

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 362

**52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

AN ACT

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

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

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

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

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

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underscored material = new  
[bracketed material] = delete

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 accreditations standards of the  
6 public 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 plan for]~~ state health improvement  
12 plan by September 1, 2008 and at least every ~~[four]~~ five years  
13 thereafter. By September 1 of each even-numbered year, the  
14 department shall review and update or amend the plan in  
15 response to changes and developments.

16 ~~[C.]~~ 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]~~ other agencies and  
23 commissions as the department deems necessary in its  
24 development of the ~~[comprehensive strategic plan for]~~ state  
25 health improvement plan so as to give geographic representation

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

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,~~

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]~~ that the secretary deems will enable  
16 it to function most efficiently, subject to any provisions of  
17 law 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

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

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 of documents by  
23 third parties, protected personal identifier information, as  
24 defined in the Inspection of Public Records Act, shall be  
25 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 by any third party, except by those persons  
12 authorized in this section. As the technology becomes  
13 available, county clerks shall segregate commingled discharge  
14 papers from the public records in the office of the county  
15 clerk. Discharge papers recorded in the office of the county  
16 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 by any third party unless  
3 fifty years have elapsed after the date of death [~~and the cause~~  
4 ~~of death and any other medical information contained on the~~  
5 ~~death certificate is redacted, in addition to redaction of~~  
6 ~~protected personal identifier information. Death certificates~~  
7 ~~and other vital records recorded in the office of the county~~  
8 ~~clerk are exempt from the restrictions contained in Subsection~~  
9 ~~A of Section 24-14-27 NMSA 1978~~]. The act of recording a death  
10 certificate in the office of the county clerk is considered a  
11 convenience; provided that no person shall be required to  
12 record a death certificate in the office of the county clerk to  
13 effect change of title or interest in property."

14 SECTION 4. Section 24-1-2 NMSA 1978 (being Laws 1973,  
15 Chapter 359, Section 2, as amended by Laws 2007, Chapter 325,  
16 Section 6 and by Laws 2007, Chapter 326, Section 1) is amended  
17 to read:

18 "24-1-2. DEFINITIONS.--As used in the Public Health Act:

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

24 [A.] B. "department" [~~or "division"~~] means:

25 (1) the department of health; or

1                   (2) the children, youth and families  
 2 department as to child care centers, residential treatment  
 3 centers that serve persons up to twenty-one years of age,  
 4 community mental health centers that serve only persons up to  
 5 twenty-one years of age, day treatment centers that serve  
 6 persons up to twenty-one years of age, shelter care homes and  
 7 those outpatient facilities that are also community-based  
 8 behavioral health facilities serving only persons up to twenty-  
 9 one years of age [~~and the department of health as to all other~~  
 10 ~~health facilities, unless otherwise designated];~~

11                   [~~B.~~] C. "director" means the secretary;

12                   [~~C.~~ "~~person~~", ~~when used without further~~  
 13 ~~qualification, means an individual or any other form of entity~~  
 14 ~~recognized by law;~~]

15                   D. "health care provider" means an individual  
 16 licensed to provide health care in the ordinary course of  
 17 business, except as otherwise defined in the Public Health Act;

18                   [~~D.~~] E. "health facility" means a public hospital,  
 19 profit or nonprofit private hospital, general or special  
 20 hospital, outpatient facility, maternity home or shelter, adult  
 21 daycare facility, nursing home, intermediate care facility,  
 22 boarding home not under the control of an institution of higher  
 23 learning, child care center, shelter care home, diagnostic and  
 24 treatment center, rehabilitation center, infirmary, community  
 25 mental health center that serves both children and adults or

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1 adults only, residential treatment center that serves persons  
2 up to twenty-one years of age, community mental health center  
3 that serves only persons up to twenty-one years of age and day  
4 treatment center that serves persons up to twenty-one years of  
5 age or a health service organization operating as a  
6 freestanding hospice or a home health agency. The designation  
7 of these entities as health facilities is only for the purposes  
8 of definition in the Public Health Act and does not imply that  
9 a freestanding hospice or a home health agency is considered a  
10 health facility for the purposes of other provisions of state  
11 or federal laws. "Health facility" also includes those  
12 facilities that, by federal regulation, must be licensed by the  
13 state to obtain or maintain full or partial, permanent or  
14 temporary federal funding. It does not include the offices and  
15 treatment rooms of licensed private practitioners; ~~and~~

16 F. "screening" means the systematic application of  
17 a test to a defined population;

18 [~~E.~~] G. "secretary" means:

19 (1) the secretary of health; or

20 (2) the secretary of children, youth and  
21 families as to child care centers, residential treatment  
22 centers that serve persons up to twenty-one years of age,  
23 community mental health centers that serve only persons up to  
24 twenty-one years of age, day treatment centers that serve  
25 persons up to twenty-one years of age, shelter care homes and

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1 those outpatient facilities that are also community-based  
2 behavioral health facilities serving only persons up to twenty-  
3 one years of age [~~and the secretary of health as to all other~~  
4 ~~health facilities~~]; and

5 H. "test" means any diagnostic or investigative  
6 analysis or medical procedure that determines the presence of,  
7 absence of or exposure to a condition of public health  
8 importance or its precursor in an individual."

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

11 "24-1-3. POWERS AND AUTHORITY OF DEPARTMENT.--The  
12 department has authority to:

13 A. receive such grants, subsidies, donations,  
14 allotments or bequests as may be offered to the state by the  
15 federal government or any department thereof or by any public  
16 or private foundation or individuals;

17 B. supervise the health and hygiene of the people  
18 of the state and identify ways to evaluate and address  
19 community health problems;

20 C. investigate, control and abate the causes of  
21 disease, especially epidemics, sources of mortality and other  
22 conditions of public health;

23 D. establish, maintain and enforce isolation and  
24 quarantine;

25 E. close any public place and forbid gatherings of

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1 people when necessary for the protection of the public health;

2 F. respond to public health emergencies and assist  
3 communities in recovery;

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

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

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

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

12 K. ensure the quality and accessibility of health  
13 care services and the provision of health care when health care  
14 is otherwise unavailable;

15 L. ensure a competent public health work force;

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

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

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

23 P. cooperate and enter into contracts or agreements  
24 with Native American nations, tribes and pueblos and off-  
25 reservation groups to coordinate the provision of essential

1 public health services and functions;

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

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

8 [O.] S. maintain and enforce such rules as may be  
9 necessary to carry out the provisions of the Public Health Act  
10 and to publish the rules;

11 [P.] T. supervise state public health activities,  
12 operate a dental public health program and operate state  
13 laboratories for the investigation of public health matters;

14 [Q.] U. sue and, with the consent of the  
15 legislature, be sued;

16 [R.] V. regulate the practice of midwifery;

17 [S.] W. administer legislation enacted pursuant to  
18 Title VI of the Public Health Service Act, as amended and  
19 supplemented;

20 [T.] X. inspect such premises or vehicles as  
21 necessary to ascertain the existence or nonexistence of  
22 conditions dangerous to public health or safety;

23 [U.] Y. request and inspect, while maintaining  
24 federal and state confidentiality requirements, copies of:

25 (1) medical and clinical records reasonably

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1 required for the department's quality assurance and quality  
2 improvement activities; and

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

6 ~~[V-]~~ Z. do all other things necessary to carry out  
7 its duties."

