

CHAPTER 93**(HB 529)**

AN ACT relating to the disclosure of laboratory test results and declaring an emergency.

WHEREAS, the 21st Century Cures Act, Pub. L. No. 114-255, included, among other provisions, requirements for health care providers to provide complete and immediate electronic health information to patients; and

WHEREAS, the 21st Century Cures Act, Pub. L. No. 114-255 allows states to establish exceptions to the requirements for health care providers; and

WHEREAS, with the immediate release of laboratory results, a patient may receive the results at the same time as the ordering health care provider and, in almost all circumstances, could read the report before the provider has an opportunity to review the results; and

WHEREAS, the General Assembly declares that, in certain instances, based on the types of laboratory tests ordered and the potential results of those tests, the ordering health care provider needs an opportunity to review the results prior to their release as part of the patient's electronic health record in order to provide the patient with appropriate medical guidance and emotional support, and to gather appropriate resources for the patient; and

WHEREAS, except in limited instances, the General Assembly declares that Kentucky's health care providers shall provide complete and immediate electronic health information to patients;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 333 IS CREATED TO READ AS FOLLOWS:

- (1) *Notwithstanding any other provision of law to the contrary, except as provided by subsection (2) of this section, a health care provider requesting that a medical laboratory test for a patient is performed shall not engage in information blocking as described in 42 U.S.C. sec. 300jj-52.*
- (2) *The following reports or test results and any other related results shall not be disclosed to a patient as part of the patient's electronic health record, or in the case of a clinical laboratory test result, or pathology report, shall not be disclosed by the person or entity that administers and controls the patient's electronic health record, until seventy-two (72) hours after the results are finalized, unless the health care provider directs the release of the results before the end of that seventy-two (72) hour period:*
 - (a) *Pathology reports or radiology reports that have a reasonable likelihood of showing a finding of malignancy; or*
 - (b) *Tests that could reveal genetic markers.*

➔Section 2. KRS 333.150 is amended to read as follows:

- (1) A medical laboratory shall examine human specimens only at the request of a licensed physician, podiatrist, dentist, or other person authorized by law to use the findings of medical laboratory examinations. The results of a test shall be reported to the licensed health care provider who requested it.
- (2) Medical laboratory results may be transmitted to:
 - (a) Any health care provider who is treating the patient;
 - (b) An electronic health information exchange or network for the purposes of transmitting medical laboratory results to the ordering provider and to any other provider for the purposes of treatment, payment, or operations if patient consent has been obtained under the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191; and
 - (c) An electronic health information exchange or network for the purpose of meeting the requirements of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, and its related federal regulations, *and the 21st Century Cures Act, Pub. L. No. 114-255, and its related federal regulations.*
- (3) All transactions under subsection (2) of this section shall be in compliance with the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

- (4) Laboratory reports shall include the name of the director and the name and address of the medical laboratory in which the test was actually performed. All specimens accepted by a medical laboratory shall be tested on the premises except that specimens for infrequently performed tests may be forwarded for examination to another medical laboratory licensed under this chapter or to a medical laboratory located outside this state if licensed or approved by the appropriate agency of the state concerned.

➔Section 3. Whereas the federal law requiring the immediate release of electronic health information is already in effect and it is vitally important that Kentucky's health care providers have an opportunity to review certain ordered medical test results prior to their release as part of a patient's electronic health record, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Returned to Secretary of State April 8, 2022, and became law without Governor's signature April 12, 2022.