

An Act

HOUSE BILL 12-1221

BY REPRESENTATIVE(S) Liston, Kerr J., Balmer, Miklosi, Summers, Swalm, Williams A., Labuda, Schafer S., Sonnenberg, Todd, Wilson, Szabo;
also SENATOR(S) Tochtrop, Boyd, Morse, Aguilar, Carroll, Giron, Heath, Jahn, King S., Newell, Spence, White, Williams S.

CONCERNING BILLING FOR ANATOMIC PATHOLOGY SERVICES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** 10-16-138 as follows:

10-16-138. Pathology services - direct billing required. (1) A CLINICAL LABORATORY OR PHYSICIAN THAT IS LOCATED IN THIS STATE OR IN ANOTHER STATE, AND THAT PROVIDES ANATOMIC PATHOLOGY SERVICES FOR PATIENTS IN THIS STATE, SHALL PRESENT OR CAUSE TO BE PRESENTED A CLAIM, BILL, OR DEMAND FOR PAYMENT FOR THESE SERVICES ONLY TO:

- (a) THE PATIENT;
- (b) THE RESPONSIBLE INSURANCE CARRIER OR OTHER THIRD-PARTY PAYER;

(c) THE HOSPITAL, PUBLIC HEALTH CLINIC, OR NONPROFIT HEALTH CLINIC ORDERING SUCH SERVICES;

(d) THE REFERRING LABORATORY, EXCLUDING A LABORATORY OF A PHYSICIAN'S OFFICE OR GROUP PRACTICE THAT DOES NOT PERFORM THE PROFESSIONAL COMPONENT OF THE ANATOMIC PATHOLOGY SERVICE FOR WHICH SUCH CLAIM, BILL, OR DEMAND IS PRESENTED; OR

(e) A GOVERNMENTAL AGENCY OR ITS SPECIFIED PUBLIC OR PRIVATE AGENT, AGENCY, OR ORGANIZATION ON BEHALF OF THE RECIPIENT OF THE SERVICES.

(2) EXCEPT FOR A PHYSICIAN AT A REFERRING LABORATORY THAT HAS BEEN BILLED PURSUANT TO SUBSECTION (6) OF THIS SECTION, NO LICENSED PRACTITIONER IN THE STATE MAY, DIRECTLY OR INDIRECTLY, CHARGE, BILL, OR OTHERWISE SOLICIT PAYMENT FOR ANATOMIC PATHOLOGY SERVICES UNLESS THE SERVICES WERE RENDERED PERSONALLY BY THE LICENSED PRACTITIONER OR UNDER THE LICENSED PRACTITIONER'S DIRECT SUPERVISION IN ACCORDANCE WITH SECTION 353 OF THE "PUBLIC HEALTH SERVICE ACT", 42 U.S.C. SEC. 263a.

(3) A PATIENT, INSURER, THIRD-PARTY PAYER, HOSPITAL, PUBLIC HEALTH CLINIC, OR NONPROFIT HEALTH CLINIC IS NOT REQUIRED TO REIMBURSE A LICENSED PRACTITIONER FOR CHARGES OR CLAIMS SUBMITTED IN VIOLATION OF THIS SECTION.

(4) NOTHING IN THIS SECTION:

(a) MANDATES THE ASSIGNMENT OF BENEFITS FOR ANATOMIC PATHOLOGY SERVICES; OR

(b) PROHIBITS A GROUP PRACTICE, AS DEFINED IN 42 U.S.C. SEC. 1395nn (h) (4) (A) (i) TO (iv), FROM BILLING FOR ANATOMIC PATHOLOGY SERVICES WHEN A PHYSICIAN IN THE GROUP PRACTICE PERFORMS OR SUPERVISES ANATOMIC PATHOLOGY SERVICES IN A LABORATORY THAT IS OWNED AND OPERATED BY AT LEAST ONE MEMBER OF THE GROUP PRACTICE.

(5) FOR PURPOSES OF THIS SECTION, "ANATOMIC PATHOLOGY SERVICES" MEANS:

(a) HISTOPATHOLOGY OR SURGICAL PATHOLOGY, MEANING THE GROSS AND MICROSCOPIC EXAMINATION PERFORMED BY A PHYSICIAN OR UNDER THE SUPERVISION OF A PHYSICIAN, INCLUDING HISTOLOGIC PROCESSING;

(b) CYTOPATHOLOGY, MEANING THE MICROSCOPIC EXAMINATION OF CELLS FROM THE FOLLOWING:

(I) FLUIDS;

(II) ASPIRATES;

(III) WASHINGS;

(IV) BRUSHINGS; OR

(V) SMEARS, INCLUDING THE PAP TEST EXAMINATION PERFORMED BY A PHYSICIAN OR UNDER THE SUPERVISION OF A PHYSICIAN;

(c) HEMATOLOGY, MEANING 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;

(d) SUBCELLULAR PATHOLOGY OR MOLECULAR PATHOLOGY, MEANING THE ASSESSMENT OF A PATIENT SPECIMEN FOR THE DETECTION, LOCALIZATION, MEASUREMENT, OR ANALYSIS OF ONE OR MORE PROTEIN OR NUCLEIC ACID TARGETS; AND

(e) BLOOD-BANKING SERVICES PERFORMED BY PATHOLOGISTS.

(6) THIS SECTION DOES NOT PROHIBIT BILLING OF A REFERRING LABORATORY FOR ANATOMIC PATHOLOGY SERVICES IN INSTANCES WHERE A SAMPLE OR SAMPLES MUST BE SENT TO ANOTHER PHYSICIAN OR LABORATORY FOR CONSULTATION OR HISTOLOGIC PROCESSING. THE TERM "REFERRING LABORATORY" DOES NOT INCLUDE A LABORATORY OF A PHYSICIAN'S OFFICE OR GROUP PRACTICE THAT DOES NOT PERFORM THE PROFESSIONAL COMPONENT OF THE ANATOMIC PATHOLOGY SERVICE INVOLVED.

(7) A PERSON WHO RECEIVES A BILL FOR AN ANATOMIC PATHOLOGY SERVICE MADE IN KNOWING AND WILLFUL VIOLATION OF THIS SECTION MAY MAINTAIN AN ACTION TO RECOVER THE ACTUAL AMOUNT PAID FOR THE BILL.

SECTION 2. Act subject to petition - effective date. This act takes effect January 1, 2013; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2012 and, in such case, will take effect on January 1,

2013, or on the date of the official declaration of the vote thereon by the governor, whichever is later.

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
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THE SENATE

Marilyn Eddins
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Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO