

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

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A JOINT MEMORIAL

REQUESTING THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES
TO REVISE THE PROPOSED FEDERAL RULE ON STANDARDS FOR PRIVACY
OF INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION.

WHEREAS, the federal secretary of health and human
services has proposed a new rule to protect the privacy of
individually identifiable health information in connection
with certain administrative and financial transactions, as
required by the federal Health Insurance Portability and
Accountability Act of 1996, Public Law 104-191; and

WHEREAS, the proposed rule, 45 CFR Parts 160-164, would
establish national minimum standards for the collection, use
and disclosure of individually identifiable health
information that is or has been maintained or transmitted
electronically by health care providers, health plans and
health care clearinghouses and would supersede any less

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1 protective state provisions governing the privacy of
2 individually identifiable health information; and

3 WHEREAS, the proposed rule would create legal rights and
4 delineate responsibilities concerning individually
5 identifiable health information, including the extent to
6 which individuals may inspect, copy, correct and restrict the
7 release of their personal information; and

8 WHEREAS, the proposed rule would directly and
9 significantly affect how individually identifiable health
10 information is maintained and handled in New Mexico; and

11 WHEREAS, the state and the public have a legitimate
12 interest in the regulation of individually identifiable
13 health information and the appropriate balancing of
14 individual privacy with the data needs of an effective and
15 efficient health care system; and

16 WHEREAS, in 1999 the legislature adopted House Joint
17 Memorial 20 requesting the New Mexico health policy
18 commission to study and make recommendations concerning
19 health data confidentiality and privacy, with participation
20 from a broad range of agencies, institutions, professionals,
21 health care consumers and health care industry
22 representatives; and

23 WHEREAS, the task force on health data privacy and
24 confidentiality convened by the New Mexico health policy
25 commission in response to House Joint Memorial 20 reviewed
the proposed federal rule and recommended that certain
revisions be made prior to promulgation;

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1 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
2 STATE OF NEW MEXICO that the federal secretary of health and
3 human services be requested to revise the proposed rule on
4 standards for individually identifiable health information to
5 strengthen its privacy protections and clarify certain
6 points, a position adopted by the New Mexico health policy
7 commission and the task force on health data privacy and
8 confidentiality; and

9 BE IT FURTHER RESOLVED that the secretary of health and
10 human services be requested to impose stricter limits in the
11 proposed rule on the amount and nature of personal
12 information that may be disclosed without individual
13 authorization, by mandating that all disclosures be
14 restricted to the least amount of information necessary to
15 accomplish a narrowly stated purpose and that non-
16 individually identifiable health information be used wherever
17 possible; and

18 BE IT FURTHER RESOLVED that the secretary of health and
19 human services be requested to broaden the proposed rule to
20 ensure that individuals have the right to access, copy and
21 correct all of their retrievable individually identifiable
22 health information held by an entity subject to the rule and
23 the ability to pursue alternative avenues if their right of
24 access is denied; and

25 BE IT FURTHER RESOLVED that the secretary of health and
human services be requested to provide for an individual's
right to restrict the release of their individually

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1 identifiable health information to the extent such disclosure
2 is explicitly permitted or required by state or federal law,
3 and

4 BE IT FURTHER RESOLVED that the secretary of health and
5 human services be requested to clarify in the proposed rule
6 that an individual's right to restrict disclosure of
7 individually identifiable health information does not apply
8 to disclosures required by state law, such as disclosures
9 mandated by public health or the Health Information System
10 Act; and

11 BE IT FURTHER RESOLVED that the secretary of health and
12 human services be requested to extend the application of the
13 proposed rule to all individually identifiable health
14 information, not just information that is maintained or
15 transmitted electronically; and

16 BE IT FURTHER RESOLVED that a copy of this memorial be
17 sent to the federal secretary of health and human services.