

1 SENATE BILL 223

2 **53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO HEALTH; AMENDING, REPEALING AND ENACTING SECTIONS
12 OF THE NMSA 1978 RELATING TO ESSENTIAL HEALTH SERVICES AND
13 DEPARTMENT OF HEALTH FUNCTIONS, SEXUALLY TRANSMITTED
14 INFECTIONS, CONDITIONS OF PUBLIC HEALTH IMPORTANCE,
15 COMMUNICABLE DISEASES, ISOLATION AND QUARANTINE AND SCHOOL
16 HEALTH CARE OVERSIGHT.

17
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 9-7-4.1 NMSA 1978 (being Laws 2004,
20 Chapter 51, Section 1, as amended by Laws 2007, Chapter 46,
21 Section 6 and by Laws 2007, Chapter 279, Section 1) is amended
22 to read:

23 "9-7-4.1. [~~COMPREHENSIVE STRATEGIC PLAN FOR HEALTH~~] STATE
24 HEALTH IMPROVEMENT PLAN.--

25 A. The department [~~in conjunction with the New~~

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1 ~~Mexico health policy commission and other state agencies,~~
2 ~~pursuant to Section 9-7-11.1 NMSA 1978]~~ shall develop a
3 ~~[comprehensive strategic plan for]~~ state health improvement
4 plan that ~~[emphasizes prevention, personal responsibility,~~
5 ~~access and quality]~~ meets accreditation standards of the public
6 health accreditation board or its successor in interest.

7 B. The department shall conduct state health
8 assessments in order to inform the development, adoption and
9 implementation of the state health improvement plan.

10 ~~[B.]~~ C. The department shall publish the
11 ~~[comprehensive strategic]~~ state health improvement plan ~~[for~~
12 ~~health by September 1, 2008]~~ on September 1, 2018 and at least
13 every ~~[four]~~ five years thereafter. By September 1 of each
14 even-numbered year, the department shall review and update or
15 amend the plan in response to changes and developments.

16 ~~[G.]~~ D. The department shall include the
17 legislature ~~[health care providers, consumer and patient~~
18 ~~advocates, health care financing organizations, managed care~~
19 ~~organizations, major insurers in the state, the human services~~
20 ~~department, the children, youth and families department, the~~
21 ~~aging and long-term services department, pharmaceutical~~
22 ~~manufacturers and other stakeholders]~~ and other agencies and
23 commissions as the department deems necessary in its
24 development of the ~~[comprehensive strategic]~~ state health
25 improvement plan ~~[for health]~~ so as to give geographic

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1 representation to all areas of the state. The department shall
2 ensure that public participation and public input are
3 integrated into the planning process. The department shall
4 convene regional meetings on the proposed plan to allow public
5 review and comment, including oral and written testimony,
6 pursuant to the Open Meetings Act.

7 ~~[D.]~~ E. The department shall consult with the
8 governments of Indian nations, tribes and pueblos located
9 wholly or partially within New Mexico to include ~~[Indian]~~
10 Native American nations, tribes and pueblos in the development
11 of the ~~[comprehensive strategic]~~ state health improvement plan.
12 ~~[for health.]~~

13 ~~E.~~ ~~The department shall report its findings,~~
14 ~~recommendations and goals in its comprehensive strategic plan~~
15 ~~for health. The plan shall address the following areas and~~
16 ~~others that the governor and the legislature may from time to~~
17 ~~time request:~~

18 ~~(1) a summary of the state's health care~~
19 ~~system that includes the financial, administrative and delivery~~
20 ~~structure in both the public and private sector;~~

21 ~~(2) the diseases, injuries and risk factors~~
22 ~~for physical, behavioral and oral health that are the greatest~~
23 ~~cause of illness, injury or death in the state, with special~~
24 ~~attention to and recognition of the disparities that currently~~
25 ~~exist for different population groups;~~

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1 ~~(3) key indicators of and barriers to health~~
2 ~~care coverage and access, with specific emphasis on reducing~~
3 ~~the number of uninsured New Mexicans;~~

4 ~~(4) the role of the department, other state~~
5 ~~agencies and the private sector in identifying strategies and~~
6 ~~interventions to provide health care coverage, access and~~
7 ~~quality;~~

8 ~~(5) a continuum of care model that emphasizes~~
9 ~~prevention, early intervention and health promotion and that~~
10 ~~includes public health services, emergency medical services,~~
11 ~~primary care, acute care, specialized care, tertiary care and~~
12 ~~long-term care;~~

13 ~~(6) health education, wellness, nutrition and~~
14 ~~exercise initiatives that emphasize personal health~~
15 ~~responsibility;~~

16 ~~(7) workforce initiatives to identify, recruit~~
17 ~~and retain health care professionals;~~

18 ~~(8) health care facility infrastructure,~~
19 ~~capacity, capitalization and financial viability in both the~~
20 ~~public and private sector;~~

21 ~~(9) licensing, credentialing, oversight and~~
22 ~~tracking initiatives designed to improve health care quality~~
23 ~~and outcome measurements;~~

24 ~~(10) programs, services and activities~~
25 ~~designed to address the needs of persons who have a disability,~~

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1 ~~are elderly or have special needs;~~

2 ~~(11) anticipated demands and challenges on the~~
3 ~~health care system as the need for long-term care services~~
4 ~~increases;~~

5 ~~(12) data and information addressing key~~
6 ~~health status and system indicators, statistics, benchmarks,~~
7 ~~targets and goals for the state and comparing it nationally,~~
8 ~~regionally and to other states of similar size and~~
9 ~~demographics; provided that individually identifiable health~~
10 ~~information and other proprietary information is protected as~~
11 ~~required by state or federal law; and~~

12 ~~(13) planning and response to public health~~
13 ~~emergencies, including bioterrorism, pandemic flu, disease~~
14 ~~outbreaks and other situations that will require a coordinated~~
15 ~~response by the health care system.]"~~

16 SECTION 2. Section 9-7-6 NMSA 1978 (being Laws 1977,
17 Chapter 253, Section 7, as amended) is amended to read:

18 "9-7-6. SECRETARY--DUTIES AND GENERAL POWERS.--

19 A. The secretary is responsible to the governor for
20 the operation of the department. It is ~~[his]~~ the secretary's
21 duty to manage all operations of the department and to
22 administer and enforce the laws with which ~~[he]~~ the secretary
23 or the department is charged.

24 B. To perform ~~[his]~~ the secretary's duties, the
25 secretary has every power expressly enumerated in the laws,

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1 whether granted to the secretary or the department or any
2 division of the department, except where authority conferred
3 upon any division is explicitly exempted from the secretary's
4 authority by statute. In accordance with these provisions, the
5 secretary shall:

6 (1) except as otherwise provided in the
7 Department of Health Act, exercise general supervisory and
8 appointing authority over all department employees, subject to
9 any applicable personnel laws and [~~regulations~~] rules;

10 (2) delegate authority to subordinates as [~~he~~]
11 the secretary deems necessary and appropriate, clearly
12 delineating such delegated authority and the limitations
13 thereto;

14 (3) organize the department into those
15 organizational units [~~he~~] the secretary deems will enable it to
16 function most efficiently, subject to any provisions of law
17 requiring or establishing specific organizational units;

18 (4) within the limitations of available
19 appropriations and applicable laws, employ and fix the
20 compensation of those persons necessary to discharge [~~his~~] the
21 secretary's duties;

22 (5) take administrative action by issuing
23 orders and instructions, not inconsistent with the law, to
24 assure implementation of and compliance with the provisions of
25 law for which administration or execution [~~he~~] the secretary is

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1 responsible and to enforce those orders and instructions by
2 appropriate administrative action in the courts;

3 (6) conduct research and studies that will
4 improve the operations of the department and the provision of
5 services to the citizens of the state;

6 (7) conduct quality assurance and quality
7 improvement activities, which may include participation in a
8 nationally recognized accreditation program for public health
9 agencies that is based on the ability of an agency to provide
10 essential public health services and functions;

11 (8) provide courses of instruction and
12 practical training for employees of the department and other
13 persons involved in the administration of programs with the
14 objective of improving the operations and efficiency of
15 administration;

16 (9) prepare an annual budget of the
17 department;

18 (10) appoint, with the governor's consent, a
19 "director" for each division. These appointed positions are
20 exempt from the provisions of the Personnel Act. Persons
21 appointed to these positions shall serve at the pleasure of the
22 secretary;

23 (11) give bond in the penal sum of twenty-five
24 thousand dollars (\$25,000) and require directors to each give
25 bond in the penal sum of ten thousand dollars (\$10,000)

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1 conditioned upon the faithful performance of duties, as
2 provided in the Surety Bond Act. The department shall pay the
3 costs of those bonds; and

4 (12) require performance bonds of such
5 department employees and officers as ~~[he]~~ the secretary deems
6 necessary, as provided in the Surety Bond Act. The department
7 shall pay the costs of those bonds.

8 C. The secretary may apply for and receive, with
9 the governor's approval, in the name of the department any
10 public or private funds, including ~~[but not limited to]~~ United
11 States government funds, available to the department to carry
12 out its programs, duties or services.

13 D. The secretary shall be responsible for providing
14 appropriate educational programs for all school-age persons, as
15 defined in Section 22-1-2 NMSA 1978, who are clients, as
16 defined in Section 43-1-3 NMSA 1978, of institutions under
17 ~~[his]~~ the secretary's authority as follows:

18 (1) ~~[he]~~ the secretary shall arrange with
19 school districts for the enrollment of all school-age residents
20 of institutions under ~~[his]~~ the secretary's authority who have
21 been evaluated and recommended for placement in a public school
22 according to the provisions of the Department of Health
23 Education Act. ~~[He]~~ The secretary shall notify the
24 ~~[superintendent of public instruction]~~ secretary of public
25 education prior to public school enrollment of any school-age

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1 resident under [~~his~~] the secretary's authority; and

2 (2) [~~he~~] the secretary shall provide
3 educational programs, in accordance with the special education
4 rules of the [~~state board of~~] public education department, for
5 school-age persons who are clients of institutions under [~~his~~]
6 the secretary's authority but who are enrolled in a public
7 school by:

8 (a) using the facilities and personnel
9 of the department;

10 (b) contracting with a school district
11 for the provision of educational services; or

12 (c) using a combination of Subparagraphs
13 (a) and (b) of this paragraph.

