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HOUSE BILL 378

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY  
Elias Barela

AN ACT

RELATING TO HEALTH RECORDS; ENACTING THE PATIENT INFORMATION  
PRIVACY ACT; CLARIFYING INDIVIDUAL RIGHTS WITH RESPECT TO THE  
DISCLOSURE OF INFORMATION CONTAINED IN ELECTRONIC MEDICAL  
RECORDS; PROVIDING FOR A PRIVATE RIGHT OF ACTION; PROVIDING FOR  
A RIGHT TO CORRECT ERRORS IN A MEDICAL RECORD; CLARIFYING THE  
PROTECTION OF PRIVACY OF ELECTRONIC MEDICAL RECORDS.

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

Section 1. SHORT TITLE.--This act may be cited as the  
"Patient Information Privacy Act".

Section 2. DEFINITIONS.--As used in the Patient  
Information Privacy Act:

A. "demographic information" means information in  
an electronic medical record that identifies the individual who  
is the subject of the medical record, including the

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1 individual's name, date of birth and address and other  
2 information that identifies the individual, that may be used to  
3 identify the individual or that associates the individual with  
4 the individual's electronic medical record;

5 B. "disclosure" means the release, transfer,  
6 provision or otherwise divulging of an individual's electronic  
7 medical records to a person other than the holder of the  
8 records and includes having access to those records;

9 C. "electronic" means relating to technology having  
10 electrical, digital, magnetic, wireless, optical,  
11 electromagnetic or similar capabilities;

12 D. "electronic medical record" means a medical  
13 record created, generated, sent, communicated, received or  
14 stored by electronic means;

15 E. "health care" means care, services or supplies  
16 related to the health of an individual and includes:

17 (1) preventive, diagnostic, therapeutic,  
18 rehabilitative, maintenance or palliative care and counseling;

19 (2) service, assessment or procedure with  
20 respect to the physical or mental condition or functional  
21 status of an individual or that affects the structure or  
22 function of an individual's body; and

23 (3) the sale or dispensing of a drug, a  
24 device, a piece of equipment or other item in accordance with a  
25 prescription;

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1           F. "health care group purchaser" means a person,  
2 licensed, certified or otherwise authorized or permitted by the  
3 New Mexico Insurance Code to pay for or purchase health care  
4 coverage on behalf of an identified individual or group of  
5 individuals, regardless of whether the cost of coverage or  
6 services is paid for by the purchaser or the persons receiving  
7 coverage or services;

8           G. "health care information" means any information,  
9 whether oral or recorded in any form or medium, related to the  
10 past, present or future physical or mental health or condition  
11 of an individual; the provision of health care to an  
12 individual; or the past, present or future payment for the  
13 provision of health care to an individual;

14           H. "health care institution" means an institution,  
15 facility or agency licensed, certified or otherwise authorized  
16 or permitted by law to provide health care in the ordinary  
17 course of business;

18           I. "health care provider" means an individual  
19 licensed, certified or otherwise authorized or permitted by law  
20 to provide health care in the ordinary course of business or  
21 practice of a profession;

22           J. "health information exchange" means an  
23 arrangement among persons providing for the disclosure of  
24 electronic medical records;

25           K. "information" means data, including text,

1 images, sounds and codes and computer programs, software and  
2 databases;

3 L. "medical record" means a record of health care  
4 information;

5 M. "record" means information that is inscribed on  
6 a tangible medium or that is stored in an electronic or other  
7 medium and is retrievable in perceivable form;

8 N. "record locator service" means a system that  
9 provides a means of identification of the existence and  
10 location of the electronic medical records of a specified  
11 individual; and

12 O. "treatment" means the provision, coordination or  
13 management of health care and related services by one or more  
14 health care providers, including the coordination or management  
15 of health care by a health care provider with a third party;  
16 consultation between health care providers relating to an  
17 individual; or the referral of an individual for health care  
18 from one health care provider to another.

19 Section 3. USE AND DISCLOSURE OF HEALTH CARE INFORMATION  
20 IN AN ELECTRONIC MEDICAL RECORD.--

21 A. A person shall not use or disclose health care  
22 information in an individual's electronic medical record to  
23 another person in violation of state or federal law. Prior to  
24 use or disclosure of an individual's health care information, a  
25 person shall obtain the written consent of the individual,

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1       except where the person requires the information to deliver  
2       health care to the individual in the case of an emergency as  
3       determined by the attending health care provider.

