

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE BILLS 323 & 474

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

AN ACT

RELATING TO HEALTH; AMENDING SECTIONS OF THE HEALTH INFORMATION  
SYSTEM ACT TO PROVIDE FOR THE SAFE DISCLOSURE OF CERTAIN  
INFORMATION RELATED TO SPECIFICALLY IDENTIFIABLE DATA SOURCES;  
ENACTING A NEW SECTION OF THE HEALTH INFORMATION SYSTEM ACT TO  
ESTABLISH A HEALTH INFORMATION SYSTEM ADVISORY COMMITTEE;  
PROVIDING FOR THE POSTING OF INFORMATION FOR PUBLIC ACCESS.

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

**SECTION 1.** Section 24-14A-3 NMSA 1978 (being Laws 1989,  
Chapter 29, Section 3, as amended) 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

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underscored material = new  
[bracketed material] = delete

1 collecting, analyzing and disseminating health information to  
2 assist:

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

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

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

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

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

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

23 (1) obtain information on the following health  
24 factors:

25 (a) mortality and natality, including

1 accidental causes of death;  
2 (b) morbidity;  
3 (c) health behavior;  
4 (d) disability;  
5 (e) health system costs, availability,  
6 utilization and revenues;  
7 (f) environmental factors;  
8 (g) health personnel;  
9 (h) demographic factors;  
10 (i) social, cultural and economic  
11 conditions affecting health, including language preference;  
12 (j) family status;  
13 (k) medical and practice outcomes as  
14 measured by nationally accepted standards and quality of care;  
15 and

16 (l) participation in clinical research  
17 trials;

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

25 (3) standardize collection and specific

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1 methods of measurement across databases and use scientific  
2 sampling or complete enumeration for collecting and reporting  
3 health information;

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

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

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

23 (7) develop and maintain health and health-  
24 related data inventories and technical documentation on data  
25 holdings in the public and private sectors;

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

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

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

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

17 (12) collect comprehensive information on  
18 major capital expenditures for facilities, equipment by type  
19 and by data source and significant facility capacity  
20 reductions; provided that for the purposes of this paragraph  
21 and Section 24-14A-5 NMSA 1978, "major capital expenditure"  
22 means purchases of at least one million dollars (\$1,000,000)  
23 for construction or renovation of facilities and at least five  
24 hundred thousand dollars (\$500,000) for purchase or lease of  
25 equipment, and "significant facility capacity reductions" means

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1 those reductions in facility capacities as defined by the  
2 department;

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

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

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

18 SECTION 2. Section 24-14A-6 NMSA 1978 (being Laws 1989,  
19 Chapter 29, Section 6, as amended) is amended to read:

20 "24-14A-6. HEALTH INFORMATION SYSTEM--ACCESS.--

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

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

1 provided in Subsection D of this section, it shall not have  
2 access to data submitted by another provider that is limited  
3 only to that provider unless that data is aggregated data and  
4 publicly disseminated by the department. Except as provided in  
5 Subsection D of this section, in no event may a data provider  
6 obtain data regarding an individual patient except in instances  
7 where the data were originally submitted by the requesting  
8 provider. Prior to the release of any data, in any form, data  
9 sources shall be permitted the opportunity to verify the  
10 accuracy of the data pertaining to that data source. Data  
11 identified in writing as inaccurate shall be corrected prior to  
12 the data's release. Time limits shall be set for the  
13 submission and review of data by data sources, and penalties  
14 shall be established for failure to submit and review the data  
15 within the established time.

16 C. Any person may obtain any aggregate data  
17 publicly disseminated by the department.

18 D. Through a secure delivery or transmission  
19 process, the department may share record-level data with a  
20 federal agency that is authorized to collect, analyze or  
21 disseminate health information. The department shall remove  
22 identifiable individual or provider information from the  
23 record-level data prior to its disclosure to the federal  
24 agency. In providing hospital information under an agreement  
25 or arrangement with a federal agency, the department shall

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1 ensure that any identifiable hospital information disclosed is  
2 necessary for the agency's authorized use and that its  
3 disclosure meets with state and federal privacy and  
4 confidentiality laws, rules and regulations."

5 SECTION 3. Section 24-14A-8 NMSA 1978 (being Laws 1989,  
6 Chapter 29, Section 8, as amended) is amended to read:

7 "24-14A-8. HEALTH INFORMATION SYSTEM--CONFIDENTIALITY.--

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

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

20 C. The individual forms, electronic information or  
21 other forms of data collected by and furnished for the health  
22 information system shall not be public records subject to  
23 inspection pursuant to Section 14-2-1 NMSA 1978. [~~Compilations~~  
24 ~~of~~] The department may release or disseminate aggregate data  
25 [~~prepared for release or dissemination from the data collected~~

1 ~~except for a report prepared for an individual data provider or~~  
 2 ~~the provider's designee containing information concerning only~~  
 3 ~~its transactions], including those data that pertain to a~~  
 4 ~~specifically identified hospital or other type of health~~  
 5 ~~facility. These data shall be public records if the release of~~  
 6 ~~these data does not violate state or federal law relating to~~  
 7 ~~the privacy and confidentiality of individually identifiable~~  
 8 ~~health information."~~

9 SECTION 4. A new section of the Health Information System  
 10 Act is enacted to read:

11 "[NEW MATERIAL] ADVISORY COMMITTEE.--The secretary of  
 12 health shall appoint a health information system advisory  
 13 committee to advise the department in carrying out the  
 14 provisions of the Health Information System Act. The secretary  
 15 shall establish the membership and duties of the committee by  
 16 rule."

17 SECTION 5. A new section of the Health Information System  
 18 Act is enacted to read:

19 "[NEW MATERIAL] WEB SITE--PUBLIC ACCESS--DATA.--By January  
 20 1, 2018, the department shall ensure that the public is  
 21 provided with access, free of charge, to a user-friendly,  
 22 searchable and easily accessible web site on which the  
 23 department shall post and update on a regular basis cost,  
 24 quality and such other information it publishes pursuant to the  
 25 Health Information System Act. The web site shall be

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1 accessible through the sunshine portal. The department shall  
2 adopt and promulgate rules to carry out the provisions of this  
3 section."

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