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SENATE BILL 805

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Steve Komadina

AN ACT

RELATING TO HUMAN IMMUNODEFICIENCY VIRUS TESTING; PROVIDING FOR AN EXEMPTION TO THE INFORMED CONSENT REQUIREMENT; AMENDING A SECTION OF THE NMSA 1978.

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

Section 1. Section 24-2B-5 NMSA 1978 (being Laws 1989, Chapter 227, Section 5, as amended) is amended to read:

"24-2B-5. INFORMED CONSENT NOT REQUIRED. -- Informed consent for testing is not required and the provisions of Section 24-2B-2 NMSA 1978 do not apply for:

A. a health care provider or health facility performing a test on the donor or recipient when the health care provider or health facility procures, processes, distributes or uses a human body part, including tissue and blood or blood products, donated for a purpose specified under

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1 the Uniform Anatomical Gift Act or for transplant recipients or
2 semen provided for the purpose of artificial insemination and
3 such test is necessary to assure medical acceptability of a
4 recipient or such gift or semen for the purposes intended;

5 B. the performance of a test in bona fide medical
6 emergencies when the subject of the test is unable to grant or
7 withhold consent and the test results are necessary for medical
8 diagnostic purposes to provide appropriate emergency care or
9 treatment, except that post-test counseling or referral for
10 counseling shall nonetheless be required when the individual is
11 able to receive that post-test counseling. Necessary treatment
12 shall not be withheld pending test results;

13 C. the performance of a test for the purpose of
14 research if the testing is performed in a manner by which the
15 identity of the test subject is not known and may not be
16 retrieved by the researcher; [or]

17 D. the performance of a test done in a setting
18 where the identity of the test subject is not known, such as in
19 public health testing programs and sexually transmitted disease
20 clinics; or

21 E. the performance of a prenatal test to determine
22 if the human immunodeficiency virus or its antigen is present
23 in a pregnant woman. "