

SENATE BILL 96

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Nancy Rodriguez

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO PUBLIC HEALTH; AMENDING THE MATERNAL MORTALITY AND MORBIDITY PREVENTION ACT TO CLARIFY THE TYPES OF CASES REVIEWED BY THE MATERNAL MORTALITY REVIEW COMMITTEE; EXPANDING COMMITTEE LEADERSHIP, MEMBERSHIP, POWERS AND PRIVILEGES; REQUIRING APPROVAL BY THE SECRETARY OF HEALTH FOR COMMITTEE ACTIONS; PROVIDING FOR AN EXECUTIVE COMMITTEE; CLARIFYING MEMBERSHIP; ELIMINATING A SUBCOMMITTEE; PROVIDING A DEADLINE FOR RULEMAKING.

.218459.3SAAIC February 19, 2021 (10:39pm)

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

SECTION 1. Section 24-32-1 NMSA 1978 (being Laws 2019, Chapter 41, Section 1) is amended to read:

"24-32-1. SHORT TITLE.--~~[This act]~~ Chapter 24, Article 32 NMSA 1978 may be cited as the "Maternal Mortality and Morbidity Prevention Act"."

SECTION 2. Section 24-32-2 NMSA 1978 (being Laws 2019, Chapter 41, Section 2) is amended to read:

"24-32-2. DEFINITIONS.--As used in the Maternal Mortality and Morbidity Prevention Act:

A. "administrative co-chair" means the chief medical officer of the department or another representative of the department appointed by the secretary of health;

~~[A.]~~ B. "aggregate data" means health care data that exclude any individually identifiable health information, including patient and health care provider identification;

~~[B.]~~ C. "chief medical officer" means the chief medical officer of the department;

D. "clinical co-chair" means a committee member with SJC→clinical←SJC SJC→maternal child health clinical or paraprofessional←SJC training nominated by the committee and approved by the department to serve in this position;

~~[G.]~~ E. "committee" means the maternal mortality ~~[and severe maternal morbidity]~~ review committee ~~[including the subcommittee];~~

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F. "committee member" means a person who has been appointed to sit as a member of the committee and who participates in committee business and votes on committee matters;

G. "critical income" means income lost as a result of uncompensated work time used to attend a committee meeting;

[D.] H. "de-identified data" means [removal any of the] data from which the following identifiers have been removed:

- (1) names;
- (2) any geographic subdivision smaller than a state, including street address, city, county, precinct and zip code and their equivalent geocodes;
- (3) all elements of dates, except the year of an incident, [for dates] that are directly related to an individual, including birth date, admission date, date of delivery, discharge date and date of death;
- (4) telephone numbers;
- (5) fax numbers;
- (6) electronic mail addresses;
- (7) social security numbers;
- (8) medical record numbers;
- (9) health plan beneficiary numbers;
- (10) account numbers;
- (11) certificate and license numbers;

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(12) vehicle identifiers and serial numbers, including license plate numbers;

(13) device identifiers and serial numbers;

(14) web universal resource locators, also known as "URLs";

(15) internet protocol address numbers;

(16) biometric identifiers, including finger and voice prints;

(17) full-face photographic images and any comparable images; and

(18) any other unique identifying number, characteristic or code;

[E-] I. "department" means the department of health;

[F-] J. "health care provider" means:

(1) an individual licensed, certified or otherwise authorized to provide health care services in the ordinary course of business in the state; or

(2) a health facility that the department licenses;

[G-] K. "law enforcement agency" means a law enforcement agency of the state, an Indian nation, tribe or pueblo or a political subdivision of the state;

[H-] L. "maternal mortality" means the death of a pregnant woman or a woman within one year [~~postpartum~~]

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SJC→postpartum←SJC SJC→~~of the end of pregnancy~~←SJC ;

[F.] M. "medical record" means the written or graphic documentation, sound recording or electronic record relating to medical, behavioral health and health care services that a patient receives from a health care provider or under the direction of a physician or another licensed health care provider. "Medical record" includes diagnostic documentation, including an x-ray, electrocardiogram and electroencephalogram; other test results; data entered into a prescription drug monitoring program; and an autopsy report;

N. "operational staff" means staff or contractors of the department assigned or contracted to support the work of the committee or its executive committee;

O. "qualified SJC→invited←SJC guest" means a person approved by the co-chairs SJC→~~of~~←SJC SJC→and invited by←SJC the committee to attend a committee meeting to provide technical expertise to the committee, to enhance training in maternal health, to provide insight on maternal mortality or severe maternal morbidity review in other jurisdictions or to provide operational support to the committee; and

[J.] P. "severe maternal morbidity" means [~~a condition that occurs in a woman during pregnancy or within one year of the end of pregnancy that results in:~~

~~(1) admission to the intensive care unit of a health facility; or~~

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~~(2) transfusion of four or more units of red blood cells; and~~

K. ~~"subcommittee" means the abstractor subcommittee of the committee]~~ unexpected outcomes of labor and delivery that result in significant short- or long-term consequences to a woman's health as identified by hospitalizations using administrative hospital discharge data and the world health organization's *International Classification of Diseases* diagnosis and procedure codes."

