

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

AN ACT
RELATING TO MEDICAL RECORDS; ALLOWING DISCLOSURES FOR
TREATMENT, PAYMENT AND OTHER ACTIVITIES.

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

SECTION 1. Section 24-14B-6 NMSA 1978 (being Laws 2009,
Chapter 69, Section 6) is amended to read:

"24-14B-6. USE AND DISCLOSURE OF ELECTRONIC HEALTH CARE
INFORMATION.--

A. A provider, health care institution, health
information exchange or health care group purchaser shall not
use or disclose health care information in an individual's
electronic medical record to another person without the
consent of the individual except as allowed by state or
federal law.

B. A provider, health care institution or health
care group purchaser may disclose demographic information and
information about the location of an individual's electronic
medical records to a record locator service in accordance
with state or federal law. A provider or health care
institution participating in a health information exchange
using a record locator service shall not have access to
demographic information, information about the location of
the individual's electronic medical records or information in
an individual's electronic medical record except in

1 connection with the treatment of the individual or as
2 permitted by the consent of the individual or as otherwise
3 permitted by state or federal law.

4 C. A record locator service shall maintain an
5 audit log of persons obtaining access to information in the
6 record locator service, which audit log shall contain, at a
7 minimum, information on:

8 (1) the identity of the person obtaining
9 access to the information;

10 (2) the identity of the individual whose
11 information was obtained;

12 (3) the location from which the information
13 was obtained;

14 (4) the specific information obtained; and

15 (5) the date that the information was
16 obtained.

17 D. The audit log shall be made available by a
18 health information exchange on the request of an individual
19 whose health care information is the subject of the audit
20 log; provided, however, that the audit log made available to
21 the individual shall include only information related to that
22 individual. The audit log shall be made available to the
23 requesting individual annually for a fee not to exceed
24 twenty-five cents (\$.25) per page as established by the
25 department of health.

1 E. A record locator service shall provide a
2 mechanism under which individuals may exclude their
3 demographic information and information about the location of
4 their electronic medical records from the record locator
5 service. A person operating a record locator service or a
6 health information exchange that receives an individual's
7 request to exclude all of the individual's information from
8 the record locator service is responsible for removing that
9 information from the record locator service within thirty
10 days. An individual's request for exclusion of information
11 shall be in writing and shall include a waiver of liability
12 for any harm caused by the exclusion of the individual's
13 information.

14 F. When information in an individual's electronic
15 medical record is requested using a record locator service or
16 a health information exchange:

17 (1) the requesting provider or health care
18 institution shall warrant that the request is for the
19 treatment of the individual, is permitted by the individual's
20 written authorization or is otherwise permitted by state or
21 federal law; and

22 (2) the person disclosing the information
23 may rely upon the warranty of the person making the request
24 that the request is for the treatment of the individual, is
25 permitted with the consent of the individual or is otherwise

1 permitted by state or federal law.

2 G. Notwithstanding any other provision of law,
3 information in an individual's electronic medical record may
4 be disclosed:

5 (1) to a provider that has a need for
6 information about the individual to treat a condition that
7 poses an immediate threat to the life of any individual and
8 that requires immediate medical attention;

9 (2) except as provided in the Electronic
10 Medical Records Act, to a record locator service or a health
11 information exchange for the development and operation of the
12 record locator service and the health information exchange;
13 and

14 (3) to a provider, health care institution
15 or health care group purchaser for treatment, payment or
16 health care operation activities, in compliance with the
17 federal Health Insurance Portability and Accountability Act
18 of 1996 and the regulations promulgated pursuant to that act,
19 and if applicable, in compliance with 42 U.S.C. Section
20 290dd-2 and the regulations promulgated pursuant to that
21 section.

22 H. For the purposes of this section, "health care
23 operation activities" includes administrative, financial,
24 legal and quality improvement activities of a covered entity
25 that are necessary to conduct business and to support the

1 core functions of treatment and payment and are limited to
2 the activities listed in the definition of "health care
3 operations" at 45 C.F.R. 164.501."

4 SECTION 2. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2021. _____

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25