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SENATE BILL

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

INTRODUCED BY

Nancy Rodriguez

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.

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"."

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

3 "24-32-2. DEFINITIONS.--As used in the Maternal Mortality
4 and Morbidity Prevention Act:

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

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

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

13 D. "clinical co-chair" means a committee member
14 with clinical training nominated by the committee and approved
15 by the department to serve in this position;

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

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

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

25 ~~[D.]~~ H. "de-identified data" means [removal any of

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1 ~~the~~] data from which the following identifiers have been
2 removed:

- 3 (1) names;
- 4 (2) any geographic subdivision smaller than a
5 state, including street address, city, county, precinct and zip
6 code and their equivalent geocodes;
- 7 (3) all elements of dates, except the year of
8 an incident, [~~for dates~~] that are directly related to an
9 individual, including birth date, admission date, date of
10 delivery, discharge date and date of death;
- 11 (4) telephone numbers;
- 12 (5) fax numbers;
- 13 (6) electronic mail addresses;
- 14 (7) social security numbers;
- 15 (8) medical record numbers;
- 16 (9) health plan beneficiary numbers;
- 17 (10) account numbers;
- 18 (11) certificate and license numbers;
- 19 (12) vehicle identifiers and serial numbers,
20 including license plate numbers;
- 21 (13) device identifiers and serial numbers;
- 22 (14) web universal resource locators, also
23 known as "URLs";
- 24 (15) internet protocol address numbers;
- 25 (16) biometric identifiers, including finger

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1 and voice prints;

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

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

6 [~~E.~~] I. "department" means the department of
7 health;

8 [~~F.~~] J. "health care provider" means:

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

12 (2) a health facility that the department
13 licenses;

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

17 [~~H.~~] L. "maternal mortality" means the death of a
18 pregnant woman or a woman within one year [~~postpartum~~] of the
19 end of pregnancy;

20 [~~I.~~] M. "medical record" means the written or
21 graphic documentation, sound recording or electronic record
22 relating to medical, behavioral health and health care services
23 that a patient receives from a health care provider or under
24 the direction of a physician or another licensed health care
25 provider. "Medical record" includes diagnostic documentation,

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1 including an x-ray, electrocardiogram and electroencephalogram;
2 other test results; data entered into a prescription drug
3 monitoring program; and an autopsy report;

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

7 O. "qualified guest" means a person approved by the
8 co-chairs of the committee to attend a committee meeting to
9 provide technical expertise to the committee, to enhance
10 training in maternal health, to provide insight on maternal
11 mortality or severe maternal morbidity review in other
12 jurisdictions or to provide operational support to the
13 committee; and

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

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

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

21 ~~K. "subcommittee" means the abstractor subcommittee~~
22 ~~of the committee] unexpected outcomes of labor and delivery~~
23 that result in significant short- or long-term consequences to
24 a woman's health as identified by hospitalizations using
25 administrative hospital discharge data and the world health

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1 organization's *International Classification of Diseases*
2 diagnosis and procedure codes."

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

5 "24-32-3. MATERNAL MORTALITY [~~AND SEVERE MATERNAL~~
6 ~~MORBIDITY~~] REVIEW COMMITTEE--CREATION--MEMBERSHIP--DUTIES.--

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

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

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

18 (3) a maximum of thirty additional members,
19 who shall be appointed by the administrative co-chair.

20 B. Each member of the committee, except the
21 administrative co-chair, shall serve a term of three years.

22 C. In appointing members of the committee, the
23 [~~chief medical officer shall appoint members from geographic~~
24 ~~areas throughout the state with knowledge of maternal mortality~~
25 ~~and severe maternal morbidity, including representatives of~~

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1 ~~hospitals and other birthing facilities; obstetrical providers;~~
2 ~~nursing providers; the office of the state medical~~
3 ~~investigator; the department; representatives of an association~~
4 ~~of perinatal health care providers that work in a perinatal~~
5 ~~health care collaborative; and other professionals that the~~
6 ~~chief medical officer deems appropriate.~~

