SENATE BILL 362

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

INTRODUCED BY

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AN ACT

RELATING TO HEALTH; AMENDING, REPEALING AND ENACTING SECTIONS
OF THE NMSA 1978 RELATING TO ESSENTIAL HEALTH SERVICES AND
DEPARTMENT OF HEALTH FUNCTIONS, SEXUALLY TRANSMITTED
INFECTIONS, CONDITIONS OF PUBLIC HEALTH IMPORTANCE,
COMMUNICABLE DISEASES, ISOLATION AND QUARANTINE AND SCHOOL
HEALTH CARE OVERSIGHT.

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

SECTION 1. Section 9-7-4.1 NMSA 1978 (being Laws 2004,
Chapter 51, Section 1, as amended by Laws 2007, Chapter 46,
Section 6 and by Laws 2007, Chapter 279, Section 1) is amended
to read:

"9-7-4.1. [COMPREHENSIVE STRATEGIC PLAN FOR HEALTH] STATE
HEALTH IMPROVEMENT PLAN.--

A. The department [in conjunction with the New

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Mexico health policy commission and other state agencies,
pursuant to Section 9-7-11.1 NMSA 1978] shall develop a
[comprehensive strategic plan for] state health improvement
plan that [emphasizes prevention, personal responsibility,
access and quality] meets accreditations standards of the
public health accreditation board or its successor in interest.

B. The department shall conduct state health
assessments in order to inform the development, adoption and
implementation of the state health improvement plan.

[C-] The department shall publish the
[comprehensive strategic plan for] state health improvement
plan by September 1, 2008 and at least every [four] five years
thereafter. By September 1 of each even-numbered year, the
department shall review and update or amend the plan in
response to changes and developments.

[D-] The department shall include [the
legislature, health care providers, consumer and patient
advocates, health care financing organizations, managed care
organizations, major insurers in the state, the human services
department, the children, youth and families department, the
aging and long-term services department, pharmaceutical
manufacturers and other stakeholders] other agencies and
commissions as the department deems necessary in its
development of the [comprehensive strategic plan for] state
health improvement plan so as to give geographic representation
to all areas of the state. The department shall ensure that
public participation and public input are integrated into the
planning process. The department shall convene regional
meetings on the proposed plan to allow public review and
comment, including oral and written testimony, pursuant to the
Open Meetings Act.

[D-] E. The department shall consult with the
governments of Indian nations, tribes and pueblos located
wholly or partially within New Mexico to include [Indian]
Native American nations, tribes and pueblos in the development
of the [comprehensive strategic plan for] state health
improvement plan.

[E. The department shall report its findings,
recommendations and goals in its comprehensive strategic plan
for health. The plan shall address the following areas and
others that the governor and the legislature may from time to
time request:

(1) a summary of the state's health care
system that includes the financial, administrative and delivery
structure in both the public and private sector;

(2) the diseases, injuries and risk factors
for physical, behavioral and oral health that are the greatest
cause of illness, injury or death in the state, with special
attention to and recognition of the disparities that currently
exist for different population groups.
(3) key indicators of and barriers to health care coverage and access, with specific emphasis on reducing the number of uninsured New Mexicans;

(4) the role of the department, other state agencies and the private sector in identifying strategies and interventions to provide health care coverage, access and quality;

(5) a continuum of care model that emphasizes prevention, early intervention and health promotion and that includes public health services, emergency medical services, primary care, acute care, specialized care, tertiary care and long-term care;

(6) health education, wellness, nutrition and exercise initiatives that emphasize personal health responsibility;

(7) workforce initiatives to identify, recruit and retain health care professionals;

(8) health care facility infrastructure, capacity, capitalization and financial viability in both the public and private sector;

(9) licensing, credentialing, oversight and tracking initiatives designed to improve health care quality and outcome measurements;

(10) programs, services and activities designed to address the needs of persons who have a disability,
are elderly or have special needs;

   (11) anticipated demands and challenges on the health care system as the need for long-term care services increases;

   (12) data and information, addressing key health status and system indicators, statistics, benchmarks, targets and goals for the state, and comparing it nationally, regionally and to other states of similar size and demographics; provided that individually identifiable health information and other proprietary information is protected as required by state or federal law; and

   (13) planning and response to public health emergencies, including bioterrorism, pandemic flu, disease outbreaks and other situations that will require a coordinated response by the health care system."

SECTION 2. Section 9-7-6 NMSA 1978 (being Laws 1977, Chapter 253, Section 7, as amended) is amended to read:

"9-7-6. SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary is responsible to the governor for the operation of the department. It is [his] the secretary's duty to manage all operations of the department and to administer and enforce the laws with which [he] the secretary or the department is charged.

B. To perform [his] the secretary's duties, the secretary has every power expressly enumerated in the laws,
whether granted to the secretary or the department or any
division of the department, except where authority conferred
upon any division is explicitly exempted from the secretary's
authority by statute. In accordance with these provisions, the
secretary shall:

(1) except as otherwise provided in the
Department of Health Act, exercise general supervisory and
appointing authority over all department employees, subject to
any applicable personnel laws and [regulations] rules;

(2) delegate authority to subordinates as [he] the secretary
deems necessary and appropriate, clearly
delineating such delegated authority and the limitations
thereof;

(3) organize the department into those
organizational units [he] that the secretary deems will enable
it to function most efficiently, subject to any provisions of
law requiring or establishing specific organizational units;

(4) within the limitations of available
appropriations and applicable laws, employ and fix the
compensation of those persons necessary to discharge [his] the
secretary's duties;

(5) take administrative action by issuing
orders and instructions, not inconsistent with the law, to
assure implementation of and compliance with the provisions of
law for which administration or execution [he] the secretary is
responsible and to enforce those orders and instructions by appropriate administrative action in the courts;

(6) conduct research and studies that will improve the operations of the department and the provision of services to the citizens of the state;

(7) conduct quality assurance and quality improvement activities, which may include participation in a nationally recognized accreditation program for public health agencies that is based on the ability of an agency to provide essential public health services and functions;

(8) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs with the objective of improving the operations and efficiency of administration;

(9) prepare an annual budget of the department;

(10) appoint, with the governor's consent, a "director" for each division. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the secretary;

(11) give bond in the penal sum of twenty-five thousand dollars ($25,000) and require directors to each give bond in the penal sum of ten thousand dollars ($10,000)
conditioned upon the faithful performance of duties, as
provided in the Surety Bond Act. The department shall pay the
costs of those bonds; and

(12) require performance bonds of such
department employees and officers as [he] the secretary deems
necessary, as provided in the Surety Bond Act. The department
shall pay the costs of those bonds.

C. The secretary may apply for and receive, with
the governor's approval, in the name of the department any
public or private funds, including but not limited to United
States government funds, available to the department to carry
out its programs, duties or services.

D. The secretary shall be responsible for providing
appropriate educational programs for all school-age persons, as
defined in Section 22-1-2 NMSA 1978, who are clients, as
defined in Section 43-1-3 NMSA 1978, of institutions under
[his] the secretary's authority as follows:

(1) [he] the secretary shall arrange with
school districts for the enrollment of all school-age residents
of institutions under [his] the secretary's authority who have
been evaluated and recommended for placement in a public school
according to the provisions of the Department of Health
Education Act. [He] The secretary shall notify the
[superintendent of public instruction] secretary of public
education prior to public school enrollment of any school-age
resident under [his] the secretary's authority; and

(2) [he] the secretary shall provide

educational programs, in accordance with the special education
rules of the [state board of] public education department, for
school-age persons who are clients of institutions under [his]
the secretary's authority but who are enrolled in a public
school by:

(a) using the facilities and personnel

of the department;

(b) contracting with a school district

for the provision of educational services; or

(c) using a combination of Subparagraphs

(a) and (b) of this paragraph.

