

**Department of Legislative Services**  
Maryland General Assembly  
2009 Session

**FISCAL AND POLICY NOTE**  
**Revised**

House Bill 1150

(Delegate Donoghue, *et al.*)

Health and Government Operations

Education, Health, and Environmental Affairs

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**Health Occupations - Anatomic Pathology Services - Billing**

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This bill authorizes a clinical laboratory, a physician, or a group practice located in Maryland or another state that provides anatomic pathology services for a patient in Maryland to bill the health care practitioner who orders but does not supervise or perform an anatomic pathology service on a Pap test specimen. However, the health care practitioner must comply with specific disclosure requirements as well as American Medical Association (AMA) ethics policies related to referring physician billing for lab services. The bill also permits a health care practitioner who collects a Pap specimen to bill a patient or payor for the service as long as he or she meets the same disclosure and ethics requirements.

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**Fiscal Summary**

**State Effect:** The bill has no effect on governmental finances.

**Local Effect:** None.

**Small Business Effect:** Potential minimal.

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**Analysis**

**Current Law:** Chapters 195 and 196 of 2008 require a clinical laboratory, a physician, or a group practice located in the State or another state that provides anatomic pathology services for a patient in the State to present the bill directly to the patient; to a responsible insurer or third-party payor; to a hospital, public health clinic, or nonprofit health clinic ordering the services; a referring laboratory; or on behalf of the patient, a governmental agency or its public or private agent, agency, or organization. Chapters 195 and 196

further specify that a health care practitioner may not bill a patient or third party for anatomic pathology services unless the services are performed by, or under the direct supervision of, the health care practitioner according to the provisions for the preparation of biological products by service in the federal Public Health Service Act.

**Background:** Chapters 195 and 196 were enacted with the intention of preventing arrangements whereby a laboratory sends a bill to a health care practitioner and the practitioner passes it on to the patient with an added charge. However, the Acts effectively prohibit reimbursement of health care practitioners who perform a Pap test examination but not the cytopathology related to the examination. Thus, it primarily affects obstetricians and gynecologists (OB/GYNs).

The Office of the Attorney General advises that the Acts do not prohibit an OB/GYN from billing for the collection of the specimen to be tested by a clinical laboratory, but that billing codes may prevent them from doing so because there is no separate code for the collection of a Pap smear specimen. The Attorney General further advises that a change in the law that expressly authorizes a physician to bill for collection of a specimen for a Pap test does not resolve the issue.

AMA's code of ethics on laboratory billing states that, when it is not possible for the laboratory bill to be sent directly to the patient, the referring physician's bill to the patient should indicate the actual charges for laboratory services, including the name of the laboratory, as well as any separate charges for the physician's own professional services.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Department of Health and Mental Hygiene, Maryland Insurance Administration, Department of Legislative Services

**Fiscal Note History:** First Reader - March 3, 2009  
mcp/mcr Revised - House Third Reader - March 26, 2009

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