

HOUSE BILL 1089

J2, J1

(8lr2668)

ENROLLED BILL

*—Health and Government Operations/Education, Health, and Environmental
Affairs—*

Introduced by **Delegate Donoghue**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

_____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Direct Billing of Anatomic Pathology Services**

3 FOR the purpose of requiring certain clinical laboratories ~~and physicians,~~ physicians,
4 or 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 subject to certain limitations; prohibiting
7 certain health care practitioners from directly or indirectly charging, billing, or
8 otherwise soliciting payment for ~~certain~~ anatomic pathology services unless the
9 services are performed by or under the direct supervision of the health care
10 ~~provider~~ practitioner and in accordance with the provisions of a certain federal
11 act; providing that certain individuals and entities are not required to provide
12 reimbursement under certain circumstances; providing that this Act does not
13 prohibit a referring laboratory from billing for certain anatomic pathology
14 services or histologic processing under certain circumstances; providing that

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber / conference committee amendments.



1 this Act may not be construed to mandate the assignment of certain benefits for
2 anatomic pathology services; defining certain terms; and generally relating to
3 direct billing of anatomic pathology services.

4 BY repealing and reenacting, without amendments,
5 Article – Health Occupations
6 Section 1–301(a), (d), (f), (h), and (l)
7 Annotated Code of Maryland
8 (2005 Replacement Volume and 2007 Supplement)

9 BY adding to
10 Article – Health Occupations
11 Section 1–306
12 Annotated Code of Maryland
13 (2005 Replacement Volume and 2007 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Health Occupations
16 Section 1–306
17 Annotated Code of Maryland
18 (2005 Replacement Volume and 2007 Supplement)

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

21 **Article – Health Occupations**

22 1–301.

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

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

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

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

34 (2) For which substantially all of the services of the health care
35 practitioners who are members of the group are provided through the group and are

1 billed in the name of the group and amounts so received are treated as receipts of the
2 group; and

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

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

9 (1) (1) "Referral" means any referral of a patient for health care services.

10 (2) "Referral" includes:

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

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

17 **1-306.**

18 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
19 MEANINGS INDICATED.

20 (2) "ANATOMIC PATHOLOGY SERVICES" MEANS:

21 (I) HISTOPATHOLOGY OR SURGICAL PATHOLOGY;

22 (II) CYTOPATHOLOGY;

23 (III) HEMATOLOGY;

24 (IV) SUBCELLULAR PATHOLOGY AND MOLECULAR
25 PATHOLOGY; OR

26 (V) BLOOD-BANKING SERVICES PERFORMED BY
27 PATHOLOGISTS.

28 (3) "CLINICAL LABORATORY" MEANS A FACILITY THAT PROVIDES
29 ANATOMIC PATHOLOGY SERVICES.

1 (4) (I) “CYTOPATHOLOGY” MEANS THE MICROSCOPIC
2 EXAMINATION OF CELLS FROM FLUIDS, ASPIRATES, WASHINGS, BRUSHINGS, OR
3 SMEARS.

4 (II) “CYTOPATHOLOGY” INCLUDES THE MICROSCOPIC
5 EXAMINATION OF CELLS IN A PAP TEST EXAMINATION PERFORMED BY A
6 PHYSICIAN OR UNDER THE DIRECT SUPERVISION OF A PHYSICIAN.

7 (5) “HEMATOLOGY” MEANS:

8 (I) THE MICROSCOPIC EVALUATION OF BONE MARROW
9 ASPIRATES AND BIOPSIES PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT
10 SUPERVISION OF A PHYSICIAN; OR

11 (II) REVIEW OF A PERIPHERAL BLOOD SMEAR IF A
12 PHYSICIAN OR TECHNOLOGIST REQUESTS THAT A PATHOLOGIST REVIEW A
13 BLOOD SMEAR.

14 (6) “HISTOPATHOLOGY OR SURGICAL PATHOLOGY” MEANS
15 GROSS AND MICROSCOPIC EXAMINATION ~~AND HISTOLOGIC PROCESSING~~ OF
16 ORGAN TISSUE PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT
17 SUPERVISION OF A PHYSICIAN.

18 (7) (I) “REFERRING LABORATORY” MEANS A CLINICAL
19 LABORATORY THAT SENDS A PARTICULAR SPECIMEN ~~REQUIRING SPECIALIZED~~
20 ~~ANATOMIC PATHOLOGY SERVICES THAT THE CLINICAL LABORATORY DOES NOT~~
21 ~~PROVIDE TO A SPECIALIST AT ANOTHER CLINICAL LABORATORY~~ TO ANOTHER
22 CLINICAL LABORATORY FOR HISTOLOGIC PROCESSING OR ANATOMIC
23 PATHOLOGY CONSULTATION.

