

# Drug Testing Pregnant Patients in New York: What You Need to Know

**Are you a pregnant person seeking medical care from a New York hospital?**

**Did you know that hospitals in New York State have been found to routinely drug test pregnant people without their informed consent?**

This could be happening to you without your knowledge and may lead to harmful consequences such as:

- Your children being taken away from you
- Invasive child welfare investigations
- Lost bonding time with your newborn
- The inability to breastfeed

This type of drug testing practice has been shown to be discriminatory, damage the doctor-patient relationship, and can deter pregnant people from obtaining prenatal and perinatal care. Especially in the wake of the Supreme Court's ruling to overturn *Roe v. Wade*, it is more critical than ever that pregnant people have both the information and autonomy they need to make informed decisions.

Leading medical authorities, such as the American College of Obstetricians and Gynecologists, reject practices that screen pregnant people for substance use via drug testing. The policies of both the New York City Administration for Children's Services ("ACS") and the New York City Department of Health and Mental Hygiene ("DOHMH") are clear that a positive drug test from a parent and/or a newborn baby, a maternal history of past drug use, or disclosure of current drug use, is not in itself a basis for a report of child abuse or neglect. New York City public hospitals have a clear policy against drug testing pregnant patients without their informed consent.

## YOUR RIGHTS

**You have the right to:**

- Privacy within your family and to parent your children the way you want to.
- Receive medical treatment without discrimination as to race, color, religion, sex, gender identity, national origin, disability, sexual orientation, age, or source of payment.
- Refuse medical treatment, examination, or observation.
- Receive all the information that you need to give informed consent for any proposed procedure or treatment. This information shall include the possible risks and benefits of the procedure or treatment.
- Privacy while in the hospital and confidentiality of all information and records regarding your care.
- Understand and use these rights. If for any reason you do not understand or you need help, the hospital must provide assistance, including an interpreter.

### FOR MORE INFORMATION

For more information and assistance, contact Legal Momentum's Helpline at 1-800-649-0297, [Help@LMHelpline.org](mailto:Help@LMHelpline.org), or <https://www.legalmomentum.org/get-help-form> to get help today.

## TAKE ACTION

**If you believe that you have been subjected to this practice, you have various ways to take action.**

- Ask your medical providers whether you will be drug tested at any point while receiving care for your pregnancy.
- Take notes while things are happening; having a record can help you prove what happened.
- Request a copy of your medical records for past treatment.
- Ask to have policies explained or explained again by someone else, see policies in writing, and/or have information translated or interpreted.
- Ask for a consultation with a Patient Advocate, Ethics Committee member, or Translator.
- File a formal complaint with the hospital's internal complaints office.
- File a discrimination complaint with the New York City Commission on Human Rights or the New York State Division of Human Rights.
- File a lawsuit.

*Disclaimer: This does not constitute legal advice and should not be relied upon as such. Individuals and organizations considering legal action should consult their own legal counsel.*