

HOUSE BILL 485

J2

71r1643
CF SB 490

By: **Delegate Donoghue**

Introduced and read first time: February 6, 2007

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Direct Billing of Anatomic Pathology Services**

3 FOR the purpose of requiring certain clinical laboratories, health care practitioners,
4 and group practices that provide anatomic pathology services to certain patients
5 to present or cause to be presented claims, bills, or demands for payment to
6 certain individuals and entities; prohibiting certain health care practitioners
7 from directly or indirectly charging, billing, or otherwise soliciting payment for
8 certain anatomic pathology services unless the services are performed by or
9 under the direct supervision of the health care provider and in accordance with
10 certain provisions; prohibiting certain health care practitioners from directly
11 receiving certain fees, profits, or revenue for certain anatomic pathology
12 services under certain circumstances; providing that a certain subsection does
13 not apply to certain group practices, referring laboratories, or multi-specialty
14 groups; establishing that certain individuals and entities are not required to
15 provide reimbursement under certain circumstances; establishing that a certain
16 section does not prohibit a referring laboratory from billing for certain anatomic
17 pathology services under certain circumstances; and generally relating to direct
18 billing of anatomic pathology services.

19 BY repealing and reenacting, without amendments,
20 Article – Health Occupations
21 Section 1-301(a), (d), (f), (h), and (l)
22 Annotated Code of Maryland
23 (2005 Replacement Volume and 2006 Supplement)

24 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Health Occupations
2 Section 1–306
3 Annotated Code of Maryland
4 (2005 Replacement Volume and 2006 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Health Occupations
7 Section 1–306
8 Annotated Code of Maryland
9 (2005 Replacement Volume and 2006 Supplement)

10 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
11 MARYLAND, That the Laws of Maryland read as follows:

12 **Article – Health Occupations**

13 1–301.

14 (a) In this subtitle the following words have the meanings indicated.

15 (d) “Direct supervision” means a health care practitioner is present on the
16 premises where the health care services or tests are provided and is available for
17 consultation within the treatment area.

18 (f) “Group practice” means a group of two or more health care practitioners
19 legally organized as a partnership, professional corporation, foundation, not–for–profit
20 corporation, faculty practice plan, or similar association:

21 (1) In which each health care practitioner who is a member of the
22 group provides substantially the full range of services which the practitioner routinely
23 provides through the joint use of shared office space, facilities, equipment, and
24 personnel;

25 (2) For which substantially all of the services of the health care
26 practitioners who are members of the group are provided through the group and are
27 billed in the name of the group and amounts so received are treated as receipts of the
28 group; and

29 (3) In which the overhead expenses of and the income from the
30 practice are distributed in accordance with methods previously determined on an
31 annual basis by members of the group.

1 (h) "Health care practitioner" means a person who is licensed, certified, or
2 otherwise authorized under this article to provide health care services in the ordinary
3 course of business or practice of a profession.

4 (l) (1) "Referral" means any referral of a patient for health care services.

5 (2) "Referral" includes:

6 (i) The forwarding of a patient by one health care practitioner
7 to another health care practitioner or to a health care entity outside the health care
8 practitioner's office or group practice; or

9 (ii) The request or establishment by a health care practitioner of
10 a plan of care for the provision of health care services outside the health care
11 practitioner's office or group practice.

12 **1-306.**

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
14 MEANINGS INDICATED.

15 (2) "ANATOMIC PATHOLOGY SERVICES" MEANS:

16 (I) HISTOPATHOLOGY OR SURGICAL PATHOLOGY;

17 (II) CYTOPATHOLOGY;

18 (III) HEMATOLOGY;

19 (IV) SUBCELLULAR PATHOLOGY AND MOLECULAR
20 PATHOLOGY; OR

21 (V) BLOOD-BANKING SERVICES PERFORMED BY
22 PATHOLOGISTS.

23 (3) "CLINICAL LABORATORY" MEANS A FACILITY THAT PROVIDES
24 ANATOMIC PATHOLOGY SERVICES.

25 (4) (I) "CYTOPATHOLOGY" MEANS THE EXAMINATION OF
26 CELLS FROM FLUIDS, ASPIRATES, WASHINGS, BRUSHINGS, OR SMEARS.

1 (II) **“CYTOPATHOLOGY” INCLUDES A PAP TEST**
2 **EXAMINATION PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT**
3 **SUPERVISION OF A PHYSICIAN.**

4 (5) **“HEMATOLOGY” MEANS:**

5 (I) **THE MICROSCOPIC EVALUATION OF BONE MARROW**
6 **ASPIRATES AND BIOPSIES PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT**
7 **SUPERVISION OF A PHYSICIAN; OR**

8 (II) **REVIEW OF A PERIPHERAL BLOOD SMEAR IF A**
9 **PHYSICIAN OR TECHNOLOGIST REQUESTS THAT A PATHOLOGIST REVIEW A**
10 **BLOOD SMEAR.**

11 (III) **“HISTOPATHOLOGY OR SURGICAL PATHOLOGY” MEANS**
12 **GROSS AND MICROSCOPIC EXAMINATION AND HISTOLOGIC PROCESSING OF**
13 **ORGAN TISSUE PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT**
14 **SUPERVISION OF A PHYSICIAN.**

15 (6) (I) **“REFERRING LABORATORY” MEANS A CLINICAL**
16 **LABORATORY THAT SENDS A PARTICULAR SPECIMEN REQUIRING SPECIALIZED**
17 **ANATOMICAL PATHOLOGY SERVICE THAT THE CLINICAL LABORATORY DOES**
18 **NOT PROVIDE TO A SPECIALIST AT ANOTHER CLINICAL LABORATORY.**

