The Legislature
of the
State of New Mexico

52nd Legislature, 1st Session

LAWS 2015

CHAPTER 121

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR

SENATE BILLS 323 & 474

Introduced by
CHAPTER 121

AN ACT

RELATING TO HEALTH; AMENDING SECTIONS OF THE HEALTH INFORMATION SYSTEM ACT TO PROVIDE FOR THE SAFE DISCLOSURE OF CERTAIN INFORMATION RELATED TO SPECIFICALLY IDENTIFIABLE DATA SOURCES; ENACTING A NEW SECTION OF THE HEALTH INFORMATION SYSTEM ACT TO ESTABLISH A HEALTH INFORMATION SYSTEM ADVISORY COMMITTEE; PROVIDING FOR THE POSTING OF INFORMATION FOR PUBLIC ACCESS.

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

SECTION 1. Section 24-14A-3 NMSA 1978 (being Laws 1989, Chapter 29, Section 3, as amended) is amended to read:

"24-14A-3. HEALTH INFORMATION SYSTEM--CREATION--DUTIES OF DEPARTMENT.--

A. The "health information system" is created for the purpose of assisting the department, legislature and other agencies and organizations in the state's efforts in collecting, analyzing and disseminating health information to assist:

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

(2) consumers in making informed decisions regarding health care; and
(3) in administering, monitoring and
evaluating a statewide health plan.

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

C. The department shall establish, operate and
maintain the health information system.

D. In establishing, operating and maintaining the
health information system, the department shall:

(1) obtain information on the following
health factors:

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

(b) morbidity;

(c) health behavior;

(d) disability;

(e) health system costs, availability,
utilization and revenues;

(f) environmental factors;

(g) health personnel;
(h) demographic factors;
(i) social, cultural and economic conditions affecting health, including language preference;
(j) family status;
(k) medical and practice outcomes as measured by nationally accepted standards and quality of care; and
(l) participation in clinical research trials;

(2) give the highest priority in data gathering to information needed to implement and monitor progress toward achievement of the state health policy, including determining where additional health resources such as personnel, programs and facilities are most needed, what those additional resources should be and how existing resources should be reallocated;

(3) standardize collection and specific methods of measurement across databases and use scientific sampling or complete enumeration for collecting and reporting health information;

(4) take adequate measures to provide health information system security for all health data acquired under the Health Information System Act and protect individual patient and health care practitioner confidentiality. The right to privacy for the individual
shall be a major consideration in the collection and analysis of health data and shall be protected in the reporting of results;

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

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

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

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

(9) establish and maintain a systematic approach to the collection and storage of health data for
longitudinal, demographic and policy impact studies;

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

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

(12) collect comprehensive information on
major capital expenditures for facilities, equipment by type
and by data source and significant facility capacity
reductions; provided that for the purposes of this paragraph
and Section 24-14A-5 NMSA 1978, "major capital expenditure"
means purchases of at least one million dollars ($1,000,000)
for construction or renovation of facilities and at least
five hundred thousand dollars ($500,000) for purchase or
lease of equipment, and "significant facility capacity
reductions" means those reductions in facility capacities as
defined by the department;

(13) serve as a health information
clearinghouse, including facilitating private and public
collaborative, coordinated data collection and sharing and
access to appropriate data and information, maintaining
patient and client confidentiality in accordance with state
and federal requirements;

(14) collect data in the most cost-efficient
and effective method feasible and adopt rules that place a
limit on the maximum amount of unreimbursed costs that a data
source can incur in any year for the purposes of complying
with the data requirements of the Health Information System
Act; and

(15) identify disparities in health care
access and quality by aggregating the information collected
pursuant to Paragraph (1) of this subsection by population
subgroups to include race, ethnicity, gender and age."

SECTION 2. Section 24-14A-6 NMSA 1978 (being Laws 1989,
Chapter 29, Section 6, as amended) is amended to read:

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

A. Access to data in the health information system
shall be provided in accordance with regulations adopted by
the department pursuant to the Health Information System Act.

B. A data provider may obtain data it has
submitted to the system, as well as aggregate data, but,
except as provided in Subsection D of this section, it shall
not have access to data submitted by another provider that is
limited only to that provider unless that data is aggregated
data and publicly disseminated by the department. Except as
provided in Subsection D of this section, in no event may a
data provider obtain data regarding an individual patient except in instances where the data were originally submitted by the requesting provider. Prior to the release of any data, in any form, data sources shall be permitted the opportunity to verify the accuracy of the data pertaining to that data source. Data identified in writing as inaccurate shall be corrected prior to the data's release. Time limits shall be set for the submission and review of data by data sources, and penalties shall be established for failure to submit and review the data within the established time.

C. Any person may obtain any aggregate data publicly disseminated by the department.

D. Through a secure delivery or transmission process, the department may share record-level data with a federal agency that is authorized to collect, analyze or disseminate health information. The department shall remove identifiable individual or provider information from the record-level data prior to its disclosure to the federal agency. In providing hospital information under an agreement or arrangement with a federal agency, the department shall ensure that any identifiable hospital information disclosed is necessary for the agency's authorized use and that its disclosure meets with state and federal privacy and confidentiality laws, rules and regulations."

SECTION 3. Section 24-14A-8 NMSA 1978 (being Laws 1989,
Chapter 29, Section 8, as amended) is amended to read:

"24-14A-8. HEALTH INFORMATION SYSTEM--
CONFIDENTIALITY.--

A. Health information collected and disseminated pursuant to the Health Information System Act is strictly confidential and shall not be a matter of public record or accessible to the public except as provided in this section and Sections 24-14A-6 and 24-14A-7 NMSA 1978. No data source shall be liable for damages to any person for having furnished the information to the department.

B. Record-level data provided to the department pursuant to Section 24-14A-6 NMSA 1978 are confidential. The agency that receives record-level data shall not disclose the data except to the extent that they are included in a compilation of aggregate data.

C. The individual forms, electronic information or other forms of data collected by and furnished for the health information system shall not be public records subject to inspection pursuant to Section 14-2-1 NMSA 1978. The department may release or disseminate aggregate data, including those data that pertain to a specifically identified hospital or other type of health facility. These data shall be public records if the release of these data does not violate state or federal law relating to the privacy and confidentiality of individually identifiable health
information."

SECTION 4. A new section of the Health Information System Act is enacted to read:

"ADVISORY COMMITTEE.--The secretary of health shall appoint a health information system advisory committee to advise the department in carrying out the provisions of the Health Information System Act. The secretary shall establish the membership and duties of the committee by rule."

SECTION 5. A new section of the Health Information System Act is enacted to read:

"WEB SITE--PUBLIC ACCESS--DATA.--By January 1, 2018, the department shall ensure that the public is provided with access, free of charge, to a user-friendly, searchable and easily accessible web site on which the department shall post and update on a regular basis cost, quality and such other information it publishes pursuant to the Health Information System Act. The web site shall be accessible through the sunshine portal. The department shall adopt and promulgate rules to carry out the provisions of this section."
John A. Sanchez, President
Senate

Lenore M. Naranjo, Chief Clerk
Senate

Don L. Tripp, Speaker
House of Representatives

Denise Ramonas, Chief Clerk
House of Representatives

Approved by me this 9th day of April, 2015

Governor Susana Martínez
State of New Mexico