



OREGON  
PATHOLOGISTS  
ASSOCIATION

P.O. Box 998, Sherwood, OR. 97140  
Phone: (503) 625-2050  
FAX: (503) 625-9285  
E-Mail: OPAofOR@aol.com

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**Re: Oppose House Bill 2339A  
Out of Network Physician Payment & Balance Billing Prohibition**

Dear Members of the Oregon House of Representatives:

**On behalf of the Oregon Pathologists Association and the College of American Pathologists, we urge you to oppose House Bill 2339 as amended with the -2 amendments that would benefit health insurance companies by keying physician out-of-network payment to Medicare.** The Oregon Pathologists Association (OPA) is a state-wide medical society that represents many practicing pathologists in the state. The College of American Pathologists (CAP) is a national medical specialty society representing over 17,000 physicians who practice anatomic and/or clinical pathology. OPA and CAP members practice their specialty in clinical laboratories, academic medical centers, research laboratories, community hospitals, and federal and state health facilities.

**We support the underlying reason for the bill which is to keep the patients out of the middle of reimbursement issues. Our primary concern regarding the -2 amendments to House Bill 2339 is that it limits what a health plan can pay to an out of network physician, including pathologists, based upon the Medicare fee schedule, thereby devaluing certain physician services and encouraging the roll-back of private insurance coverage and contracting. Please note, the Medicare fee schedule was designed only for medical services rendered to persons over the age of 65. Some medical services, including some pathology and some genetic screening services, are not covered by Medicare. Furthermore, the fee schedule is created in the context of a government program, not to serve the private insurance market.** In some instances Medicare rates, which are driven by federal budgetary requirements and not by the cost of providing care, are so low that they do not even cover the cost of the treatment provided. Thus, there is no incentive for health insurance plans to contract with physicians for their services.

The Oregon Pathologists Association (OPA) and the College of American Pathologists (CAP) support payment to out of network physicians based upon *usual and customary*

*rates* that reflect the market value of physician services, at not less than the 80<sup>th</sup> percentile of an independent database of charges that are determined by geography. Other states (e.g. Florida, Minnesota, New York) have adopted such a market-based formula for payment. We urge a no vote on the A-engrossed version of HB 2339 or that the bill be sent back to committee so that the payment formula to physicians can be amended to reflect the market value of physician services. We believe there are other formulas that can be implemented that would be fair compensation and maintain the integrity of Oregon's strong network system of providers.

Where legislation or regulation on this issue has been enacted, regardless of partisan composition or ideological inclination, states and policy makers have recognized the need to maintain marketplace equilibrium between insurance payers and physician providers. For these reasons, even states as politically divergent as New York and Florida have keyed physician payment for out-of-network services to a market-based charge formula that historically has been the basis for the "usual and customary" physician charge and health insurance plan payment. **We supported the adoption of the -4 amendments that include use of the 80th percentile of FAIR Health Inc. database for determining "usual and customary" rates. For these reasons OPA and CAP oppose House Bill 2339A in its current form.** Thank you for consideration of our position.

Sincerely,



Mohiedean Ghofrani, MD, MBA, FCAP  
President, Oregon Pathologists Association

cc: Barry R. Ziman, Director, Legislation & Political Action,  
College of American Pathologists  
Courtni Dresser, Director Government Relations, Oregon Medical Association  
Patricia O'Sullivan, O'Sullivan & Associates