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FISCAL IMPACT REPORT

SPONSOR:	Marquardt	DATE TYPED:	02/07/00	HB	HJM 28/aHCPAC
SHORT TITLE:	Rule on Standards for Privacy of Health Info`			SB	
				ANALYST:	Dunbar

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY00	FY01	FY00	FY01		
		See Fiscal Impact Narrative			

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to

SOURCES OF INFORMATION

LFC files

Health Policy Commission (HPC)

Human Services Department (HSD)

SUMMARY

Synopsis of HCPAC Amendment

The amendment clarifies terminology pertaining to the right to restrict the release of health information.

Synopsis of Bill

HJM 28 requests the federal secretary of Health and Human Services to make revisions to the proposed federal rule standards for privacy of individually identifiable health information that is or has been maintained or transmitted electronically by health care providers, health plans and health care clearinghouses. The federal rule would supersede any less protective state provision governing the privacy of individually identifiable health information.

The proposed federal rule would create legal rights and delineate responsibilities concerning individually identifiable health information. The rule would also significantly affect how individually identifiable health information is maintained and handled in NM.

Significant Issues

The NM Health Policy Commission (HPC) convened a task force on health data privacy and confidentiality in response to HJM 20 (1999). HPC has adopted the recommendations of the task force and is forwarding them to the Legislature, via this bill, for endorsement.

These recommendations include:

- Modifying the rule to apply to all releases of individually identifiable health information and not only information that is maintained or transmitted electronically.
- Changing the proposed regulations to strengthen individual rights to privacy and protection of their health data and narrowly define when a health plan or practitioner may release information without an individual's consent.
- Clarifying that health care providers and health plans are required to submit data to state agencies authorized to receive the data under state law;
- Enhancing the individual's, or legal representative's right to access and know what is maintained as part of their health data.
- Forwarding the memorial to the Secretary of Health and Human Services.

FISCAL IMPLICATIONS

There is no fiscal implications to the HPC. State health care facilities and providers will be required to comply with the proposed rules.

The analysis of the Human Services Department indicates that there could be a significant financial impact incurred by health care payers and government agencies if the exemptions contained in the original Health and Human Services rule are revoked in the final HHS rule.

ADMINISTRATIVE IMPLICATIONS

According to the Human Services Department, if the exemptions contained in the original Health and Human Services rule are revoked in the final HHS rule, the Department may face significant administrative impact. HSD states that the department could conceivably be expected to retain information from every client that they serve regarding individual preferences on sharing information.

OTHER SUBSTANTIVE ISSUES

Additional Task Force recommendations are;

- Stricter limits on the release of information without the patient's consent by limiting permissible disclosures to the minimum amount required with patient control over who receives the information for treatment.
- That individuals have a right to know **all** their individual health data maintained.
- That if a provider denies a patient access to their medical information, the provider must inform the patient of their right to have the information transferred to another equivalent health provider of individuals's choice.
- That an individual had the right to restrict and /or prohibit disclosure of their health data except as required by federal or state law.
- Recognized the state's needs for health data, e.g. for public health communicable disease control.

AMENDMENTS

Page 4 Line 5 insert after 'is' not, to read 'is not, and delete "**explicitly permitted or**" required by state or federal law . (To read: is not required by state or federal law,...)

BD/gm/njw