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HOUSE BILL 1319

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

BEN LUJAN

AN ACT

RELATING TO HEALTH ADMINISTRATION; TRANSFERRING FUNCTIONS,
PROPERTY AND LEGAL REFERENCES OF THE NEW MEXICO HEALTH POLICY
COMMISSION.

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

Section 1. Section 9-7-11.2 NMSA 1978 (being Laws 1991,
Chapter 139, Section 2, as amended) is amended to read:

"9-7-11.2. [NEW MEXICO] HEALTH POLICY [COMMISSION
~~CREATED--COMPOSITION~~] PLANNING--DUTIES. -- [A. ~~There is created~~
~~the "New Mexico health policy commission", which is~~
~~administratively attached to the department of finance and~~
~~administration.~~

B. ~~The New Mexico health policy commission shall~~
~~consist of eight members appointed by the governor with the~~
~~advice and consent of the senate to reflect the ethnic,~~

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1 ~~economic, geographic and professional diversity of the state.~~
2 ~~No member of the commission shall have a pecuniary or fiduciary~~
3 ~~interest in the health services industry for three years~~
4 ~~preceding his appointment to the commission. Two members shall~~
5 ~~be appointed for one-year terms, three members shall be~~
6 ~~appointed for two-year terms, three members shall be appointed~~
7 ~~for three-year terms and all subsequent appointments shall be~~
8 ~~made for three-year terms.~~

9 C. ~~The New Mexico health policy commission shall~~
10 ~~meet at the call of the chairman and shall meet not less than~~
11 ~~quarterly. The chairman shall be elected from among the members~~
12 ~~of the commission. Members of the New Mexico health policy~~
13 ~~commission shall not be paid but shall receive per diem and~~
14 ~~mileage expenses as provided in the Per Diem and Mileage Act.~~

15 D. ~~The New Mexico health policy commission shall~~
16 ~~establish task forces as needed to make recommendations to the~~
17 ~~commission on various health issues. Task force members may~~
18 ~~include individuals who have expertise or a pecuniary or~~
19 ~~fiduciary interest in the health services industry. Voting~~
20 ~~members of a task force may receive mileage expenses if they:~~

21 (1) ~~are members who represent consumer~~
22 ~~interests;~~

23 (2) ~~are individuals who were not appointed to~~
24 ~~represent the views of the organization or agency for which they~~
25 ~~work; or~~

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1 ~~(3) represent an organization that has a policy~~
2 ~~of not reimbursing travel expenses of employees or~~
3 ~~representatives for travel to meetings.~~

4 ~~E. The New Mexico health policy commission]~~ The
5 department shall:

6 [(1)] A. develop a plan for and monitor the
7 implementation of the state's health policy;

8 [(2)] B. obtain and evaluate information from a
9 broad spectrum of New Mexico's society to develop and monitor
10 the implementation of the state's health policy;

11 [(3)] C. obtain and evaluate information relating to
12 factors that affect the availability and accessibility of health
13 services and health care personnel in the public and private
14 sectors;

15 [(4)] D. perform needs assessments on health
16 personnel, health education and recruitment and retention and
17 make recommendations regarding the training, recruitment,
18 placement and retention of health professionals in underserved
19 areas of the state;

20 [(5)] E. prepare and publish an annual report
21 describing the progress in addressing the state's health policy
22 and planning issues. The report shall include a workplan of
23 goals and objectives for addressing the state's health policy
24 and planning issues in the upcoming year;

25 [(6)] F. distribute the annual report to the

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1 governor, appropriate state agencies and interim legislative
2 committees and interested parties;

3 [(7)] G. establish a process to prioritize
4 recommendations on program development, resource allocation and
5 proposed legislation;

6 [(8)] H. provide information and analysis on health
7 issues;

8 [(9)] I. serve as a catalyst and synthesizer of
9 health policy in the public and private sectors; and

10 [(10)] J. respond to requests by the executive and
11 legislative branches of government. "

12 Section 2. Section 24-14A-2 NMSA 1978 (being Laws 1989,
13 Chapter 29, Section 2, as amended) is amended to read:

14 "24-14A-2. DEFINITIONS. --As used in the Health Information
15 System Act:

