## New Mexico

### Newborn Genetic Testing & Surveillance System

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<td>NM</td>
<td>STATUTE: NMSA Chapter 24 Article 5 NMAC Title 7, Chapter 30, Part 6</td>
<td>24-1-6. Tests required for newborn infants. A. The department shall adopt screening tests for the detection of congenital diseases that shall be given to every newborn infant, except that, after being informed of the reasons for the tests, the parents or guardians of the newborn child may waive the requirements for the tests in writing. The screening tests shall include at a minimum:… C. In determining which other congenital diseases to screen for, the secretary shall consider the recommendations of the New Mexico pediatrics society of the American academy of pediatrics. D. The department shall institute and carry on such laboratory services or may contract with</td>
<td>24-1-6. A. … after being informed of the reasons for the tests, the parents or guardians of the newborn child may waive the requirements for the tests in writing… 7.30.6.9 WAIVER: A. Pursuant to Section 24-1-6 NMSA 1978, parents or guardians may waive the requirements for the tests in writing. B. The department will provide the hospital with forms for waiver. No waiver for newborn</td>
<td>GENETIC INFORMATION PRIVACY ACT 24-21-3 Genetic analysis prohibited without informed consent; exceptions A. Except as provided in Subsection C of this section, no person shall obtain genetic information or samples for genetic analysis from a person without first obtaining informed and written consent from the person or the person’s authorized representative. B. Except as provided in Subsection C of this section, genetic analysis</td>
<td>NO</td>
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another agency or entity to provide such services as are necessary to detect the presence of congenital diseases.

**E.** The department shall, as necessary, carry on an educational program among physicians, hospitals, public health nurses and the public concerning congenital diseases.

**F.** The department shall require that all hospitals or institutions having facilities for childbirth perform or have performed screening tests for congenital diseases on all newborn infants except if the parents or guardians of a child object to the tests in writing.

**7.30.6.7 DEFINITIONS:**

**A.** “Phenylketonuria” (PKU) is a metabolic disorder caused by a genetic defect in which the body cannot use the amino acid phenylalanine properly. Incidence of PKU is approximately 1 in 11,000 - 15,000 births. Untreated PKU causes nerve and brain cell damage which results in mental screening shall be signed before the parents have been provided with both written and oral explanations by the infant’s physician so that they may make an informed decision. The decision will be acknowledged by signature of the parents or guardian on the form provided by the department. The document of waiver shall be placed in the child’s hospital medical record.

**GENETIC INFORMATION PRIVACY ACT 24-21-5. Rights of retention …D.** Nothing in Paragraph (3) or (4) of Subsection B of of a person or collection, retention, transmission or use of genetic information without the informed and written consent of the person or the person’s authorized representative is prohibited.

**C. A person’s DNA, genetic information or the results of genetic analysis may be obtained, retained, transmitted or used without the person’s written and informed consent pursuant to federal or state law or regulations only:**

(1) to identify a person in the course of a criminal investigation by a law enforcement agency;

(2) if the person has been convicted of a felony for purposes of maintaining a DNA
B. “Other congenital diseases” are those diseases, in addition to PKU, for which testing is required as a result of recommendation by the New Mexico pediatric society and adoption by the department. They are as follows:

1. primary hypothyroidism, approximate incidence 1/4,000 births;
2. galactosemia, approximate incidence 1/30,000 to 62,000 births;
3. any other congenital disease or condition for which testing may hereafter be required, on the basis of a formal recommendation made to the department by the New Mexico pediatric society and adopted by the department. … [emphasis added]

Section 5 [24-21-5 NMSA 1978] of the Genetic Information Privacy Act authorizes retention of a person’s genetic information or samples for genetic analysis if the person, his authorized representative or guardian, or the parent or guardian of a minor child, objects on the basis of religious tenets or practices. [emphasis added]

database for law enforcement purposes;
3. to identify deceased persons;
4. to establish parental identity;
5. to screen newborns;
6. if the DNA, genetic information or results of genetic analysis are not identified with the person or person’s family members;
7. by a court for determination of damage awards pursuant to the Genetic Information Privacy Act [24-21-1 NMSA 1978];
8. by medical repositories or registries;
9. for the purpose of medical or scientific research and education, including retention of gene products, genetic information or genetic analysis if the identity of the person or person’s

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7.30.6.8 RESPONSIBILITY FOR TESTING:

A. Every newborn infant shall receive tests on two blood
samples. The first blood sample shall be obtained, as late as possible, before the infant is discharged from the hospital, but not later than 96 hours after delivery. The second blood sample shall be obtained between the 8th and 15th day after birth.

B. Every hospital shall take a first blood sample from each infant born in such hospital. Optimally, the infant shall have been receiving breast milk or formula for at least forty-eight hours before the blood sample is collected. If the blood specimen is collected before the forty-eight-hour period, the exact number of hours the infant has been on breast milk or formula must be noted on the collection form. …

F. Collection forms purchased from the department shall be completed for each blood sample. Each specimen shall be forwarded and en route to the address indicated on the collection form within 24 hours of the time that the sample is

family members is not disclosed; or

(10) for the purpose of emergency medical treatment consistent with applicable law.

[all emphases added]

...E. Nothing in Paragraph (5), (6), (8), (9) or (10) of Subsection C of Section 3 [24-21-3 NMSA 1978] of the Genetic Information Privacy Act authorizes obtaining, retaining, transmitting or using a person’s DNA, genetic information or the results of genetic analysis if the person, his authorized representative or guardian, or the parent or guardian of a minor child, objects on the basis of religious tenets or practices. [emphasis added]

24-21-5. Rights of
I. **All results will be reported to the hospital and physician for placement in the child’s medical record.** [emphasis added]

J. In the event of positive or questionable screening test results, the department will immediately contact and inform the physician of the need for further testing. The physician will be responsible for contacting and informing the parents of the need for further testing.

"Children’s Medical Services (CMS) Newborn Screening program provides programmatic follow-up of all children diagnosed on newborn screening to age 21” – NM Dept of Health website, 8/25/08.

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**B.** A person’s genetic information or samples for genetic analysis shall be destroyed promptly upon the specific request by that person or that person’s authorized representative unless:

1. **retention is authorized under a research protocol approved by an institution review board pursuant to federal law or a medical registry or repository authorized by state or federal law; or**
2. **the genetic information or samples for genetic analysis have been obtained pursuant to Subsection C of Section 3 of the Genetic Information Privacy Act.**

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D. **Nothing in Paragraph (3) or (4) of Subsection B of Section 5 [24-21-5 NMSA 1978] of the Genetic**
| Information Privacy Act authorizes retention of a person’s genetic information or samples for genetic analysis if the person, his authorized representative or guardian, or the parent or guardian of a minor child, objects on the basis of religious tenets or practices. [emphasis added] |