14 E. The secretary may make and adopt such reasonable
15 [~~and~~] procedural rules as may be necessary to carry out the
16 duties of the department and its divisions. No rule
17 promulgated by the director of any division in carrying out the
18 functions and duties of the division shall be effective until
19 approved by the secretary unless otherwise provided by statute.
20 Unless otherwise provided by statute, no rule affecting any
21 person or agency outside the department shall be adopted,
22 amended or repealed without a public hearing on the proposed
23 action before the secretary or a hearing officer designated by
24 [~~him~~] the secretary. The public hearing shall be held in Santa
25 Fe unless otherwise permitted by statute. Notice of the

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1 subject matter of the rule, the action proposed to be taken,
2 the time and place of the hearing, the manner in which
3 interested persons may present their views and the method by
4 which copies of the proposed rule or proposed amendment or
5 repeal of an existing rule may be obtained shall be published
6 once at least thirty days prior to the hearing date in a
7 newspaper of general circulation and mailed at least thirty
8 days prior to the hearing date to all persons who have made a
9 written request for advance notice of hearing. All rules shall
10 be filed in accordance with the State Rules Act."

11 SECTION 3. Section 14-8-9.1 NMSA 1978 (being Laws 2011,
12 Chapter 134, Section 21) is amended to read:

13 "14-8-9.1. PUBLIC RECORDS--INSPECTION--EXCEPTIONS.--

14 A. Except as provided in this section, all
15 documents filed and recorded in the office of the county clerk
16 are public records [~~subject to disclosure pursuant to the~~
17 ~~Inspection of Public Records Act~~].

18 B. The county clerk shall publicly post in the
19 office of the county clerk and on the county's web page a
20 notice that documents recorded in the office of the county
21 clerk are public records, subject to inspection and disclosure.

22 C. Before [~~digitizing or~~] purchasing or digitizing
23 of documents by third parties, protected personal identifier
24 information, as defined in the Inspection of Public Records
25 Act, shall be redacted.

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1 D. Documents containing health information that
2 relates to and identifies specific individuals as patients are
3 exempt as a public record pursuant to Section 14-6-1 NMSA 1978.

4 E. Discharge papers of a veteran of the armed
5 forces of the United States recorded in the office of the
6 county clerk shall be segregated from public records in the
7 office of the county clerk. Discharge papers recorded before
8 July 1, 2005 that have been commingled with public records and
9 that remain unsegregated are available for inspection in the
10 office of the county clerk but shall not be [~~copied, digitized~~
11 ~~or~~] purchased, copied or digitized by any third party, except
12 by those persons authorized in this section. As the technology
13 becomes available, county clerks shall segregate commingled
14 discharge papers from the public records in the office of the
15 county clerk. Discharge papers recorded in the office of the
16 county clerk are available only to:

- 17 (1) the veteran who filed the papers;
- 18 (2) the veteran's next of kin;
- 19 (3) the deceased veteran's properly appointed
20 personal representative or executor;
- 21 (4) a person holding the veteran's general
22 power of attorney; or
- 23 (5) a person designated by the veteran in an
24 acknowledged statement to receive the records.

25 F. Death certificates that have been recorded in

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1 the office of the county clerk may be inspected, but shall not
2 be ~~[copied, digitized or]~~ purchased, copied or digitized by any
3 third party unless fifty years have elapsed after the date of
4 death ~~[and the cause of death and any other medical information~~
5 ~~contained on the death certificate is redacted, in addition to~~
6 ~~redaction of protected personal identifier information]~~. Death
7 certificates and other vital records recorded in the office of
8 the county clerk are exempt from the restrictions contained in
9 Subsection A of Section 24-14-27 NMSA 1978. The act of
10 recording a death certificate in the office of the county clerk
11 is considered a convenience; provided that no person shall be
12 required to record a death certificate in the office of the
13 county clerk to effect change of title or interest in
14 property."

15 SECTION 4. Section 24-1-2 NMSA 1978 (being Laws 1973,
16 Chapter 359, Section 2, as amended by Laws 2015, Chapter 61,
17 Section 1 and by Laws 2015, Chapter 153, Section 1) is amended
18 to read:

19 "24-1-2. DEFINITIONS.--As used in the Public Health Act:

20 A. "condition of public health importance" means an
21 infection, a disease, a syndrome, a symptom, an injury or other
22 threat that is identifiable on an individual or community level
23 and can reasonably be expected to lead to adverse health
24 effects in the community;

25 B. "crisis triage center" means a health facility

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1 that:

2 (1) is licensed by the department of health;

3 (2) is not physically part of an inpatient
4 hospital or included in a hospital's license; and

5 (3) provides stabilization of behavioral
6 health crises, including short-term residential stabilization;

7 ~~[B.]~~ C. "department" ~~[or "division"]~~ means:

8 (1) the department of health; or

9 (2) the children, youth and families

10 department as to child care centers, residential treatment
11 centers that serve persons up to twenty-one years of age,
12 community mental health centers that serve only persons up to
13 twenty-one years of age, day treatment centers that serve
14 persons up to twenty-one years of age, shelter care homes and
15 those outpatient facilities that are also community-based
16 behavioral health facilities serving only persons up to twenty-
17 one years of age; ~~[and the department of health as to all other~~
18 ~~health facilities, unless otherwise designated;~~

19 ~~G.]~~ D. "director" means the secretary;

20 E. "health care provider" means an individual
21 licensed to provide health care in the ordinary course of
22 business, except as otherwise defined in the Public Health Act;

23 ~~[D.]~~ F. "health facility" means a public hospital,
24 profit or nonprofit private hospital, general or special
25 hospital, outpatient facility, crisis triage center, ~~[maternity~~

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1 ~~home or shelter~~] freestanding birth center, adult daycare
2 facility, nursing home, intermediate care facility, assisted
3 living facility, boarding home not under the control of an
4 institution of higher learning, child care center, [~~shelter~~
5 ~~care home~~] diagnostic and treatment center, rehabilitation
6 center, infirmary, community mental health center that serves
7 both children and adults or adults only, residential treatment
8 center that serves persons up to twenty-one years of age,
9 community mental health center that serves only persons up to
10 twenty-one years of age and day treatment center that serves
11 persons up to twenty-one years of age or a health service
12 organization operating as a freestanding hospice or a home
13 health agency. The designation of these entities as health
14 facilities is only for the purposes of definition in the Public
15 Health Act and does not imply that a freestanding hospice or a
16 home health agency is considered a health facility for the
17 purposes of other provisions of state or federal laws. "Health
18 facility" also includes those facilities that, by federal
19 regulation, must be licensed by the state to obtain or maintain
20 full or partial, permanent or temporary federal funding. It
21 does not include the offices and treatment rooms of licensed
22 private practitioners;

23 ~~[E. "person", when used without further~~
24 ~~qualification, means an individual or any other form of entity~~
25 ~~recognized by law; and]~~

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1 G. "screening" means a preliminary procedure,
2 including a test or examination, that:
3 (1) may require further investigation; and
4 (2) can identify individuals with unrecognized
5 health risk factors or asymptomatic disease conditions in
6 populations;

7 [F-] H. "secretary" means:
8 (1) the secretary of health; or
9 (2) the secretary of children, youth and
10 families as to child care centers, residential treatment
11 centers that serve persons up to twenty-one years of age,
12 community mental health centers that serve only persons up to
13 twenty-one years of age, day treatment centers that serve
14 persons up to twenty-one years of age, shelter care homes and
15 those outpatient facilities that are also community-based
16 behavioral health facilities serving only persons up to twenty-
17 one years of age [~~and the secretary of health as to all other~~
18 ~~health facilities~~]; and

19 I. "test" means any diagnostic or investigative
20 analysis or medical procedure that determines the presence of,
21 absence of or exposure to a condition of public health
22 importance or its precursor in an individual."

23 SECTION 5. Section 24-1-3 NMSA 1978 (being Laws 1973,
24 Chapter 359, Section 3, as amended) is amended to read:

25 "24-1-3. POWERS AND AUTHORITY OF DEPARTMENT.--The
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1 department has authority to:

2 A. receive such grants, subsidies, donations,
3 allotments or bequests as may be offered to the state by the
4 federal government or any department thereof or by any public
5 or private foundation or individuals;

6 B. supervise the health and hygiene of the people
7 of the state and identify ways to evaluate and address
8 community health problems;

9 C. investigate, control and abate the causes of
10 disease, especially epidemics, sources of mortality and other
11 conditions of public health;

12 D. establish, maintain and enforce isolation and
13 quarantine;

14 E. close any public place and forbid gatherings of
15 people when necessary for the protection of the public health;

16 F. respond to public health emergencies and assist
17 communities in recovery;

18 [~~F.~~] G. establish programs and adopt rules to
19 prevent infant mortality, birth defects and morbidity;

20 [~~G.~~] H. prescribe the duties of public health
21 nurses and school nurses;

22 [~~H.~~] I. provide educational programs and
23 disseminate information on public health;

24 [~~I.~~] J. maintain and enforce rules for the
25 licensure of health facilities;

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1 K. ensure the quality and accessibility of health
2 care services and the provision of health care when health care
3 is otherwise unavailable;

4 L. ensure a competent public health workforce;

5 [~~J.~~] M. bring action in court for the enforcement
6 of health laws and rules and orders issued by the department;

7 [~~K.~~] N. enter into agreements with other states to
8 carry out the powers and duties of the department;

9 [~~L.~~] O. cooperate and enter into contracts or
10 agreements with the federal government or any other person to
11 carry out the powers and duties of the department;

12 P. cooperate and enter into contracts or agreements
13 with Native American nations, tribes and pueblos and off-
14 reservation groups to coordinate the provision of essential
15 public health services and functions;

16 [~~M.~~] Q. maintain and enforce rules for the control
17 of [~~communicable diseases deemed to be dangerous to public~~
18 health] conditions of public health importance;

19 [~~N.~~] R. maintain and enforce rules for immunization
20 against [~~diseases deemed to be dangerous to the public health]~~
21 conditions of public health importance;

22 [~~Θ.~~] S. maintain and enforce such rules as may be
23 necessary to carry out the provisions of the Public Health Act
24 and to publish the rules;

25 [~~P.~~] T. supervise state public health activities,

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1 operate a dental public health program and operate state
2 laboratories for the investigation of public health matters;

3 [Q-] U. sue and, with the consent of the
4 legislature, be sued;

5 [R-] V. regulate the practice of midwifery;

6 [S-] W. administer legislation enacted pursuant to
7 Title [VI] 6 of the Public Health Service Act, as amended and
8 supplemented;

9 [T-] X. inspect such premises or vehicles as
10 necessary to ascertain the existence or nonexistence of
11 conditions dangerous to public health or safety;

12 [U-] Y. request and inspect, while maintaining
13 federal and state confidentiality requirements, copies of:

14 (1) medical and clinical records reasonably
15 required for the department's quality assurance and quality
16 improvement activities; and

17 (2) all medical and clinical records
18 pertaining to the individual whose death is the subject of
19 inquiry by the department's mortality review activities; and

20 [V-] Z. do all other things necessary to carry out
21 its duties."

