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FISCAL IMPACT REPORT

ORIGINAL DATE 1/22/08

SPONSOR Carraro LAST UPDATED _____ HB _____

SHORT TITLE Electronic Medical Records Act SB 305

ANALYST Hanika-Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	\$.1 (see narrative)	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to Appropriation in the General Appropriation Act

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY08	FY09	FY10	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$.01			Recurring	Various

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Health (DOH)

Health Policy Commission (HPC)

New Mexico Corrections Department (NMCD)

SUMMARY

Synopsis of Bill

Senate Bill 305 enacts the Electronic Medical Records Act which authorizes the creation, use and maintenance of electronic medical records; provides for individual rights with respect to the disclosure of information contained in electronic medical records, provides for the protection of privacy of electronic medical records, and, establishes penalties for the misuse of electronic medical records.

Specific provisions within the bill include:

Sections 1, 2 and 3 site the title and the purpose of the act; and, provides for definitions as used within the act.

Sections 4 and 5 require the New Mexico Telehealth and Health Information Technology Commission (THITC) to first develop and present a plan to the DOH for the implementation of medical electronic claims and submissions by June 9, 2009; and, develop and present a plan to the DOH for the implementation of an electronic medical records system for use and exchange of information by June 1, 2010 for all health care providers, health care institutions and health insurance companies doing business in New Mexico. All implementation plans will be presented to the Governor and the legislature by the DOH and the THITC regarding all specific legislation or necessary appropriations.

Section 6 establishes provisions recognizing the legal equivalent of electronic records and signatures.

Section 7 includes provision to require an electronic medical record or electronic signature to be attributable to an individual if it was the act of the individual.

Section 8 provides that a notarized signature for a medical record is satisfied if the electronic signature is logically associated with the medical record or signature pertaining to the medical record.

Section 9 extends the current medical record retention requirements to electronic medical records.

Section 10 includes provisions that electronic medical records and electronic signatures are not to be excluded in evidentiary proceedings solely because they are in electronic form.

Section 11 includes detailed provisions focused on the disclosure of health care information from an individual's electronic medical record; and, includes provisions for how an individual might choose to exclude information from such disclosure.

Section 12 would establish guidance as stated in Section 11 for both in-state and out-of-state disclosure of information.

Section 13 provides for the rights of persons that are authorized to consent to health care for another, to have the same rights and powers related to that information under the Electronic Medical Records Act. Includes the same rights and protections for emancipated minors.

Section 14 allows for the disclosure of medical record information for the purpose of research in accordance with federal regulations.

Section 15 includes provisions for penalties for misuse of electronic medical records.

FISCAL IMPLICATIONS

The Executive is requesting a FY08 and FY09 special appropriation of \$1.3 million for start-up costs associated with establishing and transitioning to a health coverage authority as proposed in HB 62; and, for the initial electronic health transactions planning work as described in Senate Bill 305. It is unclear what portion of this special appropriation will be solely directed toward this planning work; and, what entity will be directed to administer the funding.

The activities within this bill have the potential to require annual General Fund appropriations not only for start-up costs and maintenance of a statewide system for electronic submissions, but also for any extensive training and on-going technical support needs of users statewide.

NMCD reports that one of the duties of the TNIFC is to realistically assess cost implications for all health care providers, including contract medical providers of prison inmates.

SIGNIFICANT ISSUES

The provisions within SB 305 include the fourth component of the Governor's HealthSOLUTIONS initiative; and, are an attempt to control costs and increase health care quality through electronic medical claims and submissions, and electronic medical records. The bill tasks the DOH and THITC with making recommendations to the Governor and the Legislature in FY09 and FY10 regarding future appropriations or specific legislation needed to implement a statewide electronic medical claims and submission, and electronic medical records system.

A little less than 25% of office-based physicians nationwide have gone digital, and only 10% write their prescriptions electronically according to the most recent Center for Disease Control data. Health care providers have reported that the primary barriers to health information technology adoption are high initial acquisition and implementation costs and the disruptive effects on their practices during implementation.

PERFORMANCE IMPLICATIONS

The HPC reports that the NMHIC is an effort by public and private health systems, insurers and employers in New Mexico to develop a common, electronic, health information exchange network. NMHIC will address both urban and rural areas of New Mexico in its initial three-year phase, specifically the Albuquerque Metropolitan area and the Taos community.

ADMINISTRATIVE IMPLICATIONS

DOH reports the bill supports the Department's strategy of expanding the use of electronic medical records.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates HB 37

Companion to HB 62: the HealthSOLUTIONS Act

Relates to SB 3: Health Security Act, which also includes requirements for electronic records

Relates to the Executive General Fund Budget Recommendation that includes \$909.2 thousand for Information Technology Investment in Telehealth & Electronic Health Transactions in FY09

TECHNICAL ISSUES

DOH recommends providing a definition of "health care insurance company" to further clarify if all underwriters of health care, including self-insurance plans, would be included in the provisions of the bill.

The data from an electronic health records system should be able to be used anonymously for statistical reporting for purposes of quality improvement, outcome reporting, resource management, and public health communicable disease surveillance. It is unclear whether this provision is provided for within the bill.

Section 14 could include an exemption for the purpose of “organ and tissue donation”.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A statewide electronic medical claims submission and electronic medical records implementation plan will not be initiated by way of this bill.

QUESTIONS

Will there be the ability to exchange medical information with providers in other states that do not have electronic medical record or electronic claims submission capability?

AHO/mt