



Indiana Association of Pathologists, Inc.
3045 West Vermont Street ♦ Indianapolis, IN 46222
(317) 721-5263 www.indianapath.org

March 16, 2020

(Via email: Govholcomb@gov.in.gov & chcreighton@gov.in.gov)

Honorable Governor Eric Holcomb
200 W. Washington St., Rm. 206,
Indianapolis, IN 46204

Re: Request for Veto of House Bill 1004 (Limitation on Insurance Payments for Certain Out of Network Physician Services)

Dear Governor Holcomb:

On behalf of the Indiana Association of Pathologists (IAP), which represents pathologists that practice in independent laboratories, ambulatory surgical centers, hospitals, physician offices and academic medical centers, I am urging your veto of House Bill 1004. We write this correspondence at a time of national public health emergency in the hopes that you will recognize the highly adverse financial implications of HB 1004 on hospital-based physician services. HB 1004 is, without question, detrimental to the medical economics of providing critical physician services at the very time the nation and State of Indiana are relying upon us in the current health crisis.

Of paramount concern, given the current state of emergency related to the COVID-19 virus outbreak and the critical public health role of hospital-based laboratories and pathologists, this legislation contemplates allowing insurance companies to unilaterally establish payment for certain hospital-based physician services including pathologists. Accordingly, the legislation is counter to the general public interest and should be vetoed. Of note, this Indiana legislation (HB 1004) is a conspicuous national outlier when compared with laws enacted in other states to regulate out-of-network bills (e.g. TX, WA, NY, NJ, CA, FL, *inter alia*). Specifically, HB 1004 financially protects the profits of the Indiana insurance industry under the pretext of protecting patients from out of network bills by allowing insurance companies to compensate physicians services at their "allowable" rates. No other state has selected such a distorted and one-sided statutory payment mechanism to address this issue.

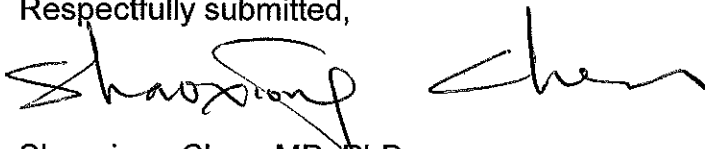
IAP supports the goal of the legislation: to hold patients financially harmless when they are receive out-of-network bills from in-network hospital-based physicians, as such bills result from the failure of their insurance plan to contract with hospital-based physicians. **However, HB 1004 invests in the insurance industry unchecked authority to unilaterally determine physician payments; an action that is unprecedented at the state level.**

While the legislation contemplates a written estimate to be provided to patients, five days in advance in order to obtain the patient's voluntary consent for such out-of-network services, for pathology services such estimates are, in most cases, not a medically valid nor medically feasible exercise. In reality, for the vast majority of patient cases, pathologists do not know in advance if our services are needed, or the number or type of pathology services that are required on any given patient specimen. Furthermore, in those limited situations, where patient estimates for pathology services can be provided, such estimates may grossly overinflate the actual cost, thereby deterring patients seeking diagnostic evaluation; or, conversely, unreasonably lower patient expectations for actual costs that may result. It is for this very reason that other states have rejected the use of written estimates as a statutory precondition for waiving out-of-network payment limitations, especially for hospital-based pathology services which are largely unforeseen and that cannot be reliably predicted in advance of receiving a patient specimen.

In sum, if this legislation is enacted into law, it can only result in substantial reductions in payment not only for non-contracted physician services, but also for contracted physician services as it will tip the market balance inexorably in favor of insurers who will have the leverage and discretion to slash both contracted and non-contracted payments. For these reasons, in defense of the hospital health care delivery system, hospital-based physicians, and the patients we serve in Indiana, we urge your veto of House Bill 1004.

Thank you for your courtesies and consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Shaoxiong Chen', written in a cursive style.

Shaoxiong Chen, MD, PhD
President, Indiana Association of Pathologists
Associate professor, Department of Pathology
And Laboratory Medicine, Indiana University

cc: Grant Achenbach, Indiana State Medical Association
Barry Ziman, College of American Pathologists