SECTION 3. Section 24-32-3 NMSA 1978 (being Laws 2019, Chapter 41, Section 3) is amended to read:

"24-32-3. MATERNAL MORTALITY [~~AND SEVERE MATERNAL MORBIDITY]~~ REVIEW COMMITTEE--CREATION--MEMBERSHIP--DUTIES.--

A. The "maternal mortality [~~and severe maternal morbidity review]~~ review committee" is created in the department. The committee shall be composed of: [~~a maximum of twenty-five members that the chief medical officer shall appoint to serve three-year terms]~~

(1) the chief medical officer of the department or another representative of the department appointed by the secretary of health, who shall be the ex-officio administrative co-chair;

(2) a clinical co-chair, who shall be nominated by the committee and approved by the department; and

(3) a maximum of thirty additional members,

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who shall be appointed by the administrative co-chair

SJC→.←SJC SJC→; provided that four of those members shall include:

(a) two members nominated by the secretary of Indian affairs; and

(b) two members nominated by the director of the office on African American affairs.←SJC

B. Each member of the committee, except the administrative co-chair, shall serve a term of three years SJC→, with no consecutive terms←SJC .

SJC→C. Pursuant to requirements established by the department, each member of the committee shall receive training on trauma and the impacts of trauma, including secondary trauma, trauma of racism and trauma of maternal mortality and morbidity.←SJC

SJC→~~C.~~←SJC SJC→D.←SJC In appointing members of the committee, the ~~[chief medical officer shall appoint members from geographic areas throughout the state with knowledge of maternal mortality and severe maternal morbidity, including representatives of hospitals and other birthing facilities; obstetrical providers; nursing providers; the office of the state medical investigator; the department; representatives of an association of perinatal health care providers that work in a perinatal health care collaborative; and other professionals that the chief medical officer deems appropriate.~~

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~~B. Committee members shall serve terms of three years; provided that the initial members' terms shall be staggered in accordance with department rules. The secretary of health shall call the first meeting, at which the committee shall elect a chair. Thereafter]~~ administrative co-chair shall include members that work in and represent communities that are SJC→~~diverse~~←SJC SJC→most impacted per the state maternal mortality ratio←SJC so that the composition of the committee reflects:

(1) the racial, ethnic and linguistic diversity of the state;

(2) the differing geographic regions within the state, including rural and urban areas; and

(3) communities that are SJC→~~affected~~←SJC SJC→most impacted←SJC by pregnancy-related deaths, severe maternal morbidity and a lack of access to relevant perinatal and intrapartum care services.

SJC→~~D.~~←SJC SJC→E.←SJC The committee shall meet at the call of the [chair.

~~G. Committee members shall serve without any compensation or perquisite arising from their service.]~~ co-chairs. A majority of committee members appointed constitutes a quorum for the transaction of any business. The affirmative vote of at least a majority of a quorum present and approval by the secretary of health or the secretary's designee shall be

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necessary for any action to be taken by the committee. No vacancy in the membership of the committee shall impair the right of a quorum to exercise all rights and perform all duties of the committee.

SJC→E.←SJC SJC→F.←SJC Operational staff and qualified guests may participate in committee deliberations in an advisory capacity as directed by the co-chairs of the committee. Operational staff and qualified guest presence at a committee meeting shall not convey committee membership.

SJC→F.←SJC SJC→G.←SJC A committee member required to travel in excess of fifty miles to attend a meeting of the committee may, with the approval of the department, receive per diem and mileage for attendance at that meeting pursuant to the Per Diem and Mileage Act. A committee member forsaking critical income to attend a committee meeting may, with the approval of the department and pursuant to rules established by the department, be additionally reimbursed for loss of that income in an amount not to exceed three hundred dollars (\$300) per meeting.

[D.] SJC→G.←SJC SJC→H.←SJC The committee shall:

(1) review each incident of maternal mortality [and severe maternal morbidity incident in the state related to each maternal mortality] using [the] a de-identified case summary [that the subcommittee provides] prepared by operational staff;

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(2) [~~investigate and~~] review [~~incidents of maternal mortality and~~] aggregate data relating to severe maternal morbidity;

(3) outline trends and patterns and provide recommendations relating to maternal mortality and severe maternal morbidity in the state;

(4) compile reports using aggregate data [~~based on the cases that the department identifies for reporting. The committee shall compile these reports~~] on an annual basis in an effort to further study the causes and problems associated with maternal mortality and severe maternal morbidity and distribute these reports to the legislature, government agencies, SJC→including the Indian Affairs department and the office on African American affairs,←SJC health care providers SJC→, community-based organizations working in the interest of maternal and child health←SJC and others as necessary to reduce the maternal mortality rate in the state. These reports shall include recommendations to assist health care providers and the health care system in reducing maternal mortality and morbidity;

(5) serve as a link with maternal mortality and morbidity review teams nationwide and participate in national maternal mortality and morbidity review team activities; and

(6) perform any other functions as resources

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allow to enhance efforts to reduce and prevent maternal mortality and severe maternal morbidity in the state.