22 SECTION 6. Section 24-1-4 NMSA 1978 (being Laws 1973,
23 Chapter 359, Section 4) is amended to read:

24 "24-1-4. CREATION OF HEALTH [DISTRICTS] REGIONS--
25 APPOINTMENT OF HEALTH OFFICERS--POWERS AND DUTIES OF HEALTH

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1 OFFICERS.--

2 A. The director shall establish health [~~districts~~]
3 regions and may modify and create new [~~ones~~] health regions as
4 [~~he~~] the director deems necessary.

5 [~~B. The director shall appoint one district health~~
6 ~~officer for each health district. The director may appoint~~
7 ~~assistants to the district health officer when he deems~~
8 ~~necessary.~~

9 C. ~~The director shall establish the powers and~~
10 ~~duties of the district health officers.~~

11 D. ~~All school health personnel except physical~~
12 ~~education personnel are under the direct supervision and~~
13 ~~control of the district health officer in their district. They~~
14 ~~shall make such reports relating to public health as the~~
15 ~~district health officer in their district requires.]~~

16 B. A regional health officer shall provide medical
17 oversight to school nurses in the regional health officer's
18 region. A school nurse shall make reports relating to public
19 health as the regional health officer in the school nurse's
20 region requires.

21 C. As used in this section, "medical oversight"
22 means advice and direction that is provided by a regional
23 health officer or under the direction of a regional health
24 officer to a school nurse, or a school nurse's designee, who
25 performs nursing activities in a school setting."

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1 SECTION 7. Section 24-1-5 NMSA 1978 (being Laws 1973,
2 Chapter 359, Section 5, as amended) is amended to read:

3 "24-1-5. LICENSURE OF HEALTH FACILITIES--HEARINGS--
4 APPEALS.--

5 A. A health facility shall not be operated without
6 a license issued by the department. If a health facility is
7 found to be operating without a license, in order to protect
8 human health or safety, the secretary may issue a cease-and-
9 desist order. The health facility may request a hearing that
10 shall be held in the manner provided in this section. The
11 department may also proceed pursuant to the Health Facility
12 Receivership Act.

13 B. The department is authorized to make inspections
14 and investigations and to prescribe rules it deems necessary or
15 desirable to promote the health, safety and welfare of persons
16 using health facilities.

17 C. Except as provided in Subsection F of this
18 section, upon receipt of an application for a license to
19 operate a health facility, the department shall promptly
20 inspect the health facility to determine if it is in compliance
21 with all rules of the department. Applications for hospital
22 licenses shall include evidence that the bylaws or rules of the
23 hospital apply equally to osteopathic and medical physicians.
24 The department shall consolidate the applications and
25 inspections for a hospital that also operates as a hospital-

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1 based primary care clinic.

2 D. Upon inspection of a health facility, if the
3 department finds a violation of its rules, the department may
4 deny the application for a license, whether initial or renewal,
5 or it may issue a temporary license. A temporary license shall
6 not be issued for a period exceeding one hundred twenty days,
7 nor shall more than two consecutive temporary licenses be
8 issued.

9 E. A one-year nontransferable license shall be
10 issued to any health facility complying with all rules of the
11 department. The license shall be renewable for successive one-
12 year periods, upon filing of a renewal application, if the
13 department is satisfied that the health facility is in
14 compliance with all rules of the department or, if not in
15 compliance with a rule, has been granted a waiver or variance
16 of that rule by the department pursuant to procedures,
17 conditions and guidelines adopted by rule of the department.
18 Licenses shall be posted in a conspicuous place on the licensed
19 premises, except that child care centers that receive no state
20 or federal funds may apply for and receive from the department
21 a waiver from the requirement that a license be posted or kept
22 on the licensed premises.

23 F. A health facility that has been inspected and
24 licensed by the department, that has received certification for
25 participation in federal reimbursement programs and that has

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1 been fully accredited by a national accrediting organization
2 approved by the federal centers for medicare and medicaid
3 services or the department shall be granted a license renewal
4 based on that accreditation. A freestanding birth center that
5 has been inspected and licensed by the department and is
6 accredited by the commission for accreditation of birth centers
7 or its successor accreditation body shall be granted a license
8 renewal based on that accreditation. Health facilities
9 receiving less than full accreditation by an approved
10 accrediting body may be granted a license renewal based on that
11 accreditation. License renewals shall be issued upon
12 application submitted by the health facility upon forms
13 prescribed by the department. This subsection does not limit
14 in any way the department's various duties and responsibilities
15 under other provisions of the Public Health Act or under any
16 other subsection of this section, including any of the
17 department's responsibilities for the health and safety of the
18 public.

19 G. The department may charge a reasonable fee not
20 to exceed twelve dollars (\$12.00) per bed for an inpatient
21 health facility or three hundred dollars (\$300) for any other
22 health facility for each license application, whether initial
23 or renewal, of an annual license or the second consecutive
24 issuance of a temporary license. Fees collected shall not be
25 refundable. All fees collected pursuant to licensure

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1 applications shall be deposited with the state treasurer for
2 credit in a designated department recurring account for use in
3 health facility licensure and certification operations.

4 H. The department may revoke or suspend the license
5 of a health facility or may impose on a health facility an
6 intermediate sanction and a civil monetary penalty provided in
7 Section 24-1-5.2 NMSA 1978 after notice and an opportunity for
8 a hearing before a hearing officer designated by the department
9 to hear the matter and, except for child care centers and
10 facilities, may proceed pursuant to the Health Facility
11 Receivership Act upon a determination that the health facility
12 is not in compliance with any rule of the department. If
13 immediate action is required to protect human health and
14 safety, the secretary may suspend a license or impose an
15 intermediate sanction pending a hearing, provided the hearing
16 is held within five working days of the suspension or
17 imposition of the sanction, unless waived by the licensee, and,
18 except for child care centers and facilities, may proceed ex
19 parte pursuant to the Health Facility Receivership Act.

20 I. The department shall schedule a hearing pursuant
21 to Subsection H of this section if the department receives a
22 request for a hearing from a licensee:

23 (1) within ten working days after receipt by
24 the licensee of notice of suspension, revocation, imposition of
25 an intermediate sanction or civil monetary penalty or denial of

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1 an initial or renewal application;

2 (2) within four working days after receipt by
3 the licensee of an emergency suspension order or emergency
4 intermediate sanction imposition and notice of hearing if the
5 licensee wishes to waive the early hearing scheduled and
6 request a hearing at a later date; or

7 (3) within five working days after receipt of
8 a cease-and-desist order.

9 The department shall also provide timely notice to the
10 licensee of the date, time and place of the hearing, identity
11 of the hearing officer, subject matter of the hearing and
12 alleged violations.

13 J. A hearing held pursuant to provisions of this
14 section shall be conducted in accordance with adjudicatory
15 hearing rules and procedures adopted by rule of the department.
16 The licensee has the right to be represented by counsel, to
17 present all relevant evidence by means of witnesses and books,
18 papers, documents, records, files and other evidence and to
19 examine all opposing witnesses who appear on any matter
20 relevant to the issues. The hearing officer has the power to
21 administer oaths on request of any party and issue subpoenas
22 and subpoenas duces tecum prior to or after the commencement of
23 the hearing to compel discovery and the attendance of witnesses
24 and the production of relevant books, papers, documents,
25 records, files and other evidence. Documents or records

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1 pertaining to abuse, neglect or exploitation of a resident,
2 client or patient of a health facility or other documents,
3 records or files in the custody of the human services
4 department or the office of the state long-term care ombudsman
5 at the aging and long-term services department that are
6 relevant to the alleged violations are discoverable and
7 admissible as evidence in any hearing.

8 K. Any party may appeal the final decision of the
9 department pursuant to the provisions of Section 39-3-1.1 NMSA
10 1978.

11 L. A complaint about a health facility received by
12 the department pursuant to this section shall be promptly
13 investigated and appropriate action shall be taken if
14 substantiated. The department shall develop a health
15 facilities protocol in conjunction with the human services
16 department, the protective services division of the children,
17 youth and families department, the office of the state long-
18 term care ombudsman and other appropriate agencies to ensure
19 the health, safety and rights of individuals in health
20 facilities. The health facilities protocol shall require:

21 (1) cross-reference among agencies pursuant to
22 this subsection of an allegation of abuse, neglect or
23 exploitation;

24 (2) an investigation, within the strict
25 priority time frames established by each protocol member's

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1 rules, of an allegation or referral of abuse, neglect or
2 exploitation after the department has made a good cause
3 determination that abuse, neglect or exploitation occurred;

4 (3) an agency to share its investigative
5 information and findings with other agencies, unless otherwise
6 prohibited by law; and

7 (4) require the receiving agency to accept the
8 information provided pursuant to Paragraph (3) of this
9 subsection as potential evidence to initiate and conduct
10 investigations.

11 M. A complaint received by the department pursuant
12 to this section shall not be disclosed publicly in a manner as
13 to identify any individuals or health facilities if upon
14 investigation the complaint is unsubstantiated.

15 N. The name and information regarding the person
16 making a complaint pursuant to this section shall not be
17 disclosed absent the consent of the informant or a court order.

18 [~~N.~~] O. Notwithstanding any other provision of this
19 section, when there are reasonable grounds to believe that a
20 child is in imminent danger of abuse or neglect while in the
21 care of a child care facility, whether or not licensed, or upon
22 the receipt of a report pursuant to Section 32A-4-3 NMSA 1978,
23 the department shall consult with the owner or operator of the
24 child care facility. Upon a finding of probable cause, the
25 department shall give the owner or operator notice of its

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1 intent to suspend operation of the child care facility and
2 provide an opportunity for a hearing to be held within three
3 working days, unless waived by the owner or operator. Within
4 seven working days from the day of notice, the secretary shall
5 make a decision, and, if it is determined that any child is in
6 imminent danger of abuse or neglect in the child care facility,
7 the secretary may suspend operation of the child care facility
8 for a period not in excess of fifteen days. Prior to the date
9 of the hearing, the department shall make a reasonable effort
10 to notify the parents of children in the child care facility of
11 the notice and opportunity for hearing given to the owner or
12 operator.

13 ~~[θ-]~~ P. Nothing contained in this section or in the
14 Public Health Act shall authorize either the secretary or the
15 department to make any inspection or investigation or to
16 prescribe any rules concerning group homes as defined in
17 Section 9-8-13 NMSA 1978 except as are reasonably necessary or
18 desirable to promote the health and safety of persons using
19 group homes."

