

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 12-0634.01 Kristen Forrestal x4217

HOUSE BILL 12-1221

HOUSE SPONSORSHIP

Liston, Kerr J., Balmer, Miklosi, Summers, Swalm, Williams A.

SENATE SPONSORSHIP

Tochtrop, Boyd, Morse

House Committees
Economic and Business Development

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING BILLING FOR ANATOMIC PATHOLOGY SERVICES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires clinical laboratories and physicians that provide anatomic pathology services to submit claims for payment for pathology services only to the patient; the insurance carrier; the hospital or clinic that ordered the service, or the referring laboratory, unless the laboratory is from a physician's office or group practice that does not perform the professional component of the anatomic pathology service; or a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

HOUSE
Amended 2nd Reading
February 14, 2012

governmental agency on behalf of the recipient of services.

Licensed health care practitioners are prohibited from charging for anatomic pathology services unless the services were personally delivered by the practitioner or under the direct supervision of the practitioner. Laboratories that refer to another physician or laboratory for consultation or histologic processing are exempt from the personal delivery and direct supervision requirement, unless the laboratory that makes the referral does not perform the professional component of the service.

The term "anatomic pathology services" is defined to include histopathology or surgical pathology, cytopathology, hematology, subcellular pathology or molecular pathology, and blood-banking services performed by pathologists.

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

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

4 **10-16-138. Pathology services - direct billing required.** (1) A
5 CLINICAL LABORATORY OR PHYSICIAN THAT IS LOCATED IN THIS STATE OR
6 IN ANOTHER STATE, AND THAT PROVIDES ANATOMIC PATHOLOGY SERVICES
7 FOR PATIENTS IN THIS STATE, SHALL PRESENT OR CAUSE TO BE PRESENTED
8 A CLAIM, BILL, OR DEMAND FOR PAYMENT FOR THESE SERVICES ONLY TO:

9 (a) THE PATIENT;

10 (b) THE RESPONSIBLE INSURANCE CARRIER OR OTHER THIRD-PARTY
11 PAYER;

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

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

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

1 OF THE SERVICES.

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

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

14 (4) NOTHING IN THIS SECTION:

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

17 (b) PROHIBITS A GROUP PRACTICE, AS DEFINED IN 42 U.S.C. SEC.
18 1395, FROM BILLING FOR ANATOMIC PATHOLOGY SERVICES WHEN A
19 PHYSICIAN MEMBER OF THE GROUP PRACTICE PERFORMS OR SUPERVISES
20 ANATOMIC PATHOLOGY SERVICES IN A LABORATORY THAT IS OWNED AND
21 OPERATED BY THE GROUP PRACTICE.

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

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

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

- 3 (I) FLUIDS;
- 4 (II) ASPIRATES;
- 5 (III) WASHINGS;
- 6 (IV) BRUSHINGS; OR
- 7 (V) SMEARS, INCLUDING THE PAP TEST EXAMINATION PERFORMED
8 BY A PHYSICIAN OR UNDER THE SUPERVISION OF A PHYSICIAN;

9 (c) HEMATOLOGY, MEANING THE MICROSCOPIC EVALUATION OF
10 BONE MARROW ASPIRATES AND BIOPSIES PERFORMED BY A PHYSICIAN, OR
11 UNDER THE SUPERVISION OF A PHYSICIAN, AND PERIPHERAL BLOOD
12 SMEARS WHEN THE ATTENDING OR TREATING PHYSICIAN OR
13 TECHNOLOGIST REQUESTS THAT A BLOOD SMEAR BE REVIEWED BY A
14 PATHOLOGIST;

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

19 (e) BLOOD-BANKING SERVICES PERFORMED BY PATHOLOGISTS.

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

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

5 [REDACTED]

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