

CHAPTER 196

(House Bill 1089)

AN ACT concerning

Direct Billing of Anatomic Pathology Services

FOR the purpose of requiring certain clinical laboratories ~~and physicians, physicians,~~ or group practices that provide anatomic pathology services to certain patients to present or cause to be presented claims, bills, or demands for payment to certain individuals and entities subject to certain limitations; prohibiting certain health care practitioners from directly or indirectly charging, billing, or otherwise soliciting payment for ~~certain~~ anatomic pathology services unless the services are performed by or under the direct supervision of the health care ~~provider~~ practitioner and in accordance with the provisions of a certain federal act; providing that certain individuals and entities are not required to provide reimbursement under certain circumstances; providing that this Act does not prohibit a referring laboratory from billing for certain anatomic pathology services or histologic processing under certain circumstances; providing that this Act may not be construed to mandate the assignment of certain benefits for anatomic pathology services; defining certain terms; and generally relating to direct billing of anatomic pathology services.

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

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

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

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

Article – Health Occupations

1–301.

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

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

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

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

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

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

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

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

(2) “Referral” includes:

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

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

1–306.

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

(2) "ANATOMIC PATHOLOGY SERVICES" MEANS:

(I) HISTOPATHOLOGY OR SURGICAL PATHOLOGY;

(II) CYTOPATHOLOGY;

(III) HEMATOLOGY;

(IV) SUBCELLULAR PATHOLOGY AND MOLECULAR PATHOLOGY; OR

(V) BLOOD-BANKING SERVICES PERFORMED BY PATHOLOGISTS.

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

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

(II) "CYTOPATHOLOGY" INCLUDES THE MICROSCOPIC EXAMINATION OF CELLS IN A PAP TEST EXAMINATION PERFORMED BY A PHYSICIAN OR UNDER THE DIRECT SUPERVISION OF A PHYSICIAN.

(5) "HEMATOLOGY" MEANS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[1-306.] 1-307.

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

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

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

Approved by the Governor, April 24, 2008.