

COLORADO SOCIETY OF CLINICAL PATHOLOGISTS

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April 15, 2015

The Honorable David Balmer, Chairman
Senate Committee on Business, Labor and Technology
Colorado State Capital
200 East Colfax
Denver, Colorado 80203

Re: Opposition to Senate 259 (Out-of-Network Billing)

Dear Chairman Balmer:

I am writing on behalf of the Colorado Society of Clinical Pathologists (CSCP) to urge your opposition to Senate Bill 259 (Out-of-Network Billing)

The CSCP represents most pathologists in Colorado who practice clinical and anatomic pathology in community hospitals, independent clinical laboratories, and academic medical centers located throughout the state. This legislation, though well-intentioned, establishes requirements for written estimates of pathology charges and notices to the patient to be made in advance of service by the out-of-network pathologist. Under the bill, an out-of-network pathologist could not bill a patient unless the patient consents in writing.

Written Estimate of Charges and Notice to Patient by Out-of-Network Physician Prior to Service Will Impede Medical Care and Pathology Diagnostics

The medical necessity of pathology services during a medical procedure for a patient may not be known in advance by the pathologist. The type of specimen or complexity of the analysis, including potential genetic analysis, is often not known in advance of the initial microscopic analysis conducted by the pathologist, making it impossible to provide a meaningful or reliable estimate of charges or costs in advance of the patient's medical procedure. In the case of anatomic pathology, involving the diagnosis of tissue specimens (i.e. biopsies), a pathologist cannot predict whether a biopsy of tissue may result from a surgical procedure or a screening procedure. In some cases, specimens must be analyzed promptly to avoid degradation. Such degradation could create delay in surgical action, thereby jeopardizing care, and/or the accuracy of a diagnosis.

In some cases, specimens must be referred to other laboratories and pathologists for secondary review, for special preparation or for esoteric testing, including genetic analyses. Pathologists cannot defer anatomic pathology procedures based on insurance considerations, as this would potentially result in specimen degradation.

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Accordingly, the inherent nature of pathology work makes it impossible to provide patients with a notice of services to be provided, or a meaningful estimate of charges in advance of the medical procedure or treatment. It was for these very valid medical reasons that a written estimate of charges to be provided a patient in advance for out-of-network services was expressly rejected by the National Conference of Insurance Legislators (NCOIL) during their deliberations on their 2011 Model Act on notice and disclosure for out-of-network services. <<http://www.ncoil.org/docs/2011/balancebilling.pdf> >

As an alternative to the current bill, we support Colorado legislative consideration of the NCOIL Model Act on disclosure and appropriate notice to the patient. Furthermore, we believe that effective out-of-network legislation to benefit patients must require the State to rigorously evaluate and determine whether Insurance networks are indeed adequate. Insurance networks by establishing narrow provider networks that exclude physicians in critical medical specialty areas, such as pathology, are responsible for patients receiving out-of-network balance bills. Ultimately, patients are best protected when insurance networks are adequate to meet all the patient's medical needs. Thank you for considering these comments.

Sincerely,



Mirna Z. Knight, DO
President, Colorado Society of Clinical Pathologists

cc: Susan Koontz JD, General Counsel/Chief Lobbyist, Colorado Medical Society
Barry Ziman, Director, Legislation and Political Action, College of American Pathologists