16 A. "aggregate data" means data which is obtained by
17 combining like data in a manner which precludes specific
18 identification of a single client or provider;

19 [~~B.~~] "~~commission~~" ~~means the New Mexico health policy~~
20 ~~commission;~~

21 [~~C.~~] B. "department" means the department of health;

22 [~~D.~~] C. "health information" or "health data" means
23 any data relating to health care; health status, including
24 environmental, social and economic factors; the health system;
25 or health costs and financing;

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1 ~~[E-]~~ D. "hospital" means any general or special
2 hospital licensed by the department, whether publicly or
3 privately owned;

4 ~~[F-]~~ E. "long-term care facility" means any skilled
5 nursing facility or nursing facility licensed by the department,
6 whether publicly or privately owned;

7 ~~[G-]~~ F. "data source" includes those categories of
8 persons or entities that possess health information, including
9 any public or private sector licensed health care practitioner,
10 primary care clinic, ambulatory surgery center, ambulatory
11 urgent care center, ambulatory dialysis unit, home health
12 agency, long-term care facility, hospital, pharmacy, third-party
13 payer and any public entity that has health information; and

14 ~~[H-]~~ G. "third-party payer" means any public or
15 private payer of health care services and includes health
16 maintenance organizations and health insurers. "

17 Section 3. Section 24-14A-3 NMSA 1978 (being Laws 1989,
18 Chapter 29, Section 3, as amended) is amended to read:

19 "24-14A-3. HEALTH INFORMATION SYSTEM - CREATION - - DUTIES OF
20 [~~COMMISSION~~] DEPARTMENT. - -

21 A. The "health information system" is created for
22 the purpose of assisting the [~~commission~~] department,
23 legislature and other agencies and organizations in the state's
24 efforts in collecting, analyzing and disseminating health
25 information to assist:

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1 (1) in the performance of health planning and
2 policymaking functions, including identifying personnel,
3 facility, education and other resource needs and allocating
4 financial, personnel and other resources where appropriate;

5 (2) consumers in making informed decisions
6 regarding health care; and

7 (3) in administering, monitoring and evaluating
8 a statewide health plan.

9 B. In carrying out its powers and duties pursuant to
10 the Health Information System Act, the [~~commission~~] department
11 shall not duplicate databases that exist in the public sector or
12 databases in the private sector to which it has electronic
13 access. Every governmental entity shall provide the
14 [~~commission~~] department with access to its health-related data
15 as needed by the [~~commission~~] department. The [~~commission~~]
16 department shall collect data from data sources in the most
17 cost-effective and efficient manner.

18 C. The [~~commission~~] department shall establish,
19 operate and maintain the health information system

20 D. In establishing, operating and maintaining the
21 health information system, the [~~commission~~] department shall:

22 (1) obtain information on the following health
23 factors:

24 (a) mortality and natality, including
25 accidental causes of death;

- 1 (b) morbi di ty;
2 (c) health behavior;
3 (d) disability;
4 (e) health system costs, availability,
5 utilization and revenues;
6 (f) environmental factors;
7 (g) health personnel;
8 (h) demographi c factors;
9 (i) social, cultural and economi c
10 conditions affecting health;
11 (j) family status; and
12 (k) medical and practice outcomes as
13 measured by nationally accepted standards and quality of care;
14 (2) give the highest priority in data gathering
15 to information needed to implement and monitor progress toward
16 achievement of the state health policy, including determining
17 where additional health resources such as personnel, programs
18 and facilities are most needed, what those additional resources
19 should be and how existing resources should be reallocated;
20 (3) standardize collection and specific methods
21 of measurement across databases and use scientific sampling or
22 complete enumeration for collecting and reporting health
23 information;
24 (4) take adequate measures to provide health
25 information system security for all health data acquired under

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1 the Health Information System Act and protect individual patient
2 and provider confidentiality. The right to privacy for the
3 individual shall be a major consideration in the collection and
4 analysis of health data and shall be protected in the reporting
5 of results;

6 (5) adopt and promulgate regulations necessary
7 to establish and administer the provisions of the Health
8 Information System Act, including an appeals process for data
9 sources and procedures to protect data source proprietary
10 information from public disclosure;

