

HOUSE BILL 585

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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AN ACT

RELATING TO MEDICAL INVESTIGATIONS; REQUIRING ACCESS TO HEALTH RECORDS DURING AN INVESTIGATION; PROVIDING FOR CONFIDENTIALITY OF HEALTH INFORMATION EXCEPT AS NEEDED TO COMPLETE AN INVESTIGATING REPORT OR DEATH CERTIFICATE; CLARIFYING THE EXTENT OF SUBPOENA POWER OF A STATE, DISTRICT OR DEPUTY MEDICAL INVESTIGATOR DURING AN INVESTIGATION.

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

SECTION 1. Section 24-11-9 NMSA 1978 (being Laws 1961, Chapter 91, Section 6, as amended) is amended to read:

"24-11-9. ACCESS TO HEALTH RECORDS REQUIRED--SUBPOENA--
OATH.--[The]

A. A person in possession of electronic or physical copies of medical or mental health records, radiologic images or other medical studies relevant to an investigation being

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1 performed pursuant to Chapter 24, Article 11 NMSA 1978 shall
2 allow access to those records in the format in which they are
3 maintained to a state, district or deputy medical investigator
4 who is performing an investigation pursuant to Chapter 24,
5 Article 11 NMSA 1978.

6 B. A state, district or deputy medical investigator
7 shall keep confidential the information collected pursuant to
8 Subsection A of this section, except as needed to complete
9 reports and death certificates issued pursuant to Chapter 24,
10 Article 11 NMSA 1978.

11 C. When conducting an investigation pursuant to
12 Chapter 24, Article 11 NMSA 1978, a state, district or deputy
13 medical investigator may:

14 (1) administer oaths and [may] issue [a
15 subpoena] subpoenas to compel [the] attendance of any witness;
16 [and]

17 (2) issue subpoenas duces tecum to require a
18 witness to produce any books, records, documents, files or
19 other things under the control of the person served; and

20 (3) issue subpoenas for the production of
21 [evidence by any necessary witness, and the subpoena may be
22 enforced in the district court. Any subpoena] confidential
23 medical records, mental health records, drug and alcohol abuse
24 records and other relevant information from health care
25 providers, including physicians, hospitals, nursing homes,

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1 rehabilitation facilities and residential care facilities.

2 D. A subpoena shall assert with reasonable
3 certainty:

4 (1) the nature of the information required;

5 (2) the time and place the information is to
6 be produced;

7 (3) whether the subpoena requires the
8 attendance of the person subpoenaed or only the production of
9 documents or other tangible objects; and

10 (4) the consequences of failure to obey the
11 subpoena.

12 E. A subpoena shall be served:

13 (1) at least three days prior to the required
14 appearance or production;

15 (2) by personal service upon the person to be
16 subpoenaed or by certified mail addressed to the person at the
17 person's last known address. If a subpoena is served by
18 certified mail, proof of service shall be deemed an affidavit
19 of mailing; and

20 (3) without cost, if served by [the sheriff or
21 any deputy or by any member of the New Mexico state police]
22 local or state law enforcement authorities.

23 F. After proper service of a subpoena, if the
24 person served neglects or refuses to comply with the subpoena,
25 a state, district or deputy medical investigator may apply to a

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1 district court of competent jurisdiction for an order to compel
2 compliance. Failure of the person to comply with the district
3 court's order shall be punishable by the court under its powers
4 of contempt."

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