4               B. A person shall not intimidate, threaten, coerce,  
5       discriminate against or take other retaliatory action against  
6       any individual for the exercise by the individual of any right  
7       established by, or for participation in, any process provided  
8       for in the Patient Information Privacy Act.

9               C. A person shall not require individuals to waive  
10       their rights under the Patient Information Privacy Act as a  
11       condition for the provision of treatment, payment, enrollment  
12       in a health care plan or eligibility for benefits.

13              D. A person may disclose demographic information  
14       and information about the location of an individual's  
15       electronic medical records to a record locator service in  
16       accordance with law. A person participating in a health  
17       information exchange using a record locator service shall not  
18       have access to demographic information, information about the  
19       location of the individual's electronic medical records or  
20       information in an individual's electronic medical record except  
21       with the express authorization of the subject of the medical  
22       record, or, in the event the person requires the information to  
23       deliver health care to the individual in the case of an  
24       emergency, as determined by the attending health care provider.

25              E. A person maintaining a record locator service, a

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1 health care provider or health care institution shall maintain  
2 an audit log of health care providers, health care  
3 institutions, persons and other entities accessing information  
4 during the previous six years in the record locator service  
5 that at a minimum contains information on:

6 (1) the identity of the person accessing the  
7 information;

8 (2) the identity of the individual whose  
9 information was accessed by the person; and

10 (3) the date that the information was  
11 accessed.

12 F. An individual may annually request a copy of the  
13 audit log of the individual's medical record.

14 G. A person operating a record locator service or  
15 health information exchange shall provide a mechanism under  
16 which individuals may exclude their demographic information and  
17 information about the location of their electronic medical  
18 records from the record locator service. A person operating a  
19 record locator service or a health information exchange that  
20 receives an individual's request to exclude all of the  
21 individual's information from the record locator service or to  
22 have a specific person excluded from using the record locator  
23 service to access that individual's information is responsible  
24 for removing that information from the record locator service  
25 or the health information exchange.

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1           H. When requesting demographic information or  
2 information in an individual's electronic medical record using  
3 a record locator service or a health information exchange, the  
4 requesting person shall warrant that the request is for the  
5 treatment of the individual who is the subject of the  
6 electronic medical record and the person releasing the  
7 information may rely upon the warranty of the person making the  
8 request that the request is for the treatment of the individual  
9 and is in compliance with state and federal law.

10           I. In accordance with the provisions of this  
11 subsection, a person operating a health care facility may  
12 maintain a directory containing individuals' information. When  
13 maintaining a directory of individuals in a person's health  
14 care facility, a person:

15                   (1) may use or disclose an individual's:

16                           (a) name;

17                           (b) location in the person's facility;

18                           (c) condition described in general terms  
19 that does not communicate specific medical information about  
20 the individual; and

21                           (d) religious affiliation;

22                   (2) may disclose the information described in  
23 Paragraph (1) of this subsection to members of the clergy;

24                   (3) may disclose the information described in  
25 Subparagraphs (a), (b) and (c) of Paragraph (1) of this

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1 subsection, but shall not disclose the individual's religious  
2 affiliation, to other persons that ask for the individual by  
3 name;

4 (4) shall inform an individual in the facility  
5 that the person intends to use the individual's information in  
6 the directory and shall give the individual an opportunity to  
7 object to the individual's information being included in the  
8 directory. If the individual objects, the person shall not  
9 include the individual's information in the directory; and

10 (5) in emergency treatment circumstances or  
11 circumstances where the individual's incapacity does not  
12 practicably allow the individual to be informed of the fact  
13 that the individual's information is being included in the  
14 person's directory and does not give the individual an  
15 opportunity to object, the information shall:

16 (a) be included in the directory only if  
17 the individual's prior expressed preference that this  
18 information be included is known to the person; or

19 (b) be included if the individual's  
20 attending health care provider, in the exercise of professional  
21 judgment, determines that inclusion of this information is in  
22 the individual's best interest.

23 Section 4. NOTICE OF PRIVACY PRACTICES FOR HEALTH CARE  
24 INFORMATION.--

25 A. A health care provider shall provide,

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1 electronically or in paper form, to individuals to whom it  
2 provides health care a written notice of:

3 (1) the health care provider's uses and  
4 disclosures of the individual's health care information; and

5 (2) the health care provider's legal duties  
6 with respect to protected health care information.

