAL ISSUES

DOH suggests the bill should be amended to include facilities operated by DOH by adding Department of Health facilities to the definition of “review organization” under Section 41-9-2, line 11, page 2, and delete the proposed 41-9-2(2), line 24, page 3.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

DOH review actions might not be covered by the Review Organization Immunity Act.

POSSIBLE QUESTIONS

1. Can Section 41-9-2E NMSA 1978 be interpreted to include DOH facilities? If so, is this bill needed?

GAC/mc