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AN ACT

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

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

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

"9-7-4.1. 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, the department shall review and update or amend the plan in

1 response to changes and developments.

2 D. The department shall include the legislature
3 and other agencies and commissions as the department deems
4 necessary in its development of the state health improvement
5 plan so as to give geographic representation to all areas of
6 the state. The department shall ensure that public
7 participation and public input are integrated into the
8 planning process. The department shall convene regional
9 meetings on the proposed plan to allow public review and
10 comment, including oral and written testimony, pursuant to
11 the Open Meetings Act.

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

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

18 "9-7-6. SECRETARY--DUTIES AND GENERAL POWERS.--

19 A. The secretary is responsible to the governor
20 for the operation of the department. It is the secretary's
21 duty to manage all operations of the department and to
22 administer and enforce the laws with which the secretary or
23 the department is charged.

24 B. To perform the secretary's duties, the
25 secretary has every power expressly enumerated in the laws,

1 whether granted to the secretary or the department or any
2 division of the department, except where authority conferred
3 upon any division is explicitly exempted from the secretary's
4 authority by statute. In accordance with these provisions,
5 the secretary shall:

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

10 (2) delegate authority to subordinates as
11 the secretary deems necessary and appropriate, clearly
12 delineating such delegated authority and the limitations
13 thereto;

14 (3) organize the department into those
15 organizational units the secretary deems will enable it to
16 function most efficiently, subject to any provisions of law
17 requiring or establishing specific organizational units;

18 (4) within the limitations of available
19 appropriations and applicable laws, employ and fix the
20 compensation of those persons necessary to discharge the
21 secretary's duties;

22 (5) take administrative action by issuing
23 orders and instructions, not inconsistent with the law, to
24 assure implementation of and compliance with the provisions
25 of law for which administration or execution the secretary is

1 responsible and to enforce those orders and instructions by
2 appropriate administrative action in the courts;

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

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

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

16 (9) prepare an annual budget of the
17 department;

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

23 (11) give bond in the penal sum of
24 twenty-five thousand dollars (\$25,000) and require directors
25 to each give bond in the penal sum of ten thousand dollars

1 (\$10,000) conditioned upon the faithful performance of
2 duties, as provided in the Surety Bond Act. The department
3 shall pay the costs of those bonds; and

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

8 C. The secretary may apply for and receive, with
9 the governor's approval, in the name of the department any
10 public or private funds, including United States government
11 funds, available to the department to carry out its programs,
12 duties or services.

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

18 (1) the secretary shall arrange with school
19 districts for the enrollment of all school-age residents of
20 institutions under the secretary's authority who have been
21 evaluated and recommended for placement in a public school
22 according to the provisions of the Department of Health
23 Education Act. The secretary shall notify the secretary of
24 public education prior to public school enrollment of any
25 school-age resident under the secretary's authority; and

1 (2) the secretary shall provide educational
2 programs, in accordance with the special education rules of
3 the public education department, for school-age persons who
4 are clients of institutions under the secretary's authority
5 but who are enrolled in a public school by:

6 (a) using the facilities and personnel
7 of the department;

8 (b) contracting with a school district
9 for the provision of educational services; or

10 (c) using a combination of
11 Subparagraphs (a) and (b) of this paragraph.

12 E. The secretary may make and adopt such
13 reasonable procedural rules as may be necessary to carry out
14 the duties of the department and its divisions. No rule
15 promulgated by the director of any division in carrying out
16 the functions and duties of the division shall be effective
17 until approved by the secretary unless otherwise provided by
18 statute. Unless otherwise provided by statute, no rule
19 affecting any person or agency outside the department shall
20 be adopted, amended or repealed without a public hearing on
21 the proposed action before the secretary or a hearing officer
22 designated by the secretary. The public hearing shall be
23 held in Santa Fe unless otherwise permitted by statute.

24 Notice of the subject matter of the rule, the action proposed
25 to be taken, the time and place of the hearing, the manner in

1 which interested persons may present their views and the
2 method by which copies of the proposed rule or proposed
3 amendment or repeal of an existing rule may be obtained shall
4 be published once at least thirty days prior to the hearing
5 date in a newspaper of general circulation and mailed at
6 least thirty days prior to the hearing date to all persons
7 who have made a written request for advance notice of
8 hearing. All rules shall be filed in accordance with the
9 State Rules Act."

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

12 "14-8-9.1. PUBLIC RECORDS--INSPECTION--EXCEPTIONS.--

13 A. Except as provided in this section, all
14 documents filed and recorded in the office of the county
15 clerk are public records.

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

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

25 D. Documents containing health information that

1 relates to and identifies specific individuals as patients
2 are exempt as a public record pursuant to Section 14-6-1
3 NMSA 1978.

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

- 17 (1) the veteran who filed the papers;
- 18 (2) the veteran's next of kin;
- 19 (3) the deceased veteran's properly
20 appointed personal representative or executor;
- 21 (4) a person holding the veteran's general
22 power of attorney; or
- 23 (5) a person designated by the veteran in an
24 acknowledged statement to receive the records.

25 F. Death certificates that have been recorded in

1 the office of the county clerk may be inspected, but shall
2 not be purchased, copied or digitized by any third party
3 unless fifty years have elapsed after the date of death.
4 Death certificates and other vital records recorded in the
5 office of the county clerk are exempt from the restrictions
6 contained in Subsection A of Section 24-14-27 NMSA 1978. The
7 act of recording a death certificate in the office of the
8 county clerk is considered a convenience; provided that no
9 person shall be required to record a death certificate in the
10 office of the county clerk to effect change of title or
11 interest in property."

