

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. 114-255, included, among other
4 provisions, requirements for health care providers to provide complete and immediate
5 electronic health information to patients; and

6 WHEREAS, failure to provide complete and immediate electronic information to
7 patients is considered information blocking and may result in fines; and

8 WHEREAS, 42 U.S.C. 300jj-52 defines information blocking as a practice that,
9 except as may be required by state law or by federal regulation, is "likely to interfere with,
10 prevent, or materially discourage access, exchange, or use of electronic health
11 information"; and

12 WHEREAS, as stated in the Federal Register, 45 C.F.R. parts 170 and 171 were
13 enacted by the federal Office of the National Coordinator for Health Information
14 Technology, Department of Health and Human Services, to "support the access,
15 exchange, and use of electronic health information, and address occurrences of
16 information blocking"; and

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

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

27 WHEREAS, except in limited instances, the General Assembly declares that

1 Kentucky's health care providers shall not engage in information blocking;

2 NOW, THEREFORE,

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

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

6 *(1) Notwithstanding any other provision of law to the contrary, except as provided by*
7 *subsection (2) of this section, a health care provider requesting that a medical*
8 *laboratory test for a patient is performed shall not engage in information*
9 *blocking as described in 42 U.S.C. 300jj-52.*

10 *(2) The following reports or test results and any other related results shall not be*
11 *disclosed to a patient as part of the patient's electronic health record until*
12 *seventy-two (72) hours after the results are finalized, unless the health care*
13 *provider directs the release of the results before the end of that seventy-two (72)*
14 *hour period:*

15 *(a) Pathology reports or radiology reports that have a reasonable likelihood of*
16 *showing a finding of malignancy; or*

17 *(b) Tests that could reveal genetic markers.*

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

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

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

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

25 (b) An electronic health information exchange or network for the purposes of
26 transmitting medical laboratory results to the ordering provider and to any
27 other provider for the purposes of treatment, payment, or operations if patient

1 consent has been obtained under the federal Health Insurance Portability and
2 Accountability Act of 1996, Pub. L. No. 104-191; and

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

7 (3) All transactions under subsection (2) of this section shall be in compliance with the
8 federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No.
9 104-191.

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

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