E. The secretary may make and adopt such reasonable
and procedural rules as may be necessary to carry out the
duties of the department and its divisions. No rule
promulgated by the director of any division in carrying out the
functions and duties of the division shall be effective until
approved by the secretary unless otherwise provided by statute.

Unless otherwise provided by statute, no rule affecting any
person or agency outside the department shall be adopted,
amended or repealed without a public hearing on the proposed
action before the secretary or a hearing officer designated by
[him] the secretary. The public hearing shall be held in Santa
Fe unless otherwise permitted by statute. Notice of the
subject matter of the rule, the action proposed to be taken, 
the time and place of the hearing, the manner in which 
interested persons may present their views and the method by 
which copies of the proposed rule or proposed amendment or 
repeal of an existing rule may be obtained shall be published 
one at least thirty days prior to the hearing date in a 
newspaper of general circulation and mailed at least thirty 
days prior to the hearing date to all persons who have made a 
written request for advance notice of hearing. All rules shall 
be filed in accordance with the State Rules Act."

SECTION 3. Section 14-8-9.1 NMSA 1978 (being Laws 2011, 
Chapter 134, Section 21) is amended to read:

"14-8-9.1. PUBLIC RECORDS--INSPECTION--EXCEPTIONS.--

A. Except as provided in this section, all 
documents filed and recorded in the office of the county clerk 
are public records [subject to disclosure pursuant to the 
Inspection of Public Records Act].

B. The county clerk shall publicly post in the 
office of the county clerk and on the county's web page a 
notice that documents recorded in the office of the county 
clerk are public records, subject to inspection and disclosure.

C. Before digitizing or purchasing of documents by 
third parties, protected personal identifier information, as 
defined in the Inspection of Public Records Act, shall be 
redacted.

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D. Documents containing health information that relates to and identifies specific individuals as patients are exempt as a public record pursuant to Section 14-6-1 NMSA 1978.

E. Discharge papers of a veteran of the armed forces of the United States recorded in the office of the county clerk shall be segregated from public records in the office of the county clerk. Discharge papers recorded before July 1, 2005 that have been commingled with public records and that remain unsegregated are available for inspection in the office of the county clerk but shall not be copied, digitized or purchased by any third party, except by those persons authorized in this section. As the technology becomes available, county clerks shall segregate commingled discharge papers from the public records in the office of the county clerk. Discharge papers recorded in the office of the county clerk are available only to:

1. the veteran who filed the papers;
2. the veteran's next of kin;
3. the deceased veteran's properly appointed personal representative or executor;
4. a person holding the veteran's general power of attorney; or
5. a person designated by the veteran in an acknowledged statement to receive the records.

F. Death certificates that have been recorded in
the office of the county clerk may be inspected, but shall not
be copied, digitized or purchased by any third party unless
fifty years have elapsed after the date of death [and the cause
of death and any other medical information contained on the
death certificate is redacted, in addition to redaction of
protected personal identifier information. Death certificates
and other vital records recorded in the office of the county
clerk are exempt from the restrictions contained in Subsection
A of Section 24-14-27 NMSA 1978]. The act of recording a death
certificate in the office of the county clerk is considered a
convenience; provided that no person shall be required to
record a death certificate in the office of the county clerk to
effect change of title or interest in property."

SECTION 4. Section 24-1-2 NMSA 1978 (being Laws 1973,
Chapter 359, Section 2, as amended by Laws 2007, Chapter 325,
Section 6 and by Laws 2007, Chapter 326, Section 1) is amended
to read:

"24-1-2. DEFINITIONS.--As used in the Public Health Act:

A. "condition of public health importance" means an
infection, a disease, a syndrome, a symptom, an injury or other
threat that is identifiable on an individual or community level
and can reasonably be expected to lead to adverse health
effects in the community;

B. "department" [or "division"] means:

(1) the department of health; or
(2) the children, youth and families department as to child care centers, residential treatment centers that serve persons up to twenty-one years of age, community mental health centers that serve only persons up to twenty-one years of age, day treatment centers that serve persons up to twenty-one years of age, shelter care homes and those outpatient facilities that are also community-based behavioral health facilities serving only persons up to twenty-one years of age [and the department of health as to all other health facilities, unless otherwise designated];

[B] C. "director" means the secretary;

[C.] "person", when used without further qualification, means an individual or any other form of entity recognized by law;

[D.] "health care provider" means an individual licensed to provide health care in the ordinary course of business, except as otherwise defined in the Public Health Act;

[D.] E. "health facility" means a public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, maternity home or shelter, adult daycare facility, nursing home, intermediate care facility, boarding home not under the control of an institution of higher learning, child care center, shelter care home, diagnostic and treatment center, rehabilitation center, infirmary, community mental health center that serves both children and adults or...
adults only, residential treatment center that serves persons up to twenty-one years of age, community mental health center that serves only persons up to twenty-one years of age and day treatment center that serves persons up to twenty-one years of age or a health service organization operating as a freestanding hospice or a home health agency. The designation of these entities as health facilities is only for the purposes of definition in the Public Health Act and does not imply that a freestanding hospice or a home health agency is considered a health facility for the purposes of other provisions of state or federal laws. "Health facility" also includes those facilities that, by federal regulation, must be licensed by the state to obtain or maintain full or partial, permanent or temporary federal funding. It does not include the offices and treatment rooms of licensed private practitioners; [and]

F. "screening" means the systematic application of a test to a defined population;

[E-] G. "secretary" means:

(1) the secretary of health; or

(2) the secretary of children, youth and families as to child care centers, residential treatment centers that serve persons up to twenty-one years of age, community mental health centers that serve only persons up to twenty-one years of age, day treatment centers that serve persons up to twenty-one years of age, shelter care homes and
those outpatient facilities that are also community-based
behavioral health facilities serving only persons up to twenty-
one years of age [and the secretary of health as to all other
health facilities]; and

H. "test" means any diagnostic or investigative
analysis or medical procedure that determines the presence of,
absence of or exposure to a condition of public health
importance or its precursor in an individual."

SECTION 5. Section 24-1-3 NMSA 1978 (being Laws 1973,
Chapter 359, Section 3, as amended) is amended to read:

"24-1-3. POWERS AND AUTHORITY OF DEPARTMENT.--The
department has authority to:

A. receive such grants, subsidies, donations,
allotments or bequests as may be offered to the state by the
federal government or any department thereof or by any public
or private foundation or individuals;

B. supervise the health and hygiene of the people
of the state and identify ways to evaluate and address
community health problems;

C. investigate, control and abate the causes of
disease, especially epidemics, sources of mortality and other
conditions of public health;

D. establish, maintain and enforce isolation and
quarantine;

E. close any public place and forbid gatherings of
people when necessary for the protection of the public health;

   F. respond to disasters and assist communities in
   recovery;

   [F-] G. establish programs and adopt rules to
   prevent infant mortality, birth defects and morbidity;

   [G-] H. prescribe the duties of public health
   nurses and school nurses;

   [H-] I. provide educational programs and
   disseminate information on public health;

   [I-] J. maintain and enforce rules for the
   licensure of health facilities;

   K. ensure the quality and accessibility of health
   care services and the provision of health care when health care
   is otherwise unavailable;

   L. ensure a competent public health work force;

   [J-] M. bring action in court for the enforcement
   of health laws and rules and orders issued by the department;

   [K-] N. enter into agreements with other states to
   carry out the powers and duties of the department;

   [L-] O. cooperate and enter into contracts or
   agreements with the federal government or any other person to
   carry out the powers and duties of the department;

   P. cooperate and enter into contracts or agreements
   with Native American nations, tribes and pueblos and off-
   reservation groups to coordinate the provision of essential
public health services and functions;

[Mr.] Q. maintain and enforce rules for the control of [communicable diseases deemed to be dangerous to public health] conditions of public health importance;

[Mr.] R. maintain and enforce rules for immunization against [diseases deemed to be dangerous to the public health] conditions of public health importance;

[Mr.] S. maintain and enforce such rules as may be necessary to carry out the provisions of the Public Health Act and to publish the rules;

[Mr.] T. supervise state public health activities, operate a dental public health program and operate state laboratories for the investigation of public health matters;

[Mr.] U. sue and, with the consent of the legislature, be sued;

[Mr.] V. regulate the practice of midwifery;

[Mr.] W. administer legislation enacted pursuant to Title VI of the Public Health Service Act, as amended and supplemented;

[Mr.] X. inspect such premises or vehicles as necessary to ascertain the existence or nonexistence of conditions dangerous to public health or safety;

[Mr.] Y. request and inspect, while maintaining federal and state confidentiality requirements, copies of:

(1) medical and clinical records reasonably
required for the department's quality assurance and quality
improvement activities; and

    (2) all medical and clinical records
pertaining to the individual whose death is the subject of
inquiry by the department's mortality review activities; and

    [Ψ-] Z. do all other things necessary to carry out
its duties."