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

10 "24-1-4. CREATION OF HEALTH ~~[DISTRICTS]~~ REGIONS--  
11 APPOINTMENT OF HEALTH OFFICERS--POWERS AND DUTIES OF HEALTH  
12 OFFICERS.--

13 A. The director shall establish health ~~[districts]~~  
14 regions and may modify and create new ~~[ones]~~ health regions as  
15 ~~[he]~~ the director deems necessary.

16 B. ~~[The director shall appoint one district health~~  
17 ~~officer for each health district. The director may appoint~~  
18 ~~assistants to the district health officer when he deems~~  
19 ~~necessary.~~

20 C. ~~The director shall establish the powers and~~  
21 ~~duties of the district health officers.~~

22 D. ~~All school health personnel except physical~~  
23 ~~education personnel are under the direct supervision and~~  
24 ~~control of the district health officer in their district.~~

25 ~~They]~~ A regional health officer shall provide medical oversight

1 to school nurses in the regional health officer's region. A  
 2 school nurse shall make [such] reports relating to public  
 3 health as the [district] regional health officer in [their  
 4 district] the school nurse's region requires.

5 C. As used in this section, "medical oversight"  
 6 means advice and direction that is provided by a regional  
 7 health officer or under the direction of a regional health  
 8 officer to a school nurse, or a school nurse's designee, who  
 9 performs nursing activities in a school setting."

10 SECTION 7. Section 24-1-7 NMSA 1978 (being Laws 1973,  
 11 Chapter 359, Section 7, as amended) is repealed and a new  
 12 Section 24-1-7 NMSA 1978 is enacted to read:

13 "24-1-7. [NEW MATERIAL] SEXUALLY TRANSMITTED INFECTIONS--  
 14 REPORTS OF CASES.--

15 A. The department shall make available a list of  
 16 sexually transmitted infections for which reporting is  
 17 required.

18 B. Reports of sexually transmitted infections shall  
 19 be made in accordance with department rules.

20 C. Every health care provider who makes a diagnosis  
 21 of, treats or prescribes for, or otherwise has knowledge of, a  
 22 case of sexually transmitted infection that is required by the  
 23 department to be reported shall report the case immediately.

24 D. As used in this section, "health care provider"  
 25 means:

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

3 (2) a superintendent or manager of a health  
4 care clinic;

5 (3) a dispensary, a charitable or penal  
6 institution or a municipal or county detention center; or

7 (4) a laboratory that performs testing for  
8 sexually transmitted infections."

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

11 "24-1-9. CAPACITY TO CONSENT TO EXAMINATION AND TREATMENT  
12 FOR A SEXUALLY TRANSMITTED [~~DISEASE~~] INFECTION.--Any person  
13 regardless of age has the capacity to consent to an examination  
14 and treatment by a licensed [~~physician~~] health care provider  
15 for any sexually transmitted [~~disease~~] infection."

16 SECTION 9. Section 24-1-9.1 NMSA 1978 (being Laws 1993,  
17 Chapter 341, Section 4) is amended to read:

18 "24-1-9.1. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--  
19 TESTING OF PERSONS CONVICTED OF CERTAIN CRIMINAL OFFENSES.--

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

23 (1) involving contact between the penis and  
24 the vulva;

25 (2) involving contact between the penis and

1 anus;

2 (3) involving contact between the mouth and  
3 penis;

4 (4) involving contact between the mouth and  
5 vulva;

6 (5) involving contact between the mouth and  
7 anus; or

8 (6) when the court determines from the facts  
9 of the case that there was a transmission or likelihood of  
10 transmission of bodily fluids from the offender to the victim  
11 of the criminal offense.

12 B. When consent to perform a test on an offender  
13 cannot be obtained, the victim of a criminal offense described  
14 in Subsection A of this section may petition the court to order  
15 that a test be performed on the offender. When the victim of  
16 the criminal offense is a minor or an incompetent, the parent  
17 or legal guardian of the victim may petition the court to order  
18 that a test be performed on the offender. The court shall  
19 order and the test shall be administered to the offender within  
20 ten days after the petition is filed by the victim ~~[his]~~ or the  
21 victim's parent or guardian. Except for disclosures made  
22 pursuant to Section 24-1-7 NMSA 1978, the results of the test  
23 shall be disclosed only to the offender and to the victim or  
24 the victim's parent or legal guardian."

25 SECTION 10. Section 24-1-9.2 NMSA 1978 (being Laws 1996,

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

2 "24-1-9.2. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--  
3 TESTING OF PERSONS FORMALLY CHARGED FOR ALLEGEDLY COMMITTING  
4 CERTAIN CRIMINAL OFFENSES.--

5 A. A test designed to identify any sexually  
6 transmitted [~~disease~~] infection may be performed on a person,  
7 upon the filing of a complaint, information or an indictment  
8 alleging that the person committed a state 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; or

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

19 B. If consent to perform a test on an alleged  
20 offender cannot be obtained, the victim of the alleged criminal  
21 offense described in Subsection A of this section may petition  
22 the court, through the prosecuting office or personally, to  
23 order that a test be performed on the alleged offender;  
24 provided that the same test is first performed on the victim of  
25 the alleged criminal offense. The test may be performed on the

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1 alleged offender regardless of the result of the test performed  
2 on the victim of the alleged criminal offense. If the victim  
3 of the alleged criminal offense is a minor or incompetent, the  
4 parent or legal guardian of the victim of the alleged criminal  
5 offense may petition the court to order that a test be  
6 performed on the alleged offender.

7 C. The court may issue an order based on a finding  
8 of good cause after a hearing at which both the victim of the  
9 alleged criminal offense and the alleged offender have the  
10 right to be present. During the hearing, only affidavits,  
11 counter affidavits and medical reports regarding the facts that  
12 support or rebut the issuance of an order shall be admissible.  
13 The hearing shall be conducted within seventy-two hours after  
14 the victim petitions the court for the order. The petition and  
15 all proceedings in connection therewith shall be under seal.  
16 The court shall issue an order and the test shall be  
17 administered to the alleged offender within ten days after the  
18 petition is filed by the victim of the alleged criminal offense  
19 ~~[his]~~ or the victim's parent or legal guardian.

20 D. Except for disclosures made pursuant to Section  
21 24-1-7 NMSA 1978, the results of the test shall be disclosed  
22 only to the alleged offender and to the victim of the alleged  
23 criminal offense or the victim's parent or legal guardian.  
24 When the victim of the alleged criminal offense or the alleged  
25 offender has a positive test result, both the alleged offender

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1 and the victim of the alleged criminal offense shall be  
2 provided with counseling.

3 E. A prosecuting attorney may not use in a criminal  
4 proceeding arising out of the alleged criminal offense the fact  
5 that a test was administered to the alleged offender or the  
6 results of the test.

