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HOUSE BILL 269

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

INTRODUCED BY

Zachary J. Cook

AN ACT

RELATING TO MEDICAL RECORDS; ALLOWING DISCLOSURES FOR
TREATMENT, PAYMENT AND OTHER ACTIVITIES.

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

SECTION 1. Section 24-14B-6 NMSA 1978 (being Laws 2009,
Chapter 69, Section 6) is amended to read:

"24-14B-6. USE AND DISCLOSURE OF ELECTRONIC HEALTH CARE
INFORMATION.--

A. A provider, health care institution, health
information exchange or health care group purchaser shall not
use or disclose health care information in an individual's
electronic medical record to another person without the consent
of the individual except as allowed by state or federal law.

B. A provider, health care institution or health
care group purchaser may disclose demographic information and

1 information about the location of an individual's electronic
2 medical records to a record locator service in accordance with
3 state or federal law. A provider or health care institution
4 participating in a health information exchange using a record
5 locator service shall not have access to demographic
6 information, information about the location of the individual's
7 electronic medical records or information in an individual's
8 electronic medical record except in connection with the
9 treatment of the individual or as permitted by the consent of
10 the individual or as otherwise permitted by state or federal
11 law.

12 C. A record locator service shall maintain an audit
13 log of persons obtaining access to information in the record
14 locator service, which audit log shall contain, at a minimum,
15 information on:

- 16 (1) the identity of the person obtaining
17 access to the information;
- 18 (2) the identity of the individual whose
19 information was obtained;
- 20 (3) the location from which the information
21 was obtained;
- 22 (4) the specific information obtained; and
- 23 (5) the date that the information was
24 obtained.

25 D. The audit log shall be made available by a

1 health information exchange on the request of an individual
2 whose health care information is the subject of the audit log;
3 provided, however, that the audit log made available to the
4 individual shall include only information related to that
5 individual. The audit log shall be made available to the
6 requesting individual annually for a fee not to exceed twenty-
7 five cents (\$.25) per page as established by the department of
8 health.

9 E. A record locator service shall provide a
10 mechanism under which individuals may exclude their demographic
11 information and information about the location of their
12 electronic medical records from the record locator service. A
13 person operating a record locator service or a health
14 information exchange that receives an individual's request to
15 exclude all of the individual's information from the record
16 locator service is responsible for removing that information
17 from the record locator service within thirty days. An
18 individual's request for exclusion of information shall be in
19 writing and shall include a waiver of liability for any harm
20 caused by the exclusion of the individual's information.

21 F. When information in an individual's electronic
22 medical record is requested using a record locator service or a
23 health information exchange:

24 (1) the requesting provider or health care
25 institution shall warrant that the request is for the treatment

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1 of the individual, is permitted by the individual's written
2 authorization or is otherwise permitted by state or federal
3 law; and

4 (2) the person disclosing the information may
5 rely upon the warranty of the person making the request that
6 the request is for the treatment of the individual, is
7 permitted with the consent of the individual or is otherwise
8 permitted by state or federal law.

9 G. Notwithstanding any other provision of law,
10 information in an individual's electronic medical record may be
11 disclosed:

12 (1) to a provider that has a need for
13 information about the individual to treat a condition that
14 poses an immediate threat to the life of any individual and
15 that requires immediate medical attention; ~~and~~

16 (2) except as provided in the Electronic
17 Medical Records Act, to a record locator service or a health
18 information exchange for the development and operation of the
19 record locator service and the health information exchange; and

20 (3) to a provider, health care institution or
21 health care group purchaser for treatment, payment or health
22 care operation activities, in compliance with the federal
23 Health Insurance Portability and Accountability Act of 1996 and
24 the regulations promulgated pursuant to that act, and if
25 applicable, in compliance with 42 U.S.C. Section 290dd-d and

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1 the regulations promulgated pursuant to that section."

2 SECTION 2. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2021.

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