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. STATE HEALTH IMPROVEMENT PLAN.--

A. The department shall develop a state health
improvement plan that 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 state health
improvement plan on September 1, 2018 and at least every five
years thereafter. By September 1 of each even-numbered year,
response to changes and developments.

D. The department shall include the legislature and other agencies and commissions as the department deems necessary in its development of the 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.

E. The department shall consult with the governments of Native American nations, tribes and pueblos located wholly or partially within New Mexico in the development of the state health improvement plan."

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 the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged.

B. To perform 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 rules;

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

(3) organize the department into those
organizational units 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 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 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 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 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 secretary of public education prior to public school enrollment of any school-age resident under the secretary's authority; and
(2) the secretary shall provide educational programs, in accordance with the special education rules of the public education department, for school-age persons who are clients of institutions under 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 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 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.

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 purchasing or digitizing 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 purchased, copied or digitized 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 purchased, copied or digitized by any third party unless fifty years have elapsed after the date of death.

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 2015, Chapter 61, Section 1 and by Laws 2015, Chapter 153, 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. "crisis triage center" means a health facility that:

(1) is licensed by the department of health;
(2) is not physically part of an inpatient hospital or included in a hospital's license; and

(3) provides stabilization of behavioral health crises, including short-term residential stabilization;

C. "department" 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;

D. "director" means the secretary;

E. "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;

F. "health facility" means a public hospital, profit or nonprofit private hospital, general or special hospital, outpatient facility, crisis triage center, freestanding birth center, adult daycare facility, nursing
home, intermediate care facility, assisted living 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;

G. "screening" means a preliminary procedure, including a test or examination, that:

(1) may require further investigation; and

(2) can identify individuals with
unrecognized health risk factors or asymptomatic disease conditions in populations;

H. "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

I. "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 workforce;
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;
Q. maintain and enforce rules for the control of conditions of public health importance;
R. maintain and enforce rules for immunization against conditions of public health importance;
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;
T. supervise state public health activities, operate a dental public health program and operate state laboratories for the investigation of public health matters;
U. sue and, with the consent of the legislature, be sued;
V. regulate the practice of midwifery;
W. administer legislation enacted pursuant to
Title 6 of the Public Health Service Act, as amended and supplemented;

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

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

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 REGIONS--APPOINTMENT OF HEALTH OFFICERS--POWERS AND DUTIES OF HEALTH OFFICERS.--

A. The director shall establish health regions and may modify and create new health regions as the director deems necessary.

B. A regional health officer shall provide medical oversight to school nurses in the regional health officer's region. A school nurse shall make reports relating to public
health as the regional health officer in 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 24-1-5 NMSA 1978 (being Laws 1973, Chapter 359, Section 5, as amended) is amended to read:

"24-1-5. LICENSURE OF HEALTH FACILITIES--HEARINGS--APPEALS.--

A. A health facility shall not be operated without a license issued by the department. If a health facility is found to be operating without a license, in order to protect human health or safety, the secretary may issue a cease-and-desist order. The health facility may request a hearing that shall be held in the manner provided in this section. The department may also proceed pursuant to the Health Facility Receivership Act.

B. The department is authorized to make inspections and investigations and to prescribe rules it deems necessary or desirable to promote the health, safety and welfare of persons using health facilities.

C. Except as provided in Subsection F of this section, upon receipt of an application for a license to
operate a health facility, the department shall promptly inspect the health facility to determine if it is in compliance with all rules of the department. Applications for hospital licenses shall include evidence that the bylaws or rules of the hospital apply equally to osteopathic and medical physicians. The department shall consolidate the applications and inspections for a hospital that also operates as a hospital-based primary care clinic.

D. Upon inspection of a health facility, if the department finds a violation of its rules, the department may deny the application for a license, whether initial or renewal, or it may issue a temporary license. A temporary license shall not be issued for a period exceeding one hundred twenty days, nor shall more than two consecutive temporary licenses be issued.

E. A one-year nontransferable license shall be issued to any health facility complying with all rules of the department. The license shall be renewable for successive one-year periods, upon filing of a renewal application, if the department is satisfied that the health facility is in compliance with all rules of the department or, if not in compliance with a rule, has been granted a waiver or variance of that rule by the department pursuant to procedures, conditions and guidelines adopted by rule of the department. Licenses shall be posted in a conspicuous place on the
licensed premises, except that child care centers that
receive no state or federal funds may apply for and receive
from the department a waiver from the requirement that a
license be posted or kept on the licensed premises.