7 B. The notice shall be written in plain language  
8 and shall contain:

9 (1) a statement that is set out as a header or  
10 otherwise prominently displayed in a bold font no smaller than  
11 16-point bold Courier New and that contains the following:

12 "THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE  
13 USED AND DISCLOSED AND HOW YOU CAN OBTAIN ACCESS TO THIS  
14 INFORMATION. PLEASE REVIEW IT CAREFULLY.";

15 (2) disclosures that are set out in a font no  
16 smaller than 12-point Courier New, in an area of the notice  
17 that shall be grouped together and segregated from any other  
18 text and that shall only contain information directly related  
19 to the disclosures as follows:

20 (a) "Except when required for your  
21 treatment in the case of a medical emergency, your health care  
22 provider must obtain your written consent before using or  
23 disclosing your health care information.";

24 (b) "Anyone holding your electronic  
25 medical records must tell you if someone has hacked into your

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1 electronic medical records.";

2 (c) "You have the right to correct any  
3 mistakes in your electronic medical records. Your health care  
4 provider must inform you of the method by which you may request  
5 corrections."; and

6 (d) "You have the right to sue certain  
7 persons when they disclose your health care information in  
8 violation of the Act.";

9 (3) a description, including at least one  
10 example, of the types of uses and disclosures that the health  
11 care provider is permitted to make for the purposes of  
12 treatment, payment and health care operations; provided that  
13 the provider has the prior written consent of the individual  
14 affected by the use or disclosure or that the use or disclosure  
15 is required in the case of a medical emergency as determined by  
16 the attending health care provider;

17 (4) a description of the other purposes for  
18 which the health care provider is permitted or required under  
19 state or federal law to use or disclose health care information  
20 without the written authorization of the individual affected by  
21 the use or disclosure;

22 (5) if a use or disclosure for any purpose  
23 described in Paragraph (1) or (2) of this subsection is  
24 prohibited or materially limited by other applicable law, a  
25 description of the use or disclosure that reflects the more

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1 stringent law;

2 (6) for the purposes described in Paragraphs  
3 (1) and (2) of this subsection, a description that includes  
4 sufficient detail to place an individual on notice of the uses  
5 and disclosures that are permitted or required by this  
6 subsection and other applicable law;

7 (7) a statement that the health care provider  
8 or a health care institution, health information exchange,  
9 health care group purchaser or record locator service shall not  
10 use or disclose an individual's health care information for  
11 fundraising, marketing or research purposes, except with the  
12 individual's prior written authorization;

13 (8) a statement that an individual's health  
14 care provider may contact the individual to provide appointment  
15 reminders;

16 (9) a statement that a group health plan, or a  
17 health insurance issuer or health maintenance organization with  
18 respect to a group health care plan, shall not disclose an  
19 individual's health care information to the sponsor of the  
20 group health plan;

21 (10) a statement that an individual has the  
22 right to inspect and copy the individual's health care  
23 information;

24 (11) a statement that an individual has the  
25 right to amend the individual's health care information;

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1 (12) a statement that an individual has the  
2 right to receive an accounting of disclosures of the  
3 individual's health care information;

4 (13) a statement that an individual has the  
5 right to obtain a paper copy of the notice from the health care  
6 provider upon request;

7 (14) information about the health care  
8 provider's duties, including:

9 (a) a statement that the health care  
10 provider is required by law to maintain the privacy of an  
11 individual's health care information and to provide individuals  
12 with notice of the health care provider's legal duties and  
13 privacy practices with respect to health care information;

14 (b) a statement that the health care  
15 provider is required to abide by the terms of the notice  
16 currently in effect; and

17 (c) a statement that the health care  
18 provider may apply a change in a privacy practice that is  
19 described in the notice currently in effect to the individual's  
20 health care information that the health care provider created  
21 or received prior to issuing a revised notice, and that the  
22 health care provider reserves the right to change the terms of  
23 its notice and to make the revised notice provisions effective  
24 for all health care information that it maintains. The  
25 statement shall also describe how it will provide the

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1 individual with a revised notice;

2 (15) a statement that individuals may recover  
3 in a civil action from a health care provider, health care  
4 institution or person engaged in a record locator service or  
5 health information exchange that knowingly or willfully  
6 violates the provisions of the Patient Information Privacy Act;

7 (16) the name, or title, and telephone number  
8 of a person or office to contact for further information; and

9 (17) the date on which the notice is first in  
10 effect, which date shall not be earlier than the date on which  
11 the notice is first printed or otherwise published.

