



Lisa Musielewicz

*Bill Analysis*  
*Legislative Service Commission*

## **H.B. 493**

127th General Assembly  
(As Introduced)

**Reps. Daniels, Ujvagi, Flowers, Goodwin, Collier, Zehringer, Strahorn**

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### **BILL SUMMARY**

- Prohibits a clinical laboratory or physician from presenting, or causing to be presented, a claim, bill, or demand for payment for anatomic pathology services to any person other than the following: the patient or other person responsible for the patient's bills, the patient's insurer or other third-party payor, a hospital or clinic that orders the services, a referring clinical laboratory, or a governmental agency or person acting on behalf of such an agency.
- Prohibits a physician from charging, billing, or otherwise soliciting payment, directly or indirectly, for anatomic pathology services unless the services are personally rendered by the physician or rendered under the direct supervision of the physician in accordance with federal law governing the certification of clinical laboratories.
- Specifies that the bill's prohibitions are not to be construed to (1) mandate the assignment of benefits for anatomic pathology services, (2) prohibit a clinical laboratory that provides anatomic pathology services from billing a referring clinical laboratory for services in instances in which the referring laboratory must send one or more samples to a specialist for analysis, consultation, or histologic processing, or (3) prohibit a physician who performs the professional component of an anatomic pathology service on a patient specimen from billing for analysis, consultation, or histologic processing on that specimen when analysis, consultation, or histologic processing is performed by another physician or clinical laboratory.
- Authorizes the State Medical Board to take disciplinary action against a physician who violates the bill.

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## CONTENT AND OPERATION

### Restrictions on billing for anatomic pathology services

The bill establishes restrictions regarding billing for anatomic pathology services. "Anatomic pathology services" is defined as including all of the following, which are also defined by the bill:

(1) Histopathology or surgical pathology--the gross and microscopic examination and histologic processing of organ tissue performed by a physician or under the supervision of a physician (R.C. 3701.86(F)).

(2) Cytopathology--the microscopic examination of cells from fluids, aspirates, washings, brushings, or smears, including a Papanicolaou smear (PAP smear or test) (R.C. 3701.86(D)).

(3) Hematology--the microscopic evaluation of bone marrow aspirates and biopsies performed by a physician or under the supervision of a physician and peripheral blood smears when the attending or treating physician or technologist requests that a blood smear be reviewed by a pathologist (R.C. 3701.86(E)).

(4) Subcellular or molecular pathology--the assessment of a patient specimen for the detection, localization, measurement, or analysis of one or more protein or nucleic acid targets performed or interpreted by or under supervision of a pathologist (R.C. 3701.86(J)).

(5) Blood banking services performed by pathologists.

### Billing other than patients, insurers, hospitals, clinics, referring labs, and governmental agencies

(R.C. 3701.86, 3701.861, 4731.72, and 4731.721)

The bill prohibits a clinical laboratory<sup>1</sup> or physician from presenting, or causing to be presented, a claim, bill, or demand for payment for anatomic pathology services to any person or entity other than the following:

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<sup>1</sup> The bill defines a "clinical laboratory" as a facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examination of substances derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or in the assessment or impairment of the health of human beings (R.C. 3701.86(C)).

(1) The patient who receives the services or another individual, such as a parent, spouse, or guardian, who is responsible for the patient's bills.

(2) A responsible insurer<sup>2</sup> or other third-party payor of a patient who receives the services.

(3) A hospital, public health clinic, or not-for-profit health clinic ordering the services.

(4) A referring clinical laboratory.<sup>3</sup>

(5) A governmental agency or any person acting on behalf of a governmental agency.

The bill specifies that this prohibition does not, however, prohibit a clinical laboratory that provides anatomical pathology services from billing a referring clinical laboratory for anatomic pathology services in instances in which the referring clinical laboratory must send one or more samples to a specialist for analysis, consultation, or histologic processing.<sup>4</sup>

**Billing for services not personally rendered**

(R.C. 4731.722)

The bill prohibits a physician from charging, billing, or otherwise soliciting payment, directly or indirectly, for anatomic pathology services unless the services are personally rendered by the physician or rendered under the direct supervision

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<sup>2</sup> The bill defines an "insurer" as a person authorized under Revised Code Title 39 to engage in the business of insurance in this state, a health insuring corporation, or an entity that is self-insured and provides benefits to its employees or members (R.C. 3701.86(G)).

<sup>3</sup> The bill defines a "referring clinical laboratory" as a clinical laboratory that refers a patient specimen to another clinical laboratory for an anatomic pathology service, but excludes a laboratory in an office of one or more physicians that refers a specimen and does not perform the professional component of the anatomic pathology service (R.C. 3701.86(I)).

<sup>4</sup> The effect of this is unclear because referring clinical laboratories are among the entities that a clinical laboratory may bill. Providing that the bill does not prohibit a clinical laboratory from billing a referral clinical laboratory that sends samples to a specialist could be seen as permitting a clinical laboratory to bill a referring clinical laboratory only when the referring clinical laboratory sends samples to a specialist. This issue could be clarified by amendment.

of a physician in accordance with federal law governing the certification of clinical laboratories (42 U.S.C. 263a). The bill specifies that this prohibition does not, however, prohibit a physician who performs the professional component of an anatomic pathology service on a patient specimen from billing for analysis, consultation, or histologic processing on that specimen when analysis, consultation, or histologic processing is performed by another physician or clinical laboratory.

**Assignment of benefits**

(R.C. 3701.86, 3701.862, 4731.72, and 4731.723)

The bill specifies that its prohibitions regarding anatomic pathology services are not to be construed to mandate the assignment of benefits for anatomic pathology services. "Assignment of benefits" is defined as the transfer of health care coverage reimbursement benefits or other rights under an insurance policy, subscription contract, or health care plan by an insured, subscriber, or plan enrollee to a health care provider, hospital, or other health care facility.

**Physician disciplinary action**

(R.C. 4731.22(B)(38))

Current law authorizes the State Medical Board, by an affirmative vote of not fewer than six members, to take disciplinary action against a physician for any of a number of reasons specified in statute. The Board may limit, revoke, or suspend a physician's certificate to practice, refuse to register a physician, refuse to reinstate a physician's certificate, or reprimand or place a physician on probation.

The bill authorizes the State Medical Board to take disciplinary action against a physician who violates either of the bill's prohibitions regarding billing for anatomic pathology services.

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**HISTORY**

ACTION	DATE
Introduced	03-05-08

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