SECTION 6. Section 24-1-4 NMSA 1978 (being Laws 1973,
Chapter 359, Section 4) is amended to read:

"24-1-4. CREATION OF HEALTH [DISTRICTS] REGIONS--
APPOINTMENT OF HEALTH OFFICERS--POWERS AND DUTIES OF HEALTH
OFFICERS.--

    A. The director shall establish health [districts]
regions and may modify and create new [ones] health regions as
[he] the director deems necessary.

    B. [The director shall appoint one district health
officer for each health district. The director may appoint
assistants to the district health officer when he deems
necessary.]

    C. The director shall establish the powers and
duties of the district health officers.

    D. All school health personnel except physical
education personnel are under the direct supervision and
control of the district health officer in their district. They] A regional health officer shall provide medical oversight

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to school nurses in the regional health officer's region. A school nurse shall make [such] reports relating to public health as the [district] regional health officer in [their district] the school nurse's region requires.

C. As used in this section, "medical oversight" means advice and direction that is provided by a regional health officer or under the direction of a regional health officer to a school nurse, or a school nurse's designee, who performs nursing activities in a school setting."

SECTION 7. Section 24-1-7 NMSA 1978 (being Laws 1973, Chapter 359, Section 7, as amended) is repealed and a new Section 24-1-7 NMSA 1978 is enacted to read:

"24-1-7. [NEW MATERIAL] SEXUALLY TRANSMITTED INFECTIONS--REPORTS OF CASES.--

A. The department shall make available a list of sexually transmitted infections for which reporting is required.

B. Reports of sexually transmitted infections shall be made in accordance with department rules.

C. Every health care provider who makes a diagnosis of, treats or prescribes for, or otherwise has knowledge of, a case of sexually transmitted infection that is required by the department to be reported shall report the case immediately.

D. As used in this section, "health care provider" means:
(1) a person licensed to provide health care in the ordinary course of business;

(2) a superintendent or manager of a health care clinic;

(3) a dispensary, a charitable or penal institution or a municipal or county detention center; or

(4) a laboratory that performs testing for sexually transmitted infections."

SECTION 8. Section 24-1-9 NMSA 1978 (being Laws 1973, Chapter 359, Section 9, as amended) is amended to read:

"24-1-9. CAPACITY TO CONSENT TO EXAMINATION AND TREATMENT FOR A SEXUALLY TRANSMITTED [DISEASE] INFECTION.--Any person regardless of age has the capacity to consent to an examination and treatment by a licensed [physician] health care provider for any sexually transmitted [disease] infection."

SECTION 9. Section 24-1-9.1 NMSA 1978 (being Laws 1993, Chapter 341, Section 4) is amended to read:

"24-1-9.1. SEXUALLY TRANSMITTED [DISEASES] INFECTIONS--TESTING OF PERSONS CONVICTED OF CERTAIN CRIMINAL OFFENSES.--

A. A test designed to identify any sexually transmitted [disease] infection may be performed on an offender convicted pursuant to state law of any criminal offense:

(1) involving contact between the penis and the vulva;

(2) involving contact between the penis and
anus;

(3) involving contact between the mouth and penis;

(4) involving contact between the mouth and vulva;

(5) involving contact between the mouth and anus; or

(6) when the court determines from the facts of the case that there was a transmission or likelihood of transmission of bodily fluids from the offender to the victim of the criminal offense.

B. When consent to perform a test on an offender cannot be obtained, the victim of a criminal offense described in Subsection A of this section may petition the court to order that a test be performed on the offender. When the victim of the criminal offense is a minor or an incompetent, the parent or legal guardian of the victim may petition the court to order that a test be performed on the offender. The court shall order and the test shall be administered to the offender within ten days after the petition is filed by the victim [his] or the victim's parent or guardian. Except for disclosures made pursuant to Section 24-1-7 NMSA 1978, the results of the test shall be disclosed only to the offender and to the victim or the victim's parent or legal guardian."

SECTION 10. Section 24-1-9.2 NMSA 1978 (being Laws 1996, .198951.3SA

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Chapter 80, Section 1) is amended to read:

"24-1-9.2. SEXUALLY TRANSMITTED [DISEASES] INFECTIONS--
TESTING OF PERSONS FORMALLY CHARGED FOR ALLEGEDLY COMMITTING
CERTAIN CRIMINAL OFFENSES.--

A. A test designed to identify any sexually transmitted [disease] infection may be performed on a person, upon the filing of a complaint, information or an indictment alleging that the person committed a state criminal offense:

(1) involving contact between the penis and the vulva;

(2) involving contact between the penis and anus;

(3) involving contact between the mouth and penis;

(4) involving contact between the mouth and vulva; or

(5) involving contact between the mouth and anus.

B. If consent to perform a test on an alleged offender cannot be obtained, the victim of the alleged criminal offense described in Subsection A of this section may petition the court, through the prosecuting office or personally, to order that a test be performed on the alleged offender; provided that the same test is first performed on the victim of the alleged criminal offense. The test may be performed on the

alleged offender regardless of the result of the test performed on the victim of the alleged criminal offense. If the victim of the alleged criminal offense is a minor or incompetent, the parent or legal guardian of the victim of the alleged criminal offense may petition the court to order that a test be performed on the alleged offender.

C. The court may issue an order based on a finding of good cause after a hearing at which both the victim of the alleged criminal offense and the alleged offender have the right to be present. During the hearing, only affidavits, counter affidavits and medical reports regarding the facts that support or rebut the issuance of an order shall be admissible. The hearing shall be conducted within seventy-two hours after the victim petitions the court for the order. The petition and all proceedings in connection therewith shall be under seal. The court shall issue an order and the test shall be administered to the alleged offender within ten days after the petition is filed by the victim of the alleged criminal offense or the victim's parent or legal guardian.

D. Except for disclosures made pursuant to Section 24-1-7 NMSA 1978, the results of the test shall be disclosed only to the alleged offender and to the victim of the alleged criminal offense or the victim's parent or legal guardian. When the victim of the alleged criminal offense or the alleged offender has a positive test result, both the alleged offender
and the victim of the alleged criminal offense shall be provided with counseling.

E. A prosecuting attorney may not use in a criminal proceeding arising out of the alleged criminal offense the fact that a test was administered to the alleged offender or the results of the test.

F. The provisions of this section shall not affect the rights and remedies available to the victim of the alleged criminal offense and the alleged offender in any civil action.

G. The administration of a test to an alleged offender pursuant to the provisions of this section shall not preclude the subsequent administration of another test pursuant to the provisions of Section 24-1-9.1 NMSA 1978."