12 SECTION 4. Section 24-1-2 NMSA 1978 (being Laws 1973,
13 Chapter 359, Section 2, as amended by Laws 2015, Chapter 61,
14 Section 1 and by Laws 2015, Chapter 153, Section 1) is
15 amended to read:

16 "24-1-2. DEFINITIONS.--As used in the Public Health
17 Act:

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

23 B. "crisis triage center" means a health facility
24 that:

25 (1) is licensed by the department of health;

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

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

6 C. "department" means:

7 (1) the department of health; or

8 (2) the children, youth and families
9 department as to child care centers, residential treatment
10 centers that serve persons up to twenty-one years of age,
11 community mental health centers that serve only persons up to
12 twenty-one years of age, day treatment centers that serve
13 persons up to twenty-one years of age, shelter care homes and
14 those outpatient facilities that are also community-based
15 behavioral health facilities serving only persons up to
16 twenty-one years of age;

17 D. "director" means the secretary;

18 E. "health care provider" means an individual
19 licensed to provide health care in the ordinary course of
20 business, except as otherwise defined in the Public Health
21 Act;

22 F. "health facility" means a public hospital,
23 profit or nonprofit private hospital, general or special
24 hospital, outpatient facility, crisis triage center,
25 freestanding birth center, adult daycare facility, nursing

1 home, intermediate care facility, assisted living facility,
2 boarding home not under the control of an institution of
3 higher learning, child care center, shelter care home,
4 diagnostic and treatment center, rehabilitation center,
5 infirmary, community mental health center that serves both
6 children and adults or adults only, residential treatment
7 center that serves persons up to twenty-one years of age,
8 community mental health center that serves only persons up to
9 twenty-one years of age and day treatment center that serves
10 persons up to twenty-one years of age or a health service
11 organization operating as a freestanding hospice or a home
12 health agency. The designation of these entities as health
13 facilities is only for the purposes of definition in the
14 Public Health Act and does not imply that a freestanding
15 hospice or a home health agency is considered a health
16 facility for the purposes of other provisions of state or
17 federal laws. "Health facility" also includes those
18 facilities that, by federal regulation, must be licensed by
19 the state to obtain or maintain full or partial, permanent or
20 temporary federal funding. It does not include the offices
21 and treatment rooms of licensed private practitioners;

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

- 24 (1) may require further investigation; and
- 25 (2) can identify individuals with

1 unrecognized health risk factors or asymptomatic disease
2 conditions in populations;

3 H. "secretary" means:

4 (1) the secretary of health; or

5 (2) the secretary of children, youth and
6 families as to child care centers, residential treatment
7 centers that serve persons up to twenty-one years of age,
8 community mental health centers that serve only persons up to
9 twenty-one years of age, day treatment centers that serve
10 persons up to twenty-one years of age, shelter care homes and
11 those outpatient facilities that are also community-based
12 behavioral health facilities serving only persons up to
13 twenty-one years of age; and

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

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

20 "24-1-3. POWERS AND AUTHORITY OF DEPARTMENT.--The
21 department has authority to:

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

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

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

7 D. establish, maintain and enforce isolation and
8 quarantine;

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

12 F. respond to public health emergencies and assist
13 communities in recovery;

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

16 H. prescribe the duties of public health nurses
17 and school nurses;

18 I. provide educational programs and disseminate
19 information on public health;

20 J. maintain and enforce rules for the licensure of
21 health facilities;

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

25 L. ensure a competent public health workforce;

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

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

5 O. cooperate and enter into contracts or
6 agreements with the federal government or any other person to
7 carry out the powers and duties of the department;

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

12 Q. maintain and enforce rules for the control of
13 conditions of public health importance;

14 R. maintain and enforce rules for immunization
15 against conditions of public health importance;

16 S. maintain and enforce such rules as may be
17 necessary to carry out the provisions of the Public Health
18 Act and to publish the rules;

19 T. supervise state public health activities,
20 operate a dental public health program and operate state
21 laboratories for the investigation of public health matters;

22 U. sue and, with the consent of the legislature,
23 be sued;

24 V. regulate the practice of midwifery;

25 W. administer legislation enacted pursuant to

1 Title 6 of the Public Health Service Act, as amended and
2 supplemented;

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

6 Y. request and inspect, while maintaining federal
7 and state confidentiality requirements, copies of:

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

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

14 Z. do all other things necessary to carry out its
15 duties."

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

18 "24-1-4. CREATION OF HEALTH REGIONS--APPOINTMENT OF
19 HEALTH OFFICERS--POWERS AND DUTIES OF HEALTH OFFICERS.--

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

23 B. A regional health officer shall provide medical
24 oversight to school nurses in the regional health officer's
25 region. A school nurse shall make reports relating to public

1 health as the regional health officer in the school nurse's
2 region requires.

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

8 SECTION 7. Section 24-1-5 NMSA 1978 (being Laws 1973,
9 Chapter 359, Section 5, as amended) is amended to read:

10 "24-1-5. LICENSURE OF HEALTH FACILITIES--HEARINGS--
11 APPEALS.--

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

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

24 C. Except as provided in Subsection F of this
25 section, upon receipt of an application for a license to

1 operate a health facility, the department shall promptly
2 inspect the health facility to determine if it is in
3 compliance with all rules of the department. Applications
4 for hospital licenses shall include evidence that the bylaws
5 or rules of the hospital apply equally to osteopathic and
6 medical physicians. The department shall consolidate the
7 applications and inspections for a hospital that also
8 operates as a hospital-based primary care clinic.

