

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

ORIGINAL DATE 2/05/09  
 SPONSOR Stewart LAST UPDATED 2/27/09 HB 293/aHJC  
 SHORT TITLE Protection of Health Information SB \_\_\_\_\_  
 ANALYST Hanika-Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Health (DOH)  
 Health Policy Commission (HPC)  
 Department of Information Technology (DoIT)

### SUMMARY

#### Synopsis of HJC Amendment

The House Judiciary Committee Amendment restates that the commission remove identifiable individual or provider information from record-level data prior to its disclosure; requires that such disclosure only be made to a federal agency authorized to collect, analyze or disseminate health information; and further requires that any identifiable hospital information disclosed is necessary for the agency’s authorized use and meets with state and federal privacy laws.

#### Synopsis of Original Bill

House Bill 293 amends the Health Information Systems (HIS) Act, (Section 24-14A-2 NMSA 1978), to provide for the use, disclosure and protection of record-level (nonaggregated) health information data to particular data users, and limits disclosure to other data users.

Section 1 amends the definition of “data source” to include “data providers”; and adds to definitions the phrase “record-level data” to mean a medical record that contains data that can be related to a single identifiable individual, provider or hospital.

Section 2 allows HPC to share record-level data containing identifiable individual, provider or hospital information with DOH. This section allows HPC to share record-level data with a federal agency authorized to collect, analyze or disseminate health information but must remove any identifiable individual, provider or hospital information prior to disclosure.

Section 3 makes record-level data provided to DOH by HPC confidential and to be disclosed only in aggregate form.

### **FISCAL IMPLICATIONS**

HPC collects and maintains hospital inpatient discharge data and provides, in aggregate form, to individuals and agencies. By providing record-level data directly to DOH, HPC administrative costs will be reduced, as will be the costs to DOH to independently obtain the data.

### **SIGNIFICANT ISSUES**

This bill is sponsored by HPC and supported by DOH. HPC collects, analyzes and disseminates health information to assist: (1) health planning and policymaking functions; (2) consumers in making informed decisions regarding healthcare; and (3) in administering, monitoring and evaluating a statewide health plan.

HPC reports that the HIS Act allows only for aggregate data dissemination to the DOH. HPC believes DOH cannot sufficiently track public health issues without record-level data and in some cases, identifying information.

### **PERFORMANCE IMPLICATIONS**

The Health Information System (HIS) Act in statute provides that the Hospital Inpatient Discharge Database be administered by HPC. The HIS Act currently prevents the HPC from providing record-level data to DOH or the Federal government. Without the record-level data, HPC reports DOH cannot provide the kind of analyses required to meet its directives for tracking diseases and health conditions.

The Healthcare Cost and Utilization Project (HCUP) is a federal-state-industry partnership sponsored by the Federal agency for Healthcare Research and Quality (AHRQ) that provides hospital inpatient databases from 40 states for research in the areas of health care utilization and quality. HCUP utilizes a memorandum of agreement between AHRQ and HCUP partners including a data security plan to protect privacy and confidentiality. HPC state that the HIS Act, as currently written, prevents New Mexico from participating in HCUP.

### **ADMINISTRATIVE IMPLICATIONS**

DOH epidemiologists are responsible for tracking the health of New Mexicans. This includes tracking infectious diseases, injuries, maternal-child health and substance abuse.

### **TECHNICAL ISSUES**

The bill is vague as to any requirements for security issues regarding the use and exchange of electronic record-level medical records data.

DoIT reports Section 2E requires removal of certain elements of “record-level data” before disclosure to an “agency”. It is assuming that “agency” is a federal agency.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

HPC will not be permitted to share record-level with DOH and the Federal government.

**POSSIBLE QUESTIONS**

Pg 4, line 15, clarify that “agency” means “federal agency”.

Pg 5, line 5, delete the period and insert “for research and public health purposes.”

AHO/svb:mt