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

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

14 SECTION 11. Section 24-1-9.3 NMSA 1978 (being Laws 1996,  
15 Chapter 80, Section 2) is amended to read:

16 "24-1-9.3. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--  
17 MANDATORY COUNSELING.--No positive test result for a sexually  
18 transmitted [~~disease~~] infection shall be revealed to the person  
19 upon whom the test was performed without the person performing  
20 the test or the health facility at which the test was performed  
21 providing or referring that person for individual counseling  
22 about:

- 23 A. the meaning of the test results;  
24 B. the possible need for additional testing;  
25 C. the availability of appropriate health care

1 services, including mental health care, social services and  
 2 support services; and

3 D. the benefits of locating and counseling any  
 4 individual by whom the infected person may have been exposed to  
 5 the sexually transmitted [~~disease~~] infection and any individual  
 6 whom the infected person may have exposed to the sexually  
 7 transmitted [~~disease~~] infection."

8 SECTION 12. Section 24-1-9.4 NMSA 1978 (being Laws 1996,  
 9 Chapter 80, Section 3) is amended to read:

10 "24-1-9.4. SEXUALLY TRANSMITTED [~~DISEASES~~] INFECTIONS--  
 11 CONFIDENTIALITY.--

12 A. Except as provided in Section 24-1-9.2 NMSA  
 13 1978, no person or the person's agents or employees who require  
 14 or administer a test for sexually transmitted [~~diseases~~]  
 15 infections shall disclose the identity of any person upon whom  
 16 a test is performed or the result of such a test in a manner  
 17 that permits identification of the subject of the test, except  
 18 to the following persons:

19 [~~A.~~] (1) the subject of the test or the  
 20 subject's legally authorized representative, guardian or legal  
 21 custodian;

22 [~~B.~~] (2) any person designated in a legally  
 23 effective release of the test results executed prior to or  
 24 after the test by the subject of the test or the subject's  
 25 legally authorized representative;

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1                   [~~E.~~] (3) an authorized agent, a credentialed  
2 or privileged physician or an employee of a health facility or  
3 health care provider if the health care facility or health care  
4 provider itself is authorized to obtain the test results, the  
5 agent or employee provides patient care or handles or processes  
6 specimens of body fluids or tissues and the agent or employee  
7 has a need to know such information;

8                   [~~D.~~] (4) the department of health and the  
9 centers for disease control and prevention of the United States  
10 public health service in accordance with reporting requirements  
11 for a diagnosed case of a sexually transmitted [~~disease~~]  
12 infection;

13                   [~~E.~~] (5) a health facility or health care  
14 provider that procures, processes, distributes or uses:

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

18                                 [~~(2)~~] (b) semen for the purpose of  
19 artificial insemination;

20                                 [~~(3)~~] (c) blood or blood products for  
21 transfusion or injection; or

22                                 [~~(4)~~] (d) human body parts for  
23 transplant with respect to medical information regarding the  
24 donor or recipient;

25                   [~~F.~~] (6) health facility staff committees or

1 accreditation or oversight review organizations that are  
 2 conducting program monitoring, program evaluation or service  
 3 reviews, as long as any identity remains confidential;

4 ~~[G.]~~ (7) authorized medical or epidemiological  
 5 researchers who may not further disclose any identifying  
 6 characteristics or information; and

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

10 B. Whenever disclosure is made, it shall be  
 11 accompanied by a statement in writing that includes the  
 12 following or substantially similar language: "This information  
 13 has been disclosed to you from records whose confidentiality is  
 14 protected by state law. State law prohibits you from making  
 15 any further disclosure of this information without the specific  
 16 written consent of the person to whom this information pertains  
 17 or as otherwise permitted by law. A person who makes an  
 18 unauthorized disclosure of this information is guilty of a  
 19 petty misdemeanor and shall be sentenced to imprisonment in the  
 20 county jail for a definite term not to exceed six months or the  
 21 payment of a fine of not more than five hundred dollars (\$500),  
 22 or both."."

23 SECTION 13. Section 24-1-9.6 NMSA 1978 (being Laws 1996,  
 24 Chapter 80, Section 5) is amended to read:

25 "24-1-9.6. SEXUALLY TRANSMITTED ~~[DISEASES]~~ INFECTIONS--

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1 DISCLOSURE.--

2           A. A victim of a criminal offense or an alleged  
3 criminal offense who receives information pursuant to Section  
4 24-1-9.1 or 24-1-9.2 NMSA 1978 may disclose the offender's or  
5 alleged offender's test results to the victim's health care  
6 provider as is reasonably necessary to protect [~~his~~] the  
7 victim's health and safety or the health and safety of [~~his~~]  
8 the victim's family or sexual partner.

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

12           SECTION 14. Section 24-1-9.7 NMSA 1978 (being Laws 1996,  
13 Chapter 80, Section 6) is amended to read:

14           "24-1-9.7. PENALTY.--A person who, in violation of  
15 Section 24-1-9.4 NMSA 1978, makes an unauthorized disclosure of  
16 the results of a test designed to identify a sexually  
17 transmitted [~~disease~~] infection is guilty of a petty  
18 misdemeanor and shall be sentenced to imprisonment in the  
19 county jail for a definite term not to exceed six months or the  
20 payment of a fine of not more than five hundred dollars (\$500)  
21 or both."

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

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

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1           ~~[A. When a physician or other person knows that a~~  
2 ~~person is infected with a threatening communicable disease, he~~  
3 ~~shall promptly notify a public health official or his~~  
4 ~~authorized agent.~~

5           ~~B. A public health official who]~~ A. If the  
6 secretary or a representative of the department whom the  
7 secretary designates has knowledge that a person is infected  
8 with, reasonably believed to be infected with or exposed to a  
9 threatening communicable disease and the person has refused  
10 voluntary treatment, testing, evaluation, detention or  
11 observation, the secretary or the secretary's designee shall  
12 petition the court for an order [~~to detain the person who is~~  
13 ~~infected with the threatening communicable disease]~~ to isolate  
14 or quarantine the person until the person is no longer a  
15 [~~contagious]~~ threat to the public health or until the person  
16 voluntarily complies with [~~the appropriate]~~ treatment and  
17 contagion precautions.

18           B. The secretary or a representative of the  
19 department whom the secretary designates may, by public health  
20 order, temporarily isolate or quarantine a person or group of  
21 persons if delay in isolating or quarantining would  
22 significantly jeopardize the secretary's ability to prevent or  
23 limit the transmission of a threatening communicable disease to  
24 others. The public health order shall expire at the end of  
25 twenty-four hours from the time of the commencement of

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1 isolation or quarantine. The secretary may petition for a  
2 court order that authorizes the continued isolation or  
3 quarantine of the person or group of persons. In the petition,  
4 the secretary shall present facts used to support the need to  
5 have issued the public health order to isolate or quarantine.

