

1 SENATE BILL 197

2 **49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

3 INTRODUCED BY

4 David Ulibarri

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10 AN ACT

11 RELATING TO PUBLIC HEALTH; AMENDING A SECTION OF THE PUBLIC
12 HEALTH ACT TO PROTECT THE CONFIDENTIALITY OF INFORMATION
13 COLLECTED AND MAINTAINED PURSUANT TO DEPARTMENT OF HEALTH
14 MORTALITY REVIEWS.

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

17 Section 1. Section 24-1-20 NMSA 1978 (being Laws 1973,
18 Chapter 359, Section 20, as amended) is amended to read:

19 "24-1-20. RECORDS CONFIDENTIAL.--

20 A. The files and records of the department giving
21 identifying information about individuals who have received or
22 are receiving from the department treatment, diagnostic
23 services or preventive care for diseases, disabilities or
24 physical injuries are confidential and are not open to
25 inspection except:

.174585.2SA

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 (1) where permitted by rule of the department;

2 (2) as provided in Subsection [G] E of this

3 section; and

4 (3) to the secretary [~~of health and~~
5 ~~environment~~] or to an employee of the [~~health and environment~~]
6 department authorized by the secretary to obtain such
7 information, but the information shall only be revealed for use
8 in connection with a governmental function of the secretary or
9 the authorized employee.

10 B. Both the secretary and the employees of the
11 department are subject to the penalty contained in Subsection
12 [F] H of this section if they release or use the information in
13 violation of this section.

14 [~~B.~~] C. All information voluntarily provided to the
15 [~~director~~] secretary or [~~his~~] the secretary's agent in
16 connection with studies designated by [~~him~~] the secretary as
17 medical research and approved by the secretary [~~of health and~~
18 ~~environment~~], either conducted by or under the authority of the
19 [~~director~~] secretary for the purpose of reducing the morbidity
20 or mortality from any cause or condition of health, is
21 confidential and shall be used only for the purposes of medical
22 research. The information shall not be admissible as evidence
23 in any action of any kind in any court or before any
24 administrative proceeding or other action.

25 D. All information collected and maintained in

.174585.2SA

underscoring material = new
[bracketed material] = delete

1 connection with department of health mortality review
2 activities pursuant to Subsection U of Section 24-1-3 NMSA 1978
3 shall be confidential.

4 ~~[G.]~~ E. The human services department and the
5 office of the state long-term care ombudsman shall have prompt
6 access to all files and records in the possession of the
7 licensing and certification bureau of the department that are
8 related to any health facility investigation. Officers and
9 employees of those agencies with such access are subject to the
10 penalty in Subsection ~~[F.]~~ H of this section if they release or
11 use the information in violation of this section.

12 ~~[D.]~~ F. The files and records of the department are
13 subject to subpoena for use in any pending cause in any
14 administrative proceeding or in any of the courts of the state,
15 unless otherwise provided by law.

16 ~~[E.]~~ G. No person supplying information to the
17 department for use in a research project or any cooperating
18 person in a research project shall be subject to any action for
19 damages or other relief as a result of that activity.

20 ~~[F.]~~ H. Any person who discloses confidential
21 information in violation of this section is guilty of a petty
22 misdemeanor."