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HOUSE BILL 695

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

PATSY G. TRUJILLO

AN ACT

RELATING TO HEALTH; PROVIDING FOR CERTAIN COUNSELING; PROVIDING
A PENALTY; MAKING AN APPROPRIATION.

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

Section 1. Section 24-2B-4 NMSA 1978 (being Laws 1989,
Chapter 227, Section 4) is amended to read:

"24-2B-4. MANDATORY COUNSELING. --

A. No positive test result shall be revealed to the
person upon whom the test was performed without the person
performing the test or the health facility at which the test was
performed providing or referring that person for individual
counseling about:

[A.] (1) the meaning of the test results;

[B.] (2) the possible need for additional

testing;

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1 [~~C.~~] (3) the availability of appropriate health
2 care services, including mental health care, social and support
3 services; and

4 [~~D.~~] (4) the benefits of locating and
5 counseling any individual by whom the infected person may have
6 been exposed to the human immunodeficiency virus and any
7 individual whom the infected person may have exposed to the
8 human immunodeficiency virus.

9 B. If the person upon whom the test was performed is
10 an alleged rape victim, counseling shall include information:

11 (1) necessary to assess the risk of contracting
12 the human immunodeficiency virus and other sexually transmitted
13 diseases;

14 (2) about prophylactic treatment; and

15 (3) about human immunodeficiency virus
16 confidentiality and discrimination laws. "

17 Section 2. Section 24-2B-6 NMSA 1978 (being Laws 1989,
18 Chapter 227, Section 6) is amended to read:

19 "24-2B-6. CONFIDENTIALITY. --

20 A. No person or the person's agents or employees who
21 require or administer the test shall disclose the identity of
22 any person upon whom a test is performed or the result of such a
23 test in a manner [~~which~~] that permits identification of the
24 subject of the test, except to the following persons:

25 [~~A.~~] (1) the subject of the test or the

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1 subject's legally authorized representative, guardian or legal
2 custodian;

3 [B-] (2) any person designated in a legally
4 effective release of the test results executed prior to or after
5 the test by the subject of the test or the subject's legally
6 authorized representative;

7 [C-] (3) an authorized agent, a credentialed or
8 privileged physician or employee of a health facility or health
9 care provider if the health care facility or health care pro-
10 vider itself is authorized to obtain the test results, the agent
11 or employee provides patient care or handles or processes
12 specimens of body fluids or tissues and the agent or employee
13 has a need to know such information;

14 [D-] (4) the [health and environment]
15 department of health and the centers for disease control of the
16 United States public health service in accordance with reporting
17 requirements for a diagnosed case of acquired immune deficiency
18 syndrome;

19 [E-] (5) a health facility or health care
20 provider [which] that procures, processes, distributes or uses:

21 [(1)] (a) a human body part from a
22 deceased person, with respect to medical information regarding
23 that person;

24 [(2)] (b) semen provided prior to the
25 effective date of the Human Immunodeficiency Virus Test Act for

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1 the purpose of artificial insemination;

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

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

7 [~~F.~~] (6) health facility staff committees or
8 accreditation or oversight review organizations [~~which~~] that are
9 conducting program monitoring, program evaluation or service
10 reviews, so long as any identity remains confidential;

11 [~~G.~~] (7) authorized medical or epidemiological
12 researchers, who may not further disclose any identifying
13 characteristics or information; and

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

17 B. Any person who violates any provision of this
18 section is guilty of a fourth degree felony and shall be
19 sentenced pursuant to the provisions of Section 31-18-15 NMSA
20 1978. "

21 Section 3. APPROPRIATION. --

22 A. One hundred thousand dollars (\$100,000) is
23 appropriated from the general fund to the department of health
24 for expenditure in fiscal year 1997 to provide for:

25 (1) tests for chlamydia, gonorrhea, hepatitis

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[bracketed material] = delete

1 B, the human immunodeficiency virus and syphilis for rape
2 survivors;

3 (2) prophylactic azidothymidine treatment for a
4 rape survivor unable to afford such treatment; and

5 (3) education for rape crisis center and law
6 enforcement personnel and others on sexually transmitted
7 diseases, including the human immunodeficiency virus, and on
8 appropriate counseling for rape survivors.

9 B. Any unexpended or unencumbered balance remaining
10 at the end of fiscal year 1997 shall revert to the general fund.