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

11 D. ~~The petition shall state that the person to be~~  
12 ~~detained]~~ the basis upon which isolation or quarantine is  
13 justified, including whether the person to be isolated or  
14 quarantined:

15 (1) is ~~[actively infectious]~~ infected with,  
16 reasonably believed to be infected with or exposed to a  
17 threatening communicable disease ~~[or presents a substantial~~  
18 ~~likelihood of having a threatening communicable disease based~~  
19 ~~on credible medical evidence]; and~~

20 (2) poses a substantial likelihood of  
21 transmission of the threatening communicable disease to others  
22 because of inadequate separation from others ~~[and~~

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

25 ~~[E.]~~ D. Upon the filing of a petition, the court

1 shall:

2 (1) immediately grant ex parte a [~~temporary~~]  
3 court order [~~of protection~~] to isolate or quarantine the  
4 affected person [~~infected with the threatening communicable~~  
5 ~~disease~~] if there is probable cause from the specific facts  
6 shown by the affidavit or by the petition to give the judge  
7 reason to believe that the affected person [~~infected with a~~  
8 ~~threatening communicable disease~~] poses a substantial threat to  
9 the public health and safety;

10 (2) cause the [~~temporary~~] court order [~~of~~  
11 ~~protection~~], notice of hearing and an advisement of the terms  
12 of the [~~temporary protective~~] court order, including [~~his~~  
13 ~~right~~] the affected person's right to representation and re-  
14 petition for termination of [~~any protective~~] a court order that  
15 removes and detains the [~~infected person~~] affected person, to  
16 be immediately served on the [~~allegedly infected person~~]  
17 affected person; and

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

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

24 (1) entitled to representation by counsel at  
25 the evidentiary hearing and at all hearings thereafter for the

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1 duration of the period of [~~removal and detention~~] isolation or  
2 quarantine; and

3 (2) permitted to communicate on any matter  
4 [~~including his removal and detention~~] with persons by  
5 telephone, or other reasonably available means that do not  
6 expose other persons to the risk of infection, for the duration  
7 of the period of [~~removal and detention~~] isolation or  
8 quarantine.

9 [~~G.~~] F. Counsel may be retained by the person held  
10 or shall be appointed by the court if the court determines that  
11 the person held cannot afford legal representation or if the  
12 court determines that appointment of counsel is required in the  
13 interest of justice.

14 [~~H.~~] G. At the evidentiary hearing, the court shall  
15 review the circumstances surrounding the [~~temporary~~] court  
16 order and, if the petitioner can show by clear and convincing  
17 evidence that the person being held has not voluntarily  
18 complied or will not voluntarily comply with appropriate  
19 treatment and contagion precautions, the court may continue  
20 [~~the detention of the person infected with a threatening~~  
21 ~~communicable disease~~] isolation or quarantine. The court shall  
22 order regular review of the order to [~~detain~~] isolate or  
23 quarantine by providing the person being held with a subsequent  
24 hearing within [~~ninety~~] thirty days of the [~~temporary~~] court  
25 order's issuance and every [~~ninety~~] thirty days thereafter.

1 The [~~detention~~] court order to isolate or quarantine shall be  
2 terminated and the affected person shall be released if:

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

6 (2) at a hearing, the petitioner, whose burden  
7 of proof continues under a clear and convincing standard, can  
8 no longer show that the person being held is infected with,  
9 reasonably believed to be infected with or exposed to a  
10 threatening communicable disease and that [he] the affected  
11 person will not comply with appropriate treatment and contagion  
12 precautions voluntarily; or

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

15 [~~F.~~] H. The provisions of this section do not  
16 permit the forcible administration of medications. A person  
17 isolated or quarantined pursuant to this section has the right  
18 to refuse to participate in medical treatment, testing,  
19 physical or mental examination, vaccination, specimen  
20 collection or preventive treatment.

21 I. A person who is isolated or quarantined pursuant  
22 to a court order may petition the court to contest the order or  
23 the conditions of isolation or quarantine at any time prior to  
24 the expiration of the order. If a petition is filed, the court  
25 shall hold a hearing within five days after the date of filing.

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1 The filing of a petition for a hearing pursuant to this  
2 subsection does not stay a court order for isolation or  
3 quarantine. At the hearing, the secretary shall offer clear  
4 and convincing evidence that:

- 5 (1) the isolation or quarantine is warranted;  
6 or  
7 (2) the conditions of isolation or quarantine  
8 are compliant with the provisions of this section.

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

11 (1) isolation or quarantine is the least  
12 restrictive means necessary to protect against the spread of a  
13 threatening communicable disease or a potentially threatening  
14 communicable disease to others and may include confinement to  
15 the affected person's private home, if practicable, or, if not  
16 practicable, to a private or public premises;

17 (2) an isolated person is confined separately  
18 from a quarantined person;

19 (3) the health status of an isolated or  
20 quarantined person is monitored regularly to determine whether  
21 continued isolation or quarantine is required;

22 (4) if a quarantined person subsequently  
23 becomes infected or is reasonably believed to be infected with  
24 the threatening communicable disease, that affected person  
25 shall be promptly isolated;

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

5                   (6) there are methods of communication  
6 available to a person placed in isolation or quarantine to  
7 enable communication with family members, household members,  
8 legal representatives, advocates, the media and any licensed  
9 health care provider;

10                   (7) an area of isolation or quarantine is  
11 maintained in a manner that minimizes the likelihood of further  
12 transmission of infection or other injury to other persons who  
13 are isolated or quarantined; and

14                   (8) to the extent possible, cultural and  
15 religious beliefs shall be respected in addressing the needs of  
16 affected persons and in establishing and maintaining an area of  
17 isolation or quarantine.

18                   K. A person shall not enter an area of isolation or  
19 quarantine except as authorized by the department. To protect  
20 the public health, the department may isolate or quarantine any  
21 person who has entered, with or without the secretary's  
22 authorization, into an area of isolation or quarantine.

23                   [J.—The] L. Court proceedings shall be [recorded  
24 stenographically, electronically, mechanically or by other  
25 appropriate means. The proceedings shall be] on the record and

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1 closed to the general public. [~~and~~] The records shall be  
2 sealed from public inspection.

3 [~~K.~~] M. A person who in good faith reports another  
4 person infected with a threatening communicable disease shall  
5 not be held liable for civil damages as a result of the report;  
6 provided that the person reported as being infected with a  
7 threatening communicable disease shall have the right to sue  
8 for damages sustained as a result of negligent or intentional  
9 reporting of inaccurate information or the disclosure of  
10 information to an unauthorized person.

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

14 O. The secretary, after consultation with the state  
15 medical investigator, the secretary of public safety, the  
16 director and the chair of the board of funeral services, may  
17 implement and enforce measures that are reasonable and  
18 necessary to respond to public health threats, to provide for  
19 the safe disposal of human remains.

