



ARIZONA SOCIETY OF PATHOLOGISTS

(Via email: <broberts@azleg.gov> <jfillmore@azleg.gov>)

January 12, 2021

Representative Bret Roberts
Arizona House of Representatives
1700 West Washington, Room 344
Phoenix, AZ 85007

Representative John Fillmore
Arizona House of Representatives
1700 West Washington, Room 303
Phoenix, AZ 85007

Re: Request for Amendment of HB 2069

Dear Representative Roberts and Representative Fillmore:

On behalf of the Arizona Society of Pathologists, representing pathologists practicing in independent clinical laboratories and hospitals throughout the state, we have strong concerns regarding the inadvertent impact of this legislation upon the practice of medicine. From what we gathered from the sponsor testimony offered last year, the bill intends to regulate non-medical testing, such as genetic tests offered from private companies (like 23andme Inc.), and not to impact medical genetic testing, which is now the standard of care for diagnosing and evaluating appropriate cancer therapies and other complex diseases.

Accordingly, we urge you to amend the bill to clarify this intent as follows:

J. EXCEPT AS OTHERWISE SPECIFICALLY AUTHORIZED OR REQUIRED BY THIS STATE OR BY FEDERAL LAW, GENETIC TESTING AND THE INFORMATION DERIVED FROM GENETIC TESTING, WHETHER IN THE POSSESSION OF A PUBLIC OR PRIVATE ENTITY, ARE THE EXCLUSIVE PRIVATE PROPERTY OF THE PERSON TESTED, AND PROVIDED SUCH GENETIC TESTING RESULTS, TESTING SPECIMENS AND INFORMATION DERIVED THEREFROM ARE NOT SUBJECT TO THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-191)

We also want to point out that with respect to DNA samples, only the State of Alaska defines such samples as patient's property. We view the Alaska law as highly archaic in light of advances in diagnostic genetic medicine, routinely used to profile cancer biomarkers and optimize therapeutic selection. No other state has taken this "property" position, as it would clearly conflict with the modern practice of medicine.

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We are concerned that without this amendment, the legislation (HB 2069), if enacted, could create unintended legal jeopardy and legal obstacles for physicians, clinical laboratories, cancer researchers, and cancer treatment centers, all of whom must retain and use genetic testing samples and genetic testing information to benefit patients who are seriously ill and whose medical interests must remain paramount. Thank you for your consideration of our proposed amendment.

Regards,

A handwritten signature in blue ink, appearing to read "Richard Eisen".

Richard Eisen, MD, FCAP
President, Arizona Society of Pathologists

cc: Jon Amores, Arizona Medical Association
Barry Ziman, College of American Pathologists