

HOUSE BILL 557

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Elizabeth "Liz" Thomson

AN ACT

RELATING TO PUBLIC HEALTH; AMENDING THE PUBLIC HEALTH ACT TO ALLOW THE REPRESENTATIVE OF THE ESTATE OF A DECEASED PERSON WHO IS THE SUBJECT OF MEDICAL RESEARCH CONDUCTED BY OR UNDER THE AUTHORITY OF THE SECRETARY OF HEALTH FOR THE PURPOSE OF REDUCING THE MORBIDITY OR MORTALITY FROM ANY CAUSE OR CONDITION OF HEALTH TO OBTAIN INFORMATION RELATING TO SUCH PERSON.

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

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

"24-1-20. RECORDS CONFIDENTIAL.--

A. The files and records of the department giving identifying information about individuals who have received or are receiving from the department treatment, diagnostic services or preventive care for diseases, disabilities or

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underscoring material = new
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underscored material = new
[bracketed material] = delete

1 physical injuries are confidential and are not open to
2 inspection except:

3 (1) where permitted by rule of the department;
4 (2) as provided in Subsection [G] D of this
5 section; and

6 (3) to the secretary of health [~~and~~
7 ~~environment~~] or to an employee of the department of health [~~and~~
8 ~~environment-department~~] authorized by the secretary to obtain
9 such information, but the information shall only be revealed
10 for use in connection with a governmental function of the
11 secretary or the authorized employee.

12 B. Both the secretary and the employees are subject
13 to the penalty contained in Subsection [F] G of this section if
14 they release or use the information in violation of this
15 section.

16 [~~B.~~] C. All information voluntarily provided to the
17 [~~director~~] secretary or [~~his~~] the secretary's agent in
18 connection with studies designated by [~~him~~] the secretary as
19 medical research and approved by the secretary of health [~~and~~
20 ~~environment~~], either conducted by or under the authority of the
21 [~~director~~] secretary for the purpose of reducing the morbidity
22 or mortality from any cause or condition of health, is
23 confidential and shall be used only for the purposes of medical
24 research. The information shall not be admissible as evidence
25 in any action of any kind in any court or before any

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underscored material = new
[bracketed material] = delete

1 administrative proceeding or other action, but shall be
2 provided to the representative of the estate of a deceased
3 person who is a subject of such medical research upon request.

4 ~~[G-]~~ D. The human services department and the
5 office of the state long-term care ombudsman shall have prompt
6 access to all files and records in the possession of the
7 licensing and certification bureau of the department that are
8 related to any health facility investigation. Officers and
9 employees of those agencies with such access are subject to the
10 penalty in Subsection ~~[F]~~ G of this section if they release or
11 use the information in violation of this section.

12 ~~[D-]~~ E. The files and records of the department are
13 subject to subpoena for use in any pending cause in any
14 administrative proceeding or in any of the courts of the state,
15 unless otherwise provided by law.

16 ~~[E-]~~ F. No person supplying information to the
17 department for use in a research project or any cooperating
18 person in a research project shall be subject to any action for
19 damages or other relief as a result of that activity.

20 ~~[F-]~~ G. Any person who discloses confidential
21 information in violation of this section is guilty of a petty
22 misdemeanor."