



Alan Van Dyne

Bill Analysis
Legislative Service Commission

Sub. H.B. 493
127th General Assembly
(As Passed by the House)

Reps. Daniels, Ujvagi, Flowers, Goodwin, Collier, Zehringer, Strahorn, J. Otterman, R. Hagan, Budish, Chandler, Combs, Domenick, Evans, Gerberry, Harwood, Letson, Szollosi

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 on-site supervision of the physician.
- 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 the technical component of the service when that component is performed by a clinical laboratory.
- Authorizes the State Medical Board to take disciplinary action against a physician who violates the bill.

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 all of the following:

(1) Histopathology or surgical pathology--the gross and microscopic examination and histologic processing¹ 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(K)).

(5) Blood banking services performed by pathologists.

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

(R.C. 3701.861 and 4731.721)

The bill prohibits a clinical laboratory² or physician, including a podiatrist,³ 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:

¹ The bill defines "histologic processing" as fixation, processing, embedding, microtomy, and other special staining, including histochemical or immunohistochemical staining and in situ hybridization of clinical human tissues or cells, for pathological examination (R.C. 3701.86(F)).

² 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

(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 insurer⁴ 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;⁵

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

The bill specifies that this prohibition does not prohibit a clinical laboratory that provides anatomic 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.⁶

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)).

³ The bill defines "physician" as an individual authorized by the State Medical Board to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery (R.C. 3701.86(I)).

⁴ The bill defines an "insurer" as a person authorized to engage in the business of insurance in Ohio, a health insuring corporation, or an entity that is self-insured and provides benefits to its employees or members (R.C. 3701.86(H)).

⁵ 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(J)).

⁶ The effect of this provision is unclear, particularly since the bill includes a separate provision expressly authorizing a clinical laboratory to bill a referring laboratory. An amendment may be necessary to clarify the provision's intended purpose.

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 on-site supervision of a physician. The bill specifies that this prohibition does not, however, prohibit a physician who performs the professional component⁷ of an anatomic pathology service on a patient specimen from billing for the technical component of the service⁸ when that component is performed by a 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.

⁷ The bill specifies that the professional component of an anatomic pathology service means the entire anatomic pathology service other than histologic processing (R.C. 4731.722(A)(1)).

⁸ The bill specifies that the technical component of an anatomic pathology service includes only histologic processing (R.C. 4731.722(A)(2)).

HISTORY

ACTION	DATE
Introduced	03-05-08
Reported, H. Health	05-22-08
Passed House (92-3)	05-29-08

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