SECTION 11. Section 24-1-9.3 NMSA 1978 (being Laws 1996, Chapter 80, Section 2) is amended to read:

"24-1-9.3. SEXUALLY TRANSMITTED [DISEASES] INFECTIONS--MANDATORY COUNSELING.--No positive test result for a sexually transmitted [diseases] infection shall be revealed to the person upon whom the test was performed without the person performing the test or the health facility at which the test was performed providing or referring that person for individual counseling about:

A. the meaning of the test results;
B. the possible need for additional testing;
C. the availability of appropriate health care
services, including mental health care, social services and
support services; and

D. the benefits of locating and counseling any
individual by whom the infected person may have been exposed to
the sexually transmitted disease infection and any individual
whom the infected person may have exposed to the sexually
transmitted disease infection."

SECTION 12. Section 24-1-9.4 NMSA 1978 (being Laws 1996,
Chapter 80, Section 3) is amended to read:

"24-1-9.4. SEXUALLY TRANSMITTED DISEASES INFECTIONS--
CONFIDENTIALITY.--

A. Except as provided in Section 24-1-9.2 NMSA 1978, no person or the person's agents or employees who require
or administer a test for sexually transmitted diseases
infections shall disclose the identity of any person upon whom
a test is performed or the result of such a test in a manner
that permits identification of the subject of the test, except
to the following persons:

[A. 1] (1) the subject of the test or the
subject's legally authorized representative, guardian or legal
custodian;

[B. 2] (2) any person designated in a legally
effective release of the test results executed prior to or
after the test by the subject of the test or the subject's
legally authorized representative;

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(3) an authorized agent, a credentialed or privileged physician or an employee of a health facility or health care provider if the health care facility or health care provider itself is authorized to obtain the test results, the agent or employee provides patient care or handles or processes specimens of body fluids or tissues and the agent or employee has a need to know such information;

(4) the department of health and the centers for disease control and prevention of the United States public health service in accordance with reporting requirements for a diagnosed case of a sexually transmitted disease;

(5) a health facility or health care provider that procures, processes, distributes or uses:

(a) a human body part from a deceased person, with respect to medical information regarding that person;

(b) semen for the purpose of artificial insemination;

(c) blood or blood products for transfusion or injection; or

(d) human body parts for transplant with respect to medical information regarding the donor or recipient;

(6) health facility staff committees or
accreditation or oversight review organizations that are conducting program monitoring, program evaluation or service reviews, as long as any identity remains confidential; [G. (7)] authorized medical or epidemiological researchers who may not further disclose any identifying characteristics or information; and [H. (8)] for purposes of application or reapplication for insurance coverage, an insurer or reinsurer upon whose request the test was performed.

B. Whenever disclosure is made, it shall be accompanied by a statement in writing that includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom this information pertains or as otherwise permitted by law. A person who makes an unauthorized disclosure of this information is guilty of a petty misdemeanor and shall be sentenced to imprisonment in the county jail for a definite term not to exceed six months or the payment of a fine of not more than five hundred dollars ($500), or both."

SECTION 13. Section 24-1-9.6 NMSA 1978 (being Laws 1996, Chapter 80, Section 5) is amended to read:

"24-1-9.6. SEXUALLY TRANSMITTED [DISEASES] INFECTIONS--

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DISCLOSURE.--

A. A victim of a criminal offense or an alleged criminal offense who receives information pursuant to Section 24-1-9.1 or 24-1-9.2 NMSA 1978 may disclose the offender's or alleged offender's test results to the victim's health care provider as is reasonably necessary to protect [his] the victim's health and safety or the health and safety of [his] the victim's family or sexual partner.

B. Nothing in this section shall be construed to prevent a person who has been tested from disclosing in any way to any other person that person's own test results."

SECTION 14. Section 24-1-9.7 NMSA 1978 (being Laws 1996, Chapter 80, Section 6) is amended to read:

"24-1-9.7. PENALTY.--A person who, in violation of Section 24-1-9.4 NMSA 1978, makes an unauthorized disclosure of the results of a test designed to identify a sexually transmitted [disease] infection is guilty of a petty misdemeanor and shall be sentenced to imprisonment in the county jail for a definite term not to exceed six months or the payment of a fine of not more than five hundred dollars ($500) or both."

SECTION 15. Section 24-1-15 NMSA 1978 (being Laws 1973, Chapter 359, Section 15, as amended) is amended to read:

"24-1-15. [REPORTING OF CONTAGIOUS DISEASES] ISOLATION--QUARANTINE--PROTOCOL.--
[A. When a physician or other person knows that a
person is infected with a threatening communicable disease, he
shall promptly notify a public health official or his
authorized agent.

B. A public health official who] A. If the
secretary or a representative of the department whom the
secretary designates has knowledge that a person is infected
with, reasonably believed to be infected with or exposed to a
threatening communicable disease and the person has refused
voluntary treatment, detention or observation shall petition
the court for an order [to detain the person who is infected
with the threatening communicable disease] to isolate or
quarantine the person until the person is no longer a
[contagious] threat to the public health or until the person
voluntarily complies with [the appropriate] treatment and
contagion precautions.

B. The secretary or a representative of the
department whom the secretary designates may, by public health
order, temporarily isolate or quarantine a person or group of
persons if delay in isolating or quarantining would
significantly jeopardize the secretary's ability to prevent or
limit the transmission of a threatening communicable disease to
others. The public health order shall expire at the end of
twenty-four hours from the time of the commencement of
isolation or quarantine. The secretary may petition for a
court order that authorizes the continued isolation or
quarantine of the person or group of persons. In the petition,
the secretary shall present facts used to support the need to
have issued the public health order to isolate or quarantine.

C. [The] Whether or not a public health order to
isolate or quarantine was previously issued, a petition for a
court order shall be made under oath or shall be accompanied by
a sworn affidavit setting out specific facts showing [that the
person is infected with a threatening communicable disease.

D. The petition shall state that the person to be
detained] the basis upon which isolation or quarantine is
justified, including whether the person to be isolated or
quarantined:

(1) is [actively infectious] infected with,
reasonably believed to be infected with or exposed to a
threatening communicable disease [or presents a substantial
likelihood of having a threatening communicable disease based
on credible medical evidence]; and

(2) poses a substantial likelihood of
transmission of the threatening communicable disease to others
because of inadequate separation from others [and

(3) after being advised of his condition and
the risks posed thereby, has refused voluntary treatment].

[E] D. Upon the filing of a petition the court
shall:

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(1) immediately grant ex parte a temporary order of protection to isolate or quarantine the affected person [infected with the threatening communicable disease] if there is probable cause from the specific facts shown by the affidavit or by the petition to give the judge reason to believe that the affected person [infected with a threatening communicable disease] poses a substantial threat to the public health and safety;

(2) cause the temporary order of protection, notice of hearing and an advisement of the terms of the temporary protective order, including [his right] the affected person's right to representation and re-petition for termination of [any] a protective order that removes and detains the [infected person] affected person, to be immediately served on the [allegedly infected person] affected person; and

(3) within five days after the granting of the temporary order of protection, hold an evidentiary hearing to determine if the court shall continue the order.

[F. E. A person held pursuant to a temporary protective order as set forth in Subsection [F] D of this section shall be:

(1) entitled to representation by counsel at the evidentiary hearing and at all hearings thereafter for the duration of the period of [removal and detention] isolation or...
quarantine; and

(2) permitted to communicate on any matter [including his removal and detention] with persons by telephone, or other reasonably available means that do not expose other persons to the risk of infection, for the duration of the period of [removal and detention] isolation or quarantine.

G. Counsel may be retained by the person held or shall be appointed by the court if the court determines that the person held cannot afford legal representation or if the court determines that appointment of counsel is required in the interest of justice.