12 C. A health care provider shall promptly revise and  
13 distribute its notice whenever there is a material change to  
14 the uses or disclosures, an individual's rights, the health  
15 care provider's legal duties or other privacy practices stated  
16 in the notice. Except when required by law, a material change  
17 to any term of the notice shall not be implemented prior to the  
18 effective date of the notice in which such material change is  
19 reflected.

20 D. A health care provider shall make the notice  
21 required by this section available on request to any person and  
22 to individuals and shall retain, for six years from the date of  
23 providing the notice, proof of each individual's timely receipt  
24 of the notice. Notice shall be determined to be timely if  
25 provided:

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1 (1) within one hundred-eighty days from the  
2 effective date of this act to individuals served by the health  
3 care provider;

4 (2) after the time period specified in  
5 Paragraph (1) of this subsection, no later than the date of the  
6 first service delivery, including service delivered  
7 electronically, to an individual served by the health care  
8 provider after the effective date of this act, or in an  
9 emergency treatment situation, as soon as reasonably  
10 practicable after the emergency treatment; and

11 (3) within sixty days of a material revision  
12 to the notice to individuals served by the health care  
13 provider.

14 E. No less frequently than once every three years,  
15 the health care provider shall notify individuals then served  
16 by the provider of the availability of the notice and how to  
17 obtain the notice.

18 F. If the health care provider maintains a physical  
19 service delivery site, the health care provider shall:

20 (1) have the notice available at the service  
21 delivery site for individuals to request to take with them; and

22 (2) post the notice in a clear and prominent  
23 location where it is reasonable to expect individuals seeking  
24 service from the health care provider to be able to read the  
25 notice.

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1           G. A health care provider that maintains a web site  
2 that provides information about the health care provider's  
3 customer services shall prominently post its notice on the web  
4 site and make the notice available electronically through the  
5 web site.

6           H. Health care providers that participate in joint  
7 health care arrangements may comply with this section by a  
8 joint notice; provided that:

9                   (1) the health care providers participating in  
10 the joint health care arrangement agree to abide by the terms  
11 of the notice with respect to health care information created  
12 or received by the health care provider as part of its  
13 participation in the joint health care arrangement;

14                           (2) the joint notice:

15                                   (a) meets the implementation  
16 specifications set forth in this section, except that the  
17 statements required by this section may be altered to reflect  
18 the fact that the notice covers more than one health care  
19 provider;

20   (b) describes with reasonable  
21 specificity the health care providers, or class of providers,  
22 to which the joint notice applies;

23   (c) describes with reasonable  
24 specificity the service delivery sites, or classes of service  
25 delivery sites, to which the joint notice applies; and

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1 (d) states that the health care  
2 providers participating in the joint health care arrangement  
3 will not share health care information of an individual with  
4 each other unless prior written authorization is obtained from  
5 the individual or as deemed necessary by an attending health  
6 care provider for purposes of emergency treatment.

7 Section 5. OUT-OF-STATE DISCLOSURES.--A disclosure  
8 otherwise permissible under the Patient Information Privacy Act  
9 may be made to health care providers, health care institutions  
10 or record locator services located or operating outside the  
11 state.

12 Section 6. HEALTH CARE REPRESENTATIVES.--A health care  
13 provider, health care institution or health care group  
14 purchaser is not subject to regulatory or disciplinary actions  
15 or civil liability for:

16 A. complying with a request or authorization made  
17 by a person who the health care provider, health care  
18 institution or health care group purchaser reasonably believed  
19 had the authority to exercise the rights and powers of an  
20 individual pursuant to the Patient Information Privacy Act; or

21 B. declining to comply with a request or  
22 authorization made by a person based on a reasonable belief  
23 that the person lacked authority to exercise the rights and  
24 powers of an individual pursuant to the Patient Information  
25 Privacy Act.

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1           Section 7. HACKING INTO THE SECURITY SYSTEM.--

2           A. A person that holds an individual's electronic  
3 medical record or maintains computerized data that includes  
4 medical records shall disclose any hacking into its data system  
5 following discovery or notification of the hacking to the  
6 individual whose medical record was, or was reasonably believed  
7 to have been, acquired by an unauthorized person.

8           B. The disclosure shall be made without  
9 unreasonable delay, which shall allow a person time to  
10 determine the scope of the hacking and restore the integrity of  
11 the data or data system or accommodate the legitimate needs of  
12 law enforcement pursuant to Subsection D of this section.