11 (6) establish definitions, formats and other
12 common information standards for core health data elements of
13 the health information system in order to provide an integrated
14 financial, statistical and clinical health information system,
15 including a geographic information system, that allows data
16 sharing and linking across databases maintained by data sources
17 and federal, state and local public agencies;

18 (7) develop and maintain health and health-
19 related data inventories and technical documentation on data
20 holdings in the public and private sectors;

21 (8) collect, analyze and make available health
22 data to support preventive health care practices and to
23 facilitate the establishment of appropriate benchmark data to
24 measure performance improvements over time;

25 (9) establish and maintain a systematic

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1 approach to the collection and storage of health data for
2 longitudinal, demographic and policy impact studies;

3 (10) use expert system-based protocols to
4 identify individual and population health risk profiles and to
5 assist in the delivery of primary and preventive health care
6 services;

7 (11) collect health data sufficient for
8 consumers to be able to evaluate health care services, plans,
9 providers and payers and to make informed decisions regarding
10 quality, cost and outcome of care across the spectrum of health
11 care services, providers and payers;

12 (12) collect comprehensive information on major
13 capital expenditures for facilities, equipment by type and by
14 data source and significant facility capacity reductions;
15 provided that for the purposes of this paragraph and Section
16 24-14A-5 NMSA 1978, "major capital expenditure" means purchases
17 of at least one million dollars (\$1,000,000) for construction or
18 renovation of facilities and at least five hundred thousand
19 dollars (\$500,000) for purchase or lease of equipment, and
20 "significant facility capacity reductions" means those
21 reductions in facility capacities as defined by the advisory
22 committee established by the ~~[commission]~~ department;

23 (13) serve as a health information
24 clearinghouse, including facilitating private and public
25 collaborative, coordinated data collection and sharing and

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1 access to appropriate data and information, maintaining patient
2 and client confidentiality in accordance with state and federal
3 requirements; and

4 (14) collect data in the most cost-efficient
5 and effective method feasible and adopt regulations, after
6 receiving recommendations from the advisory committee, that
7 place a limit on the maximum amount of unreimbursed costs that a
8 data source can incur in any year for the purposes of complying
9 with the data requirements of the Health Information System
10 Act. "

11 Section 4. Section 24-14A-3.1 NMSA 1978 (being Laws 1994,
12 Chapter 59, Section 13) is amended to read:

13 "24-14A-3.1. ADVISORY COMMITTEE. --

14 A. The [~~commission~~] department shall establish an
15 advisory committee to assist it in identifying data needs,
16 reviewing data and collection and reporting procedures,
17 reviewing costs and benefits of obtaining data and determining
18 report formats.

19 B. The advisory committee shall consist of
20 representatives of private and public data sources; consumers;
21 state agencies that deliver or pay for health care; and
22 professionals with expertise in areas such as epidemiology,
23 health economics, health care financing and information systems.
24 Members of the advisory committee shall be appointed by the
25 [~~commission~~] department.

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1 C. The nonpublic voting members may receive per diem
2 and mileage under the following conditions:

3 (1) they are members who represent consumer
4 interest;

5 (2) they are individuals who were not appointed
6 to represent the views of the organization or agency for which
7 they work; or

8 (3) they represent an organization that has a
9 policy of not reimbursing travel expenses of employees or
10 representatives for travel to meetings.

11 D. The advisory committee shall develop
12 recommendations on:

13 (1) the specific data elements and their data
14 sources to ascertain information on:

15 (a) quality of health care services,
16 including access, appropriateness and consumer satisfaction;

17 (b) medical and practice outcomes, based
18 on national standards;

19 (c) health system economics and finances,
20 such as: 1) how much money is being spent on health care in New
21 Mexico; 2) what health care services are being purchased; 3)
22 where health care services are being purchased, both
23 geographically and among health care providers; 4) what health
24 care services are being used at what rates; 5) variations in
25 costs and billed charges for the same health care services

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1 geographically and among health care providers; 6) causes of
2 health care inflation in New Mexico; 7) rates and causes of
3 increase in health care spending for different health services;
4 and 8) reasonable premiums for given packages of benefits; and

5 (d) the release of patient information by
6 physicians to ensure protection of confidentiality and privacy
7 for patients;