7 ~~B. Committee members shall serve terms of three~~
8 ~~years; provided that the initial members' terms shall be~~
9 ~~staggered in accordance with department rules. The secretary~~
10 ~~of health shall call the first meeting, at which the committee~~
11 ~~shall elect a chair. Thereafter] administrative co-chair shall~~
12 ~~include members that work in and represent communities that are~~
13 ~~diverse so that the composition of the committee reflects:~~

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

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

18 ~~(3) communities that are affected by~~
19 ~~pregnancy-related deaths, severe maternal morbidity and a lack~~
20 ~~of access to relevant perinatal and intrapartum care services.~~

21 ~~D. The committee shall meet at the call of the~~
22 ~~[chair.~~

23 ~~G. Committee members shall serve without any~~
24 ~~compensation or perquisite arising from their service.] co-~~
25 ~~chairs. A majority of committee members appointed constitutes~~

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1 a quorum for the transaction of any business. The affirmative
2 vote of at least a majority of a quorum present and approval by
3 the secretary of health or the secretary's designee shall be
4 necessary for any action to be taken by the committee. No
5 vacancy in the membership of the committee shall impair the
6 right of a quorum to exercise all rights and perform all duties
7 of the committee.

8 E. Operational staff and qualified guests may
9 participate in committee deliberations in an advisory capacity
10 as directed by the co-chairs of the committee. Operational
11 staff and qualified guest presence at a committee meeting shall
12 not convey committee membership.

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

22 ~~[D-]~~ G. The committee shall:
23 (1) review each incident of maternal mortality
24 ~~[and severe maternal morbidity incident in the state related to~~
25 ~~each maternal mortality]~~ using ~~[the]~~ a de-identified case

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1 summary [~~that the subcommittee provides~~] prepared by
2 operational staff;

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

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

9 (4) compile reports using aggregate data
10 [~~based on the cases that the department identifies for~~
11 ~~reporting. The committee shall compile these reports~~] on an
12 annual basis in an effort to further study the causes and
13 problems associated with maternal mortality and severe maternal
14 morbidity and distribute these reports to the legislature,
15 government agencies, health care providers and others as
16 necessary to reduce the maternal mortality rate in the state.
17 These reports shall include recommendations to assist health
18 care providers and the health care system in reducing maternal
19 mortality and morbidity;

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

24 (6) perform any other functions as resources
25 allow to enhance efforts to reduce and prevent maternal

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1 mortality and severe maternal morbidity in the state.

2 H. The co-chairs of the committee may designate an
3 executive committee to conduct business as necessary. The
4 executive committee shall:

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

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

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

17 (4) make final decisions regarding:

18 (a) committee operations and rules;
19 (b) data analysis, data dissemination
20 and evaluation based on findings and recommendations from the
21 full committee; and

22 (c) any other issues within the scope of
23 decisions that may be made by the committee pursuant to the
24 Maternal Mortality and Morbidity Prevention Act that the full
25 committee or department deems necessary."

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

3 "24-32-4. ACCESS TO HEALTH INFORMATION [~~ABTRACTOR~~
4 ~~SUBCOMMITTEE~~].--

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

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

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

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

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

20 (2) except as may be necessary in furtherance
21 of the duties of the committee or in response to an alleged
22 violation of a confidentiality agreement pursuant to Subsection
23 E of this section, any information, record, report, notes,
24 memorandum or other data that the department or committee
25 obtains pursuant to the Maternal Mortality and Morbidity

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1 Prevention Act.

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

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

24 SECTION 5. Section 24-32-5 NMSA 1978 (being Laws 2019,
25 Chapter 41, Section 5) is amended to read:

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1 "24-32-5. RULEMAKING.--By December 31, [~~2019~~] 2021, the
2 secretary of health shall adopt and promulgate amended rules to
3 carry out the provisions of the Maternal Mortality and
4 Morbidity Prevention Act."

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