

During the 2026 General Assembly Session, legislators sought to require health care entities to delay disclosures of certain laboratory testing results in the best interest of patients. This document provides a summary of the changes to law and provides background and guidance to assist you in compliance.

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## Summary

### AMENDS EXISTING LAW

**HB973 (Price)** requires health care entities to wait 72 hours before disclosing test results that could indicate malignancy or genetic markers as part of a patient's health records unless the health care entity directs the release sooner; the patient or his representative request and consent to such early release; the health care entity is unable to withhold the test results without delaying the release of other results or information due to limitations of the electronic health record system in use by the health care entity; or the health care entity or treating health care provider determines it is in the patient's best interest to release the results early. The legislation also permits health care entities to disclose health records to an electronic health information exchange to comply with the federal 21st Century Cures Act (CURES Act). **The law is effective July 1, 2026.**

## Action Required

Evaluate the need for any changes to existing policies and procedures related to disclosure of test results to ensure withholding of disclosure or the application of available exceptions as necessary to comply with the requirements of the law.

## Background Information

Starting April 5, 2021, the Information Blocking Provision of the federal CURES Act Final Rule mandated that patients have unencumbered, free access to their electronic health information (EHI) as defined by the U.S. Core Data for Interoperability version 1, including all laboratory test results. On October 6, 2022, the Final Rule expanded to all EHI. However, the CURES Act allows states to establish exceptions to the requirements for health care providers, for example where the ordering health care provider needs an opportunity to review the results prior to their release as part of the patient's electronic health record in order to provide the patient with appropriate medical guidance and emotional support, and to gather appropriate resources for the patient.

HB973 incorporates the information blocking provisions of the CURES Act into state law and creates a 72 hour hold exception for certain reports.

The CURES Act defines information blocking as a practice that, "except as required by law or specified by [HHS]... is likely to interfere with, prevent, or materially discourage access, exchange, or use of electronic health information" (42 U.S.C. § 300jj-52(a)(1)(A)). As written, HB 973 mandates withholding the specified test results. However, language in Section C creates an additional exemption: "or the health care entity directs the release of the results before the end of the 72-hour period." This appears to allow entities discretion to release results consistent with existing hospital policies.

## Statutory Text

(NOTE: The language in *italics* and ~~strike through~~ are the only changes to the law. All other language and requirements under the law remain unchanged.)

**1. That § 32.1-127.1:03 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-127.1:06 as follows:**

### § 32.1-127.1:03. Health records privacy.

A. There is hereby recognized an individual's right of privacy in the content of his health records. Health records are the property of the health care entity maintaining them, and, except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual's health records.

...

D. Health care entities may, and, when required by other provisions of state or federal law, shall, disclose health records:

...

35. To a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education; and

36. To a regional emergency medical services council pursuant to § 32.1-116.1, for purposes limited to monitoring and improving the quality of emergency medical services pursuant to § 32.1-111.3; and

37. To an electronic health information exchange or network for the purpose of meeting the requirements of the federal 21st Century Cures Act, P.L. 114-255, and its related federal regulations.

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**§ 32.1-127.1:06. Disclosure of laboratory test results.**

A. For the purposes of this section, "health care entity" means the same as that term is defined in § 32.1-127.1:03.

B. Notwithstanding any other provision of law, except as provided by subsections C and D, a health care entity that requests a medical laboratory test for a patient be performed shall not engage in information blocking as described in 42 U.S.C. § 300jj-52.

C. The following reports or test results shall not be disclosed to a patient as part of the patient's electronic health record or, in the case of a clinical laboratory test result or pathology report, shall not be disclosed to a patient as part of the patient's electronic health record by the health care entity that administers and controls the patient's health record until 72 hours after the results are finalized, unless such disclosure is permitted pursuant to subsection D or the health care entity directs the release of the results before the end of the 72-hour period:

1. Pathology reports that have a reasonable likelihood of showing a finding of malignancy;
2. Radiology reports that have a reasonable likelihood of showing a finding of malignancy; or
3. Tests that could reveal genetic markers.

D. The reports or test results described in subsection C may be released prior to the end of the 72-hour period if:

1. The patient or his representative request and consent to such early release;
2. The health care entity is unable to withhold the test results without delaying the release of other results or information due to limitations of the electronic health record system in use by the health care entity; or
3. The health care entity or treating health care provider determines it is in the patient's best interest to release the results early.

E. No health care entity shall be subject to civil, criminal, or administrative liability or professional disciplinary action for failure to comply with the provisions of this section.

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