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

16 E. A one-year nontransferable license shall be
17 issued to any health facility complying with all rules of the
18 department. The license shall be renewable for successive
19 one-year periods, upon filing of a renewal application, if
20 the department is satisfied that the health facility is in
21 compliance with all rules of the department or, if not in
22 compliance with a rule, has been granted a waiver or variance
23 of that rule by the department pursuant to procedures,
24 conditions and guidelines adopted by rule of the department.
25 Licenses shall be posted in a conspicuous place on the

1 licensed premises, except that child care centers that
2 receive no state or federal funds may apply for and receive
3 from the department a waiver from the requirement that a
4 license be posted or kept on the licensed premises.

5 F. A health facility that has been inspected and
6 licensed by the department, that has received certification
7 for participation in federal reimbursement programs and that
8 has been fully accredited by a national accrediting
9 organization approved by the federal centers for medicare and
10 medicaid services or the department shall be granted a
11 license renewal based on that accreditation. A freestanding
12 birth center that has been inspected and licensed by the
13 department and is accredited by the commission for
14 accreditation of birth centers or its successor accreditation
15 body shall be granted a license renewal based on that
16 accreditation. Health facilities receiving less than full
17 accreditation by an approved accrediting body may be granted
18 a license renewal based on that accreditation. License
19 renewals shall be issued upon application submitted by the
20 health facility upon forms prescribed by the department.
21 This subsection does not limit in any way the department's
22 various duties and responsibilities under other provisions of
23 the Public Health Act or under any other subsection of this
24 section, including any of the department's responsibilities
25 for the health and safety of the public.

1 G. The department may charge a reasonable fee not
2 to exceed twelve dollars (\$12.00) per bed for an inpatient
3 health facility or three hundred dollars (\$300) for any other
4 health facility for each license application, whether initial
5 or renewal, of an annual license or the second consecutive
6 issuance of a temporary license. Fees collected shall not be
7 refundable. All fees collected pursuant to licensure
8 applications shall be deposited with the state treasurer for
9 credit in a designated department recurring account for use
10 in health facility licensure and certification operations.

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

1 facilities, may proceed ex parte pursuant to the Health
2 Facility Receivership Act.

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

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

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

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

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

21 J. A hearing held pursuant to provisions of this
22 section shall be conducted in accordance with adjudicatory
23 hearing rules and procedures adopted by rule of the
24 department. The licensee has the right to be represented by
25 counsel, to present all relevant evidence by means of

1 witnesses and books, papers, documents, records, files and
2 other evidence and to examine all opposing witnesses who
3 appear on any matter relevant to the issues. The hearing
4 officer has the power to administer oaths on request of any
5 party and issue subpoenas and subpoenas duces tecum prior to
6 or after the commencement of the hearing to compel discovery
7 and the attendance of witnesses and the production of
8 relevant books, papers, documents, records, files and other
9 evidence. Documents or records pertaining to abuse, neglect
10 or exploitation of a resident, client or patient of a health
11 facility or other documents, records or files in the custody
12 of the human services department or the office of the state
13 long-term care ombudsman at the aging and long-term services
14 department that are relevant to the alleged violations are
15 discoverable and admissible as evidence in any hearing.

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

19 L. A complaint about a health facility received by
20 the department pursuant to this section shall be promptly
21 investigated and appropriate action shall be taken if
22 substantiated. The department shall develop a health
23 facilities protocol in conjunction with the human services
24 department, the protective services division of the children,
25 youth and families department, the office of the state

1 long-term care ombudsman and other appropriate agencies to
2 ensure the health, safety and rights of individuals in health
3 facilities. The health facilities protocol shall require:

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

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

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

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

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

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

1 order.

2 O. Notwithstanding any other provision of this
3 section, when there are reasonable grounds to believe that a
4 child is in imminent danger of abuse or neglect while in the
5 care of a child care facility, whether or not licensed, or
6 upon the receipt of a report pursuant to Section 32A-4-3 NMSA
7 1978, the department shall consult with the owner or operator
8 of the child care facility. Upon a finding of probable
9 cause, the department shall give the owner or operator notice
10 of its intent to suspend operation of the child care facility
11 and provide an opportunity for a hearing to be held within
12 three working days, unless waived by the owner or operator.
13 Within seven working days from the day of notice, the
14 secretary shall make a decision, and, if it is determined
15 that any child is in imminent danger of abuse or neglect in
16 the child care facility, the secretary may suspend operation
17 of the child care facility for a period not in excess of
18 fifteen days. Prior to the date of the hearing, the
19 department shall make a reasonable effort to notify the
20 parents of children in the child care facility of the notice
21 and opportunity for hearing given to the owner or operator.

22 P. Nothing contained in this section or in the
23 Public Health Act shall authorize either the secretary or the
24 department to make any inspection or investigation or to
25 prescribe any rules concerning group homes as defined in

1 Section 9-8-13 NMSA 1978 except as are reasonably necessary
2 or desirable to promote the health and safety of persons
3 using group homes."

4 SECTION 8. Section 24-1-7 NMSA 1978 (being Laws 1973,
5 Chapter 359, Section 7, as amended) is repealed and a new
6 Section 24-1-7 NMSA 1978 is enacted to read:

7 "24-1-7. SEXUALLY TRANSMITTED INFECTIONS--REPORTS OF
8 CASES.--

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

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

14 C. Every health care provider that makes a
15 diagnosis of, treats or prescribes for or otherwise has
16 knowledge of a case of sexually transmitted infection for
17 which reporting is required by department rules shall report
18 the case immediately.