13           C. Disclosure shall be provided in the following  
14 manner:

15                       (1) written notice;

16                       (2) electronic notice; provided that the  
17 notice is consistent with the provisions applicable to  
18 electronic records and signatures in Section 7001 of Title 15  
19 of the United States Code; or

20                       (3) substitute notice, if the person  
21 demonstrates that the cost of providing notice would exceed two  
22 hundred fifty thousand dollars (\$250,000), that the affected  
23 class of subject individuals to be notified exceeds five  
24 hundred thousand or that the person does not have sufficient  
25 contact information. Substitute notice shall be provided in

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1 the following manner:

2 (a) email notice;

3 (b) conspicuous posting of the notice on  
4 the person's commonly used web site; or

5 (c) notification by publication.

6 D. Disclosure may be delayed if a law enforcement  
7 agency determines that disclosure will impede a criminal  
8 investigation. However, disclosure shall be made after the law  
9 enforcement agency determines that it will not compromise the  
10 investigation.

11 E. For purposes of this section:

12 (1) "hacking" means unauthorized acquisition  
13 or breach of electronic data or a computerized system  
14 containing unencrypted and confidential health care information  
15 maintained in a record. Good faith acquisition of personal  
16 information by an employee or agent of the person for the  
17 purposes of the person is not a breach; provided that the  
18 health care information is not used for an unauthorized purpose  
19 or subject to further unauthorized disclosure; and

20 (2) "person" means a person who holds or  
21 compiles electronic medical records or maintains a computerized  
22 system that contains electronic medical records, including a  
23 health care provider, health care institution, health care  
24 group purchaser or a person engaged in a health information  
25 exchange.

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1           Section 8. RIGHT TO CIVIL ACTION--DEFENSES--LIMITATIONS.--

2           A. A person aggrieved by a violation of the  
3 provisions of the Patient Information Privacy Act may recover  
4 in a civil action from a person that knowingly or willfully  
5 violates this act.

6           B. In a civil action under this section, relief may  
7 include:

8                   (1) preliminary and other equitable or  
9 declaratory relief as appropriate;

10                   (2) damages pursuant to Subsection C or D of  
11 this section; and

12                   (3) reasonable attorney fees and other  
13 reasonable costs incurred as the result of litigation.

14           C. If the violator knowingly violates the  
15 provisions of the Patient Information Privacy Act, the court  
16 may assess the sum of actual damages and profits made by the  
17 violator as a result of the violation; provided that damages  
18 awarded shall not be less than one thousand dollars (\$1,000).

19           D. If the violator willfully violates this act, the  
20 court may also assess punitive damages.

21           E. Good faith reliance on a subpoena, court order  
22 or legislative authorization for disclosure is a complete  
23 defense to any civil action brought under this act.

24           F. A civil action under this section shall not be  
25 commenced later than two years after the date upon which the

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1 claimant discovered or had a reasonable opportunity to discover  
2 the violation.

3 Section 9. AMENDMENT OF HEALTH CARE INFORMATION.--

4 A. An individual has the right to have a person  
5 that maintains the individual's health care information amend  
6 the individual's health care information for as long as the  
7 person maintains the individual's health care information.

8 B. A person may deny an individual's request for  
9 amendment of health care information, if the person determines  
10 that the health care information that is the subject of the  
11 request:

12 (1) was not created by that person, unless the  
13 individual provides a reasonable basis to believe that the  
14 person to whom the request for amendment was made is the  
15 successor in interest to the creator of the health care  
16 information;

17 (2) is not part of the health care information  
18 the person maintains;

19 (3) would not be available for inspection  
20 under state or federal law; or

21 (4) is accurate and complete.

22 C. A person maintaining an individual's health care  
23 information shall permit the individual to request that the  
24 person amend the health care information that the person  
25 maintains. The person may require an individual to make a

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1 request for amendment in writing and to provide a reason to  
2 support a requested amendment; provided that the person informs  
3 individuals in advance of such requirements.

4 D. The person shall act on the individual's request  
5 for amendment no later than sixty days after receipt of such a  
6 request, as follows:

7 (1) if the person grants the requested  
8 amendment, in whole or in part, the person shall take the  
9 actions required by this subsection;

10 (2) if the person denies the requested  
11 amendment, in whole or in part, the person shall provide the  
12 individual with a written denial, in accordance with this  
13 subsection; or

14 (3) if the person is unable to act on the  
15 amendment within sixty days, the person may extend the time for  
16 such action by no more than thirty days; provided that:

17 (a) the person, within sixty days,  
18 provides the individual with a written statement of the reasons  
19 for the delay and the date by which the person will complete  
20 the action on the request; and

21 (b) the person may have only one such  
22 extension of time for action on a request for amendment.

