

Self-testing students lead to legal concerns

Q What liability exists when students test their own blood samples in the training lab?

A It is a time-honored tradition — recognized or not — for students to run tests on their own blood samples in the training lab. Sometimes this practice spills over into the “real world” laboratory after graduation as well.

In general, pursuant to the requirements of CLIA, a laboratory test may only be ordered by an “authorized person.” CLIA leaves the definition of such persons up to the state, and these definitions vary. Physicians, of course, are authorized in all states, but depending on the locale, allied health professionals such as nurses may also order tests. Some states have provisions for self-referral for certain types of lab tests.

Implicit in the law is that these tests are done in the ordinary course of healthcare as a part of medical evaluation and treatment. In its broadest sense, that would encompass any testing for medical purposes, even that of self-evaluation by a knowledgeable patient. As a result, unless self-referral for the particular test is provided for, no tests for clinical reasons should be done in the medical laboratory unless there is a valid order from an authorized person.

Student labs, however, are not generally in the business of providing testing for medical diagnosis and treatment, and valid medical orders are not required for running tests in training situations. As a result, the laws regulating the ordering of lab tests do not prohibit students from running tests on their own blood in the student lab.

That does not mean, however, that permitting the practice is a good idea. The student lab is intended for training purposes, not for purposes of providing informal medical testing to aspiring lab techs or their families. Any policy that permits medical testing under the guise

of student training can potentially run afoul of statutes that regulate lab testing and ordering.

Defining policies for the use of the student lab in advance and making certain students are aware of the rules is important. After all, knowledge of and adherence to policies is critical to success as a laboratorian in the “real world.” If self-testing is prohibited, provide clear (and significant) consequences for violating the policy, and be vigilant in enforcement. After all, adherence to policy and respect for privacy, procedures, and regulations is at the heart of laboratory medicine and should be taught to students early and often.

Medical tests are best done under the aegis of a healthcare provider capable of assisting the patient if the results indicate a need for treatment.

If and when students are permitted limited and elective self-testing, make clear restrictions that apply. Testing anyone other than themselves would be an abuse of the student laboratory and put the test in question squarely in the “medical testing” legal arena.

In the past, instructors have commonly requested students’ blood samples to run in the course of classroom and bench training. Doing so, however, exposes the student to having medical information generally known to classmates; and because sometimes such tests result in unpleasant surprises for the individual concerned, this practice is best avoided. If student blood samples are to be used for class, a release from each student providing samples should be obtained, and expectations of privacy detailed and enforced.

Liability, therefore, will depend on a combination of relevant state laws

(including those that relate directly to student laboratories). Start by thoroughly researching the state laws and administrative regulations, including those of the individual institution, to determine what is permitted and what penalties are attached to violations. In this day and age, the potential for violations of privacy rights and inadvertent disclosure of medical information are a cause for concern.

A worst-case scenario would be that a student tests a relative’s blood, obtains an erroneous result, and the relative fails to get necessary care or has some adverse medical consequence. If it could be established that it was common practice to permit students to run such tests for such purposes, the school might become embroiled in a malpractice suit and face regulatory scrutiny for unauthorized medical testing. Such an outcome may be unlikely but not impossible.

Though the legal liabilities associated with permitting limited self-testing by students are not crystal-clear, permitting the practice is discouraged, because there is no clear benefit to the school or the student that makes the risk worth assuming. Medical tests are best done under the aegis of a healthcare provider capable of assisting the patient if the results indicate a need for treatment. Technologists are fully capable of running tests — but they are not doctors.

Schools are advised to explore alternative sources of blood samples that maintain anonymity and ensure the range of results needed for adequate exposure to testing and results management. □



Barbara Harty-Golder is a pathologist-attorney consultant in Chattanooga, TN. She maintains a law practice with a special interest in medical law. She writes and lectures extensively on healthcare law, risk management, and human resource management.

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