H. At the evidentiary hearing, the court shall review the circumstances surrounding the temporary order and, if the petitioner can show by clear and convincing evidence that the person being held has not voluntarily complied or will not voluntarily comply with appropriate treatment and contagion precautions, the court may continue [the detention of the person infected with a threatening communicable disease] isolation or quarantine. The court shall order regular review of the order to [detain] isolate or quarantine by providing the person being held with a subsequent hearing within [ninety] thirty days of the temporary order's issuance and every [ninety] thirty days thereafter. The detention order shall be terminated and the affected person shall be released if:
(1) the person being held is certified by a public health official to pose no further risk [of infecting others] to the public health;

(2) at a hearing, the petitioner, whose burden of proof continues under a clear and convincing standard, can no longer show that the person being held is infected with, reasonably believed to be infected with or exposed to a threatening communicable disease and that [he] the affected person will not comply with appropriate treatment and contagion precautions voluntarily; or

(3) exceptional circumstances exist warranting the termination of the temporary protective order.

[I-] H. The provisions of this section do not permit the forcible administration of medications. A person isolated or quarantined pursuant to this section has the right to refuse to participate in medical treatment, testing, physical or mental examination, vaccination, specimen collection or preventive treatment.

I. A person who is isolated or quarantined pursuant to a court order may petition the court to contest the order or the conditions of isolation or quarantine at any time prior to the expiration of the order. If a petition is filed, the court shall hold a hearing within five days after the date of filing. The filing of a petition for a hearing pursuant to this subsection does not stay an order of isolation or quarantine.
At the hearing, the secretary shall offer clear and convincing evidence that:

(1) the isolation or quarantine is warranted; or

(2) the conditions of isolation or quarantine are compliant with the provisions of this section.

J. When isolating or quarantining an affected person, the secretary shall ensure that:

(1) isolation or quarantine is the least restrictive means necessary to protect against the spread of a threatening communicable disease or a potentially threatening communicable disease to others and may include confinement to the affected person's private home, if practicable, or, if not practicable, to a private or public premises;

(2) an isolated person is confined separately from a quarantined person;

(3) the health status of an isolated or quarantined person is monitored regularly to determine whether continued isolation or quarantine is required;

(4) if a quarantined person subsequently becomes infected or is reasonably believed to be infected with the threatening communicable disease, that affected person shall be promptly isolated;

(5) the needs of a person isolated or quarantined are addressed in a systematic and orderly manner,
including the provision of adequate food, clothing, shelter, sanitation and comfort;

(6) there are methods of communication available to a person placed in isolation or quarantine to enable communication with family members, household members, legal representatives, advocates, the media and any licensed health care provider;

(7) an area of isolation or quarantine is maintained in a manner that minimizes the likelihood of further transmission of infection or other injury to other persons who are isolated or quarantined; and

(8) to the extent possible, cultural and religious beliefs shall be respected in addressing the needs of affected persons and in establishing and maintaining an area of isolation or quarantine.

K. A person shall not enter an area of isolation or quarantine except as authorized by the department. To protect the public health, the department may isolate or quarantine any person who has entered, with or without the secretary's authorization, an area of isolation or quarantine.

[J. The] L. Court proceedings shall be [recorded stenographically, electronically, mechanically or by other appropriate means. The proceedings shall be] on the record and closed to the general public. [and] The records shall be sealed from public inspection.
M. A person who in good faith reports another person infected with a threatening communicable disease shall not be held liable for civil damages as a result of the report; provided that the person reported as being infected with a threatening communicable disease shall have the right to sue for damages sustained as a result of negligent or intentional reporting of inaccurate information or the disclosure of information to an unauthorized person.

N. During the period of isolation or quarantine, an employer shall not discharge from employment a person who is placed in isolation or quarantine pursuant to this section.

O. The secretary, after consultation with the state medical investigator, the secretary of public safety, the director and the chair of the board of funeral services, may implement and enforce measures that are reasonable and necessary to respond to public health threats, to provide for the safe disposal of human remains.

P. For purposes of this section:

(1) "area of isolation or quarantine" means the physical environs that the department designates as the area within which to restrict access as required to prevent communication of a threatening communicable disease;

(2) "court" means:

(a) the district court of the judicial district where the person who is alleged to be infected with a
threatening communicable disease resides or is found; or

(b) a district court that the New Mexico supreme court designates;

(3) "isolate" means to physically separate for possible medical care a person who is infected or who is reasonably believed to be infected with a threatening communicable disease or potentially threatening communicable disease;

(4) "public health official" means the secretary, a regional health officer, the director of the public health division of the department of health, a chief medical officer or a representative of the department designated by the secretary of health to carry out the duties provided in this section; and

(5) "quarantine" means the precautionary physical separation of a person who has or may have been exposed to a threatening communicable disease or a potentially threatening communicable disease and who does not show a sign or symptom of a threatening communicable disease from persons who are not quarantined to protect against the transmission of the disease to persons who are not quarantined; and

(6) "threatening communicable disease" means a disease that causes death or great bodily harm, passes from one person to another and for which there is no means by which the public reasonably can avoid the risk of contracting
the disease."

SECTION 16. Section 24-1-15.1 NMSA 1978 (being Laws 2009, Chapter 174, Section 1) is amended to read:

"24-1-15.1. PROTOCOL FOR MANAGEMENT OF INFECTIOUS FORMS OF TUBERCULOSIS.--

A. When a physician or other person knows that a person has [an infectious form of] or is reasonably believed to be infected with active tuberculosis, the physician or other person shall promptly notify the department.

B. Upon receiving notification that a person has [an infectious form of] active tuberculosis, the department shall prescribe the person a treatment plan meeting the department's therapeutic specifications for [the infectious form of] active tuberculosis. The treatment plan shall include a notice to the person that failure to comply with the treatment plan will result in immediate initiation of court action to ensure compliance, as set forth in this section.

C. The secretary, or a representative of the department whom the secretary designates, may by public health order temporarily isolate a person or group of persons if delay in isolating the person or group would significantly jeopardize the secretary's ability to prevent or limit the transmission of tuberculosis to others. The public health order shall expire at the end of twenty-four hours from the time of the commencement of isolation. The secretary may
petition for a court order that authorizes the continued
isolation. In the petition, the secretary shall present facts
used to support the need to have issued the public health
order to isolate.

[D. Whether or not a public health order was
issued pursuant to Subsection C of this section, when the
department has knowledge that a person who has [an infectious
form of] active tuberculosis has failed to comply with the
department's treatment plan as described in Subsection B of
this section, the department shall petition the court for an
order of protection for the person who has [an infectious form
of] active tuberculosis to comply with whichever of the
following courses of action the department deems appropriate:

(1) a program of directly observed therapy;
(2) isolation; or
(3) directly observed therapy and isolation.

[D. The petition for an order of protection shall
be made under oath or shall be accompanied by a sworn
affidavit setting out specific facts showing that the person
has an infectious form of tuberculosis.]

E. [The] A petition for [an order of protection] a
court order shall [state that the person for whom the order is
sought] be made under oath or shall be accompanied by a sworn
affidavit setting out specific facts showing the basis upon
which isolation is justified, including whether the person to
be isolated:

(1) has [an infectious form of] active tuberculosis or presents a substantial likelihood of having [an infectious form of] active tuberculosis based on credible medical evidence;

(2) after being advised of the condition and the risks posed thereby, has failed to comply with the department's treatment plan; and

(3) poses a substantial likelihood of transmission of tuberculosis to others because the person is actively infectious or poses a risk of relapse or development of a therapy-resistant strain of tuberculosis.