F. A health facility that has been inspected and
licensed by the department, that has received certification
for participation in federal reimbursement programs and that
has been fully accredited by a national accrediting
organization approved by the federal centers for medicare and
medicaid services or the department shall be granted a
license renewal based on that accreditation. A freestanding
birth center that has been inspected and licensed by the
department and is accredited by the commission for
accreditation of birth centers or its successor accreditation
body shall be granted a license renewal based on that
accreditation. Health facilities receiving less than full
accreditation by an approved accrediting body may be granted
a license renewal based on that accreditation. License
renewals shall be issued upon application submitted by the
health facility upon forms prescribed by the department.
This subsection does not limit in any way the department's
various duties and responsibilities under other provisions of
the Public Health Act or under any other subsection of this
section, including any of the department's responsibilities
for the health and safety of the public.
G. The department may charge a reasonable fee not to exceed twelve dollars ($12.00) per bed for an inpatient health facility or three hundred dollars ($300) for any other health facility for each license application, whether initial or renewal, of an annual license or the second consecutive issuance of a temporary license. Fees collected shall not be refundable. All fees collected pursuant to licensure applications shall be deposited with the state treasurer for credit in a designated department recurring account for use in health facility licensure and certification operations.

H. The department may revoke or suspend the license of a health facility or may impose on a health facility an intermediate sanction and a civil monetary penalty provided in Section 24-1-5.2 NMSA 1978 after notice and an opportunity for a hearing before a hearing officer designated by the department to hear the matter and, except for child care centers and facilities, may proceed pursuant to the Health Facility Receivership Act upon a determination that the health facility is not in compliance with any rule of the department. If immediate action is required to protect human health and safety, the secretary may suspend a license or impose an intermediate sanction pending a hearing, provided the hearing is held within five working days of the suspension or imposition of the sanction, unless waived by the licensee, and, except for child care centers and
facilities, may proceed ex parte pursuant to the Health Facility Receivership Act.

I. The department shall schedule a hearing pursuant to Subsection H of this section if the department receives a request for a hearing from a licensee:

(1) within ten working days after receipt by the licensee of notice of suspension, revocation, imposition of an intermediate sanction or civil monetary penalty or denial of an initial or renewal application;

(2) within four working days after receipt by the licensee of an emergency suspension order or emergency intermediate sanction imposition and notice of hearing if the licensee wishes to waive the early hearing scheduled and request a hearing at a later date; or

(3) within five working days after receipt of a cease-and-desist order.

The department shall also provide timely notice to the licensee of the date, time and place of the hearing, identity of the hearing officer, subject matter of the hearing and alleged violations.

J. A hearing held pursuant to provisions of this section shall be conducted in accordance with adjudicatory hearing rules and procedures adopted by rule of the department. The licensee has the right to be represented by counsel, to present all relevant evidence by means of
witnesses and books, papers, documents, records, files and other evidence and to examine all opposing witnesses who appear on any matter relevant to the issues. The hearing officer has the power to administer oaths on request of any party and issue subpoenas and subpoenas duces tecum prior to or after the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents, records, files and other evidence. Documents or records pertaining to abuse, neglect or exploitation of a resident, client or patient of a health facility or other documents, records or files in the custody of the human services department or the office of the state long-term care ombudsman at the aging and long-term services department that are relevant to the alleged violations are discoverable and admissible as evidence in any hearing.

K. Any party may appeal the final decision of the department pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

L. A complaint about a health facility received by the department pursuant to this section shall be promptly investigated and appropriate action shall be taken if substantiated. The department shall develop a health facilities protocol in conjunction with the human services department, the protective services division of the children, youth and families department, the office of the state
long-term care ombudsman and other appropriate agencies to
ensure the health, safety and rights of individuals in health
facilities. The health facilities protocol shall require:

(1) cross-reference among agencies pursuant
to this subsection of an allegation of abuse, neglect or
exploitation;

(2) an investigation, within the strict
priority time frames established by each protocol member's
rules, of an allegation or referral of abuse, neglect or
exploitation after the department has made a good cause
determination that abuse, neglect or exploitation occurred;

(3) an agency to share its investigative
information and findings with other agencies, unless
otherwise prohibited by law; and

(4) require the receiving agency to accept
the information provided pursuant to Paragraph (3) of this
subsection as potential evidence to initiate and conduct
investigations.

