

Unsolicited Test Results

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From time to time, physicians and other healthcare providers find themselves in receipt of diagnostic test results they did not order for their patient, or for individuals who are not even patients of the practice at all. Such results could be anything from laboratory or pathology reports to screening and other diagnostic tests. Medical consumers are presented with many options to undergo screening type tests without provider involvement or referral. Mobile or freestanding vendors, churches, health fairs and even employers offer an assortment of free or reduced cost health screenings, usually sending results to the provider identified by the patient. Occasionally, emergency department patients will request that their diagnostic work-up be copied to their personal provider as well. Accordingly, there are many sources from which a provider or practice may receive unsolicited test results.

When in receipt of an unsolicited test, be aware that even the non-ordering provider presumably has some limited duty to ensure follow-up, depending on the circumstances. Generally, there are two broad categories to be addressed – patients and non-patients.

Established Patients

When an unsolicited test is received regarding an established patient of the practice, whether recently active or not, you should handle that test in the same manner as you would if you had personally ordered the test, including contacting the patient and arranging for any appropriate follow-up care. Be sure you have a system in place that requires your personal review before they are entered into the medical record (even if the test results are marked by the lab or diagnostic facility as “normal”). Of course, critical or time-sensitive abnormal test results should be handled expeditiously. As you know, many “normal” or within range results on a lab report may be actually abnormal or even dangerous depending on the patient’s condition (think HCT, INR, PSA). Some lab reports don’t even list a normal range because the expected result depends on many factors including the patient’s gender, age, specific condition, etc., so the non-ordering provider may not be able to identify abnormal results on behalf of the ordering provider.

Sometimes the provider is simply cc’d by the lab or the healthcare facility and it may be difficult to determine if the original ordering provider has handled the result. In those instances, the best practice is to contact the ordering provider/facility and ensure their receipt of the result. Also consider directing the lab/facility not to copy you on tests you do not order without consulting you first.

Non-Patients

Receipt of an unsolicited test result for a person who is not a patient of your practice presents a different challenge. First, immediately make direct contact with the source of the test result, preferably by phone, to rule out misspellings, patient name changes, or any other typo or mistake that prevents proper identification of an individual who may actually be one of your patients. In addition to the foregoing, other explanations for being unable to match a test result to a patient would include practice mergers, provider relocation, business name changes, etc. The initial phone call will alert the test source that there is a communication problem or misidentification that needs appropriate follow-up. The initial phone call may also be important if the test result is abnormal and time sensitive or life threatening. If applicable, be sure that any concern or urgency is addressed in that initial phone call.

It is recommended that this notification be accomplished by BOTH a phone call and a written document. Phone communication with the test source allows them to take immediate action to re-direct the test result to the proper provider. The test source may also have an independent obligation to contact the individual. The original test report should be mailed or faxed back to the originator of the report with a dated notation written on it, or with an accompanying statement, informing the source that the individual is not a patient of your practice and that you are not the appropriate party to receive the report or test result. A copy of the report with your notation or statement should be placed in a general office file titled "Unsolicited Reports". The details of the conversation should be recorded (name, date, time). Critical or time sensitive abnormal test results should be expedited through the above notification process. In the event the test results or report are emergent, it would be appropriate to make efforts to contact the non-patient directly if timely contact with the originator of the report is not possible.

The above recommendation with regard to non-patients may appear unnecessarily burdensome. Timely and appropriate notification to the source of the unsolicited test result remains the prudent course to take in these situations. However, it is always good medicine to make sure miscommunication does not result in harm. Also, while there appears to be no obvious legal obligation to act on unsolicited test results for non-patients, no one desires to be the test case for such an extension of liability.

This guideline is not intended to cover all situations that may arise with regard to unsolicited tests. For unique circumstances let reason, patient safety and good business sense be your guide. Some states have statutes conferring immunity on physicians who receive unsolicited test results. Virginia has such a statute covering an assortment of situations with various conditions and exceptions. However, even Virginia's statute does not confer immunity if "...the physician has reason to know that in order to manage the specific mental or physical condition of the patient, review of or action on the pending results is needed".

Please contact an SVMIC claims attorney for any medical/legal concerns.

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