

July 16, 2004

TO: Oregon Clinical Laboratories

FROM: Rita Scheu, BS, MT(ASCP)
Manager, Laboratory Compliance and Quality Assurance

SUBJECT: Release of Laboratory Results to Authorized Individuals Other Than the Ordering Physician or Clinician

Oregon Revised Statute (ORS) 438.430(2) states: *“A person may not report the result of any test, examination, or analysis of a specimen submitted for evidence of human disease except to: (a) The patient; and (b) A physician, dentist, their agents, or other person authorized by law to employ the results thereof in the conduct of a practice or in the fulfillment of official duties.”*

Since 1969, the Oregon Attorney General’s interpretation of this law has been that the laboratory may release test results only to the ordering health care provider unless the provider has authorized release of these results to another physician, clinician or the patient. In 2003, the law was amended to allow the patient to receive his or her results directly from the laboratory no sooner than seven days after requesting them.

Recently, the Attorney General advised us that changes in ORS 438.430, plus adoption of the federal Health Insurance Portability and Accountability Act (HIPAA), necessitate a change in opinion. The new opinion is that laboratory results may be released to any and all providers involved in the treatment of the patient. For purposes of this statute, “treatment” means activities authorized by the patient, including coordination and consultation between providers. A provider other than the original requester of the testing must have some relationship with the patient. Note, however, that there is no requirement that a lab release results to other providers. The language of both HIPAA and state law permit, but do not require, such disclosure.

Each laboratory will need to assure that results are released only to providers who are involved in the treatment of the patient, except as required under

ORS 433.004 for disease reporting to public health authorities. If a laboratory is compliant with the privacy rules HIPAA, it will generally be considered in compliance with ORS 438.430(2). There are notable exceptions, however, including results of HIV or genetic testing, which have special confidentiality protections under state law. Please keep in mind that you should consult your legal counsel if you have any questions about the appropriate release of laboratory results.

I can be reached at (503) 229-5855 or by E-mail at Rita.A.Scheu@state.or.us. Thank you

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phone 503-229-5882 for requests.