19 D. As used in this section, "health care provider"
20 means:

21 (1) a person licensed to provide health care
22 in the ordinary course of business;

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

25 (3) a dispensary, a charitable or penal

1 institution or a municipal or county detention center; or

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

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

6 "24-1-9. CAPACITY TO CONSENT TO EXAMINATION AND
7 TREATMENT FOR A SEXUALLY TRANSMITTED INFECTION.--Any person
8 regardless of age has the capacity to consent to an
9 examination and treatment by a licensed health care provider
10 for any sexually transmitted infection."

11 SECTION 10. Section 24-1-9.1 NMSA 1978 (being Laws
12 1993, Chapter 341, Section 4) is amended to read:

13 "24-1-9.1. SEXUALLY TRANSMITTED INFECTIONS--TESTING OF
14 PERSONS CONVICTED OF CERTAIN CRIMINAL OFFENSES.--

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

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

20 (2) involving contact between the penis and
21 anus;

22 (3) involving contact between the mouth and
23 penis;

24 (4) involving contact between the mouth and
25 vulva;

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

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

7 B. When consent to perform a test on an offender
8 cannot be obtained, the victim of a criminal offense
9 described in Subsection A of this section may petition the
10 court to order that a test be performed on the offender.
11 When the victim of the criminal offense is a minor or
12 incompetent, the parent or legal guardian of the victim may
13 petition the court to order that a test be performed on the
14 offender. The court shall order and the test shall be
15 administered to the offender within ten days after the
16 petition is filed by the victim or the victim's parent or
17 guardian. Except for disclosures made pursuant to Section
18 24-1-7 NMSA 1978, the results of the test shall be disclosed
19 only to the offender and to the victim or the victim's parent
20 or legal guardian."

21 SECTION 11. Section 24-1-9.2 NMSA 1978 (being Laws
22 1996, Chapter 80, Section 1) is amended to read:

23 "24-1-9.2. SEXUALLY TRANSMITTED INFECTIONS--TESTING OF
24 PERSONS FORMALLY CHARGED FOR ALLEGEDLY COMMITTING CERTAIN
25 CRIMINAL OFFENSES.--

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

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

7 (2) involving contact between the penis and
8 anus;

9 (3) involving contact between the mouth and
10 penis;

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

13 (5) involving contact between the mouth and
14 anus.

15 B. If consent to perform a test on an alleged
16 offender cannot be obtained, the victim of the alleged
17 criminal offense described in Subsection A of this section
18 may petition the court, through the prosecuting office or
19 personally, to order that a test be performed on the alleged
20 offender; provided that the same test is first performed on
21 the victim of the alleged criminal offense. The test may be
22 performed on the alleged offender regardless of the result of
23 the test performed on the victim of the alleged criminal
24 offense. If the victim of the alleged criminal offense is a
25 minor or incompetent, the parent or legal guardian of the

1 victim of the alleged criminal offense may petition the court
2 to order that a test be performed on the alleged offender.

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

17 D. Except for disclosures made pursuant to Section
18 24-1-7 NMSA 1978, the results of the test shall be disclosed
19 only to the alleged offender and to the victim of the alleged
20 criminal offense or the victim's parent or legal guardian.
21 When the victim of the alleged criminal offense or the
22 alleged offender has a positive test result, both the alleged
23 offender and the victim of the alleged criminal offense shall
24 be provided with counseling.

25 E. A prosecuting attorney may not use in a

1 criminal proceeding arising out of the alleged criminal
2 offense the fact that a test was administered to the alleged
3 offender or the results of the test.

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

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

12 SECTION 12. Section 24-1-9.3 NMSA 1978 (being Laws
13 1996, Chapter 80, Section 2) is amended to read:

14 "24-1-9.3. SEXUALLY TRANSMITTED INFECTIONS--MANDATORY
15 COUNSELING.--No positive test result for a sexually
16 transmitted infection shall be revealed to the person upon
17 whom the test was performed without the person performing the
18 test or the health facility at which the test was performed
19 providing or referring that person for individual counseling
20 about:

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

1 D. the benefits of locating and counseling any
2 individual by whom the infected person may have been exposed
3 to the sexually transmitted infection and any individual whom
4 the infected person may have exposed to the sexually
5 transmitted infection."

6 SECTION 13. Section 24-1-9.4 NMSA 1978 (being Laws
7 1996, Chapter 80, Section 3) is amended to read:

8 "24-1-9.4. SEXUALLY TRANSMITTED INFECTIONS--
9 CONFIDENTIALITY.--

10 A. Except as provided in Section 24-1-9.2 NMSA
11 1978, no person or the person's agents or employees who
12 require or administer a test for sexually transmitted
13 infections shall disclose the identity of any person upon
14 whom a test is performed or the result of such a test in a
15 manner that permits identification of the subject of the
16 test, except to the following persons:

17 (1) the subject of the test or the subject's
18 legally authorized representative, guardian or legal
19 custodian;

20 (2) any person designated in a legally
21 effective release of the test results executed prior to or
22 after the test by the subject of the test or the subject's
23 legally authorized representative;

24 (3) an authorized agent, a credentialed or
25 privileged physician or an employee of a health facility or

1 health care provider if the health care facility or health
2 care provider itself is authorized to obtain the test
3 results, the agent or employee provides patient care or
4 handles or processes specimens of body fluids or tissues and
5 the agent or employee has a need to know such information;

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

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

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

16 (b) semen for the purpose of artificial
17 insemination;

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

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

23 (6) health facility staff committees or
24 accreditation or oversight review organizations that are
25 conducting program monitoring, program evaluation or service

1 reviews, as long as any identity remains confidential;

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

5 (8) for purposes of application or
6 reapplication for insurance coverage, an insurer or reinsurer
7 upon whose request the test was performed.

