SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 362

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

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 accreditation 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 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] 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 sectors;

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
thereto;

(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

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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 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 the secretary's authority as follows:

(1) the secretary shall arrange with school districts for the enrollment of all school-age residents of institutions under 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. The secretary shall notify the superintendent of public instruction 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 once 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.
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 division of health; or]

(3) [the division of public health; or]

(4) [the bureau of health; or]

(5) [the office of public health; or]

(6) [the department of health and human services; or]

(7) [the division of health administration; or]

(8) [the bureau of health administration; or]

(9) [the office of health administration; or]

(10) [the division of disease prevention; or]

(11) [the bureau of disease prevention; or]

(12) [the office of disease prevention; 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. "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 public health emergencies and assist communities in recovery;

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

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

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

[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;

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

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

[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;

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

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

[O.] 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;

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

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

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

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

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

[U.] 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

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.

A regional health officer shall provide medical oversight
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,
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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
[his] 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 [disease] 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) the subject of the test or the subject's legally authorized representative, guardian or legal custodian;

[B] (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;
[C. (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;

[D. (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]
infection;

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

[(a) a human body part from a
decased 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;

[F. (6) health facility staff committees or
accreditation or oversight review organizations that are
cconducting 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--
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, testing, evaluation, detention or observation, the secretary or the secretary's designee 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. 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) [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:

(1) immediately grant ex parte a [temporary] court 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] court order [of protection], notice of hearing and an advisement of the terms of the [temporary protective] court order, including [his right] the affected person's right to representation and re-petition for termination of [any protective] a court 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] court 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] court order as set forth in Subsection [E] 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.] F. 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.] G. At the evidentiary hearing, the court shall review the circumstances surrounding the [temporary] court 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] court order's issuance and every [ninety] thirty days thereafter.
The court order to isolate or quarantine 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 the affected person will not comply with appropriate treatment and contagion precautions voluntarily; or

(3) exceptional circumstances exist warranting the termination of the court 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 a court order for 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, into 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.

[K.] 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:
1. (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) in the event that a district court
cannot adequately provide services, 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;

{(2)} (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

{(3)} (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] ACTIVE 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] a court 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] court 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] court order [of protection], notice of hearing and an advisement of the terms of the court 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] a court 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] court order [of protection], hold an evidentiary hearing to determine if the court shall continue the court order [of protection].

G. A person held pursuant to a [temporary] court 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] court 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] court 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 court 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] a court order [of protection] with a subsequent hearing within ninety days of the [temporary] court order.
order's issuance and every ninety days thereafter. The court 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] a court order [of protection] has not completed therapy; or

(2) exceptional circumstances exist warranting the termination of the [temporary] court 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 court 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.

[K.] 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.

[L.] 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.

[M.] 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;

   (2) "completion of therapy" means completion of the prescribed therapy, as determined by the department based upon published national consensus tuberculosis treatment guidelines;
"court" means the district court of the judicial district where the person who is alleged to have an infectious form of active tuberculosis resides or is found or a district court designated by the New Mexico supreme court;

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

"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;

"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] and

"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
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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 level of medical care."

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 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
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 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 service] regionalized emergency medical service agency; or other prehospital emergency medical service care provider based in the state:

(1) 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;

[G.] 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
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:

"[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, prior to testing or screening,
explain to the individual the nature, scope, purposes,
benefits, risks and possible outcomes 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; and

(4) 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 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 for the issuance of 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. Nothing in this section shall be construed to prevent an individual from disclosing that individual's own individually identifiable health information.

E. 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.