20 [~~L.~~] P. For purposes of this section:

21 (1) "area of isolation or quarantine" means  
22 the physical environs that the department designates as the  
23 area within which to restrict access as required to prevent  
24 communication of a threatening communicable disease;

25 [~~(1)~~] (2) "court" means:

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

4                   (b) in the event that a district court  
5 cannot adequately provide services, a district court that the  
6 New Mexico supreme court designates;

7                   (3) "isolate" means to physically separate  
8 for possible medical care a person who is infected or who is  
9 reasonably believed to be infected with a threatening  
10 communicable disease or potentially threatening communicable  
11 disease;

12                   [~~(2)~~] (4) "public health official" means the  
13 secretary, a [~~district~~] regional health officer, the director  
14 of the public health division of the department of health, a  
15 chief medical officer or a [~~person~~] representative of the  
16 department designated by the secretary of health to carry out  
17 the duties provided in this section; [~~and~~]

18                   (5) "quarantine" means the precautionary  
19 physical separation of a person who has or may have been  
20 exposed to a threatening communicable disease or a potentially  
21 threatening communicable disease and who does not show a sign  
22 or symptom of a threatening communicable disease from persons  
23 who are not quarantined to protect against the transmission of  
24 the disease to persons who are not quarantined; and

25                   [~~(3)~~] (6) "threatening communicable disease"

1 means a disease that causes death or great bodily harm, passes  
2 from one person to another and for which there is no means by  
3 which the public reasonably can avoid the risk of contracting  
4 the disease."

5 SECTION 16. Section 24-1-15.1 NMSA 1978 (being Laws  
6 2009, Chapter 174, Section 1) is amended to read:

7 "24-1-15.1. PROTOCOL FOR MANAGEMENT OF [~~INFECTIOUS~~  
8 ~~FORMS OF~~] ACTIVE TUBERCULOSIS.--

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

13 B. Upon receiving notification that a person has  
14 [~~an infectious form of~~] active tuberculosis, the department  
15 shall prescribe the person a treatment plan meeting the  
16 department's therapeutic specifications for [~~the infectious~~  
17 ~~form of~~] active tuberculosis. The treatment plan shall  
18 include a notice to the person that failure to comply with the  
19 treatment plan will result in immediate initiation of court  
20 action to ensure compliance, as set forth in this section.

21 C. The secretary, or a representative of the  
22 department whom the secretary designates, may by public health  
23 order temporarily isolate a person or group of persons if  
24 delay in isolating the person or group would significantly  
25 jeopardize the secretary's ability to prevent or limit the

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1 transmission of tuberculosis to others. The public health  
 2 order shall expire at the end of twenty-four hours from the  
 3 time of the commencement of isolation. The secretary may  
 4 petition for a court order that authorizes the continued  
 5 isolation. In the petition, the secretary shall present facts  
 6 used to support the need to have issued the public health  
 7 order to isolate.

8 ~~[G.]~~ D. Whether or not a public health order was  
 9 issued pursuant to Subsection C of this section, when the  
 10 department has knowledge that a person who has [~~an infectious~~  
 11 ~~form of~~] active tuberculosis has failed to comply with the  
 12 department's treatment plan as described in Subsection B of  
 13 this section, the department shall petition [~~the court~~] for an  
 14 order [~~of protection~~] for the person who has [~~an infectious~~  
 15 ~~form of~~] active tuberculosis to comply with whichever of the  
 16 following courses of action the department deems appropriate:

- 17 (1) a program of directly observed therapy;
- 18 (2) isolation; or
- 19 (3) directly observed therapy and isolation.

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

24 E. [~~The~~] A petition for [~~an order of protection~~] a  
 25 court order shall [~~state that the person for whom the order is~~

1 ~~sought~~ be made under oath or shall be accompanied by a sworn  
2 affidavit setting out specific facts showing the basis upon  
3 which isolation is justified, including whether the person to  
4 be isolated:

5 (1) has ~~[an infectious form of]~~ active  
6 tuberculosis or presents a substantial likelihood of having  
7 ~~[an infectious form of]~~ active tuberculosis based on credible  
8 medical evidence;

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

12 (3) poses a substantial likelihood of  
13 transmission of tuberculosis to others because the person is  
14 actively infectious or poses a risk of relapse or development  
15 of a therapy-resistant strain of tuberculosis.

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

18 (1) in cases where there is probable cause  
19 established by the petition to give the judge reason to  
20 believe that the person who has been alleged to have ~~[an~~  
21 ~~infectious form of]~~ active tuberculosis poses a substantial  
22 threat to the public health and safety because the person is  
23 actively infectious, or poses a risk of relapse or development  
24 of a therapy-resistant strain of tuberculosis because of a  
25 history of noncompliance, immediately grant ex parte a

1     ~~[temporary]~~ court order ~~[of protection]~~ to:

2                     (a) administer a program of directly  
3 observed therapy;

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

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

8                     (2) cause the ~~[temporary]~~ court order ~~[of~~  
9 ~~protection]~~, notice of hearing and an advisement of the terms  
10 of the court order ~~[of protection]~~, including the rights of  
11 the person alleged to have ~~[an infectious form of]~~ active  
12 tuberculosis to representation and re-petition for termination  
13 of ~~[an]~~ a court order, ~~[of protection]~~ to be immediately  
14 served on the person alleged to have ~~[an infectious form of]~~  
15 active tuberculosis; and

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

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

23                     (1) entitled to representation by counsel at  
24 the evidentiary hearing and at all hearings thereafter for the  
25 duration of the period of isolation or program of directly

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1 observed therapy; and

2 (2) permitted to communicate on any matter,  
3 including the person's isolation or program of directly  
4 observed therapy, with persons by telephone or other  
5 reasonably available means that do not expose other persons to  
6 the risk of infection, for the duration of the period of  
7 isolation or program of directly observed therapy.

8 H. Counsel may be retained by the person under the  
9 [~~temporary~~] court order [~~of protection~~] or shall be appointed  
10 by the court if the court determines that the person held  
11 cannot afford legal representation or if the court determines  
12 that appointment of counsel is required in the interest of  
13 justice.

14 I. At the evidentiary hearing, the court shall  
15 review the circumstances surrounding the [~~temporary~~] court  
16 order, and, if the petitioner can show by clear and convincing  
17 evidence that the person being held has not complied or will  
18 not comply with appropriate treatment and contagion  
19 precautions as the department deems necessary, the court shall  
20 continue the court order [~~of protection~~] for the person who  
21 has [~~an infectious form of~~] active tuberculosis until  
22 completion of therapy, as deemed by the department. The court  
23 shall order regular review of the order by providing the  
24 person under [~~an~~] a court order [~~of protection~~] with a  
25 subsequent hearing within ninety days of the [~~temporary~~] court

underscored material = new  
[bracketed material] = delete

1 order's issuance and every ninety days thereafter. The court  
2 order [~~of protection~~] shall be terminated and the person shall  
3 be released if:

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

8 (2) exceptional circumstances exist  
9 warranting the termination of the [~~temporary~~] court order [~~of~~  
10 ~~protection~~].

11 J. The provisions of this section do not permit  
12 the forcible administration of medications.

13 K. A person isolated pursuant to this section has  
14 the right to refuse any medical treatment, physical or mental  
15 examination, treatment program or invasive specimen  
16 collection. A person who has been directed by the secretary  
17 to submit to medical procedures and protocols because the  
18 person has active tuberculosis and refuses to submit to the  
19 procedures and protocols may be subject to continued isolation  
20 pursuant to this section.

21 L. A person who is isolated pursuant to a court  
22 order may petition the court to contest the order or the  
23 conditions of isolation at any time prior to the expiration of  
24 the court order. If a petition is filed, the court shall hold  
25 a hearing within five business days after the date of filing.

