

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTIONS OF THE HEALTH INFORMATION SYSTEM ACT TO TRANSFER DATA MANAGEMENT DUTIES FROM THE NEW MEXICO HEALTH POLICY COMMISSION TO THE DEPARTMENT OF HEALTH; ENACTING A TEMPORARY PROVISION TO TRANSFER ALL PROPERTY, RECORDS AND CONTRACTS DIRECTLY RELATING TO DATA MANAGEMENT DUTIES UNDER THE HEALTH INFORMATION SYSTEM ACT TO THE DEPARTMENT OF HEALTH; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2005.

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

SECTION 1. Section 24-14A-2 NMSA 1978 (being Laws 1989, Chapter 29, Section 2, as amended) is amended to read:

"24-14A-2. DEFINITIONS.--As used in the Health Information System Act:

A. "aggregate data" means data that are obtained by combining like data elements in a manner that precludes specific identification of a single client or provider;

B. "data source" or "data provider" means a person that possesses health information, including any public or private sector licensed health care practitioner, primary care clinic, ambulatory surgery center, ambulatory urgent care center, ambulatory dialysis unit, home health agency, long-term care facility, hospital, pharmacy, third-party payer and any public entity that has health information;

C. "department" means the department of health;

D. "health information" or "health data" means any data relating to health care; health status, including environmental, social and economic factors; the health system; or health costs and financing;

E. "hospital" means any general or special hospital licensed by the department, whether publicly or privately owned;

F. "long-term care facility" means any skilled nursing facility or nursing facility licensed by the department, whether publicly or privately owned;

G. "record-level data" means a medical record that contains unique and nonaggregated data elements that relate to a single identifiable individual, provider or hospital; and

H. "third-party payer" means any public or private payer of health care services and includes health maintenance organizations and health insurers."

SECTION 2. Section 24-14A-3 NMSA 1978 (being Laws 1989, Chapter 29, Section 3, as amended by Laws 2005, Chapter 321, Section 12 and by Laws 2005, Chapter 322, Section 1) is amended to read:

"24-14A-3. HEALTH INFORMATION SYSTEM--CREATION--DUTIES OF DEPARTMENT.--

A. The "health information system" is created for the purpose of assisting the department, legislature and other

agencies and organizations in the state's efforts in collecting, analyzing and disseminating health information to assist:

(1) in the performance of health planning and policymaking functions, including identifying personnel, facility, education and other resource needs and allocating financial, personnel and other resources where appropriate;

(2) consumers in making informed decisions regarding health care; and

(3) in administering, monitoring and evaluating a statewide health plan.

B. In carrying out its powers and duties pursuant to the Health Information System Act, the department shall not duplicate databases that exist in the public sector or databases in the private sector to which it has electronic access. Every governmental entity shall provide the department with access to its health-related data as needed by the department. The department shall collect data from data sources in the most cost-effective and efficient manner.

C. The department shall establish, operate and maintain the health information system.

D. In establishing, operating and maintaining the health information system, the department shall:

(1) obtain information on the following health factors:

(a) mortality and natality, including accidental causes of death;

(b) morbidity;

(c) health behavior;

(d) disability;

(e) health system costs, availability, utilization and revenues;

(f) environmental factors;

(g) health personnel;

(h) demographic factors;

(i) social, cultural and economic conditions affecting health, including language preference;

(j) family status;

(k) medical and practice outcomes as measured by nationally accepted standards and quality of care;

and

(l) participation in clinical research trials;

(2) give the highest priority in data gathering to information needed to implement and monitor progress toward achievement of the state health policy, including determining where additional health resources such as personnel, programs and facilities are most needed, what those additional resources should be and how existing resources should be reallocated;

(3) standardize collection and specific methods of measurement across databases and use scientific sampling or complete enumeration for collecting and reporting health information;

(4) take adequate measures to provide health information system security for all health data acquired under the Health Information System Act and protect individual patient and provider confidentiality. The right to privacy for the individual shall be a major consideration in the collection and analysis of health data and shall be protected in the reporting of results;

(5) adopt and promulgate rules necessary to establish and administer the provisions of the Health Information System Act, including an appeals process for data sources and procedures to protect data source proprietary information from public disclosure;

