

LFC Requester: _____

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/21/25 *Check all that apply:*
Bill Number: SB463 Original Correction
 Amendment Substitute

Sponsor: Sen Hickey **Agency Name and Code** HCA-630
Short Title: Sharing Health Data with LFC Staff **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
\$0	\$0	-	-

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
\$0	\$0	\$0	-	-

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0	\$0	\$0	\$0	-	-

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

Changes the definition of “record-level data” in the Health Information System Act from:

“a medical record that contains unique and nonaggregated data elements that relate to a single identifiable individual.”

to:

“a medical record that contains unique identifying data, including a name, personal address, personal phone number, social security number, patient record or other unique identifying data that could be used to identify a specific person.”

Adds a new section requiring that “health care claims information and data” related to “payer sources” shall be provided LFC staff, if the information or data does not reveal the “personal information” of any patient.

Adds another new section requiring that “health care claims information and data” related to “payer sources” that are provided to LFC staff shall have all confidential record-level data removed and DOH shall replace the confidential record-level data with a unique code to identify each unique patient.

FISCAL IMPLICATIONS

None

SIGNIFICANT ISSUES

SB463 uses the term “payor source” but does not define the term. Consequently, there could be confusion and dispute over what is a “payor source.” Likewise, the bill uses, but does not define, the phrase “health care claims information.”

Even though SB463 redefines “record-level data” it uses the term “personal information” in the proposed new Section 2(D). “Personal information” is not defined, so it is unclear why that phrase, rather than the defined term “record-level data” is used in the subsection.

The bill arguably reduces patient information protection by redefining “record-level data.” The current definition refers to data “that relates to a single identifiable individual.” This could be interpreted as broader than the proposed language of “identifying data that could be used to identify a specific person.” “Relating to” an identifiable person is more clear and less subjective than “identifying data” which could be open to subjective interpretation, especially in small, low-population communities where the identified health condition alone could identify the person.

The bill contains no appropriation but requires DOH to implement a system to replace record-level data with a unique identifier for each patient. There are likely costs associated with the staff time and the DOH IT system changes needed to implement the proposed change.

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

No immediate HCA IT impact. Some reports from the financials services module of the Medicaid system may be necessary. This will be at no additional cost.

The US Department of Health and Human Services has developed a 'Safe Harbor' method for de-identification of protected health information in accordance with the HIPAA Privacy Rule. Due to the sparse population of New Mexico and to ensure confidentiality of the New Mexican population, additional masking of data beyond what is included in this bill is required. Exclusion of county, zip code, and tribal affiliation are all examples of additional personal descriptors requiring masking of data prior to sharing. If LFC starts receiving identifiable information for Medicaid data, they will be subject to MARS-E or equivalent security & privacy control requirements.

For more information on the Safe Harbor method, see the link:

<https://www.hhs.gov/hipaa/for-professionals/special-topics/de-identification/index.html#uniqueidentifier>

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

IT systems containing Personally Identifiable Information (PHI) and Protected Health Information (PHI) are covered by the Health Insurance Portability and Accountability Act (HIPAA); specifically, the Privacy Rule. The Privacy Rule protects all "individually identifiable health information" held or transmitted by a covered entity or its business associate, in any form or media, whether electronic, paper, or oral.

"Individually identifiable health information" is information, including demographic data, that relates to:

- the individual's past, present or future physical or mental health or condition,
- the provision of health care to the individual, or
- the past, present, or future payment for the provision of health care to the individual,

and that identifies the individual or for which there is a reasonable basis to believe it can be used to identify the individual. Individually identifiable health information includes many common identifiers (such as, name, address, birth date, Social Security Number).

A major purpose of the Privacy Rule is to define and limit the circumstances in which an individual's protected health information may be used or disclosed by covered entities. A covered entity may not use or disclose protected health information, except either: (1) as the Privacy Rule permits or requires; or (2) as the individual who is the subject of the information (or the individual's personal representative) authorizes in writing.

A covered entity is permitted, but not required, to use and disclose protected health information, without an individual's authorization, for the following purposes or situations: (1) To the Individual (unless required for access or accounting of disclosures); (2) Treatment, Payment, and Health Care Operations; (3) Opportunity to Agree or Object; (4) Incident to an otherwise permitted use and disclosure; (5) Public Interest and Benefit Activities; and (6) Limited Data Set for the purposes of research, public health or health care operations. Covered entities may rely on professional ethics and best judgments in deciding which of these permissive uses and disclosures to make.

Covered entities may disclose protected health information to law enforcement officials for law enforcement purposes under the following six circumstances, and subject to specified conditions: (1) as required by law (including court orders, court-ordered warrants, subpoenas) and

administrative requests; (2) to identify or locate a suspect, fugitive, material witness, or missing person; (3) in response to a law enforcement official's request for information about a victim or suspected victim of a crime; (4) to alert law enforcement of a person's death, if the covered entity suspects that criminal activity caused the death; (5) when a covered entity believes that protected health information is evidence of a crime that occurred on its premises; and (6) by a covered health care provider in a medical emergency not occurring on its premises, when necessary to inform law enforcement about the commission and nature of a crime, the location of the crime or crime victims, and the perpetrator of the crime.

The Privacy Rule permits use and disclosure of protected health information, without an individual's authorization or permission, for 12 national priority purposes. These disclosures are permitted, although not required, by the Rule in recognition of the important uses made of health information outside of the health care context. Specific conditions or limitations apply to each public interest purpose, striking the balance between the individual privacy interest and the public interest need for this information. More information about the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule can be found at [Summary of the HIPAA Privacy Rule | HHS.gov](http://www.hhs.gov/summary-of-the-hipaa-privacy-rule).

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

None

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS