Clinical Duty to Recontact in Genetic Testing: Insights from the Safety-Related Duty to Recall

Description

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ABSTRACT

When the understanding of relevant science changes, is there a duty to recontact previously tested patients to inform them of the implications of these changes? Particularly in a genetics landscape, it is important that policies and ethical considerations keep pace with rapid advances and innovation. A challenging example is clarifying the rights and duties that potentially flow when an evolving body of scientific knowledge no longer supports previously delivered diagnoses or test results. This commentary examines the values foundational to a potential duty to recontact in the setting of clinical molecular testing, by comparing them to an existing duty to recall (medical devices, pharmaceuticals, etc.) in Canada and the United States. The duty to recall serves as a productive perspective from which to consider the duty to recontact, through ethical and operational lenses. Specifically, we consider how concepts that underlie the duty to recall (transferability of false claims, obligation to inform, threshold for recontact and foreseeability) can support the potential defensibility and feasibility of a duty to recontact. Though the duty to recall and the duty to recontact differ, the overlapping guiding principles may serve as a useful tool to navigate the potential duty to recontact.