(6) establish definitions, formats and other common information standards for core health data elements of the health information system in order to provide an integrated financial, statistical and clinical health information system, including a geographic information system, that allows data sharing and linking across databases maintained by data sources and federal, state and local public agencies;

(7) develop and maintain health and health-

related data inventories and technical documentation on data holdings in the public and private sectors;

(8) collect, analyze and make available health data to support preventive health care practices and to facilitate the establishment of appropriate benchmark data to measure performance improvements over time;

(9) establish and maintain a systematic approach to the collection and storage of health data for longitudinal, demographic and policy impact studies;

(10) use expert system-based protocols to identify individual and population health risk profiles and to assist in the delivery of primary and preventive health care services;

(11) collect health data sufficient for consumers to be able to evaluate health care services, plans, providers and payers and to make informed decisions regarding quality, cost and outcome of care across the spectrum of health care services, providers and payers;

(12) collect comprehensive information on major capital expenditures for facilities, equipment by type and by data source and significant facility capacity reductions; provided that for the purposes of this paragraph and Section 24-14A-5 NMSA 1978, "major capital expenditure" means purchases of at least one million dollars (\$1,000,000) for construction or renovation of facilities and at least five

hundred thousand dollars (\$500,000) for purchase or lease of equipment, and "significant facility capacity reductions" means those reductions in facility capacities as defined by the department;

(13) serve as a health information clearinghouse, including facilitating private and public collaborative, coordinated data collection and sharing and access to appropriate data and information, maintaining patient and client confidentiality in accordance with state and federal requirements;

(14) collect data in the most cost-efficient and effective method feasible and adopt rules that place a limit on the maximum amount of unreimbursed costs that a data source can incur in any year for the purposes of complying with the data requirements of the Health Information System Act; and

(15) identify disparities in health care access and quality by aggregating the information collected pursuant to Paragraph (1) of this subsection by population subgroups to include race, ethnicity, gender and age."

SECTION 3. Section 24-14A-4 NMSA 1978 (being Laws 1989, Chapter 29, Section 4, as amended) is amended to read:

"24-14A-4. HEALTH INFORMATION SYSTEM--APPLICABILITY.--

A. All data sources shall participate in the health information system. Requests for health data under the

Health Information System Act from a member of a data source category shall, where reasonable and equitable, be made to all members of that data source category.

B. Upon making any request for health data pursuant to the Health Information System Act, the department shall provide reasonable deadlines for compliance and shall give notice that noncompliance may subject the person to a civil penalty pursuant to Section 24-14A-10 NMSA 1978.

C. To the extent possible, the health information system shall be established in a manner to facilitate the exchange of information with other databases, including those maintained by the Indian health service and various agencies of the federal government."

SECTION 4. Section 24-14A-4.1 NMSA 1978 (being Laws 1994, Chapter 59, Section 11, as amended) is amended to read:

"24-14A-4.1. ANNUAL REVIEW OF DATA NEEDS.--At least once each year, the department shall review its data collection requirements to determine the relevancy of the data elements on which it collects data and review its regulations and procedures for collecting, analyzing and reporting data for efficiency, effectiveness and appropriateness. The review shall consider the cost incurred by data sources to collect and submit data."

SECTION 5. Section 24-14A-4.2 NMSA 1978 (being Laws 1994, Chapter 59, Section 12) is amended to read:

"24-14A-4.2. INVESTIGATORY POWERS.--The department has the right to verify the accuracy of data provided by any data source. The verification may include requiring the data source to submit documentation sufficient to verify the accuracy of the data in question or to provide direct inspection during normal business hours of only the records and documents that pertain directly to the data in question; provided that no data source shall be required to expend more than twenty-five thousand dollars (\$25,000) each year to comply with the provisions of this section."

SECTION 6. Section 24-14A-4.3 NMSA 1978 (being Laws 1994, Chapter 59, Section 15) is amended to read:

"24-14A-4.3. AGENCY COOPERATION.--All state agencies and political subdivisions shall cooperate with and assist the department in carrying out the provisions of the Health Information System Act, including sharing information and joining in any appropriate health information system."

SECTION 7. Section 24-14A-6 NMSA 1978 (being Laws 1989, Chapter 29, Section 6, as amended) is amended to read:

"24-14A-6. HEALTH INFORMATION SYSTEM--ACCESS.--

A. Access to data in the health information system shall be provided in accordance with regulations adopted by the department pursuant to the Health Information System Act.