8 (2) an appropriate procedure for processing
9 non-aggregate data for public information and a schedule for
10 phasing in the public release of non-aggregate information so
11 that [~~no later than July 1, 1997~~] the public will have access to
12 information on which to base health care purchasing decisions;

13 (3) criteria and procedures to assess the costs
14 and benefits of collecting and submitting data and criteria to
15 determine when data sources need not provide data or may furnish
16 data in an alternative form, due to unreasonable cost or burden
17 of reporting; and

18 (4) a common definition of "proprietary" for
19 all data sources. "

20 Section 5. Section 24-14A-3.2 NMSA 1978 (being Laws 1994,
21 Chapter 59, Section 14) is amended to read:

22 "24-14A-3.2. HEALTH INFORMATION ALLIANCE. --

23 A. The [~~commission~~] department shall establish a
24 health information alliance that [~~will be~~] is broadly
25 representative of public and private entities interested in

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1 gathering, sharing and evaluating health information and
2 advising the [~~commission~~] department on the design of the health
3 information system. The health information alliance shall
4 assist the [~~commission~~] department in applying for grants to
5 establish and maintain a comprehensive integrated health
6 information system.

7 B. The health information alliance shall:

8 (1) develop a conceptual strategic plan for a
9 coordinated and integrated statewide health information network;

10 (2) advise the [~~commission~~] department on the
11 technical development of the health information network;

12 (3) assist the [~~commission~~] department with
13 modeling for collecting, organizing, processing, analyzing and
14 disseminating health information;

15 (4) serve as a neutral forum for the creative
16 and collaborative exploration of solutions to health information
17 needs;

18 (5) assist the [~~commission~~] department in
19 identifying and applying for potential funding sources for the
20 development of the health information network and the health
21 information alliance; and

22 (6) identify, prioritize and formulate
23 recommendations for funding software and hardware technology and
24 models to address short- and long-term health information needs
25 of the state.

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1 [~~C. The health information alliance and the~~
2 ~~commission shall report to the appropriate interim legislative~~
3 ~~committee by August 1, 1994 and every six months thereafter on~~
4 ~~their progress in developing an integrated health information~~
5 ~~network.~~]"

6 Section 6. Section 24-14A-4 NMSA 1978 (being Laws 1989,
7 Chapter 29, Section 4, as amended) is amended to read:

8 "24-14A-4. HEALTH INFORMATION SYSTEM - APPLICABILITY. --

9 A. All data sources shall participate in the health
10 information system. Requests for health data under the Health
11 Information System Act from a member of a data source category
12 shall, where reasonable and equitable, be made to all members of
13 that data source category.

14 B. Upon making any request for health data pursuant
15 to the Health Information System Act, the [~~commission~~]
16 department shall provide reasonable deadlines for compliance and
17 shall give notice that noncompliance may subject the person to a
18 civil penalty pursuant to Section 24-14A-10 NMSA 1978.

19 C. To the extent possible, the health information
20 system shall be established in a manner to facilitate the
21 exchange of information with other databases, including those
22 maintained by the Indian health service and various agencies of
23 the federal government."

24 Section 7. Section 24-14A-4.1 NMSA 1978 (being Laws 1994,
25 Chapter 59, Section 11) is amended to read:

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1 "24-14A-4.1. ANNUAL REVIEW OF DATA NEEDS. -- At least once
2 each year, the [~~commission~~] department, with the recommendations
3 of the advisory committee and health information alliance, shall
4 review its data collection requirements to determine the
5 relevancy of the data elements on which it collects data and
6 review its regulations and procedures for collecting, analyzing
7 and reporting data for efficiency, effectiveness and
8 appropriateness. The review shall consider the cost incurred by
9 data sources to collect and submit data."

10 Section 8. Section 24-14A-4.2 NMSA 1978 (being Laws 1994,
11 Chapter 59, Section 12) is amended to read:

12 "24-14A-4.2. INVESTIGATORY POWERS. -- The [~~commission~~]
13 department has the right to verify the accuracy of data provided
14 by any data source. The verification may include requiring the
15 data source to submit documentation sufficient to verify the
16 accuracy of the data in question or to provide direct inspection
17 during normal business hours of only the records and documents
18 that pertain directly to the data in question; provided that no
19 data source shall be required to expend more than twenty-five
20 thousand dollars (\$25,000) each year to comply with the
21 provisions of this section."