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

22 SECTION 14. Section 24-1-9.6 NMSA 1978 (being Laws
23 1996, Chapter 80, Section 5) is amended to read:

24 "24-1-9.6. SEXUALLY TRANSMITTED INFECTIONS--
25 DISCLOSURE.--

1 A. A victim of a criminal offense or an alleged
2 criminal offense who receives information pursuant to Section
3 24-1-9.1 or 24-1-9.2 NMSA 1978 may disclose the offender's or
4 alleged offender's test results to the victim's health care
5 provider as is reasonably necessary to protect the victim's
6 health and safety or the health and safety of the victim's
7 family or sexual partner.

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

11 SECTION 15. Section 24-1-9.7 NMSA 1978 (being Laws
12 1996, Chapter 80, Section 6) is amended to read:

13 "24-1-9.7. PENALTY.--A person who, in violation of
14 Section 24-1-9.4 NMSA 1978, makes an unauthorized disclosure
15 of the results of a test designed to identify a sexually
16 transmitted infection is guilty of a petty misdemeanor and
17 shall be sentenced to imprisonment in the county jail for a
18 definite term not to exceed six months or the payment of a
19 fine of not more than five hundred dollars (\$500) or both."

20 SECTION 16. Section 24-1-15 NMSA 1978 (being Laws 1973,
21 Chapter 359, Section 15, as amended) is amended to read:

22 "24-1-15. ISOLATION--QUARANTINE--PROTOCOL.--

23 A. If the secretary or a representative of the
24 department has knowledge that a person is infected with or
25 reasonably believes that a person is infected with or exposed

1 to a threatening communicable disease and the person has
2 refused voluntary treatment, testing, evaluation, detention
3 or observation, the secretary or the secretary's designee
4 shall petition the court for an order to isolate or
5 quarantine the person until the person is no longer a threat
6 to the public health or until the person voluntarily complies
7 with treatment and contagion precautions.

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

22 C. Whether or not a public health order to isolate
23 or quarantine was previously issued, a petition for a court
24 order shall be made under oath or shall be accompanied by a
25 sworn affidavit setting out specific facts showing the basis

1 upon which isolation or quarantine is justified, including
2 whether a person to be isolated or quarantined:

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

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

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

10 (1) immediately grant ex parte a court order
11 to isolate or quarantine the affected person if there is
12 probable cause from the specific facts shown by the affidavit
13 or by the petition to give the judge reason to believe that
14 the affected person poses a substantial threat to the public
15 health and safety;

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

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

25 E. A person held pursuant to a court order as set

1 forth in Subsection D of this section shall be:

2 (1) entitled to representation by counsel at
3 the evidentiary hearing and at all hearings thereafter for
4 the duration of the period of removal and detention; and

5 (2) permitted to communicate on any matter,
6 including the person's isolation or quarantine, with persons
7 by telephone, or other reasonably available means that do not
8 expose other persons to the risk of infection, for the
9 duration of the period of isolation or quarantine.

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

15 G. At the evidentiary hearing, the court shall
16 review the circumstances surrounding the court order and, if
17 the petitioner can show by clear and convincing evidence that
18 the person being held has not voluntarily complied or will
19 not voluntarily comply with appropriate treatment and
20 contagion precautions, the court may continue the isolation
21 or quarantine. The court shall order regular review of the
22 order to isolate or quarantine by providing the person being
23 held with a subsequent hearing within thirty days of the
24 court order's issuance and every thirty days thereafter. The
25 court order to isolate or quarantine shall be terminated and

1 the affected person shall be released if:

2 (1) the person being held is certified by a
3 public health official to pose no further risk to the public
4 health;

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

12 (3) exceptional circumstances exist
13 warranting the termination of the court order.

14 H. The provisions of this section do not permit
15 the forcible administration of medications. A person
16 isolated or quarantined pursuant to this section has the
17 right to refuse to participate in medical treatment, testing,
18 physical or mental examination, vaccination, specimen
19 collection or preventive treatment.

20 I. A person who is isolated or quarantined
21 pursuant to a court order may petition the court to contest
22 the order or the conditions of isolation or quarantine at any
23 time prior to the expiration of the order. If a petition is
24 filed, the court shall hold a hearing within five days after
25 the date of filing. The filing of a petition for a hearing

1 pursuant to this subsection does not stay a court order for
2 isolation or quarantine. At the hearing, the secretary shall
3 offer clear and convincing evidence that:

4 (1) the isolation or quarantine is
5 warranted; or

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

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

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

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

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

21 (4) if a quarantined person becomes infected
22 or is reasonably believed to be infected with the threatening
23 communicable disease subsequent to quarantine, that affected
24 person shall be promptly isolated;

25 (5) the needs of a person isolated or

1 quarantined are addressed in a systematic and orderly manner,
2 including the provision of adequate food, clothing, shelter,
3 sanitation and comfort;

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

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

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

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

23 L. Court proceedings shall be on the record and be
24 closed to the general public. The records shall be sealed
25 from public inspection.

1 M. A person who in good faith reports another
2 person infected with a threatening communicable disease shall
3 not be held liable for civil damages as a result of the
4 report; provided that the person reported as being infected
5 with a threatening communicable disease shall have the right
6 to sue for damages sustained as a result of negligent or
7 intentional reporting of inaccurate information or the
8 disclosure of information to an unauthorized person.

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

13 O. The secretary, after consultation with the
14 state medical investigator, the secretary of public safety,
15 the director and the chair of the board of funeral services,
16 may implement and enforce measures that are reasonable and
17 necessary to respond to a threatening communicable disease
18 and provide for the safe disposal of human remains.