1 At a hearing pursuant to a petition to contest, the secretary  
2 shall offer:

3 (1) clear and convincing evidence that the  
4 isolation is warranted; or

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

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

9 (1) isolation is imposed by the least  
10 restrictive means necessary to protect against the spread of  
11 tuberculosis to others and may include confinement to the  
12 isolated person's private home, if practicable, or, if not  
13 practicable, a private or public premises;

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

17 (3) the needs of a person isolated are  
18 addressed in a systematic and orderly manner, including the  
19 provision of adequate food, clothing, shelter, sanitation and  
20 comfort;

21 (4) there are methods of communication  
22 available to a person placed in isolation to enable  
23 communication with family members, household members, legal  
24 representatives, advocates, the media and any licensed health  
25 care provider;

1                   (5) the premises used for isolation are  
2 maintained in a manner that minimizes the likelihood of  
3 further transmission of infection or other injury to other  
4 persons who are isolated; and

5                   (6) to the extent possible, cultural and  
6 religious beliefs shall be respected in addressing the needs  
7 of persons and establishing and maintaining isolation  
8 premises.

9                   [~~K.~~] N. The proceedings of any hearing held  
10 pursuant to the section shall be [~~recorded stenographically,~~  
11 ~~electronically or mechanically or by other appropriate means.~~  
12 ~~The proceedings shall be~~] on the record and closed to the  
13 general public [~~and~~]. The records shall be sealed from public  
14 inspection.

15                   [~~L.~~] O. A person who in good faith reports that  
16 another person has [~~an infectious form of~~] active tuberculosis  
17 shall not be held liable for civil damages as a result of the  
18 report; provided that the person reported as having [~~an~~  
19 ~~infectious form of~~] active tuberculosis shall have the right  
20 to sue for damages sustained as a result of negligent or  
21 intentional reporting of inaccurate information or the  
22 disclosure of information to an unauthorized person.

23                   [~~M.~~] P. During the period of isolation, an  
24 employer shall not discharge from employment a person who is  
25 placed in isolation pursuant to this section.

1           Q. For purposes of this section:

2                   (1) "active tuberculosis" means a disease  
3 caused by mycobacterium tuberculosis or other members of the  
4 mycobacterium tuberculosis complex family that has been  
5 determined, through current clinical, bacteriological or  
6 radiographic evidence, or whichever diagnostic procedures the  
7 department deems appropriate, to be present in a person who  
8 has not completed an appropriate course of antituberculosis  
9 medication, regardless of the state of communicability of the  
10 disease. A person with active tuberculosis includes a person  
11 with:

12                           (a) tuberculosis that is resistant to  
13 the prescribed treatment plan;

14                           (b) infectious tuberculosis or who  
15 presents a substantial likelihood of having infectious  
16 tuberculosis based on credible medical evidence;

17                           (c) noninfectious tuberculosis who is  
18 at high risk of developing an infectious form of tuberculosis;

19 and

20                           (d) pulmonary or extrapulmonary  
21 tuberculosis;

22                           [(-)] (2) "completion of therapy" means  
23 completion of the prescribed therapy, as determined by the  
24 department based upon published national consensus  
25 tuberculosis treatment guidelines;

1                    [~~(2)~~] (3) "court" means the district court  
 2 of the judicial district where the person who is alleged to  
 3 have ~~[an infectious form of]~~ active tuberculosis resides or is  
 4 found or a district court designated by the New Mexico supreme  
 5 court;

6                    [~~(3)~~] (4) "department" means the department  
 7 of health or a person designated by the secretary of health to  
 8 carry out the duties provided in this section;

9                    [~~(4)~~] (5) "directly observed therapy" means  
 10 a methodology for promoting patient adherence in which a  
 11 health care provider or trained designee witnesses the patient  
 12 ingest each dose of medication until the completion of  
 13 prescribed therapy for tuberculosis;

14                    [~~(5)~~] ~~"infectious form of tuberculosis" means~~  
 15 ~~a form of tuberculosis disease that has been determined,~~  
 16 ~~through whichever diagnostic procedures the department deems~~  
 17 ~~appropriate, to be in a communicable or infectious state~~  
 18 ~~because the patient is capable of expelling tubercle bacilli~~  
 19 ~~into the air] and~~

20                    (6) "isolation" means:  
 21                    (a) home isolation;  
 22                    (b) home isolation with electronic  
 23 monitoring;  
 24                    (c) isolation in a hospital or other  
 25 health care facility negative pressure room ~~[monitored by a~~

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1 ~~security officer]~~ where appropriate security measures are  
2 undertaken to prevent the transmission of tuberculosis; or  
3  ~~[(d) isolation in a state health care~~  
4  ~~facility negative pressure room with appropriate security~~  
5  ~~provisions; or~~

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

9 SECTION 17. Section 24-4-2 NMSA 1978 (being Laws 1935,  
10 Chapter 131, Section 7, as amended) is amended to read:

11 "24-4-2. ~~[OFFICES OF COUNTY]~~ LOCAL PUBLIC HEALTH  
12 ~~[DEPARTMENT] OFFICES--[AND DISTRICT]~~ REGIONAL DIRECTOR--HEALTH  
13 OFFICER--EXPENSES.--

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

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

23 (2) the regional director and regional  
24 health officer, including office space for the administrative  
25 staff.

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

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

22           **SECTION 18.** Section 24-5-8 NMSA 1978 (being Laws 2004,  
 23 Chapter 45, Section 3, as amended) is amended to read:

24           "24-5-8. REPORTING.--Physicians, nurses, pharmacists  
 25 and other health care providers shall report on immunization

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1 to the immunization registry [~~unless the patient, or the~~  
2 ~~patient's guardian if the patient is a minor, refuses to allow~~  
3 ~~reporting of this information]."~~

4 SECTION 19. Section 24-5-11 NMSA 1978 (being Laws 2004,  
5 Chapter 45, Section 6) is amended to read:

6 "24-5-11. RULES.--The secretary of health shall adopt  
7 rules for the immunization registry pursuant to the  
8 Immunization Act concerning the following:

9 A. the implementation and maintenance of the  
10 registry;

11 B. requirements for content and submission of  
12 reports of immunization to the registry;

13 [~~G. procedures for the patient, or the patient's~~  
14 ~~parent or guardian if the patient is a minor, to decline to~~  
15 ~~participate in the registry;~~

16 ~~D.]~~ C. procedures for the registrant, or the  
17 registrant's parent or guardian if the registrant is a minor,  
18 to review and correct information contained in the registry;

19 [~~E. procedures for the registrant, or the~~  
20 ~~registrant's parent or guardian if the registrant is a minor,~~  
21 ~~to withdraw consent for participation at any time and to~~  
22 ~~remove information from the registry;~~

23 ~~F.]~~ D. limits on and methods of access to the  
24 registry by those authorized to gain access; and

25 [~~G.]~~ E. procedures for managed care organizations

1 to obtain summary statistics of immunization information on  
2 managed care organization members from the registry."

