

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Wirth DATE TYPED 2/14/05 HB 651

SHORT TITLE HMO Info Disclosure Exceptions SB _____

ANALYST Hanika-Ortiz

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

SOURCES OF INFORMATION

LFC Files

Responses Received From

Children, Youth & Families Department (CYFD)
Office of the Attorney General (AGO)
Human Service Division (HSD)
Department of Health (DOH)

SUMMARY

Synopsis of Bill

House Bill 651 seeks to amend NMSA 59A-46-27, Confidentiality of Medical Information and Limitation of Liability, to achieve conformity with the privacy standard of the federal Health Insurance Portability and Accountability Act (HIPAA), requiring Health Maintenance Organizations (HMOs) to disclose confidential medical information only as authorized by federal or state statute or rule.

Significant Issues

The DOH reports federal HIPAA regulations require that health information be disclosed only under strict guidelines, including consumer authorization. State government agencies and other public and private health care delivery systems are required to comply with HIPAA and individual employees of said organizations may be fined or terminated from federal programs if health information is inappropriately disclosed. HB 651 would allow disclosure only by federal or state statute or rule.

HB 651 makes clear that the federal HIPAA Privacy Rule applies to HMOs. It will address some confusion that may currently exist on the part of HMOs as to whether a disclosure permitted under the HIPAA Privacy Rule, but not specifically addressed in the confidentiality provisions of the HMO Law, are allowed.

PERFORMANCE IMPLICATIONS

The AGO notes the proposed amendment provides HMO's with a statutory directive to comply with the federal privacy rule. This obligation already exists, however there is no harm in clarifying the HMO's authority to disclose protected health information.

The DOH report HB 651 supports the DOH Strategic Plan in ensuring the quality and use of health, health service & performance data.

FISCAL IMPLICATIONS

NFI

ADMINISTRATIVE IMPLICATIONS

Since HMO's do not carry out all of their business within their agency, the privacy rule permits providers to disclose protected health information outside of the agency. The HMO must enter into a business associate agreement with other entities with which they do business. HMO's may disclose protected health information to another entity only to assist the HMO to carry out its health care functions.

OTHER SUBSTANTIVE ISSUES

SB 651 would include the disclosure of health information by federal or state statute or rule, in compliance with HIPAA regulations. Every citizen in New Mexico receiving health care services must sign a disclosure statement with regard to release of health information. Under certain circumstances, health information may be required for review by the health provider, particularly when there is pending litigation or other unusual circumstances. HB 651 would allow disclosure by federal or state statute or rule in addition to the current allowances, such as the extent that may be necessary to carry out the purposes of a Health Maintenance Organization or upon consent of the enrollee or applicant. HB 651 would support the ability of organizations to obtain health information within current HIPAA regulations, including HMOs.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

Any HMO doing business in New Mexico must meet all federal and state regulations regarding confidentiality and agree to adhere to all privacy standards promulgated pursuant to HIPAA.

AHO/yr