22 Section 9. Section 24-14A-4.3 NMSA 1978 (being Laws 1994,
23 Chapter 59, Section 15) is amended to read:

24 "24-14A-4.3. AGENCY COOPERATION. -- All state agencies and
25 political subdivisions shall cooperate with and assist the

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1 [commission] department in carrying out the provisions of the
2 Health Information System Act, including sharing information and
3 joining in any appropriate health information system. "

4 Section 10. Section 24-14A-6 NMSA 1978 (being Laws 1989,
5 Chapter 29, Section 6, as amended) is amended to read:

6 "24-14A-6. HEALTH INFORMATION SYSTEM - ACCESS. --

7 A. Access to data in the health information system
8 shall be provided in accordance with regulations adopted by the
9 [commission] department pursuant to the Health Information
10 System Act.

11 B. A data provider may obtain data it has submitted
12 to the system, as well as aggregate data, but it may not access
13 data submitted by another provider [~~which~~] that is limited only
14 to that provider. In no event may a data provider obtain data
15 regarding an individual patient except in instances where that
16 data was originally submitted by the requesting provider. Prior
17 to the release of any data, in any form, data sources shall be
18 permitted the opportunity to verify the accuracy of the data
19 pertaining to that data source. Any data identified in writing
20 as inaccurate shall be corrected prior to the data's release.
21 Time limits shall be set for the submission and review of data
22 by data sources and penalties shall be established for failure
23 to submit and review the data within the established time.

24 C. Any person may obtain any aggregate data. "

25 Section 11. Section 24-14A-7 NMSA 1978 (being Laws 1989,

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1 Chapter 29, Section 7, as amended) is amended to read:

2 "24-14A-7. HEALTH INFORMATION SYSTEM-REPORTS. --

3 A. A report in printed format that provides
4 information of use to the general public shall be produced
5 annually. The report shall be made available upon request. The
6 [~~commission~~] department may make the report available on tape or
7 other electronic format.

8 B. The [~~commission~~] department shall provide an
9 annual report of its activities, including health care system
10 statistics, to the legislature. The report shall be submitted
11 by November 15 each year. "

12 Section 12. Section 24-14A-9 NMSA 1978 (being Laws 1989,
13 Chapter 29, Section 9, as amended) is amended to read:

14 "24-14A-9. HEALTH INFORMATION SYSTEM-FEES. --Except for
15 the annual reports required pursuant to the Health Information
16 System Act, the [~~commission~~] department may collect a fee of up
17 to one hundred dollars (\$100) per hour to offset partially the
18 costs of producing public-use data aggregations or data for
19 single-use special studies. Entities contributing data to the
20 system shall be charged reduced rates. Rates shall be
21 established by regulation and shall be reviewed annually. Fees
22 collected pursuant to this section are appropriated to the
23 [~~commission~~] department to carry out the provisions of the
24 Health Information System Act. "

25 Section 13. TEMPORARY PROVISION-- TRANSFERS OF NEW MEXICO

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1 HEALTH POLICY COMMISSION PERSONNEL, APPROPRIATIONS, PERSONAL
2 PROPERTY, CONTRACTS AND LEGAL REFERENCES TO THE DEPARTMENT OF
3 HEALTH. --

4 A. On the effective date of this act:

5 (1) all personnel, appropriations and personal
6 property belonging to or pertaining to the New Mexico health
7 policy commission are transferred to the department of health;

8 (2) all existing rules and regulations,
9 contracts and agreements in effect for the New Mexico health
10 policy commission are binding on the department of health; and

11 (3) all references in the law to the health
12 policy commission shall be construed to mean the department of
13 health.

14 B. In order to implement the provisions of this act
15 without an increase in general fund appropriations, during
16 fiscal year 1998 the governor by executive order may transfer
17 any personnel, functions, powers and duties, contracts,
18 agreements, grants, appropriations, funds, property, equipment
19 and supplies from the New Mexico health policy commission to the
20 department of health.