F. Upon the filing of a petition for an order of protection, the court shall:

(1) in cases where there is probable cause established by the petition to give the judge reason to believe that the person who has been alleged to have [an infectious form of] active tuberculosis poses a substantial threat to the public health and safety because the person is actively infectious, or poses a risk of relapse or development of a therapy-resistant strain of tuberculosis because of a history of noncompliance, immediately grant ex parte a temporary order of protection to:

(a) administer a program of directly observed therapy;
(b) isolate the person and administer a program of directly observed therapy; or

(c) isolate the person, if the person refuses a program of directly observed therapy;

(2) cause the temporary order of protection, notice of hearing and an advisement of the terms of the order of protection, including the rights of the person alleged to have [an infectious form of] active tuberculosis to representation and re-petition for termination of an order of protection, to be immediately served on the person alleged to have [an infectious form of] active tuberculosis; and

(3) within five days after the granting of the temporary order of protection, hold an evidentiary hearing to determine if the court shall continue the order of protection.

G. A person held pursuant to a temporary order of protection as set forth in Subsection F of this section shall be:

(1) entitled to representation by counsel at the evidentiary hearing and at all hearings thereafter for the duration of the period of isolation or program of directly observed therapy; and

(2) permitted to communicate on any matter, including the person's isolation or program of directly observed therapy, with persons by telephone or other
reasonably available means that do not expose other persons to
the risk of infection, for the duration of the period of
isolation or program of directly observed therapy.

H. Counsel may be retained by the person under the
temporary order of protection or shall be appointed by the
court if the court determines that the person held cannot
afford legal representation or if the court determines that
appointment of counsel is required in the interest of justice.

I. At the evidentiary hearing, the court shall
review the circumstances surrounding the temporary order, and, if the petitioner can show by clear and convincing evidence
that the person being held has not complied or will not comply
with appropriate treatment and contagion precautions as the
department deems necessary, the court shall continue the order
of protection for the person who has [an infectious form of] active tuberculosis until completion of therapy, as deemed by
the department. The court shall order regular review of the
order by providing the person under an order of protection
with a subsequent hearing within ninety days of the temporary
order's issuance and every ninety days thereafter. The order
of protection shall be terminated and the person shall be
released if:

(1) at a hearing, the petitioner has not met
its burden of showing by clear and convincing proof that the
person under an order of protection has not completed therapy;
or

(2) exceptional circumstances exist
warranting the termination of the temporary order of
protection.

J. The provisions of this section do not permit
the forcible administration of medications.

K. A person isolated pursuant to this section has
the right to refuse any medical treatment, physical or mental
examination, treatment program or invasive specimen
collection. A person who has been directed by the secretary
to submit to medical procedures and protocols because the
person has active tuberculosis and refuses to submit to the
procedures and protocols may be subject to continued isolation
pursuant to this section.

L. A person who is isolated pursuant to a court
order may petition the court to contest the order or the
conditions of isolation at any time prior to the expiration of
the order. If a petition is filed, the court shall hold a
hearing within five business days after the date of filing.
At a hearing pursuant to a petition to contest, the secretary
shall offer:

(1) clear and convincing evidence that the
isolation is warranted; or

(2) proof that the conditions of isolation
are compliant with the provisions of this section.
M. When isolating a person or group of persons, the secretary shall ensure that:

(1) isolation is imposed by the least restrictive means necessary to protect against the spread of tuberculosis to others and may include confinement to the isolated person's private home, if practicable, or, if not practicable, a private or public premises;

(2) the health status of an isolated person is monitored regularly to determine if continued isolation is required;

(3) the needs of a person isolated are addressed in a systematic and orderly manner, including the provision of adequate food, clothing, shelter, sanitation and comfort;

(4) there are methods of communication available to a person placed in isolation to enable communication with family members, household members, legal representatives, advocates, the media and any licensed health care provider;

(5) the premises used for isolation are maintained in a manner that minimizes the likelihood of further transmission of infection or other injury to other persons who are isolated; and

(6) to the extent possible, cultural and religious beliefs shall be respected in addressing the needs
of persons and establishing and maintaining isolation
premises.

[Kr] N. The proceedings of any hearing held
pursuant to the section shall be [recorded stenographically,
electronically or mechanically or by other appropriate means.
The proceedings shall be] on the record and closed to the
general public [and]. The records shall be sealed from public
inspection.

[Lr] O. A person who in good faith reports that
another person has [an infectious form of] active tuberculosis
shall not be held liable for civil damages as a result of the
report; provided that the person reported as having [an
infectious form of] active tuberculosis shall have the right
to sue for damages sustained as a result of negligent or
intentional reporting of inaccurate information or the
disclosure of information to an unauthorized person.

[Mr] P. During the period of isolation, an
employer shall not discharge from employment a person who is
placed in isolation pursuant to this section.

Q. For purposes of this section:

(1) "active tuberculosis" means a disease
caused by mycobacterium tuberculosis or other members of the
mycobacterium tuberculosis complex family that has been
determined, through current clinical, bacteriological or
radiographic evidence, or whichever diagnostic procedures the
department deems appropriate, to be present in a person who
has not completed an appropriate course of antituberculosis
medication, regardless of the state of communicability of the
disease. A person with active tuberculosis includes a person
with:

(a) tuberculosis that is resistant to
the prescribed treatment plan;

(b) infectious tuberculosis or who

presents a substantial likelihood of having infectious
tuberculosis based on credible medical evidence;

(c) noninfectious tuberculosis who is

at high risk of developing an infectious form of tuberculosis;

and

(d) pulmonary or extrapulmonary
tuberculosis;

(1) "completion of therapy" means
completion of the prescribed therapy, as determined by the
department based upon published national consensus
tuberculosis treatment guidelines;

(2) "court" means the district court
of the judicial district where the person who is alleged to
have an infectious form of tuberculosis resides or is found or
a district court designated by the New Mexico supreme court;

(3) "department" means the department
of health or a person designated by the secretary of health to
carry out the duties provided in this section;

(5) "directly observed therapy" means a methodology for promoting patient adherence in which a health care provider or trained designee witnesses the patient ingest each dose of medication until the completion of prescribed therapy for tuberculosis;

(5) "infectious form of tuberculosis" means a form of tuberculosis disease that has been determined, through whichever diagnostic procedures the department deems appropriate, to be in a communicable or infectious state because the patient is capable of expelling tubercle bacilli into the air;

(6) "isolation" means:

(a) home isolation;

(b) home isolation with electronic monitoring;

(c) isolation in a hospital or other health care facility negative pressure room [monitored by a security officer] where appropriate security measures are undertaken to prevent the transmission of tuberculosis; or

[(d) isolation in a state health care facility negative pressure room with appropriate security provisions; or

e] (d) isolation in a prison or detention center negative pressure room with an appropriate security arrangement;
SECTION 17. Section 24-4-2 NMSA 1978 (being Laws 1935, Chapter 131, Section 7, as amended) is amended to read:

"24-4-2. [OFFICES OF COUNTY] LOCAL PUBLIC HEALTH [DEPARTMENT] OFFICES--[AND DISTRICT] REGIONAL DIRECTOR--HEALTH OFFICER--EXPENSES.--

A. The board of county commissioners of each county [in such health districts] shall provide suitable quarters for:

(1) the [county health department and the district health officer] local public health offices, including office space for the [district health officer and] administrative staff, office space for [physician] health care personnel and clinic space [for patients] and waiting space for patients, their friends and families; and

(2) the regional director and regional health officer, including office space for the administrative staff.

B. The boards of county commissioners shall make proper provision for all office and other expense, including utilities and maintenance but excluding janitorial services, incurred in enforcing the health laws and regulations within the counties [wherein such] in which the expense is incurred.

C. The board of county commissioners of each county [in such health districts] may, upon adoption of a

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resolution approved by the department of finance and
administration, deposit such county funds as are [hereby]
provided in this section with the state treasurer to the
credit of the department of health [and environment
department] for such purposes as are [herein] provided in this
section at such times as such funds are available; provided
that the depositing of such funds with the state treasurer
[be] is upon a voucher approved by the board of county
commissioners subject to all statutes and regulations covering
the disbursement of county funds, excepting that such funds
may be so deposited prior to said payments being due and
payable; and provided further that no such deposits shall be
in excess of any line item of the approved county health
budget."