19 P. For purposes of this section:

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

24 (2) "court" means:

25 (a) the district court of the judicial

1 district where the person who is alleged to be infected with
2 a threatening communicable disease resides or is found; or

3 (b) in the event that a district court
4 cannot adequately provide services, a district court that the
5 New Mexico supreme court designates;

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

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

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

24 (6) "threatening communicable disease" means
25 a disease that causes death or great bodily harm, passes from

1 one person to another and for which there is no means by which
2 the public reasonably can avoid the risk of contracting the
3 disease."

4 SECTION 17. Section 24-1-15.1 NMSA 1978 (being Laws
5 2009, Chapter 174, Section 1) is amended to read:

6 "24-1-15.1. PROTOCOL FOR MANAGEMENT OF ACTIVE
7 TUBERCULOSIS.--

8 A. When a physician or other person knows that a
9 person has, or is reasonably believed to be infected with,
10 active tuberculosis, the physician or other person shall
11 promptly notify the department.

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

20 C. The secretary, or a representative of the
21 department whom the secretary designates, may by public health
22 order temporarily isolate a person or group of persons if
23 delay in isolating the person or group would significantly
24 jeopardize the secretary's ability to prevent or limit the
25 transmission of tuberculosis to others. The public health

1 order shall expire at the end of twenty-four hours from the
2 time of the commencement of isolation. The secretary may
3 petition for a court order that authorizes the continued
4 isolation. In the petition, the secretary shall present facts
5 used to support the need to have issued the public health
6 order to isolate.

7 D. Whether or not a public health order was issued
8 pursuant to Subsection C of this section, when the department
9 has knowledge that a person who has active tuberculosis has
10 failed to comply with the department's treatment plan as
11 described in Subsection B of this section, the department
12 shall petition for a court order for the person who has active
13 tuberculosis to comply with whichever of the following courses
14 of action the department deems appropriate:

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

18 E. A petition for a court order shall be made
19 under oath or shall be accompanied by a sworn affidavit
20 setting out specific facts showing the basis upon which
21 isolation is justified, including whether the person to be
22 isolated:

- 23 (1) has active tuberculosis or presents a
24 substantial likelihood of having active tuberculosis based on
25 credible medical evidence;

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

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

8 F. Upon the filing of a petition for a court
9 order, the court shall:

10 (1) in cases where there is probable cause
11 established by the petition to give the judge reason to
12 believe that the person who has been alleged to have active
13 tuberculosis poses a substantial threat to the public health
14 and safety because the person is actively infectious, or poses
15 a risk of relapse or development of a therapy-resistant strain
16 of tuberculosis because of a history of noncompliance,
17 immediately grant ex parte a court order to:

18 (a) administer a program of directly
19 observed therapy;

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

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

24 (2) cause the court order, notice of hearing
25 and an advisement of the terms of the court order, including

1 the rights of the person alleged to have active tuberculosis
2 to representation and re-petition for termination of a court
3 order, to be immediately served on the person alleged to have
4 active tuberculosis; and

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

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

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

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

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

25 I. At the evidentiary hearing, the court shall

1 review the circumstances surrounding the court order, and, if
2 the petitioner can show by clear and convincing evidence that
3 the person being held has not complied or will not comply with
4 appropriate treatment and contagion precautions as the
5 department deems necessary, the court shall continue the court
6 order for the person who has active tuberculosis until
7 completion of therapy, as deemed by the department. The court
8 shall order regular review of the order by providing the
9 person under a court order with a subsequent hearing within
10 ninety days of the court order's issuance and every ninety
11 days thereafter. The court order shall be terminated and the
12 person shall be released if:

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

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

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

20 K. A person isolated pursuant to this section has
21 the right to refuse any medical treatment, physical or mental
22 examination, treatment program or invasive specimen
23 collection. A person who has been directed by the secretary
24 to submit to medical procedures and protocols because the
25 person has active tuberculosis and refuses to submit to the

1 procedures and protocols may be subject to continued isolation
2 pursuant to this section.

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

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

12 (2) proof that the conditions of isolation
13 are compliant with the provisions of this section.

14 M. When isolating a person or group of persons,
15 the secretary shall ensure that:

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

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

24 (3) the needs of a person isolated are
25 addressed in a systematic and orderly manner, including the

1 provision of adequate food, clothing, shelter, sanitation and
2 comfort;

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

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

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

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

21 O. A person who in good faith reports that another
22 person has active tuberculosis shall not be held liable for
23 civil damages as a result of the report; provided that the
24 person reported as having active tuberculosis shall have the
25 right to sue for damages sustained as a result of negligent or

1 intentional reporting of inaccurate information or the
2 disclosure of information to an unauthorized person.

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

6 Q. For purposes of this section:

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

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

19 (b) infectious tuberculosis or who
20 presents a substantial likelihood of having infectious
21 tuberculosis based on credible medical evidence;

22 (c) noninfectious tuberculosis who is
23 at high risk of developing an infectious form of tuberculosis;
24 and

25 (d) pulmonary or extrapulmonary

1 tuberculosis;

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

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

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

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

18 (6) "isolation" means:

19 (a) home isolation;

20 (b) home isolation with electronic
21 monitoring;

22 (c) isolation in a hospital or other
23 health care facility negative pressure room where appropriate
24 security measures are undertaken to prevent the transmission
25 of tuberculosis; or

1 (d) isolation in a prison or detention
2 center negative pressure room with an appropriate level of
3 medical care."