SJC→H.←SJC SJC→I.←SJC The co-chairs of the committee may designate an executive committee to conduct business as necessary. The executive committee shall:

(1) consist of the co-chairs of the committee and any other committee members or operational staff that the co-chairs deem necessary. Operational staff and qualified guests may participate in executive committee deliberations in an advisory capacity as directed by the co-chairs of the committee. Operational staff and qualified guest presence at an executive committee meeting shall not convey committee membership;

(2) meet at the call of the co-chairs;

(3) monitor and support the activities of the full committee and recruit committee members for recommendation to the administrative co-chair; and

(4) make final decisions regarding:

(a) committee operations and rules;

(b) data analysis, data dissemination and evaluation based on findings and recommendations from the full committee; and

(c) any other issues within the scope of decisions that may be made by the committee pursuant to the Maternal Mortality and Morbidity Prevention Act that the full

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committee or department deems necessary."

SECTION 4. Section 24-32-4 NMSA 1978 (being Laws 2019, Chapter 41, Section 4) is amended to read:

"24-32-4. ACCESS TO HEALTH INFORMATION [~~ABTRACTOR SUBCOMMITTEE~~].--

A. A health care provider, the office of the state medical investigator and the vital records and health statistics bureau of the department shall notify [~~the chief medical officer~~] operational staff of any incident of maternal mortality [~~or severe maternal morbidity~~] within three months of the incident.

B. Except as otherwise provided by law, the [~~subcommittee~~] clinical co-chair and operational staff may access medical records and other health information relating to an [~~incidence~~] incident of maternal mortality [~~and severe maternal morbidity~~] at any time within five years from the date of the [~~incidence~~] incident. At the request of the [~~chief medical officer~~] clinical co-chair or operational staff with co-chairs or department approval, a health care provider, the office of the state medical investigator and the vital records and health statistics bureau of the department shall provide medical records and other requested health information to the department relating to [~~each incidence~~] an incident of maternal mortality [~~and severe maternal morbidity for access by the subcommittee~~]. Upon the request of the [~~department~~] clinical

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co-chair or operational staff, a law enforcement agency shall provide any report relating to an [~~incidence~~] incident of maternal mortality [~~and severe maternal morbidity~~] to the [~~committee~~] department. A health care provider or law enforcement agency that provides a medical record, health information or report pursuant to this section with reasonable care and in compliance with the law shall not be held criminally or civilly liable for that release of information.

C. The following shall be confidential and shall not be subject to the Open Meetings Act or the Inspection of Public Records Act or subject to any subpoena, discovery request or introduction into evidence in a civil or criminal proceeding unless obtained from a source separate and apart from the committee or department by valid means as provided by law:

(1) any meeting, part of a meeting or activity of the committee or [~~subcommittee~~] its executive committee at which data or other information [~~are~~] is to be discussed and that may result in disclosure to the public of information protected by law; and

(2) except as may be necessary in furtherance of the duties of the committee or in response to an alleged violation of a confidentiality agreement pursuant to Subsection E of this section, any information, record, report, notes, memorandum or other data that the department or committee

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obtains pursuant to the Maternal Mortality and Morbidity Prevention Act.

D. ~~[The chief medical officer shall appoint a three-member "abstractor subcommittee" of the committee, to be chaired by the chief medical officer and composed of public health and clinical health care providers who are members of the committee. The subcommittee shall meet at the call of the chief medical officer to review all medical records and documents related to each incident of maternal mortality and severe maternal morbidity that occurs in the state. The subcommittee shall perform a thorough record abstraction to obtain details of incidences and issues relating to maternal mortality and severe maternal morbidity. The subcommittee shall prepare an annual report for the committee that contains de-identified data and analysis relating to maternal mortality and severe maternal morbidity.]~~ Only ~~[members of the subcommittee]~~ the clinical co-chair and operational staff shall collect and have access to medical records, law enforcement reports and vital records data to support the work of the full committee.

E. Each committee ~~[and subcommittee]~~ member and qualified guest shall sign a confidentiality agreement that indicates the member's or qualified guest's adherence to the provisions of this section."

SECTION 5. Section 24-32-5 NMSA 1978 (being Laws 2019, .218459.3SAAIC February 19, 2021 (10:39pm)

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Chapter 41, Section 5) is amended to read:

"24-32-5. RULEMAKING.--By December 31, [~~2019~~] 2021, the secretary of health shall adopt and promulgate amended rules to carry out the provisions of the Maternal Mortality and Morbidity Prevention Act."

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