

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

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

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

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

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

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

21 NOW, THEREFORE,

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

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

25 **(1) Notwithstanding any other provision of law to the contrary, except as provided by**
26 **subsection (2) of this section, a health care provider requesting that a medical**
27 **laboratory test for a patient is performed shall not engage in information**

1 blocking as described in 42 U.S.C. 300jj-52.

2 (2) The following reports or test results and any other related results shall not be
 3 disclosed to a patient as part of the patient's electronic health record, or in the
 4 case of a clinical laboratory test result, or pathology report, shall not be disclosed
 5 by the person or entity that administers and controls the patient's electronic
 6 health record, until seventy-two (72) hours after the results are finalized, unless
 7 the health care provider directs the release of the results before the end of that
 8 seventy-two (72) hour period:

9 (a) Pathology reports or radiology reports that have a reasonable likelihood of
 10 showing a finding of malignancy; or

11 (b) Tests that could reveal genetic markers.

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

13 (1) A medical laboratory shall examine human specimens only at the request of a
 14 licensed physician, podiatrist, dentist, or other person authorized by law to use the
 15 findings of medical laboratory examinations. The results of a test shall be reported
 16 to the licensed health care provider who requested it.

17 (2) Medical laboratory results may be transmitted to:

18 (a) Any health care provider who is treating the patient;

19 (b) An electronic health information exchange or network for the purposes of
 20 transmitting medical laboratory results to the ordering provider and to any
 21 other provider for the purposes of treatment, payment, or operations if patient
 22 consent has been obtained under the federal Health Insurance Portability and
 23 Accountability Act of 1996, Pub. L. No. 104-191; and

24 (c) An electronic health information exchange or network for the purpose of
 25 meeting the requirements of the American Recovery and Reinvestment Act of
 26 2009, Pub. L. No. 111-5, and its related federal regulations, and the 21st
 27 Century Cures Act, Pub. L. No. 114-255, and its related federal regulations.

1 (3) All transactions under subsection (2) of this section shall be in compliance with the
2 federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No.
3 104-191.

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

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