Could new lab-report policy open a “Pandora’s box”?  

A proposal has been made that patients as well as their physicians get copies of their outpatient lab reports. What are the legal issues involved with making such a change? Most of the issues involved are logistical, philosophical, and cultural rather than legal. I have had feedback both positive and negative on similar policies already in place. Some folks find them terrific; some find them more trouble than they are worth. From a legal standpoint, checking to make certain that state laws and regulations permit direct disclosure of lab results to patients is important. In the past, some states have restricted patient access to laboratory reports, requiring that test results go through the physician.

In the wake of HIPAA, the right of a patient to his own medical records has been expanded and guaranteed. In some circumstances — such as psychotherapy records and related lab tests, as well as instances when a patient’s health or the health of another person might be compromised — a patient’s access can be delayed (but not prevented) until his physician reviews his records. HIPAA probably supports this proposed plan but does not require it. A good idea before implementing such a change is to seek a legal review to ascertain the limits — if any — under which you must operate.

Before instituting such a sweeping cultural change, also consider the implications for business. Will this be an across-the-board policy, or will physicians be allowed to elect whether or not their patients can receive copies? If patients are to receive copies, how will the lab keep track? Must lab forms be redesigned? Will patients be given the option of receiving copies, or will reports be issued automatically? If a patient declines to receive a report, how will his decision be documented for the laboratory’s records — and protection? If you take any approach other than automatic release of all reports to all patients, you may, ultimately, have to defend your decision if a patient claims that the lab has discriminated against him or caused him harm by failing to provide a service it routinely provide to others.

How will the policy change be introduced to physicians? In the long run, the policy could protect them; they would have less worry about failing to communicate meaningful results to patients in a timely fashion. Even though such a change might initially increase phone traffic (and aggravation) in a physician’s office, eventually this new policy may encourage patients to make follow-up appointments, which might improve quality of care and patient outcome. The changed policy might even prompt a patient to see the doctor on a regular basis, which could produce enough new lab revenue to offset the increased investment.

Last, but not least, what procedures will be put in place for making corrections to the patient when necessary? Certainly, if a patient receives copies of his lab reports, he is entitled to the same diligence for corrections that his physician is, including phone calls — if that is the lab’s procedure — to correct or report critical values. How much extra work will this create for the laboratory in terms of staff and documentation?

If you decide to proceed, however, the changed policy could provide excellent opportunities for monitoring both patient and physician satisfaction and for performance-improvement initiatives.

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