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AN ACT
RELATING TO HEALTH AND SAFETY; AMENDING THE HUMAN
IMMUNODEFICIENCY VIRUS TEST ACT TO ALLOW THE DEPARTMENT OF
HEALTH TO DISCLOSE HUMAN IMMUNODEFICIENCY VIRUS TEST RESULTS
FOR THE PURPOSE OF CONDUCTING HUMAN IMMUNODEFICIENCY VIRUS
SURVEILLANCE, INVESTIGATION AND INTERVENTION; DECLARING AN
EMERGENCY.

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.--No positive test
result shall be revealed to the person upon whom the test was
performed without providing or referring that person for
individual counseling about:

- A. the meaning of the test results;
- B. the possible need for additional testing;
- C. the availability of appropriate health care
services, including mental health care, social and support
services; and
- D. the benefits of locating and counseling any
individual by whom the infected person may have been exposed
to the human immunodeficiency virus and any individual whom
the infected person may have exposed to the human
immunodeficiency virus."

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

3 "24-2B-6. CONFIDENTIALITY.--

4 A. No person or the person's agents or employees
5 who require or administer the test shall disclose the
6 identity of any person upon whom a test is performed or the
7 result of such a test in a manner that permits identification
8 of the subject of the test, except to the following persons:

9 (1) the subject of the test or the subject's
10 legally authorized representative, guardian or legal
11 custodian;

12 (2) any person designated in a legally
13 effective release of the test results executed prior to or
14 after the test by the subject of the test or the subject's
15 legally authorized representative;

16 (3) an authorized agent, a credentialed or
17 privileged physician or employee of a health facility or
18 health care provider if the health care facility or health
19 care provider itself is authorized to obtain the test
20 results, the agent or employee provides patient care or
21 handles or processes specimens of body fluids or tissues and
22 the agent or employee has a need to know such information;

23 (4) the department of health in accordance
24 with reporting requirements established by regulation;

25 (5) the department of health for the purpose

1 of providing partner services;

2 (6) a health facility or health care
3 provider that procures, processes, distributes or uses:

4 (a) a human body part from a deceased
5 person, with respect to medical information regarding that
6 person;

7 (b) semen provided prior to the
8 effective date of the Human Immunodeficiency Virus Test Act
9 for the purpose of artificial insemination;

10 (c) blood or blood products for
11 transfusion or injection; or

12 (d) human body parts for transplant
13 with respect to medical information regarding the donor or
14 recipient;

15 (7) health facility staff committees or
16 accreditation or oversight review organizations that are
17 conducting program monitoring, program evaluation or service
18 reviews, so long as any identity remains confidential;

19 (8) authorized medical or epidemiological
20 researchers who may not further disclose any identifying
21 characteristics or information; and

22 (9) for purposes of application or
23 reapplication for insurance coverage, an insurer or reinsurer
24 upon whose request the test was performed.

25 B. The department of health may disclose human

1 immunodeficiency virus test results, including the identity
2 of any person upon whom a test is performed:

3 (1) to the subject of the test or the
4 subject's legally authorized representative, guardian or
5 legal custodian;

6 (2) to the person who ordered the test or
7 that person's agents or employees;

8 (3) in the conduct of public health
9 practice, to appropriate municipal, county, state, federal or
10 tribal public health agencies having at least equivalent
11 security and confidentiality standards for human
12 immunodeficiency virus test results as maintained by the
13 department of health; and

14 (4) to health care personnel where necessary
15 to protect the health of the individual who is the subject of
16 the test or an individual who was significantly exposed to
17 the subject of the test, provided that the health care
18 personnel first provide to the department of health for
19 review relevant medical records or other written attestations
20 that document the need for access to the person's
21 confidential human immunodeficiency virus test results.

22 C. For the purposes of this section:

23 (1) "partner services" means a protocol that
24 the department of health establishes by regulation similar to
25 those protocols and regulations for other reportable sexually

1 transmitted diseases for contacting individuals whom it
2 identifies to be at risk of human immunodeficiency virus
3 infection due to contact with an individual whom it has
4 identified, through reporting made pursuant to Paragraph (4)
5 or (5) of Subsection A of this section, as having been
6 infected with human immunodeficiency virus;

7 (2) "test" means a procedure that
8 definitively diagnoses the presence of human immunodeficiency
9 virus infection, either through the detection of the virus
10 itself or the detection of antibodies against the virus; and

11 (3) "public health practice" means a
12 population-based activity or individual effort aimed
13 primarily at the prevention of injury, disease or premature
14 mortality or the promotion of health in a community,
15 including:

16 (a) surveillance and response; and

17 (b) developing public health policy."

18 SECTION 3. EMERGENCY.--It is necessary for the public
19 peace, health and safety that this act take effect
20 immediately.

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