SECTION 18. Section 24-5-8 NMSA 1978 (being Laws 2004,
Chapter 45, Section 3, as amended) is amended to read:

"24-5-8. REPORTING.--Physicians, nurses, pharmacists
and other health care providers shall report on immunization
to the immunization registry [unless the patient, or the
patient's guardian if the patient is a minor, refuses to allow
reporting of this information]."

SECTION 19. Section 24-5-11 NMSA 1978 (being Laws 2004,
Chapter 45, Section 6) is amended to read:

"24-5-11. RULES.--The secretary of health shall adopt
rules for the immunization registry pursuant to the
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Immunization Act concerning the following:

A. the implementation and maintenance of the registry;

B. requirements for content and submission of reports of immunization to the registry;

[C. procedures for the patient, or the patient's parent or guardian if the patient is a minor, to decline to participate in the registry;]

D.[C. procedures for the registrant, or the registrant's parent or guardian if the registrant is a minor, to review and correct information contained in the registry;]

[D. procedures for the registrant, or the registrant's parent or guardian if the registrant is a minor, to withdraw consent for participation at any time and to remove information from the registry;]

[E. limits on and methods of access to the registry by those authorized to gain access; and]

[F. procedures for managed care organizations to obtain summary statistics of immunization information on managed care organization members from the registry.]

SECTION 20. Section 24-5-13 NMSA 1978 (being Laws 2004, Chapter 45, Section 8) is amended to read:

"24-5-13. RIGHTS.--Nothing in the Immunization Act shall preclude the right of the patient, or the patient's parent or guardian if the patient is a minor, to claim
exemption from immunization as defined in Section 24-5-3 NMSA 1978 [nor shall anything in the Immunization Act require such patient to be included in the immunization registry if the patient, or the patient's parent or guardian if the patient is a minor, objects on any grounds, including that such registry conflicts with the religious belief of the patient, or the patient's parent or guardian if the patient is a minor]."

SECTION 21. Section 24-10A-2.1 NMSA 1978 (being Laws 1994, Chapter 61, Section 2, as amended by Laws 2001, Chapter 258, Section 2 and by Laws 2001, Chapter 273, Section 2) is amended to read:

"24-10A-2.1. DEFINITIONS.--As used in the Emergency Medical Services Fund Act:

A. "bureau" means the [injury prevention and] emergency medical [services] systems bureau of the [public health division of the] department;

B. "committee" means the statewide emergency medical services advisory committee appointed pursuant to the provisions of Section 24-10B-7 NMSA 1978;

C. "department" means the department of health;

D. "fund" means the emergency medical services fund;

E. "local recipient" means [an] a publicly owned or contracted ambulance or air ambulance service; medical rescue service; fire department rescue service; [air ambulance...]

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that routinely responds to an individual's need for immediate medical care in order to prevent loss of life or aggravation of physical or psychological illness or injury;

(2) whose application for funding through the Emergency Medical Services Fund Act is sponsored by a municipality or county; and

(3) that meets department guidelines concerning for certification, including:

(a) personnel training; [use of bureau-approved run forms]

(b) participation in emergency medical service data collection and submission to the state emergency medical systems database;

(c) participation in local design and planning for efficient delivery of emergency medical services;

(d) participation in mutual aid agreements; and

(e) participation in medical control for emergency medical services;

F. "municipality" means an incorporated city, town or village; [and]
G. "regionalized emergency medical service agency" means a rural or frontier emergency medical service agency composed of multiple geographic districts with response area populations of fewer than two hundred fifty people per square mile;

[H.] "secretary" means the secretary of health; and

I. "tribe" means a federally recognized Native American nation, tribe or pueblo located wholly or partially in the state."

SECTION 22. Section 24-10A-3 NMSA 1978 (being Laws 1978, Chapter 178, Section 3, as amended by Laws 2001, Chapter 258, Section 3 and by Laws 2001, Chapter 273, Section 3) is amended to read:

"24-10A-3. EMERGENCY MEDICAL SERVICES FUND CREATED--FUNDING.--

A. The "emergency medical services fund" is created in the state treasury. Money in the fund shall not revert at the end of any fiscal year. Money appropriated to the fund or accruing to it through gifts, grants, fees or bequests shall be deposited in the fund. Interest earned on investment of the fund shall be credited to the general fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary or [his] the secretary's
authorized representative.

B. The bureau shall administer the fund and provide for the distribution of the fund pursuant to the Emergency Medical Services Fund Act and rules adopted pursuant to the provisions of that act.

C. In any fiscal year, no less than seventy-five percent of the money in the fund shall be used for the local emergency medical services funding program to support the cost of supplies and equipment and operational costs other than salaries and benefits for emergency medical services personnel. This money shall be distributed to municipalities and counties on behalf of eligible local recipients, using a formula established pursuant to rules adopted by the department. The formula shall determine each municipality's and county's share of the fund based on the relative geographic size and population of each county. The formula shall also base the distribution of money for each municipality and county on the relative number of runs of each local recipient eligible to participate in the distribution.

D. In any fiscal year, no more than:

(1) twenty-two percent of the fund may be used for emergency medical services system improvement projects, including the purchase of emergency medical services vehicles, local and statewide emergency medical services system support projects, the statewide trauma care system
program and the emergency medical dispatch agency support
program; and

(2) three percent of the fund may be used by
the bureau [and emergency medical services regional offices]
for administrative costs, including monitoring and providing
technical assistance.

E. In any fiscal year, money in the fund that is
not distributed pursuant to the provisions of Subsection D of
this section may be distributed pursuant to the provisions of
Subsection C of this section."

SECTION 23. Section 24-10A-4.2 NMSA 1978 (being Laws
1994, Chapter 61, Section 11) is amended to read:

"24-10A-4.2. MUTUAL AID AGREEMENTS--REGIONALIZED,
INTEGRATED RESPONSE PLANS.--[Incorporated] Municipalities,
counties, tribes and local recipients [are encouraged to] may
develop mutual aid agreements and regionalized, integrated
response plans with other municipalities, counties, tribes and
local recipients for the purpose of ensuring that adequate
emergency medical services coverage exists throughout the
state. For the benefit of the public, equipment and other
emergency medical services resources obtained through money
from the fund shall be shared among the parties to a mutual
aid agreement or regionalized, integrated response plan."

SECTION 24. Section 24-10A-5 NMSA 1978 (being Laws
1978, Chapter 178, Section 5, as amended) is amended to read:
"24-10A-5. FUNDING PROGRAM--AWARDS--APPEALS.--The bureau shall promptly notify each municipality and county that has applied for money and the local recipient of the bureau's determination to grant or deny an application for funding through the local emergency medical services funding program. A municipality or county may appeal a determination of the bureau within ten working days after notification of the determination. The bureau shall refer the appeal to the committee for its review and recommendation. The committee shall make its recommendation to the secretary, who shall make a final determination about whether to grant or deny an application for funding. The secretary shall notify the appellant of [his] the secretary's decision [on or before June 30] within thirty days of the date on which the committee has notified the secretary of its recommendation."

SECTION 25. Section 24-10A-6 NMSA 1978 (being Laws 1978, Chapter 178, Section 6, as amended by Laws 2001, Chapter 258, Section 6 and by Laws 2001, Chapter 273, Section 6) is amended to read:

"24-10A-6. DISTRIBUTION OF FUND.--On or before August 31, the local emergency medical services funding program distribution shall be made to each municipality and county as determined by the department. No more than one percent of the amount appropriated to the local emergency medical services funding program shall be distributed from the fund to the
benefit of a single local recipient in any fiscal year 
pursuant to the local emergency medical services funding 
program, with the exception of a regionalized emergency 
medical service agency, to ensure that appropriate emergency 
medical service is available statewide."