20 **SECTION 8.** Section 24-1-7 NMSA 1978 (being Laws 1973,
21 Chapter 359, Section 7, as amended) is repealed and a new
22 Section 24-1-7 NMSA 1978 is enacted to read:

23 "24-1-7. [NEW MATERIAL] SEXUALLY TRANSMITTED INFECTIONS--
24 REPORTS OF CASES.--

25 A. The department shall make available a list of

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1 sexually transmitted infections for which reporting is
2 required.

3 B. Reports of sexually transmitted infections shall
4 be made in accordance with department rules.

5 C. Every health care provider that makes a
6 diagnosis of, treats or prescribes for or otherwise has
7 knowledge of a case of sexually transmitted infection for which
8 reporting is required by department rules shall report the case
9 immediately.

10 D. As used in this section, "health care provider"
11 means:

12 (1) a person licensed to provide health care
13 in the ordinary course of business;

14 (2) a superintendent or manager of a health
15 care clinic;

16 (3) a dispensary, a charitable or penal
17 institution or a municipal or county detention center; or

18 (4) a laboratory that performs testing for
19 sexually transmitted infections."

20 SECTION 9. Section 24-1-9 NMSA 1978 (being Laws 1973,
21 Chapter 359, Section 9, as amended) is amended to read:

22 "24-1-9. CAPACITY TO CONSENT TO EXAMINATION AND TREATMENT
23 FOR A SEXUALLY TRANSMITTED ~~[DISEASE]~~ INFECTION.--Any person
24 regardless of age has the capacity to consent to an examination
25 and treatment by a licensed ~~[physician]~~ health care provider

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1 for any sexually transmitted [~~disease~~] infection."

2 SECTION 10. Section 24-1-9.1 NMSA 1978 (being Laws 1993,
3 Chapter 341, Section 4) is amended to read:

4 "24-1-9.1. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--
5 TESTING OF PERSONS CONVICTED OF CERTAIN CRIMINAL OFFENSES.--

6 A. A test designed to identify any sexually
7 transmitted [~~disease~~] infection may be performed on an offender
8 convicted pursuant to state law of any criminal offense:

9 (1) involving contact between the penis and
10 the vulva;

11 (2) involving contact between the penis and
12 anus;

13 (3) involving contact between the mouth and
14 penis;

15 (4) involving contact between the mouth and
16 vulva;

17 (5) involving contact between the mouth and
18 anus; or

19 (6) when the court determines from the facts
20 of the case that there was a transmission or likelihood of
21 transmission of bodily fluids from the offender to the victim
22 of the criminal offense.

23 B. When consent to perform a test on an offender
24 cannot be obtained, the victim of a criminal offense described
25 in Subsection A of this section may petition the court to order

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1 that a test be performed on the offender. When the victim of
2 the criminal offense is a minor or an incompetent, the parent
3 or legal guardian of the victim may petition the court to order
4 that a test be performed on the offender. The court shall
5 order and the test shall be administered to the offender within
6 ten days after the petition is filed by the victim ~~[his]~~ or the
7 victim's parent or guardian. Except for disclosures made
8 pursuant to Section 24-1-7 NMSA 1978, the results of the test
9 shall be disclosed only to the offender and to the victim or
10 the victim's parent or legal guardian."

11 SECTION 11. Section 24-1-9.2 NMSA 1978 (being Laws 1996,
12 Chapter 80, Section 1) is amended to read:

13 "24-1-9.2. SEXUALLY TRANSMITTED ~~[DISEASES]~~ INFECTIONS--
14 TESTING OF PERSONS FORMALLY CHARGED FOR ALLEGEDLY COMMITTING
15 CERTAIN CRIMINAL OFFENSES.--

16 A. A test designed to identify any sexually
17 transmitted ~~[disease]~~ infection may be performed on a person,
18 upon the filing of a complaint, information or an indictment
19 alleging that the person committed a state criminal offense:

20 (1) involving contact between the penis and
21 the vulva;

22 (2) involving contact between the penis and
23 anus;

24 (3) involving contact between the mouth and
25 penis;

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1 (4) involving contact between the mouth and
2 vulva; or

3 (5) involving contact between the mouth and
4 anus.

5 B. If consent to perform a test on an alleged
6 offender cannot be obtained, the victim of the alleged criminal
7 offense described in Subsection A of this section may petition
8 the court, through the prosecuting office or personally, to
9 order that a test be performed on the alleged offender;
10 provided that the same test is first performed on the victim of
11 the alleged criminal offense. The test may be performed on the
12 alleged offender regardless of the result of the test performed
13 on the victim of the alleged criminal offense. If the victim
14 of the alleged criminal offense is a minor or incompetent, the
15 parent or legal guardian of the victim of the alleged criminal
16 offense may petition the court to order that a test be
17 performed on the alleged offender.

18 C. The court may issue an order based on a finding
19 of good cause after a hearing at which both the victim of the
20 alleged criminal offense and the alleged offender have the
21 right to be present. During the hearing, only affidavits,
22 counter affidavits and medical reports regarding the facts that
23 support or rebut the issuance of an order shall be admissible.
24 The hearing shall be conducted within seventy-two hours after
25 the victim petitions the court for the order. The petition and

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1 all proceedings in connection therewith shall be under seal.
2 The court shall issue an order and the test shall be
3 administered to the alleged offender within ten days after the
4 petition is filed by the victim of the alleged criminal offense
5 ~~[his]~~ or the victim's parent or legal guardian.

6 D. Except for disclosures made pursuant to Section
7 24-1-7 NMSA 1978, the results of the test shall be disclosed
8 only to the alleged offender and to the victim of the alleged
9 criminal offense or the victim's parent or legal guardian.
10 When the victim of the alleged criminal offense or the alleged
11 offender has a positive test result, both the alleged offender
12 and the victim of the alleged criminal offense shall be
13 provided with counseling.

14 E. A prosecuting attorney may not use in a criminal
15 proceeding arising out of the alleged criminal offense the fact
16 that a test was administered to the alleged offender or the
17 results of the test.

18 F. The provisions of this section shall not affect
19 the rights and remedies available to the victim of the alleged
20 criminal offense and the alleged offender in any civil action.

21 G. The administration of a test to an alleged
22 offender pursuant to the provisions of this section shall not
23 preclude the subsequent administration of another test pursuant
24 to the provisions of Section 24-1-9.1 NMSA 1978."

25 SECTION 12. Section 24-1-9.3 NMSA 1978 (being Laws 1996,

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1 Chapter 80, Section 2) is amended to read:

2 "24-1-9.3. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--
3 MANDATORY COUNSELING.--No positive test result for a sexually
4 transmitted [~~disease~~] infection shall be revealed to the person
5 upon whom the test was performed without the person performing
6 the test or the health facility at which the test was performed
7 providing or referring that person for individual counseling
8 about:

- 9 A. the meaning of the test results;
- 10 B. the possible need for additional testing;
- 11 C. the availability of appropriate health care
12 services, including mental health care, social services and
13 support services; and
- 14 D. the benefits of locating and counseling any
15 individual by whom the infected person may have been exposed to
16 the sexually transmitted [~~disease~~] infection and any individual
17 whom the infected person may have exposed to the sexually
18 transmitted [~~disease~~] infection."

19 SECTION 13. Section 24-1-9.4 NMSA 1978 (being Laws 1996,
20 Chapter 80, Section 3) is amended to read:

21 "24-1-9.4. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--
22 CONFIDENTIALITY.--

- 23 A. Except as provided in Section 24-1-9.2 NMSA
24 1978, no person or the person's agents or employees who require
25 or administer a test for sexually transmitted [~~diseases~~]

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1 infections shall disclose the identity of any person upon whom
2 a test is performed or the result of such a test in a manner
3 that permits identification of the subject of the test, except
4 to the following persons:

5 [A-] (1) the subject of the test or the
6 subject's legally authorized representative, guardian or legal
7 custodian;

8 [B-] (2) any person designated in a legally
9 effective release of the test results executed prior to or
10 after the test by the subject of the test or the subject's
11 legally authorized representative;

12 [C-] (3) an authorized agent, a credentialed
13 or privileged physician or an employee of a health facility or
14 health care provider if the health care facility or health care
15 provider itself is authorized to obtain the test results, the
16 agent or employee provides patient care or handles or processes
17 specimens of body fluids or tissues and the agent or employee
18 has a need to know such information;

19 [D-] (4) the department of health and the
20 centers for disease control and prevention of the United States
21 public health service in accordance with reporting requirements
22 for a diagnosed case of a sexually transmitted [~~disease~~]
23 infection;

24 [E-] (5) a health facility or health care
25 provider that procures, processes, distributes or uses:

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1 [~~1~~] (a) a human body part from a
2 deceased person, with respect to medical information regarding
3 that person;

4 [~~2~~] (b) semen for the purpose of
5 artificial insemination;

6 [~~3~~] (c) blood or blood products for
7 transfusion or injection; or

8 [~~4~~] (d) human body parts for
9 transplant with respect to medical information regarding the
10 donor or recipient;

11 [~~F~~] (6) health facility staff committees or
12 accreditation or oversight review organizations that are
13 conducting program monitoring, program evaluation or service
14 reviews, as long as any identity remains confidential;

15 [~~G~~] (7) authorized medical or epidemiological
16 researchers who may not further disclose any identifying
17 characteristics or information; and

18 [~~H~~] (8) for purposes of application or
19 reapplication for insurance coverage, an insurer or reinsurer
20 upon whose request the test was performed.

21 B. Whenever disclosure is made, it shall be
22 accompanied by a statement in writing that includes the
23 following or substantially similar language: "This information
24 has been disclosed to you from records whose confidentiality is
25 protected by state law. State laws prohibits you from making

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1 any further disclosure of this information without the specific
2 written consent of the person to whom this information pertains
3 or as otherwise permitted by law. A person who makes an
4 unauthorized disclosure of this information is guilty of a
5 petty misdemeanor and shall be sentenced to imprisonment in the
6 county jail for a definite term not to exceed six months or the
7 payment of a fine of not more than five hundred dollars (\$500),
8 or both."

9 SECTION 14. Section 24-1-9.6 NMSA 1978 (being Laws 1996,
10 Chapter 80, Section 5) is amended to read:

11 "24-1-9.6. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--
12 DISCLOSURE.--

13 A. A victim of a criminal offense or an alleged
14 criminal offense who receives information pursuant to Section
15 24-1-9.1 or 24-1-9.2 NMSA 1978 may disclose the offender's or
16 alleged offender's test results to the victim's health care
17 provider as is reasonably necessary to protect [his] the
18 victim's health and safety or the health and safety of [his]
19 the victim's family or sexual partner.

