

SENATE BILL REPORT

SB 6236

As of January 27, 2012

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: Senators Becker, Carrell and Keiser.

Brief History:

Committee Activity: Health & Long-Term Care: 1/26/12.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Staff: Mich'l Needham (786-7442)

Background: 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 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

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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 (direct practices) furnish 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.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a simple fix to the bill we passed last year to allow the pathologists to submit bills to direct practices. As a direct practice, we have negotiated discounted rates for the services provided by our laboratory partner to ensure our patients have access to services. Some of our patients have gone without lab services due to the cost, and we can help put the services in reach of our patients and ensure they can access some of these critical screenings. The change in the law last year had an inadvertent impact on direct practices that was not considered. We are more aware of the model, and we support the addition of providing bills to these practices with the criteria included in the bill.

Persons Testifying: PRO: Senator Becker, prime sponsor; Erica Bliss, Lisa Thatcher, Qliance; Joseph Rank, WA State Society of Pathology.