M. A complaint received by the department pursuant
to this section shall not be disclosed publicly in a manner
as to identify any individuals or health facilities if upon
investigation the complaint is unsubstantiated.

N. The name and information regarding the person
making a complaint pursuant to this section shall not be
disclosed absent the consent of the informant or a court
order.  

  O. Notwithstanding any other provision of this section, when there are reasonable grounds to believe that a child is in imminent danger of abuse or neglect while in the care of a child care facility, whether or not licensed, or upon the receipt of a report pursuant to Section 32A-4-3 NMSA 1978, the department shall consult with the owner or operator of the child care facility. Upon a finding of probable cause, the department shall give the owner or operator notice of its intent to suspend operation of the child care facility and provide an opportunity for a hearing to be held within three working days, unless waived by the owner or operator. Within seven working days from the day of notice, the secretary shall make a decision, and, if it is determined that any child is in imminent danger of abuse or neglect in the child care facility, the secretary may suspend operation of the child care facility for a period not in excess of fifteen days. Prior to the date of the hearing, the department shall make a reasonable effort to notify the parents of children in the child care facility of the notice and opportunity for hearing given to the owner or operator.

  P. Nothing contained in this section or in the Public Health Act shall authorize either the secretary or the department to make any inspection or investigation or to prescribe any rules concerning group homes as defined in
Section 9-8-13 NMSA 1978 except as are reasonably necessary or desirable to promote the health and safety of persons using group homes."

SECTION 8. 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. 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 that makes a diagnosis of, treats or prescribes for or otherwise has knowledge of a case of sexually transmitted infection for which reporting is required by department rules 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 9. 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 INFECTION.--Any person
regardless of age has the capacity to consent to an
examination and treatment by a licensed health care provider
for any sexually transmitted infection."

SECTION 10. Section 24-1-9.1 NMSA 1978 (being Laws
1993, Chapter 341, Section 4) is amended to read:

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

A. A test designed to identify any sexually
transmitted 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 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 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 11. Section 24-1-9.2 NMSA 1978 (being Laws 1996, Chapter 80, Section 1) is amended to read:

"24-1-9.2. SEXUALLY TRANSMITTED INFECTIONS--TESTING OF PERSONS FORMALLY CHARGED FOR ALLEGEDLY COMMITTING CERTAIN CRIMINAL OFFENSES.--
A. A test designed to identify any sexually transmitted 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 12. Section 24-1-9.3 NMSA 1978 (being Laws
1996, Chapter 80, Section 2) is amended to read:

"24-1-9.3. SEXUALLY TRANSMITTED INFECTIONS--MANDATORY
COUNSELING.--No positive test result for a sexually
transmitted 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 infection and any individual whom
the infected person may have exposed to the sexually
transmitted infection."

SECTION 13. Section 24-1-9.4 NMSA 1978 (being Laws
1996, Chapter 80, Section 3) is amended to read:
"24-1-9.4. SEXUALLY TRANSMITTED 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
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:
(1) the subject of the test or the subject's
legally authorized representative, guardian or legal
custodian;
(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;
(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 infection;

(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;

(7) authorized medical or epidemiological researchers who may not further disclose any identifying characteristics or information; and

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

"24-1-9.6. SEXUALLY TRANSMITTED 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 the victim's health and safety or the health and safety of 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 15. 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 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 16. Section 24-1-15 NMSA 1978 (being Laws 1973, Chapter 359, Section 15, as amended) is amended to read:

"24-1-15. ISOLATION--QUARANTINE--PROTOCOL.--

A. If the secretary or a representative of the department has knowledge that a person is infected with or reasonably believes that a person is infected with or exposed to a sexually transmitted disease, the secretary or a representative of the department shall:

1. Notify the person that the disease is sexually transmitted;
2. Inform the person of the rights and responsibilities of the person under the law;
3. Advise the person of the availability of medical treatment and counseling services;
4. Inform the person of the availability of support services;
5. Inform the person of the availability of resources for financial assistance;
6. Coordinate with other agencies to provide services to the person;
7. Educate the person about the disease and its prevention;
8. Provide the person with information about the disease and its transmission;
9. Assist the person in obtaining necessary medical services;
10. Provide the person with information about the confidentiality of the information;
11. Provide the person with information about the confidentiality of the relationship with the person who transmitted the disease.

