



February 16, 2026

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Martinsburg, WV

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Melina Flanagan, MD
Siarhei Dzedzik, MD

*Delegation chair

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

RE: Oppose House Bill 5034 Unless Amended (Genetic Information Privacy Act)

Dear Delegates Kimble, Anders, Ridenour, Mazzocchi, Phillips, Funkhouser, Jennings, Hillenbrand, Marple, Butler, and Mastes,

On behalf of the West Virginia Association of Pathologists (WVAP), representing pathologists practicing in hospitals, academic medical centers, and independent laboratories across the state, we have serious concerns regarding the unintended impact of House Bill 5034 on the practice of medicine.

We strongly oppose House Bill 5034, unless amended, which would establish the “West Virginia Genetic Information Privacy Act” and impose protections governing the collection, use, and disclosure of genetic data. The proposed exemption under Section 16-5EE-3(a) does not fully exempt covered entities and business associates subject to the federal Health Insurance Portability and Accountability Act (HIPAA) of 1996, nor does it adequately exempt related health information from the bill’s stringent requirements. Pathologists who routinely collect, use, and disclose genetic data may therefore face legal risk without obtaining additional informed consent from patients.



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West Virginia patients are already subject to robust protections under HIPAA with respect to their health care data. While we understand and support the intent to protect West Virginians' genetic information, the bill should not impede the practice of medicine, laboratory testing, medical genetic testing, or other health care activities that are already governed by rigorous regulations, including privacy protections and disclosure limitations under HIPAA.

Across the myriad state data privacy laws enacted nationwide, there has been a consistent recognition of the public policy need to explicitly exempt 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, including pathologists, as well as health care facilities and clinical laboratories, are not subjected to burdensome and duplicative state privacy requirements as they relate to sensitive health and genetic information already regulated under federal law.

Accordingly, we urge you to amend the bill to clearly and comprehensively exempt physicians and protected health information, as defined under HIPAA, from all requirements contemplated by this legislation and to strike the bracketed language:

§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.]~~

The
**West Virginia
Association
of Pathologists**



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

Thank you for your thoughtful consideration of our concerns.

Sincerely,

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