20 B. Nothing in this section shall be construed to
21 prevent a person who has been tested from disclosing in any way
22 to any other person that person's own test results."

23 SECTION 15. Section 24-1-9.7 NMSA 1978 (being Laws 1996,
24 Chapter 80, Section 6) is amended to read:

25 "24-1-9.7. PENALTY.--A person who, in violation of

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1 Section 24-1-9.4 NMSA 1978, makes an unauthorized disclosure of
2 the results of a test designed to identify a sexually
3 transmitted ~~[disease]~~ infection is guilty of a petty
4 misdemeanor and shall be sentenced to imprisonment in the
5 county jail for a definite term not to exceed six months or the
6 payment of a fine of not more than five hundred dollars (\$500)
7 or both."

8 SECTION 16. Section 24-1-15 NMSA 1978 (being Laws 1973,
9 Chapter 359, Section 15, as amended) is amended to read:

10 "24-1-15. ~~[REPORTING OF CONTAGIOUS DISEASES]~~ ISOLATION--
11 QUARANTINE--PROTOCOL.--

12 ~~[A. When a physician or other person knows that a~~
13 ~~person is infected with a threatening communicable disease, he~~
14 ~~shall promptly notify a public health official or his~~
15 ~~authorized agent.~~

16 ~~B. A public health official who]~~

17 A. If the secretary or a representative of the
18 department has knowledge that a person is infected with or
19 reasonably believes that a person is infected with or exposed
20 to a threatening communicable disease and the person has
21 refused voluntary treatment, testing, evaluation, detention or
22 observation, the secretary or the secretary's designee shall
23 petition the court for an order to [detain the person who is
24 infected with the threatening communicable disease] isolate or
25 quarantine the person until the person is no longer a

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1 [contagious] threat to the public health or until the person
2 voluntarily complies with [~~the appropriate~~] treatment and
3 contagion precautions.

4 B. The secretary or a representative of the
5 department whom the secretary designates may, by public health
6 order, temporarily isolate or quarantine a person or group of
7 persons if delay in isolating or quarantining would
8 significantly jeopardize the secretary's ability to prevent or
9 limit the transmission to others of a threatening communicable
10 disease. The public health order shall expire at the end of
11 twenty-four hours from the time of the commencement of the
12 isolation or quarantine. The secretary may petition for a
13 court order that authorizes the continued isolation or
14 quarantine of the person or group of persons. In the petition,
15 the secretary shall present facts used to support the need to
16 have issued the public health order to isolate or quarantine.

17 C. [~~The~~] Whether or not a public health order to
18 isolate or quarantine was previously issued, a petition for a
19 court order shall be made under oath or shall be accompanied by
20 a sworn affidavit setting out specific facts showing [~~that the~~
21 ~~person is infected with a threatening communicable disease.~~

22 ~~D. The petition shall state that the person to be~~
23 ~~detained]~~ the basis upon which isolation or quarantine is
24 justified, including whether a person to be isolated or
25 quarantined:

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1 (1) is [~~actively infectious~~] infected with,
2 reasonably believed to be infected with or exposed to a
3 threatening communicable disease [~~or presents a substantial~~
4 ~~likelihood of having a threatening communicable disease based~~
5 ~~on credible medical evidence~~]; and

6 (2) poses a substantial likelihood of
7 transmission of the threatening communicable disease to others
8 because of inadequate separation from others. [~~and~~

9 (~~3) after being advised of his condition and~~
10 ~~the risks posed thereby, has refused voluntary treatment.~~

11 E.] D. Upon the filing of a petition, the court
12 shall:

13 (1) immediately grant ex parte a [~~temporary~~]
14 court order [~~of protection~~] to isolate or quarantine the
15 affected person [~~infected with the threatening communicable~~
16 ~~disease~~] if there is probable cause from the specific facts
17 shown by the affidavit or by the petition to give the judge
18 reason to believe that the affected person [~~infected with a~~
19 ~~threatening communicable disease~~] poses a substantial threat to
20 the public health and safety;

21 (2) cause the [~~temporary order of protection~~]
22 court order, notice of hearing and an advisement of the terms
23 of the [~~temporary protective~~] court order, including [~~his~~
24 ~~right~~] the affected person's rights to representation and re-
25 petition for termination of [~~any protective~~] a court order that

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1 removes and detains the [~~infected~~] affected person, to be
2 immediately served on the [~~allegedly infected~~] affected person;
3 and

4 (3) within five days after the granting of the
5 [~~temporary order of protection~~] court order, hold an
6 evidentiary hearing to determine if the court shall continue
7 the order.

8 [~~F.~~] E. A person held pursuant to a [~~temporary~~
9 ~~protective~~] court order as set forth in Subsection [~~E~~] D of
10 this section shall be:

11 (1) entitled to representation by counsel at
12 the evidentiary hearing and at all hearings thereafter for the
13 duration of the period of removal and detention; and

14 (2) permitted to communicate on any matter,
15 including [~~his removal and detention~~] the person's isolation or
16 quarantine, with persons by telephone, or other reasonably
17 available means that do not expose other persons to the risk of
18 infection, for the duration of the period of [~~removal and~~
19 ~~detention~~] isolation or quarantine.

20 [~~G.~~] F. Counsel may be retained by the person held
21 or shall be appointed by the court if the court determines that
22 the person held cannot afford legal representation or if the
23 court determines that appointment of counsel is required in the
24 interest of justice.

25 [~~H.~~] G. At the evidentiary hearing, the court shall

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1 review the circumstances surrounding the [~~temporary~~] court
2 order and, if the petitioner can show by clear and convincing
3 evidence that the person being held has not voluntarily
4 complied or will not voluntarily comply with appropriate
5 treatment and contagion precautions, the court may continue the
6 [~~detention of the person infected with a threatening~~
7 ~~communicable disease~~] isolation or quarantine. The court shall
8 order regular review of the order to [~~detain~~] isolate or
9 quarantine by providing the person being held with a subsequent
10 hearing within [~~ninety~~] thirty days of the [~~temporary~~] court
11 order's issuance and every [~~ninety~~] thirty days thereafter.
12 The [~~detention~~] court order to isolate or quarantine shall be
13 terminated and the affected person shall be released if:

14 (1) the person being held is certified by a
15 public health official to pose no further risk [~~of infecting~~
16 ~~others~~] to the public health;

17 (2) at a hearing, the petitioner, whose burden
18 of proof continues under a clear and convincing standard, can
19 no longer show that the person being held is infected with,
20 reasonably believed to be infected with or exposed to a
21 threatening communicable disease and that [~~he~~] the affected
22 person will not comply with appropriate treatment and contagion
23 precautions voluntarily; or

24 (3) exceptional circumstances exist warranting
25 the termination of the [~~temporary protective~~] court order.

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1 [~~F.~~] H. The provisions of this section do not
2 permit the forcible administration of medications. A person
3 isolated or quarantined pursuant to this section has the right
4 to refuse to participate in medical treatment, testing,
5 physical or mental examination, vaccination, specimen
6 collection or preventive treatment.

7 I. A person who is isolated or quarantined pursuant
8 to a court order may petition the court to contest the order or
9 the conditions of isolation or quarantine at any time prior to
10 the expiration of the order. If a petition is filed, the court
11 shall hold a hearing within five days after the date of filing.
12 The filing of a petition for a hearing pursuant to this
13 subsection does not stay a court order for isolation or
14 quarantine. At the hearing, the secretary shall offer clear
15 and convincing evidence that:

16 (1) the isolation or quarantine is warranted;
17 or

18 (2) the conditions of isolation or quarantine
19 are compliant with the provisions of this section.

20 J. When isolating or quarantining an affected
21 person, the secretary shall ensure that:

22 (1) isolation or quarantine is the least
23 restrictive means necessary to protect against the spread to
24 others of a communicable disease or a potentially threatening
25 communicable disease and may include confinement to the

1 affected person's private home, if practicable, or if not
2 practicable, to a private or public premises;

3 (2) an isolated person is confined separately
4 from a quarantined person;

5 (3) the health status of an isolated or
6 quarantined person is monitored regularly to determine whether
7 continued isolation or quarantine is required;

8 (4) if a quarantined person becomes infected
9 or is reasonably believed to be infected with the threatening
10 communicable disease subsequent to quarantine, that affected
11 person shall be promptly isolated;

12 (5) the needs of a person isolated or
13 quarantined are addressed in a systematic and orderly manner,
14 including the provision of adequate food, clothing, shelter,
15 sanitation and comfort;

16 (6) there are methods of communication
17 available to a person placed in isolation or quarantine to
18 enable communication with family members, household members,
19 legal representatives, advocates, the media and any licensed
20 health care provider;

21 (7) an area of isolation or quarantine is
22 maintained in a manner that minimizes the likelihood of further
23 transmission of infection or other injury to other persons who
24 are isolated or quarantined; and

25 (8) to the extent possible, cultural and

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1 religious beliefs shall be respected in addressing the needs of
2 affected persons and in establishing and maintaining an area of
3 isolation or quarantine.

4 K. A person shall not enter an area of isolation or
5 quarantine except as authorized by the department. To protect
6 the public health, the department may isolate or quarantine any
7 person who has entered, with or without the secretary's
8 authorization, into an area of isolation or quarantine.

9 ~~[J.—The]~~ L. Court proceedings shall be [recorded
10 ~~stenographically, electronically, mechanically or by other~~
11 ~~appropriate means. The proceedings shall]~~ on the record and be
12 closed to the general public. [and] The records shall be
13 sealed from public inspection.

14 ~~[K.—]~~ M. A person who in good faith reports another
15 person infected with a threatening communicable disease shall
16 not be held liable for civil damages as a result of the report;
17 provided that the person reported as being infected with a
18 threatening communicable disease shall have the right to sue
19 for damages sustained as a result of negligent or intentional
20 reporting of inaccurate information or the disclosure of
21 information to an unauthorized person.

22 N. During the period of isolation or quarantine, an
23 employer shall not discharge from employment a person who is
24 placed in isolation or quarantine pursuant to this section.

25 O. The secretary, after consultation with the state

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1 medical investigator, the secretary of public safety, the
2 director and the chair of the board of funeral services, may
3 implement and enforce measures that are reasonable and
4 necessary to respond to a threatening communicable disease and
5 provide for the safe disposal of human remains.