B. If the secretary or a representative of the department has knowledge or reasonably believes that a person is infected with or exposed to a sexually transmitted disease, the secretary or a representative of the department shall:

1. Notify the person that the disease is sexually transmitted;
2. Inform the person of the rights and responsibilities of the person under the law;
3. Advise the person of the availability of medical treatment and counseling services;
4. Inform the person of the availability of support services;
5. Inform the person of the availability of resources for financial assistance;
6. Coordinate with other agencies to provide services to the person;
7. Educate the person about the disease and its prevention;
8. Provide the person with information about the disease and its transmission;
9. Assist the person in obtaining necessary medical services;
10. Provide the person with information about the confidentiality of the information;
11. Provide the person with information about the confidentiality of the relationship with the person who transmitted the disease.

C. If the secretary or a representative of the department has knowledge or reasonably believes that a person is infected with or exposed to a sexually transmitted disease, the secretary or a representative of the department shall:

1. Notify the person that the disease is sexually transmitted;
2. Inform the person of the rights and responsibilities of the person under the law;
3. Advise the person of the availability of medical treatment and counseling services;
4. Inform the person of the availability of support services;
5. Inform the person of the availability of resources for financial assistance;
6. Coordinate with other agencies to provide services to the person;
7. Educate the person about the disease and its prevention;
8. Provide the person with information about the disease and its transmission;
9. Assist the person in obtaining necessary medical services;
10. Provide the person with information about the confidentiality of the information;
11. Provide the person with information about the confidentiality of the relationship with the person who transmitted the disease.

D. If the secretary or a representative of the department has knowledge or reasonably believes that a person is infected with or exposed to a sexually transmitted disease, the secretary or a representative of the department shall:

1. Notify the person that the disease is sexually transmitted;
2. Inform the person of the rights and responsibilities of the person under the law;
3. Advise the person of the availability of medical treatment and counseling services;
4. Inform the person of the availability of support services;
5. Inform the person of the availability of resources for financial assistance;
6. Coordinate with other agencies to provide services to the person;
7. Educate the person about the disease and its prevention;
8. Provide the person with information about the disease and its transmission;
9. Assist the person in obtaining necessary medical services;
10. Provide the person with information about the confidentiality of the information;
11. Provide the person with information about the confidentiality of the relationship with the person who transmitted the disease.
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 isolate or
quarantine the person until the person is no longer a threat
to the public health or until the person voluntarily complies
with 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 to others of a threatening
communicable disease. The public health order shall expire
at the end of twenty-four hours from the time of the
commencement of the 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 the basis
upon which isolation or quarantine is justified, including whether a person to be isolated or quarantined:

(1) is infected with, reasonably believed to be infected with or exposed to a threatening communicable disease; and

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

D. Upon the filing of a petition, the court shall:

(1) immediately grant ex parte a court order to isolate or quarantine the affected person 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 poses a substantial threat to the public health and safety;

(2) cause the court order, notice of hearing and an advisement of the terms of the court order, including the affected person's rights to representation and re-petition for termination of a court order that removes and detains the affected person, to be immediately served on the affected person; and

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

E. A person held pursuant to a court order as set
forth in Subsection 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; and

(2) permitted to communicate on any matter, including the person's isolation or quarantine, 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 quarantine.

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.

G. At the evidentiary hearing, the court shall review the circumstances surrounding the 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 isolation or quarantine. The court shall order regular review of the order to isolate or quarantine by providing the person being held with a subsequent hearing within thirty days of the court order's issuance and every 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 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.

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 to others of a communicable disease or a potentially threatening communicable disease 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 becomes infected or is reasonably believed to be infected with the threatening communicable disease subsequent to quarantine, 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.

L. Court proceedings shall be on the record and be closed to the general public. 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 a threatening communicable disease and 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 transmission 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) 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;

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

(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 17. 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 ACTIVE
TUBERCULOSIS.--

A. When a physician or other person knows that a
person has, 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
active tuberculosis, the department shall prescribe the person
a treatment plan meeting the department's therapeutic
specifications for the infectious form of 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 active tuberculosis has
failed to comply with the department's treatment plan as
described in Subsection B of this section, the department
shall petition for a court order for the person who has 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.

