



MARYLAND SOCIETY OF PATHOLOGISTS

MEMORANDUM OF OPPOSITION

House Bill 1148/ Senate Bill 1104

(Re: Prior Restraint on the Performance of Pathology/Laboratory Services for Patients)

Of great medical concern, under this legislation, a clinical laboratory or pathologist receiving a patient specimen from a referring physician would not be able to provide timely, medically necessary specimen analysis, pending certain notifications to the patient and administrative determinations regarding the patient's insurance status. This requirement would impede performance of health care not only for all out-of-network patients, but also for any patient when insurance status is not readily ascertainable by the laboratory upon receiving the specimen.

Specifically, Page 4, line 1-2, each "out-of-network health care facility shall provide the following information to a consumer before providing a health care service." Thus, a patient (we recognize them as patients- not consumers) specimen awaiting pathology or clinical laboratory analysis, cannot be processed by a clinical laboratory prior to ascertaining the patient's insurance status and, if out-of-network, providing a written estimate for the service, while awaiting additional patient consent.

Such a mandated delay in pathology services could, in certain cases, result in specimen degradation, thereby impairing the clinical laboratory analysis or medical findings. Furthermore, such a delay in the cases of frozen specimens, wherein the patient is undergoing a surgical procedure, could jeopardize not only the analysis but the patient as well.

Pathologists legally and ethically owe a duty of care to our patients. House Bill 1148/ Senate Bill 1104 establishes an unprecedented state requirement that would impair that duty of care and jeopardize quality of medicine provided by clinical laboratories within Maryland. Accordingly, the following amendment is needed as follows: **AMEND SENATE BILL 1104/HOUSE BILL 1148, PAGE 4, Lines 1-2**

19–2602. 25 (A) UNLESS OTHERWISE PROVIDED IN ACCORDANCE WITH THE GOOD FAITH ESTIMATE REQUIREMENTS OF THE FEDERAL NO SURPRISES ACT AND DIVISION BB, 27 TITLE I, § 112 OF THE FEDERAL CONSOLIDATED APPROPRIATIONS ACT, 2021, EACH OUT–OF–NETWORK HEALTH CARE FACILITY, **THAT HAS A SCHEDULED APPOINTMENT WITH A PATIENT,** SHALL PROVIDE THE FOLLOWING INFORMATION TO **A-CONSUMER SUCH PATIENT** BEFORE PROVIDING A HEALTH CARE SERVICE:

This amendment recognizes that pathologists and clinical laboratories, in most cases, do not have scheduled appointments directly with patients. This amendment is consistent with the explicit exception in the legislation for health care facilities "that accept patients without appointments or that accepts patients with appointments made less than 3 hours in advance of the appointment." (Page 4, lines 15-18)

As noted, clinical laboratories, for the most part, are not directly seeing patients, we are receiving patient specimens, and in some cases urgently processing these specimens for pathology analysis; thus the language of the current exemption in SB 1104/HB 1148 should be logically extended to the patient's specimen by clarifying that mandated delays in the provision of health care, pending administrative assessment of the patient's insurance status by a health care facility, and any additional delay in



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securing supplemental consent, only applies when such facilities have scheduled appointments with patients. **Absent this amendment, the Maryland Society of Pathologists (MSP), with the support of the College of American Pathologists (CAP), must strongly oppose this legislation as adverse to patient health care.**

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