6 [~~E.~~] P. For purposes of this section:

7 (1) "area of isolation or quarantine" means
8 the physical environs that the department designates as the
9 area within which to restrict access as required to prevent
10 transmission of a threatening communicable disease;

11 [~~(1)~~] (2) "court" means:

12 (a) the district court of the judicial
13 district where the person who is alleged to be infected with a
14 threatening communicable disease resides or is found; or

15 (b) in the event that a district court
16 cannot adequately provide services, a district court that the
17 New Mexico supreme court designates;

18 (3) "isolate" means to physically separate for
19 possible medical care a person who is infected or who is
20 reasonably believed to be infected with a threatening
21 communicable disease or potentially threatening communicable
22 disease;

23 [~~(2)~~] (4) "public health official" means the
24 secretary, a [~~district~~] regional health officer, the director
25 of the public health division of the department [~~of health~~], a

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1 chief medical officer or a ~~[person]~~ representative of the
2 department designated by the secretary ~~[of health]~~ to carry
3 out the duties provided in this section; ~~[and]~~

4 (5) "quarantine" means the precautionary
5 physical separation of a person who has or may have been
6 exposed to a threatening communicable disease or a potentially
7 threatening communicable disease and who does not show a sign
8 or symptom of a threatening communicable disease from persons
9 who are not quarantined to protect against the transmission of
10 the disease to persons who are not quarantined; and

11 ~~[(3)]~~ (6) "threatening communicable disease"
12 means a disease that causes death or great bodily harm, passes
13 from one person to another and for which there is no means by
14 which the public reasonably can avoid the risk of contracting
15 the disease."

16 SECTION 17. Section 24-1-15.1 NMSA 1978 (being Laws
17 2009, Chapter 174, Section 1) is amended to read:

18 "24-1-15.1. PROTOCOL FOR MANAGEMENT OF ~~[INFECTIOUS~~
19 ~~FORMS OF]~~ ACTIVE TUBERCULOSIS.--

20 A. When a physician or other person knows that a
21 person has ~~[an infectious form of]~~ or is reasonably believed
22 to be infected with, active tuberculosis, the physician or
23 other person shall promptly notify the department.

24 B. Upon receiving notification that a person has
25 ~~[an infectious form of]~~ active tuberculosis, the department

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1 shall prescribe the person a treatment plan meeting the
2 department's therapeutic specifications for the infectious
3 form of tuberculosis. The treatment plan shall include a
4 notice to the person that failure to comply with the treatment
5 plan will result in immediate initiation of court action to
6 ensure compliance, as set forth in this section.

7 C. The secretary, or a representative of the
8 department whom the secretary designates, may by public health
9 order temporarily isolate a person or group of persons if
10 delay in isolating the person or group would significantly
11 jeopardize the secretary's ability to prevent or limit the
12 transmission of tuberculosis to others. The public health
13 order shall expire at the end of twenty-four hours from the
14 time of the commencement of isolation. The secretary may
15 petition for a court order that authorizes the continued
16 isolation. In the petition, the secretary shall present facts
17 used to support the need to have issued the public health
18 order to isolate.

19 [~~G.~~] D. Whether or not a public health order was
20 issued pursuant to Subsection C of this section, when the
21 department has knowledge that a person who has [~~an infectious~~
22 ~~form of~~] active tuberculosis has failed to comply with the
23 department's treatment plan as described in Subsection B of
24 this section, the department shall petition [~~the court~~] for
25 [~~an~~] a court order [~~of protection~~] for the person who has [~~an~~

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1 ~~infectious form of~~] active tuberculosis to comply with
2 whichever of the following courses of action the department
3 deems appropriate:

- 4 (1) a program of directly observed therapy;
- 5 (2) isolation; or
- 6 (3) directly observed therapy and isolation.

7 ~~[D. The petition for an order of protection shall~~
8 ~~be made under oath or shall be accompanied by a sworn~~
9 ~~affidavit setting out specific facts showing that the person~~
10 ~~has an infectious form of tuberculosis.]~~

11 E. ~~[The]~~ A petition for ~~[an order of protection]~~ a
12 court order shall ~~[state that the person for whom the order is~~
13 ~~sought]~~ be made under oath or shall be accompanied by a sworn
14 affidavit setting out specific facts showing the basis upon
15 which isolation is justified, including whether the person to
16 be isolated:

17 (1) has ~~[an infectious form of]~~ active
18 tuberculosis or presents a substantial likelihood of having
19 ~~[an infectious form of]~~ active tuberculosis based on credible
20 medical evidence;

21 (2) after being advised of the condition and
22 the risks posed thereby, has failed to comply with the
23 department's treatment plan; and

24 (3) poses a substantial likelihood of
25 transmission of tuberculosis to others because the person is

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1 actively infectious or poses a risk of relapse or development
2 of a therapy-resistant strain of tuberculosis.

3 F. Upon the filing of a petition for [~~an order of~~
4 ~~protection~~] a court order, the court shall:

5 (1) in cases where there is probable cause
6 established by the petition to give the judge reason to
7 believe that the person who has been alleged to have [~~an~~
8 ~~infectious form of~~] active tuberculosis poses a substantial
9 threat to the public health and safety because the person is
10 actively infectious, or poses a risk of relapse or development
11 of a therapy-resistant strain of tuberculosis because of a
12 history of noncompliance, immediately grant ex parte a
13 [~~temporary order of protection~~] court order to:

14 (a) administer a program of directly
15 observed therapy;

16 (b) isolate the person and administer a
17 program of directly observed therapy; or

18 (c) isolate the person, if the person
19 refuses a program of directly observed therapy;

20 (2) cause the [~~temporary order of~~
21 ~~protection~~] court order, notice of hearing and an advisement
22 of the terms of the court order [~~of protection~~], including the
23 rights of the person alleged to have an infectious form of
24 tuberculosis to representation and re-petition for termination
25 of [~~an order of protection~~] a court order, to be immediately

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1 served on the person alleged to have ~~[an infectious form of]~~
2 active tuberculosis; and

3 (3) within five days after the granting of
4 the ~~[temporary order of protection]~~ court order, hold an
5 evidentiary hearing to determine if the court shall continue
6 the court order ~~[of protection]~~.

7 G. A person held pursuant to a ~~[temporary order of~~
8 ~~protection]~~ court order as set forth in Subsection F of this
9 section shall be:

10 (1) entitled to representation by counsel at
11 the evidentiary hearing and at all hearings thereafter for the
12 duration of the period of isolation or program of directly
13 observed therapy; and

14 (2) permitted to communicate on any matter,
15 including the person's isolation or program of directly
16 observed therapy, with persons by telephone or other
17 reasonably available means that do not expose other persons to
18 the risk of infection, for the duration of the period of
19 isolation or program of directly observed therapy.

20 H. Counsel may be retained by the person under the
21 ~~[temporary order of protection]~~ court order or shall be
22 appointed by the court if the court determines that the person
23 held cannot afford legal representation or if the court
24 determines that appointment of counsel is required in the
25 interest of justice.

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1 I. At the evidentiary hearing, the court shall
2 review the circumstances surrounding the [~~temporary~~] court
3 order, and, if the petitioner can show by clear and convincing
4 evidence that the person being held has not complied or will
5 not comply with appropriate treatment and contagion
6 precautions as the department deems necessary, the court shall
7 continue the court order [~~of protection~~] for the person who
8 has [~~an infectious form of~~] active tuberculosis until
9 completion of therapy, as deemed by the department. The court
10 shall order regular review of the order by providing the
11 person under [~~an~~] a court order [~~of protection~~] with a
12 subsequent hearing within ninety days of the [~~temporary~~] court
13 order's issuance and every ninety days thereafter. The court
14 order [~~of protection~~] shall be terminated and the person shall
15 be released if:

16 (1) at a hearing, the petitioner has not met
17 its burden of showing by clear and convincing proof that the
18 person under [~~an~~] a court order [~~of protection~~] has not
19 completed therapy; or

20 (2) exceptional circumstances exist
21 warranting the termination of the [~~temporary order of~~
22 ~~protection~~] court order.

23 J. The provisions of this section do not permit
24 the forcible administration of medications.

25 K. A person isolated pursuant to this section has

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1 the right to refuse any medical treatment, physical or mental
2 examination, treatment program or invasive specimen
3 collection. A person who has been directed by the secretary
4 to submit to medical procedures and protocols because the
5 person has active tuberculosis and refuses to submit to the
6 procedures and protocols may be subject to continued isolation
7 pursuant to this section.

8 L. A person who is isolated pursuant to a court
9 order may petition the court to contest the order or the
10 conditions of isolation at any time prior to the expiration of
11 the court order. If a petition is filed, the court shall hold
12 a hearing within five business days after the date of filing.
13 At a hearing pursuant to a petition to contest, the secretary
14 shall offer:

15 (1) clear and convincing evidence that the
16 isolation is warranted; or

17 (2) proof that the conditions of isolation
18 are compliant with the provisions of this section.

19 M. When isolating a person or group of persons,
20 the secretary shall ensure that:

21 (1) isolation is imposed by the least
22 restrictive means necessary to protect against the spread of
23 tuberculosis to others and may include confinement to the
24 isolated person's private home, if practicable, or, if not
25 practicable, a private or public premises;

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1 (2) the health status of an isolated person
2 is monitored regularly to determine if continued isolation is
3 required;

4 (3) the needs of a person isolated are
5 addressed in a systematic and orderly manner, including the
6 provision of adequate food, clothing, shelter, sanitation and
7 comfort;

8 (4) there are methods of communication
9 available to a person placed in isolation to enable
10 communication with family members, household members, legal
11 representatives, advocates, the media and any licensed health
12 care provider;

13 (5) the premises used for isolation are
14 maintained in a manner that minimizes the likelihood of
15 further transmission of infection or other injury to other
16 persons who are isolated; and

17 (6) to the extent possible, cultural and
18 religious beliefs shall be respected in addressing the needs
19 of persons and establishing and maintaining isolation
20 premises.

21 [~~K-~~] N. The proceedings of any hearing held
22 pursuant to the section shall be recorded stenographically,
23 electronically or mechanically or by other appropriate means.
24 The proceedings shall be closed to the general public and the
25 records shall be sealed from public inspection.

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1 ~~[E.]~~ O. A person who in good faith reports that
2 another person has ~~[an infectious form of]~~ active tuberculosis
3 shall not be held liable for civil damages as a result of the
4 report; provided that the person reported as having ~~[an~~
5 ~~infectious form of]~~ active tuberculosis shall have the right
6 to sue for damages sustained as a result of negligent or
7 intentional reporting of inaccurate information or the
8 disclosure of information to an unauthorized person.

9 P. During the period of isolation, an employer
10 shall not discharge from employment a person who is placed in
11 isolation pursuant to this section.