E. A petition for a court order shall 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 active tuberculosis or presents a
substantial likelihood of having 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 a court
order, 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 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 court order 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 court order, notice of hearing
and an advisement of the terms of the court order, including
the rights of the person alleged to have active tuberculosis to representation and re-petition for termination of a court order, to be immediately served on the person alleged to have active tuberculosis; and

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

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

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

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.

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

O. A person who in good faith reports that another person has active tuberculosis shall not be held liable for civil damages as a result of the report; provided that the person reported as having 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.

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;

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

(4) "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; and

(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 where appropriate security measures are undertaken to prevent the transmission of tuberculosis; or
(d) isolation in a prison or detention center negative pressure room with an appropriate level of medical care."

SECTION 18. A new section of the Public Health Act is enacted to read:

"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 19. A new section of the Public Health Act is enacted to read:

"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 shall:

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

(3) 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) 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 20. A new section of the Public Health Act is enacted to read:

"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 21. Section 24-4-2 NMSA 1978 (being Laws 1935, Chapter 131, Section 7, as amended) is amended to read:

"24-4-2. LOCAL PUBLIC HEALTH OFFICES--REGIONAL DIRECTOR--HEALTH OFFICER--EXPENSES.--

A. The board of county commissioners of each county shall provide suitable quarters for:

   (1) the local public health offices,
including office space for the administrative staff, office
space for health care personnel and clinic space 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,
in incurred in enforcing the health laws and regulations within
the counties in which the expense is incurred.

C. The board of county commissioners of each
county may, upon adoption of a resolution approved by the
department of finance and administration, deposit such county
funds as are provided in this section with the state treasurer
to the credit of the department of health for such purposes as
are provided in this section at such times as such funds are
available; provided the depositing of such funds with the
state treasurer 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 22. Section 24-4-3 NMSA 1978 (being Laws 1920
(S.S.), Chapter 2, Section 1, as amended) is amended to read:

"24-4-3. ADDITIONAL HEALTH OFFICERS--OFFICES--
EXPENSES.--

A. Whenever, in the opinion of the director of the
public health division of the department of health, conditions
require the employment of persons in addition to the district
health officer to properly execute the health laws and
regulations in any county, the board of county commissioners
of such county, with the approval of the secretary of health,
shall provide suitable quarters for such additional persons.
The boards of county commissioners shall make proper provision
for all office expenses and other expenses, including
utilities and maintenance, for such additional persons.

B. The board of county commissioners of such
county may, upon adoption of a resolution approved by the
secretary of finance and administration, deposit county funds
for such purposes as are provided pursuant to this section
with the state treasurer to the credit of the department of
health for such purposes as are provided in this section at
such time as such funds are available. The depositing of such
funds with the state treasurer shall be upon a voucher
approved by the board of county commissioners subject to all
statutes and regulations covering the disbursement of county
funds except that such funds may be so deposited prior to
disbursement being due and payable. No such deposits shall be
in excess of the approved budget for this purpose."

SECTION 23. 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 emergency medical systems bureau 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 a publicly owned or contracted ambulance or air ambulance service, medical rescue service, fire department rescue 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 for certification, including:

(a) personnel training;

(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 medical control; and

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

F. "municipality" means an incorporated city, town or village;

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 24. 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 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 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 25. Section 24-10A-4.2 NMSA 1978 (being Laws SB 223 Page 60
1994, Chapter 61, Section 11) is amended to read:

"24-10A-4.2. MUTUAL AID AGREEMENTS--REGIONALIZED, INTEGRATED RESPONSE PLANS.--Municipalities, counties, tribes and local recipients 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 26. 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 the secretary's decision within thirty days of
the date on which the committee has notified the secretary of
its recommendation."

SECTION 27. 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 28. 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
municipality or county upon vouchers issued by its treasurer."

SECTION 29. 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. The state registrar or other custodian of vital records shall not permit inspection of or disclosure of information contained in vital records or copying or 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. The New Mexico health policy commission 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 public records until the one hundredth anniversary of the birth of the individual.
open public records prior to the individual's death."

SECTION 30. 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 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 31. REPEAL.--Sections 3-43-1, 3-43-2,
22-10A-34, 23-1-9, 23-1-10, 24-1-8, 24-1-9.5 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 and Laws 2004, Chapter 45,
Section 9, as amended) are repealed.