



*Policy Detail\**

<b>Policy Number:</b> DIV.SLD.13.03 (formerly ADM 02:134)
<b>Policy Title:</b> SLD Expert Testimony
<b>Category:</b> 13.Division
<b>Effective Date:</b> 10/1/2007
<b>Date of Most Recent Review:</b> 10/1/2012
<b>Due Date for Next Review:</b> 10/1/2017
<b>DOH Unit of Origin:</b> Scientific Laboratory Division
<b>Policy Contact Title:</b> Division Director
<b>Policy Contact Phone Number(s):</b> 505.383.9001
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<b>Distribution: DOH-wide</b> <input type="checkbox"/> (double click on box and check if applicable)
<b>If not DOH-wide, other distribution:</b> Scientific Laboratory Division

\*All sections in table are required.

\*\*Due date for next review is five years or sooner, if warranted by significant administrative changes affecting the policy, such as legislative or regulatory action, from the date of the most recent review.

**DEPARTMENT OF HEALTH  
ADMINISTRATIVE SERVICES DIVISION  
POLICY AND PROCEDURES**

**SCIENTIFIC LABORATORY DIVISION  
EXPERT TESTIMONY**

**EFFECTIVE DATE: OCTOBER 1, 2007**

**REVISION DATE: OCTOBER 1, 2012**

**POLICY NUMBER: ADM 02:134**

**I. Policy**

The Department of Health's Scientific Laboratory Division (SLD) shall not be responsible for providing expert witness testimony in court in cases in which the SLD has not conducted the test or provided the test result involved in the court case.

**II. Applicability**

This policy applies to all employees of the Department of Health's Scientific Laboratory Division.

**III. Definitions**

*Expert Testimony means the sworn testimony, in a court of law, delivered by a technician who is an employee of the SLD who has performed the test to which he is testifying to.*

*SLD means the Department of Health's Scientific Laboratory Division*

*Test Result means the outcome of a scientific procedure carried out by an SLD employee that indicates the blood alcohol concentration or other toxicological reading.*

**IV. Procedure**

SLD shall only be responsible for providing expert witness testimony in court in cases in which the SLD has conducted the test or provided the test result

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involved in the court case.

1. SLD generally shall not provide expert witness testimony in court, unless the request comes from another State of New Mexico agency.
2. SLD will provide expert witness testimony, when subpoenaed, in criminal cases.
3. SLD will provide expert witness testimony, upon request, in civil cases. If the court case is a civil case, the requestor shall be billed a fee for services by the SLD.

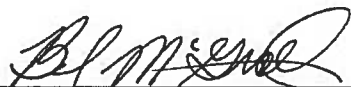
SLD is only able to serve as an expert if there is no conflict of interest, it is approved by the SLD Director and the service would not impede SLD's statutorily mandated work.

**V. References**

1. 7.33.2 NMAC – Blood and Breath Testing under the New Mexico Implied Consent Act
2. 66-8-107 NMSA 1978 – Chemical testing of blood and breath under the Implied Consent Act
3. 24-1-22 NMSA 1978 – Scientific Laboratory Division Testing Methods and Certification.
4. SLD Toxicology Fee Schedule

**VI. Links**

1. [1. 7.33.2 NMAC – Blood and Breath Testing under the New Mexico Implied Consent Act](#)
2. [66-8-107 NMSA 1978 – Chemical testing of blood and breath under the Implied Consent Act](#)
3. [24-1-22 NMSA 1978 – Scientific Laboratory Division Testing Methods and Certification](#)
4. [SLD Toxicology Fee Schedule](#)



Brad McGrath  
Interim Cabinet Secretary  
New Mexico Department of Health

10/4/12

Date