12 ~~[M.]~~ Q. For purposes of this section:

13 (1) "active tuberculosis" means a disease
14 caused by mycobacterium tuberculosis or other members of the
15 mycobacterium tuberculosis complex family that has been
16 determined, through current clinical, bacteriological or
17 radiographic evidence, or whichever diagnostic procedures the
18 department deems appropriate, to be present in a person who
19 has not completed an appropriate course of antituberculosis
20 medication, regardless of the state of communicability of the
21 disease. A person with active tuberculosis includes a person
22 with:

23 (a) tuberculosis that is resistant to
24 the prescribed treatment plan;

25 (b) infectious tuberculosis or who

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1 presents a substantial likelihood of having infectious
2 tuberculosis based on credible medical evidence;

3 (c) noninfectious tuberculosis who is
4 at high risk of developing an infectious form of tuberculosis;
5 and

6 (d) pulmonary or extrapulmonary
7 tuberculosis;

8 [~~(1)~~] (2) "completion of therapy" means
9 completion of the prescribed therapy, as determined by the
10 department based upon published national consensus
11 tuberculosis treatment guidelines;

12 [~~(2)~~] (3) "court" means the district court
13 of the judicial district where the person who is alleged to
14 have [~~an infectious form of~~] active tuberculosis resides or is
15 found or a district court designated by the New Mexico supreme
16 court;

17 [~~(3)~~] (4) "department" means the department
18 of health or a person designated by the secretary of health to
19 carry out the duties provided in this section;

20 [~~(4)~~] (5) "directly observed therapy" means
21 a methodology for promoting patient adherence in which a
22 health care provider or trained designee witnesses the patient
23 ingest each dose of medication until the completion of
24 prescribed therapy for tuberculosis; and

25 [~~(5)~~] "~~infectious form of tuberculosis~~" means

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1 ~~a form of tuberculosis disease that has been determined,~~
2 ~~through whichever diagnostic procedures the department deems~~
3 ~~appropriate, to be in a communicable or infectious state~~
4 ~~because the patient is capable of expelling tubercle bacilli~~
5 ~~into the air; and]~~

6 (6) "isolation" means:

7 (a) home isolation;

8 (b) home isolation with electronic
9 monitoring;

10 (c) isolation in a hospital or other
11 health care facility negative pressure room ~~[monitored by a~~
12 ~~security officer]~~ where appropriate security measures are
13 undertaken to prevent the transmission of tuberculosis; or

14 ~~[(d) isolation in a state health care~~
15 ~~facility negative pressure room with appropriate security~~
16 ~~provisions; or~~

17 ~~(e)]~~ (d) isolation in a prison or
18 detention center negative pressure room with an appropriate
19 level of medical care."

20 SECTION 18. A new section of the Public Health Act is
21 enacted to read:

22 "[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--
23 REPORTING.--

24 A. The secretary shall establish by rule a list of
25 reportable conditions of public health importance. The list

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1 shall include conditions of humans or animals caused by
2 exposure to toxic substances, microorganisms or any other
3 pathogens or conditions that arise due to injury. The
4 secretary shall:

5 (1) prescribe the manner of and the person
6 responsible for reporting conditions of public health
7 importance;

8 (2) classify each reportable condition of
9 public health importance according to the urgency of
10 reporting; and

11 (3) revise the list of reportable conditions
12 of public health importance as necessary.

13 B. The secretary may enter into agreements or
14 other arrangements with federal and tribal public health
15 agencies for receipt and sharing of information regarding
16 reportable conditions of public health importance.

17 C. The department shall disseminate reporting
18 requirements to health care providers and other persons
19 required to report conditions of public health importance.

20 D. A person with knowledge of a reportable
21 condition of public health importance shall report the
22 condition to the department."

23 SECTION 19. A new section of the Public Health Act is
24 enacted to read:

25 "[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--

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1 TESTING--SCREENING.--

2 A. The department shall establish testing and
3 screening procedures and programs to identify conditions of
4 public health importance among individuals or among the
5 general population of the state. The department shall:

6 (1) prior to testing or screening, explain
7 to the individual the nature, scope, purposes, benefits, risks
8 and possible outcomes of the test or screening, except as
9 otherwise provided pursuant to this section or by state law;

10 (2) have a valid and reliable test for the
11 condition of public health importance;

12 (3) when administering a test or screening,
13 identify a condition of public health importance that poses a
14 threat to an individual's or the public's health and that may
15 be avoided, cured, alleviated or made less contagious through
16 safe and effective treatment, modifications in individual
17 behavior or public health interventions; and

18 (4) fully inform the individual of the
19 individual's results, the meaning of the results, the possible
20 need for additional testing and the availability of
21 appropriate health care services, including mental health care
22 and social and support services. If appropriate, the
23 department shall provide counseling or inform the individual
24 where such counseling services are available.

25 B. The department may petition for the issuance of

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1 a court order to require testing or medical examination of any
2 individual who has or may have been exposed to a condition of
3 public health importance that poses a significant risk or
4 threat to the individual or others or to the public's health,
5 in accordance with procedures established by department
6 rules."

7 SECTION 20. A new section of the Public Health Act is
8 enacted to read:

9 "[NEW MATERIAL] INDIVIDUALLY IDENTIFIABLE HEALTH
10 INFORMATION--CONDITIONS OF PUBLIC HEALTH IMPORTANCE.--
11 CONFIDENTIALITY--USE--DISCLOSURE.--

12 A. Any use of individually identifiable health
13 information pursuant to this section shall be limited to the
14 minimum amount of information reasonably necessary to
15 accomplish a public health purpose.

16 B. Individually identifiable health information
17 received by the department shall not be public information and
18 shall not be disclosed without the authorization of the
19 individual who is the subject of the information, except as
20 otherwise provided in state or federal law.

21 C. In accordance with state and federal law, the
22 secretary shall adopt and promulgate rules to allow an
23 individual to have access to, inspect and obtain copies of the
24 individual's individually identifiable health information.

25 D. Nothing in this section shall be construed to

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1 prevent an individual from disclosing that individual's own
2 individually identifiable health information.

3 E. As used in this section, "individually
4 identifiable health information" means information related to
5 the provision of health care or public health services to an
6 individual that:

7 (1) is directly related to diseases or a
8 condition of public health importance; and

9 (2) can be used to identify the individual
10 recipient of health care or public health services."

11 SECTION 21. Section 24-4-2 NMSA 1978 (being Laws 1935,
12 Chapter 131, Section 7, as amended) is amended to read:

13 "24-4-2. ~~[OFFICES OF COUNTY]~~ LOCAL PUBLIC HEALTH
14 ~~[DEPARTMENT] OFFICES--[AND DISTRICT]~~ REGIONAL DIRECTOR--
15 HEALTH OFFICER--EXPENSES.--

16 A. The board of county commissioners of each
17 county ~~[in such health districts]~~ shall provide suitable
18 quarters for:

19 (1) the ~~[county health department and the~~
20 ~~district health officer]~~ local public health offices,
21 including office space for the ~~[district health officer and]~~
22 administrative staff, office space for ~~[physician]~~ health care
23 personnel and clinic space ~~[for patients]~~ and waiting space
24 for patients, their friends and families; and

25 (2) the regional director and regional

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1 health officer, including office space for the administrative
2 staff.

3 B. The boards of county commissioners shall make
4 proper provision for all office and other expense, including
5 utilities and maintenance but excluding janitorial services,
6 incurred in enforcing the health laws and regulations within
7 the counties [~~wherein such~~] in which the expense is incurred.

8 C. The board of county commissioners of each
9 county [~~in such health districts~~] may, upon adoption of a
10 resolution approved by the department of finance and
11 administration, deposit such county funds as are [~~hereby~~]
12 provided in this section with the state treasurer to the
13 credit of the department of health [~~and environment~~
14 ~~department~~] for such purposes as are [~~herein~~] provided in this
15 section at such times as such funds are available; provided
16 the depositing of such funds with the state treasurer [~~be~~] is
17 upon a voucher approved by the board of county commissioners
18 subject to all statutes and regulations covering the
19 disbursement of county funds, excepting that such funds may be
20 so deposited prior to said payments being due and payable; and
21 provided further that no such deposits shall be in excess of
22 any line item of the approved county health budget."

23 SECTION 22. Section 24-4-3 NMSA 1978 (being Laws 1920
24 (S.S.), Chapter 2, Section 1, as amended) is amended to read:

25 "24-4-3. ADDITIONAL HEALTH OFFICERS--~~[STATE PERSONNEL~~

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1 ~~BOARD RULES GOVERN APPOINTMENT AND DISMISSAL] OFFICES--~~
2 EXPENSES.--

3 A. Whenever, in the opinion of the director of the
4 public health [~~services~~] division of the department of health
5 [~~and environment department~~], conditions require the
6 employment of persons in addition to the district health
7 officer to properly execute the health laws and regulations in
8 any county, the board of county commissioners of such county,
9 with the approval of the [~~director of the~~] secretary of
10 health, [~~services division, may employ such additional persons~~
11 as the director shall designate, and their compensation and
12 expenses shall be paid from the county general fund upon
13 vouchers drawn by the district health officer] shall provide
14 suitable quarters for such additional persons. The boards of
15 county commissioners shall make proper provision for all
16 office expenses and other expenses, including utilities and
17 maintenance, for such additional persons.