B. A data provider may obtain data it has submitted to the system, as well as aggregate data, but,

except as provided in Subsection D of this section, it shall not have access to data submitted by another provider that is limited only to that provider. Except as provided in Subsection D of this section, in no event may a data provider obtain data regarding an individual patient except in instances where the data were originally submitted by the requesting provider. Prior to the release of any data, in any form, data sources shall be permitted the opportunity to verify the accuracy of the data pertaining to that data source. Data identified in writing as inaccurate shall be corrected prior to the data's release. Time limits shall be set for the submission and review of data by data sources, and penalties shall be established for failure to submit and review the data within the established time.

C. Any person may obtain any aggregate data.

D. Through a secure delivery or transmission process, the department may share record-level data with a federal agency that is authorized to collect, analyze or disseminate health information. The department shall remove identifiable individual or provider information from the record-level data prior to its disclosure to the federal agency. In providing hospital information under an agreement or arrangement with a federal agency, the department shall ensure that any identifiable hospital information disclosed is necessary for the agency's authorized use and that its

disclosure meets with state and federal privacy and confidentiality laws, rules and regulations."

SECTION 8. Section 24-14A-7 NMSA 1978 (being Laws 1989, Chapter 29, Section 7, as amended) is amended to read:

"24-14A-7. HEALTH INFORMATION SYSTEM--REPORTS.--

A. A report in printed format that provides information of use to the general public shall be produced annually. The report shall be made available upon request. The department may make the report available on tape or other electronic format.

B. The department shall provide an annual report of its activities, including health care system statistics, to the legislature. The report shall be submitted by November 15 each year."

SECTION 9. Section 24-14A-8 NMSA 1978 (being Laws 1989, Chapter 29, Section 8, as amended) is amended to read:

"24-14A-8. HEALTH INFORMATION SYSTEM--
CONFIDENTIALITY.--

A. Health information collected and disseminated pursuant to the Health Information System Act is strictly confidential and shall not be a matter of public record or accessible to the public except as provided in Sections 24-14A-6 and 24-14A-7 NMSA 1978. No data source shall be liable for damages to any person for having furnished the information to the department.

B. Record-level data provided to the department pursuant to Section 24-14A-6 NMSA 1978 are confidential. The agency that receives record-level data shall not disclose the data except to the extent that they are included in a compilation of aggregate data.

C. The individual forms, electronic information or other forms of data collected by and furnished for the health information system shall not be public records subject to inspection pursuant to Section 14-2-1 NMSA 1978. Compilations of aggregate data prepared for release or dissemination from the data collected, except for a report prepared for an individual data provider or the provider's designee containing information concerning only its transactions, shall be public records."

SECTION 10. Section 24-14A-9 NMSA 1978 (being Laws 1989, Chapter 29, Section 9, as amended) is amended to read:

"24-14A-9. HEALTH INFORMATION SYSTEM--FEES.--Except for the annual reports required pursuant to the Health Information System Act, the department may collect a fee of up to one hundred dollars (\$100) per hour to offset partially the costs of producing public-use data aggregations or data for single use special studies. Entities contributing data to the system shall be charged reduced rates. Rates shall be established by regulation and shall be reviewed annually. Fees collected pursuant to this section are appropriated to the department to

carry out the provisions of the Health Information System Act."

SECTION 11. TEMPORARY PROVISION--TRANSFER OF PROPERTY, RECORDS AND CONTRACTS DIRECTLY RELATED TO DATA COLLECTION, ANALYSIS AND DISSEMINATION DUTIES UNDER THE HEALTH INFORMATION SYSTEM ACT FROM THE NEW MEXICO HEALTH POLICY COMMISSION TO THE DEPARTMENT OF HEALTH.--On July 1, 2012:

A. all appropriations, money, records, equipment, supplies and other property directly related to the collection, analysis and dissemination of health information data pursuant to the Health Information System Act shall be transferred from the New Mexico health policy commission to the department of health; and

B. all contracts directly related to the collection, analysis and dissemination of health information data pursuant to the Health Information System Act shall be binding and effective on the department of health.