23 E. If the person accepts the requested amendment,  
24 in whole or in part, the person shall comply with the following  
25 requirements:

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1 (1) the person shall make the appropriate  
2 amendment to the health care information or record that is the  
3 subject of the request for amendment by, at a minimum,  
4 identifying the records in the health care information that the  
5 person maintains that are affected by the amendment and  
6 appending or otherwise providing a link to the location of the  
7 amendment;

8 (2) the amendment shall be made in a legible  
9 fashion and inserted directly adjacent to the place in the  
10 record that the health care information to be amended exists in  
11 the record;

12 (3) the person shall timely inform the  
13 individual that the amendment is accepted and obtain the  
14 individual's identification of relevant persons and the  
15 individual's agreement to having the person notify the relevant  
16 persons with which the amendment needs to be shared in  
17 accordance with Paragraph (4) of this subsection; and

18 (4) the person shall make reasonable efforts  
19 to inform and provide the amendment within a reasonable time  
20 to:

21 (a) persons identified by the individual  
22 as having received health care information about the individual  
23 and needing the amendment; and

24 (b) persons, including business  
25 associates, that the person knows have the health care

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1 information that is the subject of the amendment and that may  
2 have relied on, or could foreseeably rely on, the information,  
3 the lack of which may be to the detriment of the individual.

4 F. If the person maintaining an individual's health  
5 care information denies the requested amendment, in whole or in  
6 part, the person shall comply with the following requirements:

7 (1) the person shall provide the individual  
8 with a timely, written denial within sixty days of receiving  
9 the request. The denial shall use plain language and contain:

10 (a) the basis for the denial, in  
11 accordance with Subsection B of this section;

12 (b) the individual's right to submit a  
13 written statement disagreeing with the denial and the method by  
14 which the individual may file such a statement;

15 (c) a statement that, if the individual  
16 does not submit a statement of disagreement, the individual may  
17 request that the person provide the individual's request for  
18 amendment and the denial with any future disclosures of the  
19 health care information that is the subject of the amendment;  
20 and

21 (d) a description of the method by which  
22 the individual may complain to the health care provider or to  
23 the secretary of health. The description shall include the  
24 name, or title, and telephone number of the contact person or  
25 office that the individual may contact to complain;

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

1 (2) the person shall permit the individual to  
2 submit to the person a written statement disagreeing with the  
3 denial of all or part of a requested amendment and the basis of  
4 such disagreement. The person may reasonably limit the length  
5 of a statement of disagreement;

6 (3) the person may prepare a written rebuttal  
7 to the individual's statement of disagreement. Whenever a  
8 rebuttal is prepared, the person shall provide a copy to the  
9 individual who submitted the statement of disagreement;

10 (4) the person shall, as appropriate, identify  
11 the record or health care information that is the subject of  
12 the disputed amendment and append or otherwise link the  
13 individual's request for an amendment, the person's denial of  
14 the request, the individual's statement of disagreement, if  
15 any, and the person's rebuttal, if any, to the individual's  
16 statement of disagreement;

17 (5) if a statement of disagreement has been  
18 submitted by the individual, the person shall include the  
19 material appended in accordance with Paragraph (4) of this  
20 subsection, or, at the election of the person, an accurate  
21 summary of any such information, with any subsequent disclosure  
22 of the health care information to which the disagreement  
23 relates; and

24 (6) if the individual has not submitted a  
25 written statement of disagreement, the person shall include the

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

1 individual's request for amendment and its denial, or an  
2 accurate summary of such information, with any subsequent  
3 disclosure of the individual's health care information.

4 G. A person that maintains an individual's health  
5 care information that is informed by another person of an  
6 amendment to an individual's health care information shall  
7 amend the health care information in the manner prescribed in  
8 Subsection C of this section.

9 H. A person that maintains health care information  
10 shall document the titles of the persons or offices responsible  
11 for receiving and processing requests for amendment by  
12 individuals and submit this documentation to the secretary of  
13 health.

14 Section 10. EFFECTIVE DATE.--The effective date of the  
15 provisions of this act is January 1, 2010.