

HOUSE BILL 1089

J2, J1

8lr2668
CF SB 602

By: **Delegate Donoghue**

Introduced and read first time: February 7, 2008

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 and physicians that provide
4 anatomic pathology services to certain patients to present or cause to be
5 presented claims, bills, or demands for payment to certain individuals and
6 entities; prohibiting certain health care practitioners from directly or indirectly
7 charging, billing, or otherwise soliciting payment for certain anatomic pathology
8 services unless the services are performed by or under the direct supervision of
9 the health care provider and in accordance with the provisions of a certain
10 federal act; providing that certain individuals and entities are not required to
11 provide reimbursement under certain circumstances; providing that this Act
12 does not prohibit a referring laboratory from billing for certain anatomic
13 pathology services under certain circumstances; providing that this Act may not
14 be construed to mandate the assignment of certain benefits for anatomic
15 pathology services; defining certain terms; and generally relating to direct
16 billing of anatomic pathology services.

17 BY repealing and reenacting, without amendments,
18 Article – Health Occupations
19 Section 1–301(a), (d), (f), (h), and (l)
20 Annotated Code of Maryland
21 (2005 Replacement Volume and 2007 Supplement)

22 BY adding to
23 Article – Health Occupations
24 Section 1–306
25 Annotated Code of Maryland
26 (2005 Replacement Volume and 2007 Supplement)

27 BY repealing and reenacting, with amendments,
28 Article – Health Occupations

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 1-306
2 Annotated Code of Maryland
3 (2005 Replacement Volume and 2007 Supplement)

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

6 **Article - Health Occupations**

7 1-301.

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

9 (d) "Direct supervision" means a health care practitioner is present on the
10 premises where the health care services or tests are provided and is available for
11 consultation within the treatment area.

12 (f) "Group practice" means a group of two or more health care practitioners
13 legally organized as a partnership, professional corporation, foundation, not-for-profit
14 corporation, faculty practice plan, or similar association:

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

19 (2) For which substantially all of the services of the health care
20 practitioners who are members of the group are provided through the group and are
21 billed in the name of the group and amounts so received are treated as receipts of the
22 group; and

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

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

29 (1) (1) "Referral" means any referral of a patient for health care services.

30 (2) "Referral" includes:

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

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

4 **1-306.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
6 MEANINGS INDICATED.

7 (2) "ANATOMIC PATHOLOGY SERVICES" MEANS:

8 (I) HISTOPATHOLOGY OR SURGICAL PATHOLOGY;

9 (II) CYTOPATHOLOGY;

10 (III) HEMATOLOGY;

11 (IV) SUBCELLULAR PATHOLOGY AND MOLECULAR
12 PATHOLOGY; OR

13 (V) BLOOD-BANKING SERVICES PERFORMED BY
14 PATHOLOGISTS.

15 (3) "CLINICAL LABORATORY" MEANS A FACILITY THAT PROVIDES
16 ANATOMIC PATHOLOGY SERVICES.

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

19 (II) "CYTOPATHOLOGY" INCLUDES A PAP TEST
20 EXAMINATION PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT
21 SUPERVISION OF A PHYSICIAN.

22 (5) "HEMATOLOGY" MEANS:

23 (I) THE MICROSCOPIC EVALUATION OF BONE MARROW
24 ASPIRATES AND BIOPSIES PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT
25 SUPERVISION OF A PHYSICIAN; OR

26 (II) REVIEW OF A PERIPHERAL BLOOD SMEAR IF A
27 PHYSICIAN OR TECHNOLOGIST REQUESTS THAT A PATHOLOGIST REVIEW A
28 BLOOD SMEAR.

1 **(6) “HISTOPATHOLOGY OR SURGICAL PATHOLOGY” MEANS**
2 **GROSS AND MICROSCOPIC EXAMINATION AND HISTOLOGIC PROCESSING OF**
3 **ORGAN TISSUE PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT**
4 **SUPERVISION OF A PHYSICIAN.**

5 **(7) (I) “REFERRING LABORATORY” MEANS A CLINICAL**
6 **LABORATORY THAT SENDS A PARTICULAR SPECIMEN REQUIRING SPECIALIZED**
7 **ANATOMIC PATHOLOGY SERVICES THAT THE CLINICAL LABORATORY DOES NOT**
8 **PROVIDE TO A SPECIALIST AT ANOTHER CLINICAL LABORATORY.**

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

12 **(B) NOTHING IN THIS SECTION MAY BE CONSTRUED TO MANDATE THE**
13 **ASSIGNMENT OF BENEFITS FOR ANATOMIC PATHOLOGY SERVICES.**

14 **(C) A CLINICAL LABORATORY OR PHYSICIAN LOCATED IN THIS STATE**
15 **OR IN ANOTHER STATE THAT PROVIDES ANATOMIC PATHOLOGY SERVICES FOR A**
16 **PATIENT IN THIS STATE SHALL PRESENT, OR CAUSE TO BE PRESENTED, A**
17 **CLAIM, BILL, OR DEMAND FOR PAYMENT FOR THE SERVICES TO:**

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

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

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

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

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

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

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

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

4 **(E) THIS SECTION DOES NOT PROHIBIT A REFERRING LABORATORY**
5 **FROM BILLING FOR ANATOMIC PATHOLOGY SERVICES IF A SPECIMEN REQUIRES**
6 **A SPECIALIST TO PERFORM THE ANATOMIC PATHOLOGY SERVICES.**

7 **(F) A PATIENT, INSURER, THIRD-PARTY PAYOR, HOSPITAL, PUBLIC**
8 **HEALTH CLINIC, OR NONPROFIT HEALTH CLINIC IS NOT REQUIRED TO**
9 **REIMBURSE A HEALTH CARE PRACTITIONER WHO VIOLATES THE PROVISIONS**
10 **OF THIS SECTION.**

11 **[1-306.] 1-307.**

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

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

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