3 SECTION 20. Section 24-5-13 NMSA 1978 (being Laws 2004,  
4 Chapter 45, Section 8) is amended to read:

5 "24-5-13. RIGHTS.--Nothing in the Immunization Act  
6 shall preclude the right of the patient, or the patient's  
7 parent or guardian if the patient is a minor, to claim  
8 exemption from immunization as defined in Section 24-5-3 NMSA  
9 1978 [~~nor shall anything in the Immunization Act require such~~  
10 ~~patient to be included in the immunization registry if the~~  
11 ~~patient, or the patient's parent or guardian if the patient is~~  
12 ~~a minor, objects on any grounds, including that such registry~~  
13 ~~conflicts with the religious belief of the patient, or the~~  
14 ~~patient's parent or guardian if the patient is a minor]."~~

15 SECTION 21. Section 24-10A-2.1 NMSA 1978 (being Laws  
16 1994, Chapter 61, Section 2, as amended by Laws 2001, Chapter  
17 258, Section 2 and by Laws 2001, Chapter 273, Section 2) is  
18 amended to read:

19 "24-10A-2.1. DEFINITIONS.--As used in the Emergency  
20 Medical Services Fund Act:

21 A. "bureau" means the [~~injury prevention and~~  
22 emergency medical [~~services~~] systems bureau of the [~~public~~  
23 ~~health division of the~~] department;

24 B. "committee" means the statewide emergency  
25 medical services advisory committee appointed pursuant to the

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1 provisions of Section 24-10B-7 NMSA 1978;

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

3 D. "fund" means the emergency medical services  
4 fund;

5 E. "local recipient" means ~~an~~ a publicly owned  
6 or contracted ambulance or air ambulance service; medical  
7 rescue service; fire department rescue service; ~~[air ambulance~~  
8 ~~service]~~ regionalized emergency medical service agency; or  
9 other prehospital emergency medical service care provider  
10 based in the state:

11 (1) that routinely responds to an  
12 individual's need for immediate medical care in order to  
13 prevent loss of life or aggravation of physical or  
14 psychological illness or injury;

15 (2) whose application for funding through  
16 the Emergency Medical Services Fund Act is sponsored by a  
17 municipality or county; and

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

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

22 (b) participation in emergency medical  
23 service data collection and submission to the state emergency  
24 medical systems database;

25 (c) participation in local design and

1 planning for efficient delivery of emergency medical services;

2 (d) participation in mutual aid  
3 agreements; and

4 (e) participation in medical control  
5 for emergency medical services;

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

8 G. "regionalized emergency medical service agency"  
9 means a rural or frontier emergency medical service agency  
10 composed of multiple geographic districts with response area  
11 populations of fewer than two hundred fifty people per square  
12 mile;

13 [~~G.~~] H. "secretary" means the secretary of health;  
14 and

15 I. "tribe" means a federally recognized Native  
16 American nation, tribe or pueblo located wholly or partially  
17 in the state."

18 SECTION 22. Section 24-10A-3 NMSA 1978 (being Laws  
19 1978, Chapter 178, Section 3, as amended by Laws 2001, Chapter  
20 258, Section 3 and by Laws 2001, Chapter 273, Section 3) is  
21 amended to read:

22 "24-10A-3. EMERGENCY MEDICAL SERVICES FUND CREATED--  
23 FUNDING.--

24 A. The "emergency medical services fund" is  
25 created in the state treasury. Money in the fund shall not

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1 revert at the end of any fiscal year. Money appropriated to  
2 the fund or accruing to it through gifts, grants, fees or  
3 bequests shall be deposited in the fund. Interest earned on  
4 investment of the fund shall be credited to the general fund.  
5 Disbursements from the fund shall be made upon warrants drawn  
6 by the secretary of finance and administration pursuant to  
7 vouchers signed by the secretary or ~~[his]~~ the secretary's  
8 authorized representative.

9 B. The bureau shall administer the fund and  
10 provide for the distribution of the fund pursuant to the  
11 Emergency Medical Services Fund Act and rules adopted pursuant  
12 to the provisions of that act.

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

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1 local recipient eligible to participate in the distribution.

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

3 (1) twenty-two percent of the fund may be  
 4 used for emergency medical services system improvement  
 5 projects, including the purchase of emergency medical services  
 6 vehicles, local and statewide emergency medical services  
 7 system support projects, the statewide trauma care system  
 8 program and the emergency medical dispatch agency support  
 9 program; and

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

14 E. In any fiscal year, money in the fund that is  
 15 not distributed pursuant to the provisions of Subsection D of  
 16 this section may be distributed pursuant to the provisions of  
 17 Subsection C of this section."

18 SECTION 23. Section 24-10A-4.2 NMSA 1978 (being Laws  
 19 1994, Chapter 61, Section 11) is amended to read:

20 "24-10A-4.2. MUTUAL AID AGREEMENTS--REGIONALIZED,  
 21 INTEGRATED RESPONSE PLANS.--[~~Incorporated~~] Municipalities,  
 22 counties, tribes and local recipients [~~are encouraged to~~] may  
 23 develop mutual aid agreements and regionalized, integrated  
 24 response plans with other municipalities, counties, tribes and  
 25 local recipients for the purpose of ensuring that adequate

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1 emergency medical services coverage exists throughout the  
2 state. For the benefit of the public, equipment and other  
3 emergency medical services resources obtained through money  
4 from the fund shall be shared among the parties to a mutual  
5 aid agreement or regionalized, integrated response plan."

6 SECTION 24. Section 24-10A-5 NMSA 1978 (being Laws  
7 1978, Chapter 178, Section 5, as amended) is amended to read:

8 "24-10A-5. FUNDING PROGRAM--AWARDS--APPEALS.--The  
9 bureau shall promptly notify each municipality and county that  
10 has applied for money and the local recipient of the bureau's  
11 determination to grant or deny an application for funding  
12 through the local emergency medical services funding program.  
13 A municipality or county may appeal a determination of the  
14 bureau within ten working days after notification of the  
15 determination. The bureau shall refer the appeal to the  
16 committee for its review and recommendation. The committee  
17 shall make its recommendation to the secretary, who shall make  
18 a final determination about whether to grant or deny an  
19 application for funding. The secretary shall notify the  
20 appellant of ~~[his]~~ the secretary's decision ~~[on or before June~~  
21 ~~30]~~ within thirty days of the date on which the committee has  
22 notified the secretary of its recommendation."

23 SECTION 25. Section 24-10A-6 NMSA 1978 (being Laws  
24 1978, Chapter 178, Section 6, as amended by Laws 2001, Chapter  
25 258, Section 6 and by Laws 2001, Chapter 273, Section 6) is

1 amended to read:

2 "24-10A-6. DISTRIBUTION OF FUND.--On or before August  
3 31, the local emergency medical services funding program  
4 distribution shall be made to each municipality and county as  
5 determined by the department. No more than one percent of the  
6 amount appropriated to the local emergency medical services  
7 funding program shall be distributed from the fund to the  
8 benefit of a single local recipient in any fiscal year  
9 pursuant to the local emergency medical services funding  
10 program, with the exception of a regionalized emergency  
11 medical service agency, to ensure that appropriate emergency  
12 medical service is available statewide."

