

# HOUSE BILL REPORT

## HB 2306

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### As Passed Legislature

**Title:** An act relating to authorizing the presentation of claims for payment for pathology services to direct patient-provider primary care practices.

**Brief Description:** Authorizing the presentation of claims for payment for pathology services to direct patient-provider primary care practices.

**Sponsors:** Representatives Hinkle and Green.

### Brief History:

#### Committee Activity:

Health Care & Wellness: 1/16/12, 1/23/12 [DP].

#### Floor Activity:

Passed House: 2/1/12, 96-0.

Passed Senate: 2/27/12, 49-0.

Passed Legislature.

### Brief Summary of Bill

- Authorizes clinical laboratories and physicians providing anatomic pathology services to present claims for payment to direct patient-provider primary care practices.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass. Signed by 11 members: Representatives Cody, Chair; Jinkins, Vice Chair; Schmick, Ranking Minority Member; Hinkle, Assistant Ranking Minority Member; Bailey, Clibborn, Green, Harris, Kelley, Moeller and Van De Wege.

**Staff:** Chris Blake (786-7392).

### Background:

[Billing for Pathology Services.](#)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Licensed physicians, osteopathic physicians, dentists, and pharmacists are prohibited from receiving a payment, such as a rebate, refund, or commission, if that payment is received in connection with the referral of patients or the furnishing of health care treatment or diagnosis. The stated intent of the prohibition is to prevent licensed health care providers from receiving compensation for services that they did not perform. The prohibition does not apply to a licensed health provider who charges for the health care services rendered by an employee who is licensed to provide the services.

In 2005 the Washington State Attorney General issued a formal opinion related to the application of the referral prohibitions to pathology services. The opinion concluded that a physician could only charge for professional services that are actually rendered, such as taking samples for a biopsy, preparing the sample, and other associated costs. In addition, a physician may charge for services related to reviewing the pathologist's diagnosis or consulting with the patient about the diagnosis. The opinion also specified that if the pathologist indirectly bills the patient through the referring physician, that physician could not, in turn, receive compensation beyond what the pathologist charges.

In 2011 legislation was enacted that defines to whom clinical laboratories and physicians may submit claims for pathology services. Authorized recipients include: (1) the patient; (2) the responsible insurer; (3) the hospital or clinic that ordered the services; (4) the referring laboratory, unless that laboratory is of a physician's office or group practice that does not perform the professional component of the anatomic pathology service; or (5) governmental agencies acting on the behalf of the recipient of the services. The legislation also prohibits licensed health care practitioners from charging for anatomic pathology services unless the services were personally delivered by the practitioner or under the direct supervision of the practitioner.

#### Direct Patient-Provider Primary Care Practices.

A direct patient-provider primary care practice (direct practice) is a health care provider or a group of health care providers that furnishes primary care services through a direct agreement with a patient or a family of patients. Under the direct agreement, the direct practice charges a fee in exchange for being available to provide primary care services to the patient.

#### **Summary of Bill:**

Clinical laboratories and physicians that provide anatomic pathology services may present claims for payment to direct practices. Claims may only be presented to those direct practices that:

- are in compliance with direct practice laws;
- provide written confirmation to the physician or laboratory that the patient does not have insurance coverage for anatomic pathology services;
- provide the patient with an itemized bill that does not mark up the amount billed by the physician or laboratory; and
- disclose to the patient that all pathology services are billed at the same amount charged.

The act applies retroactively to July 22, 2011, for entities that had been in compliance with the act's direct practice provision since that time.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Direct practices negotiate discounted fees for laboratory services on behalf of uninsured patients and do not mark up the cost of these services. If the patients were to be billed directly by the laboratory, the services would become unaffordable for these patients and they would forego necessary testing. This is a limited, technical modification to the law that is necessary to support the direct practice model. Direct practices are less susceptible to billing abuses than conventional physician practice areas. The conditions around the exception will prevent any direct practice from taking advantage of the exception.

(Opposed) None.

**Persons Testifying:** Erika Bliss and Lisa Thatcher, Qliance; and Richard Knierim, Washington State Society of Pathologists.

**Persons Signed In To Testify But Not Testifying:** None.