18 B. The board of county commissioners of such
19 county may, upon adoption of a resolution approved by the
20 secretary of finance and administration, deposit [~~such~~] county
21 funds for such purposes as are [~~hereby~~] provided pursuant to
22 this section with the state treasurer to the credit of the
23 department of health [~~and environment department~~] for such
24 purposes as are [~~herein~~] provided in this section at such time
25 as such funds are available. The depositing of such funds

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1 with the state treasurer shall be upon a voucher approved by
2 the board of county commissioners subject to all statutes and
3 regulations covering the disbursement of county funds except
4 that such funds may be so deposited prior to disbursement
5 being due and payable. No such deposits shall be in excess of
6 the approved budget for this purpose. [~~The appointment and~~
7 ~~dismissal of all persons employed hereunder shall be governed~~
8 ~~by the rules promulgated under the Personnel Act by the~~
9 ~~personnel board.]"~~

10 SECTION 23. Section 24-10A-2.1 NMSA 1978 (being Laws
11 1994, Chapter 61, Section 2, as amended by Laws 2001, Chapter
12 258, Section 2 and by Laws 2001, Chapter 273, Section 2) is
13 amended to read:

14 "24-10A-2.1. DEFINITIONS.--As used in the Emergency
15 Medical Services Fund Act:

16 A. "bureau" means the [~~injury prevention and~~
17 emergency medical [~~services~~] systems bureau of [~~the public~~
18 ~~health division of~~] the department;

19 B. "committee" means the statewide emergency
20 medical services advisory committee appointed pursuant to the
21 provisions of Section 24-10B-7 NMSA 1978;

22 C. "department" means the department of health;

23 D. "fund" means the emergency medical services
24 fund;

25 E. "local recipient" means [~~an~~] a publicly owned

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1 or contracted ambulance or air ambulance service, medical
2 rescue service, fire department rescue service, [~~air ambulance~~
3 ~~service~~] regionalized emergency medical service agency; or
4 other prehospital emergency medical service care provider
5 based in the state:

6 (1) that routinely responds to an
7 individual's need for immediate medical care in order to
8 prevent loss of life or aggravation of physical or
9 psychological illness or injury;

10 (2) whose application for funding through
11 the Emergency Medical Services Fund Act is sponsored by a
12 municipality or county; and

13 (3) that meets department guidelines
14 [~~concerning~~] for certification, including:

15 (a) personnel training [~~use of bureau-~~
16 ~~approved run forms~~];

17 (b) participation in emergency medical
18 service data collection and submission to the state emergency
19 medical systems database;

20 (c) participation in local design and
21 planning for efficient delivery of emergency medical services;

22 (d) participation in mutual aid
23 agreements and medical control; and

24 (e) participation in medical control
25 for emergency medical services;

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1 F. "municipality" means an incorporated city, town
2 or village; [~~and~~]

3 G. "regionalized emergency medical service agency"
4 means a rural or frontier emergency medical service agency
5 composed of multiple geographic districts with response area
6 populations of fewer than two hundred fifty people per square
7 mile;

8 [~~G.~~] H. "secretary" means the secretary of health;
9 and

10 I. "tribe" means a federally recognized Native
11 American nation, tribe or pueblo located wholly or partially
12 in the state."

13 SECTION 24. Section 24-10A-3 NMSA 1978 (being Laws
14 1978, Chapter 178, Section 3, as amended by Laws 2001, Chapter
15 258, Section 3 and by Laws 2001, Chapter 273, Section 3) is
16 amended to read:

17 "24-10A-3. EMERGENCY MEDICAL SERVICES FUND CREATED--
18 FUNDING.--

19 A. The "emergency medical services fund" is
20 created in the state treasury. Money in the fund shall not
21 revert at the end of any fiscal year. Money appropriated to
22 the fund or accruing to it through gifts, grants, fees or
23 bequests shall be deposited in the fund. Interest earned on
24 investment of the fund shall be credited to the general fund.
25 Disbursements from the fund shall be made upon warrants drawn

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1 by the secretary of finance and administration pursuant to
2 vouchers signed by the secretary or [~~his~~] the secretary's
3 authorized representative.

4 B. The bureau shall administer the fund and
5 provide for the distribution of the fund pursuant to the
6 Emergency Medical Services Fund Act and rules adopted pursuant
7 to the provisions of that act.

8 C. In any fiscal year, no less than seventy-five
9 percent of the money in the fund shall be used for the local
10 emergency medical services funding program to support the cost
11 of supplies and equipment and operational costs other than
12 salaries and benefits for emergency medical services
13 personnel. This money shall be distributed to municipalities
14 and counties on behalf of eligible local recipients, using a
15 formula established pursuant to rules adopted by the
16 department. The formula shall determine each municipality's
17 and county's share of the fund based on the relative
18 geographic size and population of each county. The formula
19 shall also base the distribution of money for each
20 municipality and county on the relative number of runs of each
21 local recipient eligible to participate in the distribution.

22 D. In any fiscal year, no more than:

23 (1) twenty-two percent of the fund may be
24 used for emergency medical services system improvement
25 projects, including the purchase of emergency medical services

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1 vehicles, local and statewide emergency medical services
2 system support projects, the statewide trauma care system
3 program and the emergency medical dispatch agency support
4 program; and

5 (2) three percent of the fund may be used by
6 the bureau [~~and emergency medical services regional offices~~]
7 for administrative costs, including monitoring and providing
8 technical assistance.

9 E. In any fiscal year, money in the fund that is
10 not distributed pursuant to the provisions of Subsection D of
11 this section may be distributed pursuant to the provisions of
12 Subsection C of this section."

13 SECTION 25. Section 24-10A-4.2 NMSA 1978 (being Laws
14 1994, Chapter 61, Section 11) is amended to read:

15 "24-10A-4.2. MUTUAL AID AGREEMENTS--REGIONALIZED,
16 INTEGRATED RESPONSE PLANS.--[~~Incorporated~~] Municipalities,
17 counties, tribes and local recipients [~~are encouraged to~~] may
18 develop mutual aid agreements and regionalized, integrated
19 response plans with other municipalities, counties, tribes and
20 local recipients for the purpose of ensuring that adequate
21 emergency medical services coverage exists throughout the
22 state. For the benefit of the public, equipment and other
23 emergency medical services resources obtained through money
24 from the fund shall be shared among the parties to a mutual
25 aid agreement or regionalized, integrated response plan."

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1 SECTION 26. Section 24-10A-5 NMSA 1978 (being Laws
2 1978, Chapter 178, Section 5, as amended) is amended to read:

3 "24-10A-5. FUNDING PROGRAM--AWARDS--APPEALS.--The
4 bureau shall promptly notify each municipality and county that
5 has applied for money and the local recipient of the bureau's
6 determination to grant or deny an application for funding
7 through the local emergency medical services funding program.
8 A municipality or county may appeal a determination of the
9 bureau within ten working days after notification of the
10 determination. The bureau shall refer the appeal to the
11 committee for its review and recommendation. The committee
12 shall make its recommendation to the secretary, who shall make
13 a final determination about whether to grant or deny an
14 application for funding. The secretary shall notify the
15 appellant of ~~[his]~~ the secretary's decision ~~[on or before June~~
16 ~~30]~~ within thirty days of the date on which the committee has
17 notified the secretary of its recommendation."

18 SECTION 27. Section 24-10A-6 NMSA 1978 (being Laws
19 1978, Chapter 178, Section 6, as amended by Laws 2001, Chapter
20 258, Section 6 and by Laws 2001, Chapter 273, Section 6) is
21 amended to read:

22 "24-10A-6. DISTRIBUTION OF FUND.--On or before August
23 31, the local emergency medical services funding program
24 distribution shall be made to each municipality and county as
25 determined by the department. No more than one percent of the

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1 amount appropriated to the local emergency medical services
2 funding program shall be distributed from the fund to the
3 benefit of a single local recipient in any fiscal year
4 pursuant to the local emergency medical services funding
5 program, with the exception of a regionalized emergency
6 medical service agency, to ensure that appropriate emergency
7 medical service is available statewide."

8 SECTION 28. Section 24-10A-8 NMSA 1978 (being Laws
9 1978, Chapter 178, Section 8, as amended) is amended to read:

10 "24-10A-8. FUNDING PROGRAM--CONTROL OF EXPENDITURES.--
11 Money distributed from the fund shall be expended only for the
12 purposes stated in the application to the bureau and shall be
13 expended on the authorization of the chief executive of the
14 [~~incorporated~~] municipality or county upon vouchers issued by
15 its treasurer."

16 SECTION 29. Section 24-14-27 NMSA 1978 (being Laws
17 1961, Chapter 44, Section 25, as amended) is amended to read:

18 "24-14-27. DISCLOSURE OF RECORDS.--

19 A. [~~It is unlawful for any person to~~] The state
20 registrar or other custodian of vital records shall not permit
21 inspection of or [~~to disclose~~] disclosure of information
22 contained in vital records or [~~to copy~~] copying or [~~issue~~
23 issuance of a copy of all or part of any record except as
24 authorized by law.

25 B. The department shall provide access to record

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1 level data required by the New Mexico health policy commission
2 [~~and the health information system created in the Health~~
3 ~~Information System Act~~]. The New Mexico health policy
4 commission [~~and the health information system~~] may only
5 release record level data obtained from vital records in the
6 aggregate. For the purposes of this subsection, "record level
7 data" means one or more unique and non-aggregated data
8 elements relating to a single identifiable individual. The
9 department may authorize the disclosure of data contained in
10 vital records for other research purposes.

11 C. When one hundred years have elapsed after the
12 date of birth or fifty years have elapsed after the date of
13 death, the vital records of these events in the custody of the
14 state registrar shall become open public records, and
15 information shall be made available in accordance with
16 regulations that provide for the continued safekeeping of the
17 records; provided that vital records of birth shall not become
18 open public records prior to the individual's death."

19 **SECTION 30.** Section 24-14-31 NMSA 1978 (being Laws
20 1961, Chapter 44, Section 29, as amended) is amended to read:

21 "24-14-31. PENALTIES.--

22 A. Except for violations of Section 24-14-18 NMSA
23 1978, any person is guilty of a fourth degree felony and shall
24 be sentenced pursuant to the provisions of Section 31-18-15
25 NMSA 1978, who willfully and knowingly:

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1 (1) makes any false statement or supplies
2 any false information in a report, record or certificate
3 required to be filed;

4 (2) with the intent to deceive, alters,
5 amends, counterfeits, copies or mutilates any report, record
6 or certificate, application or supporting documentation;

7 (3) uses or attempts to use or furnishes to
8 another for use for any purpose of deception any certificate,
9 record, report or certified copy that has been altered,
10 amended or mutilated or that contains false information in
11 whole or in part, or that is related to the birth or death of
12 another person, whether living or dead; or

13 (4) neglects or violates any of the
14 provisions of the Vital Statistics Act or refuses to perform
15 any of the duties imposed upon ~~him~~ the person by that act.

16 B. Any person who willfully and knowingly permits
17 inspection of or discloses information contained in vital
18 statistics records of adoptions or induced abortions or copies
19 or issues a copy of all or part of any record of an adoption
20 or induced abortion, except as authorized by law, is guilty of
21 a fourth degree felony and shall be sentenced in accordance
22 with the provisions of the Criminal Sentencing Act."

23 SECTION 31. REPEAL.--Sections 3-43-1, 3-43-2,
24 22-10A-34, 23-1-9, 23-1-10, 24-1-8, 24-1-9.5 and 24-5-14 NMSA
25 1978 (being Laws 1965, Chapter 300, Sections 14-44-1 and

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

1 14-44-2, Laws 1967, Chapter 16, Section 112, Laws 1941,
2 Chapter 69, Sections 1 and 2, Laws 1973, Chapter 359, Section
3 8, Laws 1996, Chapter 80, Section 4 and Laws 2004, Chapter 45,
4 Section 9, as amended) are repealed.