SECTION 26. Section 24-10A-8 NMSA 1978 (being Laws 
1978, Chapter 178, Section 8, as amended) is amended to read: 
"24-10A-8. FUNDING PROGRAM--CONTROL OF EXPENDITURES.-- 
Money distributed from the fund shall be expended only for the 
purposes stated in the application to the bureau and shall be 
expended on the authorization of the chief executive of the 
[incorporated] municipality or county upon vouchers issued by 
its treasurer."

SECTION 27. Section 24-14-27 NMSA 1978 (being Laws 
1961, Chapter 44, Section 25, as amended) is amended to read: 
"24-14-27. DISCLOSURE OF RECORDS.-- 
A. [It is unlawful for any person to] The state 
registrar or other custodian of vital records shall not permit 
inspection of or [to disclose] disclosure of information 
contained in vital records or [to copy] copying or [issue] 
issuance of a copy of all or part of any record except as 
authorized by law. 
B. The department shall provide access to record 
level data required by the New Mexico health policy commission 
and the health information system created in the Health
Information System Act. The New Mexico health policy commission and the health information system may only release record level data obtained from vital records in the aggregate. For the purposes of this subsection, "record level data" means one or more unique and non-aggregated data elements relating to a single identifiable individual. The department may authorize the disclosure of data contained in vital records for other research purposes.

C. When one hundred years have elapsed after the date of birth or fifty years have elapsed after the date of death, the vital records of these events in the custody of the state registrar shall become open public records, and information shall be made available in accordance with regulations that provide for the continued safekeeping of the records; provided that vital records of birth shall not become open public records prior to the individual's death."

SECTION 28. Section 24-14-31 NMSA 1978 (being Laws 1961, Chapter 44, Section 29, as amended) is amended to read:

"24-14-31. PENALTIES.--

A. Except for violations of Section 24-14-18 NMSA 1978, any person is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978, who willfully and knowingly:

(1) makes any false statement or supplies any false information in a report, record or certificate
required to be filed;

(2) with the intent to deceive, alters,
amends, counterfeits, copies or mutilates any report, record,
[or] certificate, application or supporting documentation;

(3) uses or attempts to use or furnishes to
another for use for any purpose of deception any certificate,
record, report or certified copy that has been altered,
amended or mutilated or that contains false information in
whole or in part, or that is related to the birth or death of
another person, whether living or dead; or

(4) neglects or violates any of the
provisions of the Vital Statistics Act or refuses to perform
any of the duties imposed upon [him] the person by that act.

B. Any person who willfully and knowingly permits
inspection of or discloses information contained in vital
statistics records of adoptions or induced abortions or copies
or issues a copy of all or part of any record of an adoption
or induced abortion, except as authorized by law, is guilty of
a fourth degree felony and shall be sentenced in accordance
with the provisions of the Criminal Sentencing Act."

SECTION 29. A new section of the Public Health Act is
enacted to read:

"[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--
REPORTING.--

A. The secretary shall establish by rule a list of
reportable conditions of public health importance. The list shall include conditions of humans or animals caused by exposure to toxic substances, microorganisms or any other pathogens or conditions that arise due to injury. The secretary shall:

(1) prescribe the manner of and the person responsible for reporting conditions of public health importance;

(2) classify each reportable condition of public health importance according to the urgency of reporting; and

(3) revise the list of reportable conditions of public health importance as necessary.

B. The secretary may enter into agreements or other arrangements with federal and tribal public health agencies for receipt and sharing of information regarding reportable conditions of public health importance.

C. The department shall disseminate reporting requirements to health care providers and other persons required to report conditions of public health importance.

D. A person with knowledge of a reportable condition of public health importance shall report the condition to the department."

SECTION 30. A new section of the Public Health Act is enacted to read:

.198951.3SA
"[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--
TESTING--SCREENING.--

A. The department shall establish testing and
screening procedures and programs to identify conditions of
public health importance among individuals or among the
general population of the state. The department:

(1) shall not conduct any test or screening
without the prior informed consent of the individual who is
the subject of the test or screening, except as otherwise
provided pursuant to this section or by state law;

(2) shall have a valid and reliable test for
the condition of public health importance;

(3) shall, when administering a test or
screening, identify a condition of public health importance
that poses a threat to an individual's or the public's health
and that may be avoided, cured, alleviated or made less
contagious through safe and effective treatment, modifications
in individual behavior or public health interventions;

(4) shall, prior to testing or screening,
explain to the individual the nature, scope, purposes,
benefits, risks and possible outcomes of the test or
screening; and

(5) shall fully inform the individual of the
individual's results, the meaning of the results, the possible
need for additional testing and the availability of

.198951.3SA
appropriate health care services, including mental health care
and social and support services. If appropriate, the
department shall provide counseling or inform the individual
where such counseling services are available.

B. The department may petition to receive a court
order to require testing or medical examination of any
individual who has or may have been exposed to a condition of
public health importance that poses a significant risk or
threat to the individual or others or to the public's health,
in accordance with procedures established by department
rules.

SECTION 31. A new section of the Public Health Act is
enacted to read:

"[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--
COMPULSORY SCREENING--CONDITIONAL SCREENING--ROUTINE VOLUNTARY
SCREENING.--The department may establish:

A. compulsory screening programs for conditions of
public health importance that pose a significant risk or
seriously threaten the public's health;

B. conditional screening programs when necessary
to achieve an important public health objective; provided
that:

(1) all individuals of a defined class are
subjected to the screening as a condition of participating in
or receiving a service or privilege; and
(2) if an individual refuses to undergo the
screening, the department may prevent the individual from
participating in or receiving the service or privilege; and

C. routine, regular and ongoing screening programs
for conditions of public health importance. All individuals
of a defined class are subjected to the screening unless they
choose to opt out or refuse to consent."

SECTION 32. A new section of the Public Health Act is
enacted to read:

"[NEW MATERIAL] INDIVIDUALLY IDENTIFIABLE HEALTH
INFORMATION--CONDITIONS OF PUBLIC HEALTH IMPORTANCE--
CONFIDENTIALITY--USE--DISCLOSURE.--

A. Any use of individually identifiable health
information pursuant to this section shall be limited to the
minimum amount of information reasonably necessary to
accomplish a public health purpose.

B. Individually identifiable health information
received by the department shall not be public information and
shall not be disclosed without the authorization of the
individual who is the subject of the information, except as
otherwise provided in state or federal law.

C. In accordance with state and federal law, the
secretary shall adopt and promulgate rules to allow an
individual to have access to, inspect and obtain copies of the
individual's individually identifiable health information.
D. The secretary shall adopt and promulgate rules to establish procedures according to which individuals may access, inspect and obtain copies of their individually identifiable health information in a manner consistent with state and federal law.

E. Nothing in this section shall be construed to prevent an individual from disclosing that individual's own individually identifiable health information.

F. As used in this section, "individually identifiable health information" means information related to the provision of health care or public health services to an individual that:

(1) is directly related to diseases or a condition of public health importance; and

(2) can be used to identify the individual recipient of health care or public health services."

SECTION 33. REPEAL.--Sections 3-43-1, 3-43-2, 22-10A-34, 23-1-9, 23-1-10, 24-1-8, 24-1-9.5, 24-4-1, 24-4-3 and 24-5-14 NMSA 1978 (being Laws 1965, Chapter 300, Sections 14-44-1 and 14-44-2, Laws 1967, Chapter 16, Section 112, Laws 1941, Chapter 69, Sections 1 and 2, Laws 1973, Chapter 359, Section 8, Laws 1996, Chapter 80, Section 4, Laws 1935, Chapter 131, Section 6, Laws 1919, Chapter 85, Section 36 and Laws 2004, Chapter 45, Section 9, as amended) are repealed.