

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

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2008

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

18 BY repealing and reenacting, without amendments,
19 Article – Health Occupations
20 Section 1–301(a), (d), (f), (h), and (l)
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2007 Supplement)

23 BY adding to
24 Article – Health Occupations

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.



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

4 BY repealing and reenacting, with amendments,
5 Article – Health Occupations
6 Section 1–306
7 Annotated Code of Maryland
8 (2005 Replacement Volume and 2007 Supplement)

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

11 **Article – Health Occupations**

12 1–301.

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

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

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

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

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

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

31 (h) “Health care practitioner” means a person who is licensed, certified, or
32 otherwise authorized under this article to provide health care services in the ordinary
33 course of business or practice of a profession.

34 (1) (1) “Referral” means any referral of a patient for health care services.

35 (2) “Referral” includes:

1 (i) The forwarding of a patient by one health care practitioner
2 to another health care practitioner or to a health care entity outside the health care
3 practitioner’s office or group practice; or

4 (ii) The request or establishment by a health care practitioner of
5 a plan of care for the provision of health care services outside the health care
6 practitioner’s office or group practice.

7 **1-306.**

8 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
9 MEANINGS INDICATED.

10 (2) “ANATOMIC PATHOLOGY SERVICES” MEANS:

11 (I) HISTOPATHOLOGY OR SURGICAL PATHOLOGY;

12 (II) CYTOPATHOLOGY;

13 (III) HEMATOLOGY;

14 (IV) SUBCELLULAR PATHOLOGY AND MOLECULAR
15 PATHOLOGY; OR

16 (V) BLOOD-BANKING SERVICES PERFORMED BY
17 PATHOLOGISTS.

18 (3) “CLINICAL LABORATORY” MEANS A FACILITY THAT PROVIDES
19 ANATOMIC PATHOLOGY SERVICES.

20 (4) (I) “CYTOPATHOLOGY” MEANS THE MICROSCOPIC
21 EXAMINATION OF CELLS FROM FLUIDS, ASPIRATES, WASHINGS, BRUSHINGS, OR
22 SMEARS.

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

26 (5) “HEMATOLOGY” MEANS:

27 (I) THE MICROSCOPIC EVALUATION OF BONE MARROW
28 ASPIRATES AND BIOPSIES PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT
29 SUPERVISION OF A PHYSICIAN; OR

1 (II) REVIEW OF A PERIPHERAL BLOOD SMEAR IF A
2 PHYSICIAN OR TECHNOLOGIST REQUESTS THAT A PATHOLOGIST REVIEW A
3 BLOOD SMEAR.

4 (6) "HISTOPATHOLOGY OR SURGICAL PATHOLOGY" MEANS
5 GROSS AND MICROSCOPIC EXAMINATION ~~AND HISTOLOGIC PROCESSING~~ OF
6 ORGAN TISSUE PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT
7 SUPERVISION OF A PHYSICIAN.

8 (7) (I) "REFERRING LABORATORY" MEANS A CLINICAL
9 LABORATORY THAT SENDS A PARTICULAR SPECIMEN ~~REQUIRING SPECIALIZED~~
10 ~~ANATOMIC PATHOLOGY SERVICES THAT THE CLINICAL LABORATORY DOES NOT~~
11 ~~PROVIDE TO A SPECIALIST AT ANOTHER CLINICAL LABORATORY TO ANOTHER~~
12 CLINICAL LABORATORY FOR HISTOLOGIC PROCESSING OR ANATOMIC
13 PATHOLOGY CONSULTATION.

14 (II) "REFERRING LABORATORY" DOES NOT INCLUDE A
15 LABORATORY OF A PHYSICIAN'S OFFICE OR A GROUP PRACTICE THAT COLLECTS
16 A SPECIMEN AND ORDERS, BUT DOES NOT PERFORM, ANATOMIC PATHOLOGY
17 SERVICES FOR A PATIENT PATIENTS.

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

19 (1) MANDATE THE ASSIGNMENT OF BENEFITS FOR ANATOMIC
20 PATHOLOGY SERVICES; OR

21 (2) PROHIBIT A HEALTH CARE PRACTITIONER WHO PERFORMS
22 OR SUPERVISES ANATOMIC PATHOLOGY SERVICES AND IS A MEMBER OF A
23 GROUP PRACTICE, AS DEFINED UNDER § 1-301 OF THIS SUBTITLE, FROM
24 REASSIGNING THE RIGHT TO BILL FOR ANATOMIC PATHOLOGY SERVICES TO
25 THE GROUP PRACTICE IF THE BILLING COMPLIES WITH THE REQUIREMENTS OF
26 SUBSECTION (C) OF THIS SECTION.

27 (C) A CLINICAL LABORATORY ~~OR PHYSICIAN~~, A PHYSICIAN, OR A GROUP
28 PRACTICE LOCATED IN THIS STATE OR IN ANOTHER STATE THAT PROVIDES
29 ANATOMIC PATHOLOGY SERVICES FOR A PATIENT IN THIS STATE SHALL
30 PRESENT, OR CAUSE TO BE PRESENTED, A CLAIM, BILL, OR DEMAND FOR
31 PAYMENT FOR THE SERVICES TO:

32 (1) THE SUBJECT TO THE LIMITATIONS OF § 19-710(P) OF THE
33 HEALTH - GENERAL ARTICLE, THE PATIENT DIRECTLY;

34 (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 AGENCY OR
5 ITS PUBLIC OR PRIVATE AGENT, AGENCY, OR ORGANIZATION.

6 (D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, A
7 HEALTH CARE PRACTITIONER LICENSED UNDER THIS ARTICLE MAY NOT
8 DIRECTLY OR INDIRECTLY CHARGE, BILL, OR OTHERWISE SOLICIT PAYMENT
9 FOR ANATOMIC PATHOLOGY SERVICES 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 PUBLIC
14 HEALTH ~~SERVICES~~ SERVICE ACT.

15 (E) THIS SECTION DOES NOT PROHIBIT A REFERRING LABORATORY
16 FROM BILLING FOR ANATOMIC PATHOLOGY SERVICES ~~IF A SPECIMEN REQUIRES~~
17 ~~A SPECIALIST TO PERFORM THE ANATOMIC PATHOLOGY SERVICES OR~~
18 HISTOLOGIC PROCESSING IF THE REFERRING LABORATORY MUST SEND A
19 SPECIMEN TO ANOTHER CLINICAL LABORATORY FOR HISTOLOGIC PROCESSING
20 OR ANATOMIC PATHOLOGY CONSULTATION.

21 (F) A PATIENT, INSURER, THIRD-PARTY PAYOR, HOSPITAL, PUBLIC
22 HEALTH CLINIC, OR NONPROFIT HEALTH CLINIC IS NOT REQUIRED TO
23 REIMBURSE A HEALTH CARE PRACTITIONER WHO VIOLATES THE PROVISIONS
24 OF THIS SECTION.

25 [1-306.] 1-307.

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

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

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