

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 265

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

WILLIAM E. PORTER

AN ACT

RELATING TO HEALTH AND SAFETY; AMENDING THE HUMAN
IMMUNODEFICIENCY VIRUS TEST ACT TO ALLOW EMERGENCY PERSONNEL TO
HAVE PATIENTS TESTED WITHOUT INFORMED CONSENT UNDER CERTAIN
CONDITIONS.

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) is amended to read:

"24-2B-5. INFORMED CONSENT NOT REQUIRED.-- Informed consent
for testing is not required and the provisions of Section [~~4 of~~
~~the Human Immunodeficiency Virus Test Act]~~ 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

Underscored material = new
[bracketed material] = delete

1 uses a human body part, including tissue and blood or blood
2 products, donated for a purpose specified under the Uniform
3 Anatomical Gift Act or for transplant recipients or semen
4 provided for the purpose of artificial insemination and such
5 test is necessary to assure medical acceptability of a recipient
6 or such gift or semen for the purposes intended;

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

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

19 D. the performance of a test in order to provide
20 appropriate care or treatment to a health care worker who may
21 have been exposed to excessive amounts of blood or bodily fluids
22 when the [~~subject of the test is unable to grant or withhold~~
23 ~~consent and the~~] test results are necessary for medical
24 diagnostic purposes; or

25 E. the performance of a test done in a setting where

Underscored material = new
~~[bracketed material] = delete~~

1 the identity of the test subject is not known, such as in public
2 health testing programs and sexually transmitted disease
3 clinics. "

4 - 3 -
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25