



March 20, 2025

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\*Ryan Livengood, MD  
Peter Perrotta, MD  
T. Edgar Huang, MD

\*Delegation chair

Delegate Laura Kimble  
Room 227E, Bldg. 1  
1900 Kanawha Blvd. E.  
Charleston, WV 25305

**RE: Oppose House Bill 3436 Unless Amended (Genetic Information Privacy Act)**

Dear Delegates Kimble, Anders, T. Howell, Mazzocchi, Worrell, Phillips, Kump, Butler, and Funkhouser,

On behalf of the West Virginia Association of Pathologists (WVAP), representing pathologists practicing in hospitals, academic hospital centers, and independent hospitals across the state, we have strong concerns regarding the inadvertent impact of House Bill 3436 on the practice of medicine.

We strongly oppose unless amended House Bill 3436 establishing the 'West Virginia Genetic Information Privacy Act' instilling protections for genetic data regarding its collection, use, and disclosure. The proposed exemption under Section 16-5EE-3 (a) does not fully exempt covered entities and business associates under the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996 and related health information from the stringent requirements of the bill. Pathologists who routinely collect, utilize, and disclose genetic data may be at legal risk without additional informed consent from the patient.

To date, West Virginia patients are already subject to robust protections under HIPAA regarding their health care data. While we understand the intent of protecting West Virginians genetic information, the bill should not impede the practice of medicine, laboratory testing or medical genetic testing and other health care activities which fall under rigorous regulations inclusive of privacy protections and disclosure prohibitions (i.e., HIPAA).



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Across the myriad of state data privacy laws, there has been a universal understanding of the public policy need to explicitly exempt all health care information aggregated, shared and synthesized in the health care setting for purposes of patient diagnosis, treatment, and care. This exemption ensures that physicians like pathologists, health care facilities, and clinical laboratories are not included within burdensome and duplicative state privacy requirements as it pertains to sensitive health/genetic information already regulated under federal law.

Accordingly, we urge you to amend the bill to robustly exempt physicians and protected health information collected as defined under HIPAA from all contemplated requirements of this legislation and strike the following:

§16-5EE-3. Exceptions.

(a) Protected health information that is collected by a covered entity or business associate as those terms are defined in 45 CFR, parts 160 and 164, ~~if separate informed consent related to the collection, use, and dissemination of genetic data is obtained from the consumer, parent, guardian, or power of attorney, and the covered entity or business associate follows the policies under this article;~~

On behalf of West Virginia pathologists and patients, we urge you to amend the proposed HIPAA exemption for covered entities and business associates subject to this purview of this legislation.

Thank you for your consideration of our concerns

Sincerely,

Ryan Hershey Livengood, MD, FCAP  
President, West Virginia Association of Pathologists

Cc:

John D. Law, Executive Director, West Virginia State Medical Association  
Barry Ziman, Director, Legislation and Political Action, College of American Pathologists