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

6 "CONDITIONS OF PUBLIC HEALTH IMPORTANCE--REPORTING.--

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

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

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

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

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

25 C. The department shall disseminate reporting

1 requirements to health care providers and other persons
2 required to report conditions of public health importance.

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

6 SECTION 19. A new section of the Public Health Act is
7 enacted to read:

8 "CONDITIONS OF PUBLIC HEALTH IMPORTANCE--TESTING--
9 SCREENING.--

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

14 (1) prior to testing or screening, explain to
15 the individual the nature, scope, purposes, benefits, risks
16 and possible outcomes of the test or screening, except as
17 otherwise provided pursuant to this section or by state law;

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

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

1 (4) fully inform the individual of the
2 individual's results, the meaning of the results, the possible
3 need for additional testing and the availability of
4 appropriate health care services, including mental health care
5 and social and support services. If appropriate, the
6 department shall provide counseling or inform the individual
7 where such counseling services are available.

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

15 SECTION 20. A new section of the Public Health Act is
16 enacted to read:

17 "INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION--CONDITIONS
18 OF PUBLIC HEALTH IMPORTANCE--CONFIDENTIALITY--USE--
19 DISCLOSURE.--

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

24 B. Individually identifiable health information
25 received by the department shall not be public information and

1 shall not be disclosed without the authorization of the
2 individual who is the subject of the information, except as
3 otherwise provided in state or federal law.

4 C. In accordance with state and federal law, the
5 secretary shall adopt and promulgate rules to allow an
6 individual to have access to, inspect and obtain copies of the
7 individual's individually identifiable health information.

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

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

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

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

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

21 "24-4-2. LOCAL PUBLIC HEALTH OFFICES--REGIONAL
22 DIRECTOR--HEALTH OFFICER--EXPENSES.--

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

25 (1) the local public health offices,

1 including office space for the administrative staff, office
2 space for health care personnel and clinic space and waiting
3 space for patients, their friends and families; and

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

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

11 C. The board of county commissioners of each
12 county may, upon adoption of a resolution approved by the
13 department of finance and administration, deposit such county
14 funds as are provided in this section with the state treasurer
15 to the credit of the department of health for such purposes as
16 are provided in this section at such times as such funds are
17 available; provided the depositing of such funds with the
18 state treasurer is upon a voucher approved by the board of
19 county commissioners subject to all statutes and regulations
20 covering the disbursement of county funds, excepting that such
21 funds may be so deposited prior to said payments being due and
22 payable; and provided further that no such deposits shall be
23 in excess of any line item of the approved county health
24 budget."

25 SECTION 22. Section 24-4-3 NMSA 1978 (being Laws 1920

1 (S.S.), Chapter 2, Section 1, as amended) is amended to read:

2 "24-4-3. ADDITIONAL HEALTH OFFICERS--OFFICES--
3 EXPENSES.--

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

14 B. The board of county commissioners of such
15 county may, upon adoption of a resolution approved by the
16 secretary of finance and administration, deposit county funds
17 for such purposes as are provided pursuant to this section
18 with the state treasurer to the credit of the department of
19 health for such purposes as are provided in this section at
20 such time as such funds are available. The depositing of such
21 funds with the state treasurer shall be upon a voucher
22 approved by the board of county commissioners subject to all
23 statutes and regulations covering the disbursement of county
24 funds except that such funds may be so deposited prior to
25 disbursement being due and payable. No such deposits shall be

1 in excess of the approved budget for this purpose."

2 SECTION 23. Section 24-10A-2.1 NMSA 1978 (being Laws
3 1994, Chapter 61, Section 2, as amended by Laws 2001, Chapter
4 258, Section 2 and by Laws 2001, Chapter 273, Section 2) is
5 amended to read:

6 "24-10A-2.1. DEFINITIONS.--As used in the Emergency
7 Medical Services Fund Act:

8 A. "bureau" means the emergency medical systems
9 bureau of the department;

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

13 C. "department" means the department of health;

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

16 E. "local recipient" means a publicly owned or
17 contracted ambulance or air ambulance service, medical rescue
18 service, fire department rescue service, regionalized
19 emergency medical service agency; or other prehospital
20 emergency medical service care provider based in the state:

21 (1) that routinely responds to an
22 individual's need for immediate medical care in order to
23 prevent loss of life or aggravation of physical or
24 psychological illness or injury;

25 (2) whose application for funding through the SB 223
Page 57

1 Emergency Medical Services Fund Act is sponsored by a
2 municipality or county; and

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

5 (a) personnel training;

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

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

11 (d) participation in mutual aid
12 agreements and medical control; and

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

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

17 G. "regionalized emergency medical service agency"
18 means a rural or frontier emergency medical service agency
19 composed of multiple geographic districts with response area
20 populations of fewer than two hundred fifty people per square
21 mile;

22 H. "secretary" means the secretary of health; and

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

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

5 "24-10A-3. EMERGENCY MEDICAL SERVICES FUND CREATED--
6 FUNDING.--

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

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

21 C. In any fiscal year, no less than seventy-five
22 percent of the money in the fund shall be used for the local
23 emergency medical services funding program to support the cost
24 of supplies and equipment and operational costs other than
25 salaries and benefits for emergency medical services

1 personnel. This money shall be distributed to municipalities
2 and counties on behalf of eligible local recipients, using a
3 formula established pursuant to rules adopted by the
4 department. The formula shall determine each municipality's
5 and county's share of the fund based on the relative
6 geographic size and population of each county. The formula
7 shall also base the distribution of money for each
8 municipality and county on the relative number of runs of each
9 local recipient eligible to participate in the distribution.

