

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 451

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

AN ACT

RELATING TO DRUG TESTING; REQUIRING HEALTH CARE PROVIDERS TO
PERFORM SUBSTANCE ABUSE CONSULTATIONS FOR PREGNANT AND
POSTPARTUM WOMEN; REQUIRING CONSENT FROM CERTAIN PREGNANT AND
POSTPARTUM WOMEN PRIOR TO DRUG TESTING; REQUIRING COMMUNICATION
OF BENEFITS OF SUBSTANCE ABUSE SERVICES UPON POSITIVE DRUG
TESTING RESULTS.

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

SECTION 1. PREGNANT OR POSTPARTUM WOMEN--SUBSTANCE ABUSE
CONSULTATION--DRUG TESTING UPON CONSENT--REFERRAL TO
SPECIALIZED TREATMENT.--

A. A health care provider shall:

(1) be trained how to determine when a
pregnant or postpartum woman maybe using illegal substances and
how to assist a pregnant or postpartum woman who admits use of

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1 illegal substances;

2 (2) perform a substance abuse consultation as
3 part of the care of every pregnant or postpartum woman,
4 including screening for alcohol, illicit drugs, prescription
5 drugs, tobacco and other substances and risky behaviors;

6 (3) conduct the substance abuse consultation
7 by interview, self-report and clinical observation;

8 (4) base the substance abuse consultation on
9 specific criteria and medical indicators; and

10 (5) not base the substance abuse consultation
11 on discriminatory or biased factors.

12 B. If a pregnant or postpartum woman refuses drug
13 testing after a substance abuse consultation, it shall not be
14 performed, except as otherwise provided by law.

15 C. Women who consent to drug testing shall be
16 informed about the drug testing process, the nature and purpose
17 of the drug testing and how results will guide patient
18 management, including possible benefits and consequences of the
19 drug testing.

20 D. A health care provider shall advise a pregnant
21 or postpartum woman with a positive drug testing of the
22 benefits of specialized substance abuse treatment services and,
23 with her consent, shall refer the pregnant or postpartum woman
24 for substance abuse treatment services, except in the case of a
25 drug testing performed pursuant to a court order or search

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1 warrant.

2 E. All positive test results of drug testing on a
3 pregnant or postpartum woman, except those performed pursuant
4 to a court order or search warrant, shall remain confidential
5 pursuant to Section 14-6-1 NMSA 1978.

6 F. For purposes of this section:

7 (1) "drug testing" means analysis of a woman's
8 blood, hair or urine to screen for an illegal substance; and

9 (2) "health care provider" means a person
10 licensed, certified or otherwise authorized or permitted by law
11 to provide health care in the ordinary course of business or
12 practice of a profession.