19 (II) **“REFERRING LABORATORY” DOES NOT INCLUDE A**
20 **LABORATORY OF A PHYSICIAN’S OFFICE OR GROUP PRACTICE THAT COLLECTS A**
21 **SPECIMEN AND ORDERS ANATOMIC PATHOLOGY SERVICES FOR A PATIENT.**

22 (B) **A CLINICAL LABORATORY, A HEALTH CARE PROVIDER, OR A GROUP**
23 **PRACTICE LOCATED IN THIS STATE OR IN ANOTHER STATE THAT PROVIDES**
24 **ANATOMIC PATHOLOGY SERVICES FOR A PATIENT IN THIS STATE SHALL**
25 **PRESENT, OR CAUSE TO BE PRESENTED, A CLAIM, BILL, OR DEMAND FOR**
26 **PAYMENT FOR THE SERVICES TO:**

27 (1) **THE PATIENT DIRECTLY;**

28 (2) **A RESPONSIBLE INSURER OR OTHER THIRD-PARTY PAYOR;**

1 (3) **A HOSPITAL, PUBLIC HEALTH CLINIC, OR NONPROFIT HEALTH**
2 **CLINIC ORDERING THE SERVICES;**

3 (4) **A REFERRING LABORATORY; OR**

4 (5) **ON BEHALF OF THE PATIENT, A GOVERNMENTAL**
5 **AGENCY OR ITS PUBLIC OR PRIVATE AGENT, AGENCY, OR ORGANIZATION.**

6 **(C) EXCEPT AS PROVIDED IN SUBSECTION (F) OF THIS SECTION, A**
7 **HEALTH CARE PRACTITIONER MAY NOT DIRECTLY OR INDIRECTLY CHARGE,**
8 **BILL, OR OTHERWISE SOLICIT PAYMENT FOR ANATOMIC PATHOLOGY SERVICES**
9 **UNLESS THE SERVICES ARE PERFORMED:**

10 **(1) BY THE HEALTH CARE PRACTITIONER OR UNDER THE DIRECT**
11 **SUPERVISION OF THE HEALTH CARE PRACTITIONER; AND**

12 **(2) IN ACCORDANCE WITH THE PROVISIONS FOR THE**
13 **PREPARATION OF BIOLOGICAL PRODUCTS BY SERVICE IN THE FEDERAL**
14 **PUBLIC HEALTH SERVICES ACT.**

15 **(D) (1) A HEALTH CARE PRACTITIONER MAY NOT DIRECTLY OR**
16 **INDIRECTLY RECEIVE A FEE, PROFIT, OR REVENUE FOR ANATOMIC PATHOLOGY**
17 **SERVICES IF THE HEALTH CARE PRACTITIONER:**

18 **(I) COLLECTS A SPECIMEN AND ORDERS THE SERVICES;**
19 **AND**

20 **(II) DOES NOT PERFORM OR PROVIDE DIRECT SUPERVISION**
21 **OF THE SERVICES.**

22 **(2) THIS SUBSECTION DOES NOT APPLY TO:**

23 **(I) A GROUP PRACTICE THAT IS OWNED OR OPERATED BY A**
24 **HOSPITAL, A PUBLIC HEALTH CLINIC OR A NOT-FOR-PROFIT HEALTH CARE**
25 **ENTITY PROVIDED FOR UNDER SUBSECTIONS (B)(3) AND (5) OF THIS SECTION;**

26 **(II) A REFERRING LABORATORY AS PROVIDED FOR UNDER**
27 **SUBSECTION (F) OF THIS SECTION;**

1 **(III) A GROUP PRACTICE THAT BILLS FOR THE SERVICES OF**
2 **A PATHOLOGIST WHO HAS BOARD CERTIFICATION OR ELIGIBILITY IN A**
3 **PATHOLOGY SUBSPECIALTY RECOGNIZED BY THE AMERICAN BOARD OF**
4 **MEDICAL SPECIALISTS AND THE MEDICAL SPECIALTY OF THE GROUP**
5 **PRACTICE;**

6 **(IV) A PHYSICIAN OR GROUP PRACTICE EXCLUSIVELY**
7 **COMPRISED OF PHYSICIANS CERTIFIED BY OR ELIGIBLE FOR CERTIFICATION BY**
8 **THE AMERICAN BOARD OF PATHOLOGY OR THE AMERICAN BOARD OF**
9 **OSTEOPATHIC PATHOLOGY; OR**

10 **(V) A MULTI-SPECIALTY GROUP OPERATED BY A HEALTH**
11 **MAINTENANCE ORGANIZATION THAT ONLY PROVIDES SERVICES TO THE**
12 **SUBSCRIBERS OR BENEFICIARIES OF THE PLAN.**

13 **(E) AN INDIVIDUAL OR ENTITY PROVIDED FOR UNDER SUBSECTION (B)**
14 **OF THIS SECTION MAY NOT BE REQUIRED TO REIMBURSE A HEALTH CARE**
15 **PRACTITIONER THAT SUBMITS A CHARGE OR CLAIM IN VIOLATION OF THIS**
16 **SECTION.**

17 **(F) THIS SECTION DOES NOT PROHIBIT A REFERRING LABORATORY**
18 **FROM BILLING FOR ANATOMIC PATHOLOGY SERVICES IF A SPECIMEN REQUIRES**
19 **A SPECIALIST TO PERFORM THE ANATOMIC PATHOLOGY SERVICES.**

20 **[1-306.] 1-307.**

21 A health care practitioner who fails to comply with the provisions of this
22 subtitle shall be subject to disciplinary action by the appropriate regulatory board.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2007.