



Illinois Department of Financial and Professional Regulation
Division of Professional Regulation

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Governor

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Director
Division of Professional Regulation

September 29, 2011

Ms. Pamela Cramer
Executive Director,
Illinois Society of Pathologists
2000 Spring Road
Suite 200
Oak Brook, IL
60523-1956

Re: Question regarding billing for anatomic pathology services

Dear Director Kramer,

I am in receipt of your letter dated August 8, 2011 which posed the following question:

“Under the Illinois Medical Practice Act, can an Illinois Physician who orders but does not perform any component of anatomic pathology services, be client billed for these services, when performed by another physician or laboratory, and then lawfully markup the bill for a profit before sending the bill on to the patient or payer?”

Section 22.2 (a) and (b) of the Illinois Medical Practice Act of 1987 (“Act”) states that:

Sec. 22.2. Prohibition against fee splitting.

(a) A licensee under this Act may not directly or indirectly divide, share or split any professional fee or other form of compensation for professional services with anyone in exchange for a referral or otherwise, other than as provided in this Section 22.2.

(b) Nothing contained in this Section abrogates the right of 2 or more licensed health care workers as defined in the Health Care Worker Self-referral Act to each receive adequate compensation for concurrently rendering services to a patient and to divide the fee for such service, provided that the patient has full knowledge of the division and the division is made in proportion to the actual services personally performed and responsibility assumed by each licensee consistent with his or her license, except as prohibited by law. Illinois Medical Practice Act of 1987, 225 ILCS 60/22.2(a)(b)

Additionally, persons licensed under the Act must refrain from any billing practice which may constitute a misrepresentation, fraud or deceit. Illinois Medical Practice Act of 1987, 225 ILCS 60/22(a)(6).

The scenario you described in your letter may constitute a violation of the statutory provisions quote above. If a patient or physician wishes to file a complaint with the Department regarding this type of activity, it will be fully investigated.

This letter is to be construed as an informal statement reflecting the interpretation of the Department on the particular matter you described and is not intended as an official opinion of the State of Illinois. Only the Attorney General of the State of Illinois is empowered to render formal opinions concerning the laws of this State.

Sincerely,



Daniel A. Kelber
Associate General Counsel

DK/fs