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HOUSE BILL 335

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

John A. Heaton

AN ACT

**RELATING TO HEALTH; PERMITTING MANDATORY TESTING FOR VIRAL
HEPATITIS IN CERTAIN CIRCUMSTANCES.**

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

**Section 1. TESTING OF PERSONS FOR HEPATITIS-- CONSENT NOT
REQUIRED. --**

A. As used in this section:

**(1) "exposed individual" means a health care
provider, first responder or other person, including an
employee, volunteer or independent contracted agent of a
health care provider or law enforcement agency, while acting
within the scope of his employment; or a person who, while
receiving services from a health care provider, is
significantly exposed to the blood or other potentially
infectious material of another person, when the exposure is**

1 proximately the result of the activity of the exposed
2 individual or receipt of health care services from the source
3 individual;

4 (2) "significantly exposed" means direct
5 contact with blood or other potentially infectious material of
6 a source individual in a manner that is capable of
7 transmitting viral hepatitis; and

8 (3) "source individual" means a person
9 identified as at-risk for or believed to have viral hepatitis,
10 whose blood or other potentially infectious material may have
11 been or has been the source of a significant exposure.

12 B. A test designed to identify the viral
13 hepatitis, its antigens or antibodies may be performed without
14 the consent of a source individual when an exposed individual
15 is significantly exposed.

16 C. If consent to perform a test on a source
17 individual cannot be obtained on a voluntary basis, the
18 exposed individual may petition the court to order that a test
19 be performed on the source individual; provided that the same
20 test shall first be performed on the exposed individual. The
21 test may be performed on the source individual regardless of
22 the result of the test performed on the exposed individual.
23 If the exposed individual is a minor or incompetent, the
24 parent or guardian may petition the court to order that a test
25 be performed on the source individual.

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D. The court may issue an order based on a finding of good cause after a hearing at which both the source individual and the exposed individual have the right to be present. The hearing shall be conducted within twenty-four hours after the petition is filed. The petition and all proceedings in connection with the petition shall be under seal. The test shall be administered on the source individual within twenty-four hours after the order for testing is entered.

E. The results of the test shall be disclosed only to the source individual, the exposed individual or the exposed individual's parent or guardian and the infectious disease bureau of the public health division of the department of health.