24 (II) “REFERRING LABORATORY” DOES NOT INCLUDE A
25 LABORATORY OF A PHYSICIAN’S OFFICE OR A GROUP PRACTICE THAT COLLECTS
26 A SPECIMEN AND ORDERS, BUT DOES NOT PERFORM, ANATOMIC PATHOLOGY
27 SERVICES FOR ~~A PATIENT~~ PATIENTS.

28 (B) NOTHING IN THIS SECTION MAY BE CONSTRUED TO ~~MANDATE~~:

29 (1) MANDATE THE ASSIGNMENT OF BENEFITS FOR ANATOMIC
30 PATHOLOGY SERVICES; OR

31 (2) PROHIBIT A HEALTH CARE PRACTITIONER WHO PERFORMS
32 OR SUPERVISES ANATOMIC PATHOLOGY SERVICES AND IS A MEMBER OF A
33 GROUP PRACTICE, AS DEFINED UNDER § 1-301 OF THIS SUBTITLE, FROM
34 REASSIGNING THE RIGHT TO BILL FOR ANATOMIC PATHOLOGY SERVICES TO

1 THE GROUP PRACTICE IF THE BILLING COMPLIES WITH THE REQUIREMENTS OF
2 SUBSECTION (C) OF THIS SECTION.

3 (C) A CLINICAL LABORATORY ~~OR PHYSICIAN~~, A PHYSICIAN, OR A GROUP
4 PRACTICE LOCATED IN THIS STATE OR IN ANOTHER STATE THAT PROVIDES
5 ANATOMIC PATHOLOGY SERVICES FOR A PATIENT IN THIS STATE SHALL
6 PRESENT, OR CAUSE TO BE PRESENTED, A CLAIM, BILL, OR DEMAND FOR
7 PAYMENT FOR THE SERVICES TO:

8 (1) ~~THE~~ SUBJECT TO THE LIMITATIONS OF § 19-710(P) OF THE
9 HEALTH - GENERAL ARTICLE, THE PATIENT DIRECTLY UNLESS OTHERWISE
10 PROHIBITED BY LAW;

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

12 (3) A HOSPITAL, PUBLIC HEALTH CLINIC, OR NONPROFIT HEALTH
13 CLINIC ORDERING THE SERVICES;

14 (4) A REFERRING LABORATORY; OR

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

17 (D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A
18 HEALTH CARE PRACTITIONER LICENSED UNDER THIS ARTICLE MAY NOT
19 DIRECTLY OR INDIRECTLY CHARGE, BILL, OR OTHERWISE SOLICIT PAYMENT
20 FOR ANATOMIC PATHOLOGY SERVICES UNLESS THE SERVICES ARE PERFORMED:

21 (1) BY THE HEALTH CARE PRACTITIONER OR UNDER THE DIRECT
22 SUPERVISION OF THE HEALTH CARE PRACTITIONER; AND

23 (2) IN ACCORDANCE WITH THE PROVISIONS FOR THE
24 PREPARATION OF BIOLOGICAL PRODUCTS BY SERVICE IN THE FEDERAL PUBLIC
25 HEALTH ~~SERVICES~~ SERVICE ACT.

26 (E) THIS SECTION DOES NOT PROHIBIT A REFERRING LABORATORY
27 FROM BILLING FOR ANATOMIC PATHOLOGY SERVICES ~~IF A SPECIMEN REQUIRES~~
28 ~~A SPECIALIST TO PERFORM THE ANATOMIC PATHOLOGY SERVICES OR~~
29 HISTOLOGIC PROCESSING IF THE REFERRING LABORATORY MUST SEND A
30 SPECIMEN TO ANOTHER CLINICAL LABORATORY FOR HISTOLOGIC PROCESSING
31 OR ANATOMIC PATHOLOGY CONSULTATION.

32 (F) A PATIENT, INSURER, THIRD-PARTY PAYOR, HOSPITAL, PUBLIC
33 HEALTH CLINIC, OR NONPROFIT HEALTH CLINIC IS NOT REQUIRED TO

1 REIMBURSE A HEALTH CARE PRACTITIONER WHO VIOLATES THE PROVISIONS
2 OF THIS SECTION.

3 [1-306.] 1-307.

4 (a) A health care practitioner who fails to comply with the provisions of this
5 subtitle shall be subject to disciplinary action by the appropriate regulatory board.

6 (b) The appropriate regulatory board may investigate a claim under this
7 subtitle in accordance with the investigative authority granted under this article.

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2008.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.