10 D. In any fiscal year, no more than:

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

18 (2) three percent of the fund may be used by
19 the bureau for administrative costs, including monitoring and
20 providing technical assistance.

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

25 SECTION 25. Section 24-10A-4.2 NMSA 1978 (being Laws

1 1994, Chapter 61, Section 11) is amended to read:

2 "24-10A-4.2. MUTUAL AID AGREEMENTS--REGIONALIZED,
3 INTEGRATED RESPONSE PLANS.--Municipalities, counties, tribes
4 and local recipients may develop mutual aid agreements and
5 regionalized, integrated response plans with other
6 municipalities, counties, tribes and local recipients for the
7 purpose of ensuring that adequate emergency medical services
8 coverage exists throughout the state. For the benefit of the
9 public, equipment and other emergency medical services
10 resources obtained through money from the fund shall be shared
11 among the parties to a mutual aid agreement or regionalized,
12 integrated response plan."

13 SECTION 26. Section 24-10A-5 NMSA 1978 (being Laws 1978,
14 Chapter 178, Section 5, as amended) is amended to read:

15 "24-10A-5. FUNDING PROGRAM--AWARDS--APPEALS.--The bureau
16 shall promptly notify each municipality and county that has
17 applied for money and the local recipient of the bureau's
18 determination to grant or deny an application for funding
19 through the local emergency medical services funding program.
20 A municipality or county may appeal a determination of the
21 bureau within ten working days after notification of the
22 determination. The bureau shall refer the appeal to the
23 committee for its review and recommendation. The committee
24 shall make its recommendation to the secretary, who shall make
25 a final determination about whether to grant or deny an

1 application for funding. The secretary shall notify the
2 appellant of the secretary's decision within thirty days of
3 the date on which the committee has notified the secretary of
4 its recommendation."

5 SECTION 27. Section 24-10A-6 NMSA 1978 (being Laws 1978,
6 Chapter 178, Section 6, as amended by Laws 2001, Chapter 258,
7 Section 6 and by Laws 2001, Chapter 273, Section 6) is amended
8 to read:

9 "24-10A-6. DISTRIBUTION OF FUND.--On or before August
10 31, the local emergency medical services funding program
11 distribution shall be made to each municipality and county as
12 determined by the department. No more than one percent of the
13 amount appropriated to the local emergency medical services
14 funding program shall be distributed from the fund to the
15 benefit of a single local recipient in any fiscal year
16 pursuant to the local emergency medical services funding
17 program, with the exception of a regionalized emergency
18 medical service agency, to ensure that appropriate emergency
19 medical service is available statewide."

20 SECTION 28. Section 24-10A-8 NMSA 1978 (being Laws 1978,
21 Chapter 178, Section 8, as amended) is amended to read:

22 "24-10A-8. FUNDING PROGRAM--CONTROL OF EXPENDITURES.--
23 Money distributed from the fund shall be expended only for the
24 purposes stated in the application to the bureau and shall be
25 expended on the authorization of the chief executive of the

1 municipality or county upon vouchers issued by its treasurer."

2 SECTION 29. Section 24-14-27 NMSA 1978 (being Laws 1961,
3 Chapter 44, Section 25, as amended) is amended to read:

4 "24-14-27. DISCLOSURE OF RECORDS.--

5 A. The state registrar or other custodian of vital
6 records shall not permit inspection of or disclosure of
7 information contained in vital records or copying or issuance
8 of a copy of all or part of any record except as authorized by
9 law.

10 B. The department shall provide access to record
11 level data required by the New Mexico health policy
12 commission. The New Mexico health policy commission may only
13 release record level data obtained from vital records in the
14 aggregate. For the purposes of this subsection, "record level
15 data" means one or more unique and non-aggregated data
16 elements relating to a single identifiable individual. The
17 department may authorize the disclosure of data contained in
18 vital records for other research purposes.

19 C. When one hundred years have elapsed after the
20 date of birth or fifty years have elapsed after the date of
21 death, the vital records of these events in the custody of the
22 state registrar shall become open public records, and
23 information shall be made available in accordance with
24 regulations that provide for the continued safekeeping of the
25 records; provided that vital records of birth shall not become

1 open public records prior to the individual's death."

2 SECTION 30. Section 24-14-31 NMSA 1978 (being Laws 1961,
3 Chapter 44, Section 29, as amended) is amended to read:

4 "24-14-31. PENALTIES.--

5 A. Except for violations of Section 24-14-18 NMSA
6 1978, any person is guilty of a fourth degree felony and shall
7 be sentenced pursuant to the provisions of Section 31-18-15
8 NMSA 1978, who willfully and knowingly:

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

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

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

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

24 B. Any person who willfully and knowingly permits
25 inspection of or discloses information contained in vital

1 statistics records of adoptions or induced abortions or copies
2 or issues a copy of all or part of any record of an adoption
3 or induced abortion, except as authorized by law, is guilty of
4 a fourth degree felony and shall be sentenced in accordance
5 with the provisions of the Criminal Sentencing Act."

6 SECTION 31. REPEAL.--Sections 3-43-1, 3-43-2,
7 22-10A-34, 23-1-9, 23-1-10, 24-1-8, 24-1-9.5 and 24-5-14 NMSA
8 1978 (being Laws 1965, Chapter 300, Sections 14-44-1 and
9 14-44-2, Laws 1967, Chapter 16, Section 112, Laws 1941,
10 Chapter 69, Sections 1 and 2, Laws 1973, Chapter 359, Section
11 8, Laws 1996, Chapter 80, Section 4 and Laws 2004, Chapter 45,
12 Section 9, as amended) are repealed. _____

SB 223
Page 65

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