13 SECTION 26. Section 24-10A-8 NMSA 1978 (being Laws  
14 1978, Chapter 178, Section 8, as amended) is amended to read:

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

21 SECTION 27. Section 24-14-27 NMSA 1978 (being Laws  
22 1961, Chapter 44, Section 25, as amended) is amended to read:

23 "24-14-27. DISCLOSURE OF RECORDS.--

24 A. [~~It is unlawful for any person to~~] The state  
25 registrar or other custodian of vital records shall not permit

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1 inspection of or [~~to disclose~~] disclosure of information  
2 contained in vital records or [~~to copy~~] copying or [~~issue~~]  
3 issuance of a copy of all or part of any record except as  
4 authorized by law.

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

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

24 SECTION 28. Section 24-14-31 NMSA 1978 (being Laws  
25 1961, Chapter 44, Section 29, as amended) is amended to read:

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1 "24-14-31. PENALTIES.--

2 A. Except for violations of Section 24-14-18 NMSA  
3 1978, any person is guilty of a fourth degree felony and shall  
4 be sentenced pursuant to the provisions of Section 31-18-15  
5 NMSA 1978, who willfully and knowingly:

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

9 (2) with the intent to deceive, alters,  
10 amends, counterfeits, copies or mutilates any report, record,  
11 [~~or~~] certificate, application or supporting documentation;

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

18 (4) neglects or violates any of the  
19 provisions of the Vital Statistics Act or refuses to perform  
20 any of the duties imposed upon [~~him~~] the person by that act.

21 B. Any person who willfully and knowingly permits  
22 inspection of or discloses information contained in vital  
23 statistics records of adoptions or induced abortions or copies  
24 or issues a copy of all or part of any record of an adoption  
25 or induced abortion, except as authorized by law, is guilty of

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1 a fourth degree felony and shall be sentenced in accordance  
2 with the provisions of the Criminal Sentencing Act."

3 SECTION 29. A new section of the Public Health Act is  
4 enacted to read:

5 "[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--  
6 REPORTING.--

7 A. The secretary shall establish by rule a list of  
8 reportable conditions of public health importance. The list  
9 shall include conditions of humans or animals caused by  
10 exposure to toxic substances, microorganisms or any other  
11 pathogens or conditions that arise due to injury. The  
12 secretary shall:

13 (1) prescribe the manner of and the person  
14 responsible for reporting conditions of public health  
15 importance;

16 (2) classify each reportable condition of  
17 public health importance according to the urgency of  
18 reporting; and

19 (3) revise the list of reportable conditions  
20 of public health importance as necessary.

21 B. The secretary may enter into agreements or  
22 other arrangements with federal and tribal public health  
23 agencies for receipt and sharing of information regarding  
24 reportable conditions of public health importance.

25 C. The department shall disseminate reporting

1 requirements to health care providers and other persons  
2 required to report conditions of public health importance.

3 D. A person with knowledge of a reportable  
4 condition of public health importance shall report the  
5 condition to the department."

6 SECTION 30. A new section of the Public Health Act is  
7 enacted to read:

8 "[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--  
9 TESTING--SCREENING.--

10 A. The department shall establish testing and  
11 screening procedures and programs to identify conditions of  
12 public health importance among individuals or among the  
13 general population of the state. The department:

14 (1) shall, prior to testing or screening,  
15 explain to the individual the nature, scope, purposes,  
16 benefits, risks and possible outcomes of the test or  
17 screening, except as otherwise provided pursuant to this  
18 section or by state law;

19 (2) shall have a valid and reliable test for  
20 the condition of public health importance;

21 (3) shall, when administering a test or  
22 screening, identify a condition of public health importance  
23 that poses a threat to an individual's or the public's health  
24 and that may be avoided, cured, alleviated or made less  
25 contagious through safe and effective treatment, modifications

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1 in individual behavior or public health interventions; and

2 (4) shall fully inform the individual of the  
3 individual's results, the meaning of the results, the possible  
4 need for additional testing and the availability of  
5 appropriate health care services, including mental health care  
6 and social and support services. If appropriate, the  
7 department shall provide counseling or inform the individual  
8 where such counseling services are available.

9 B. The department may petition for the issuance of  
10 a court order to require testing or medical examination of any  
11 individual who has or may have been exposed to a condition of  
12 public health importance that poses a significant risk or  
13 threat to the individual or others or to the public's health,  
14 in accordance with procedures established by department  
15 rules."

16 SECTION 31. A new section of the Public Health Act is  
17 enacted to read:

18 "[NEW MATERIAL] CONDITIONS OF PUBLIC HEALTH IMPORTANCE--  
19 COMPULSORY SCREENING--CONDITIONAL SCREENING--ROUTINE VOLUNTARY  
20 SCREENING.--The department may establish:

21 A. compulsory screening programs for conditions of  
22 public health importance that pose a significant risk or  
23 seriously threaten the public's health;

24 B. conditional screening programs when necessary  
25 to achieve an important public health objective; provided

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1 that:

2 (1) all individuals of a defined class are  
3 subjected to the screening as a condition of participating in  
4 or receiving a service or privilege; and

5 (2) if an individual refuses to undergo the  
6 screening, the department may prevent the individual from  
7 participating in or receiving the service or privilege; and

8 C. routine, regular and ongoing screening programs  
9 for conditions of public health importance. All individuals  
10 of a defined class are subjected to the screening unless they  
11 choose to opt out or refuse to consent."

12 SECTION 32. A new section of the Public Health Act is  
13 enacted to read:

14 "[NEW MATERIAL] INDIVIDUALLY IDENTIFIABLE HEALTH  
15 INFORMATION--CONDITIONS OF PUBLIC HEALTH IMPORTANCE--  
16 CONFIDENTIALITY--USE--DISCLOSURE.--

17 A. Any use of individually identifiable health  
18 information pursuant to this section shall be limited to the  
19 minimum amount of information reasonably necessary to  
20 accomplish a public health purpose.

21 B. Individually identifiable health information  
22 received by the department shall not be public information and  
23 shall not be disclosed without the authorization of the  
24 individual who is the subject of the information, except as  
25 otherwise provided in state or federal law.

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

5 D. Nothing in this section shall be construed to  
6 prevent an individual from disclosing that individual's own  
7 individually identifiable health information.

8 E. As used in this section, "individually  
9 identifiable health information" means information related to  
10 the provision of health care or public health services to an  
11 individual that:

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

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

16 SECTION 33. REPEAL.--Sections 3-43-1, 3-43-2,  
17 22-10A-34, 23-1-9, 23-1-10, 24-1-8, 24-1-9.5, 24-4-1, 24-4-3  
18 and 24-5-14 NMSA 1978 (being Laws 1965, Chapter 300, Sections  
19 14-44-1 and 14-44-2, Laws 1967, Chapter 16, Section 112, Laws  
20 1941, Chapter 69, Sections 1 and 2, Laws 1973, Chapter 359,  
21 Section 8, Laws 1996, Chapter 80, Section 4, Laws 1935,  
22 Chapter 131, Section 6, Laws 1919, Chapter 85, Section 36 and  
23 Laws 2004, Chapter 45, Section 9, as amended) are repealed.