



COLLEGE of AMERICAN
PATHOLOGISTS

October 31, 2019

Testimony of James Richard, MD, FCAP

on behalf of the College of American Pathologists (CAP)

In Opposition to House Substitute Bill 4460 (Physician Written Estimates)

On behalf of the College of American Pathologists (CAP) I urge your opposition to House Bill 4460. This legislation ignores the role of the health insurance plan in failing to provide enrollees with access to in-network services. Both patients' groups and health care providers are united in urging action to **compel health plans to be more transparent about their failures in providing in-network services and to meet fundamental state requirements for health plan network adequacy.** I've attached a national physician-patient declaration on this issue. Unfortunately, HB 4460 is another well-intended effort that ignores the fundamental failures of the health insurance industry.

We strongly oppose any requirements that place a legal obligation on physicians to provide a prior written estimate of services. It is important to recognize that every administrative encumbrance placed on physicians divert attention, time and resources away from patient care and the vigilance necessary to ensure quality. **Consequently, this proposal for written estimates drives up health care costs in ways that are of no value to the patient.** Physicians involved in diagnosis are not car mechanics that can deliver a written good faith estimate of services. As physicians, with legal and ethical obligations we cannot defer the analysis of a patient specimen, pending the consideration of a patient's insurance status.

There are scores of scenarios in which physician services cannot be delayed without patient harm, including rapid diagnosis of surgical specimens during a procedure when the patient is under anesthesia. **Moreover, written estimates in advance of services can be misleading and potentially meaningless for the patient when the estimate comes from a physician, prior to the performance of the service.** In pathology, the number of specimens taken during a procedure could be zero or could be dozens.

For example, a patient undergoing a surgical or cancer screening procedure, such as a colonoscopy looking for polyps, may not need pathology, or they may have several polyps removed during the colonoscopy. Some of those polyps may be simple to examine; some may have unusual microscopic features and require additional testing. The number or type of specimens subject to analysis cannot be reliably known or reliably predicted in advance of a procedure. The need for complex molecular or genetic evaluation, special staining, in many cases, can only be determined after initial evaluation of the surgical specimen by a pathologist. During a procedure the patient may be under anesthesia, and thus providing notice may not be practical, or could impede the timely and medically necessary provision of services.



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Moreover, amounts estimated for physician services could deter a patient from undergoing a needed medical procedure, as such amounts may be inflated, or, conversely, the written estimate could inappropriately lower a patient's expectation for actual costs. It is for these many reasons that numerous state legislatures around the country, including, to date, the National Conference of Insurance Legislators (NCOIL) and the National Association of Insurance Commissioners (NAIC), have extensively deliberated on this written estimate issue and determined it not to be a prudent obligation to universally or inflexibly place on physicians.

Furthermore, an out-of-network physician will not have knowledge of the patient's insurance coverage, including applicable deductibles, co-insurance and co-payments. Thus, the estimate, when emanating from the physician, could diverge greatly from actual costs the patient would incur under his or her plan of insurance. Accordingly, such a requirement for health care cost estimates should be more appropriately placed on the in-network facility or health insurance payer. In sum, House Bill 4460 is counter to the best interest of patient care as administrative mandates on timely, expedient and medically necessary physician services will be at the expense of health care quality. Thank you for your consideration of our concerns.

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April 24, 2019

Declaration on Network Adequacy and Patient Access to In-Network Physicians

The undersigned organizations believe that patients should have access to in-network physicians at in-network hospitals and facilities and that when health insurance plans fail to contract with hospital and facility-based physicians, such plans have not undertaken their contractual due diligence in providing access to essential in-network physician services for their enrollees.

Therefore, state insurance regulators, state legislatures and the federal government should adopt standards to ensure that patients have reasonable and timely access to in-network hospital based physician specialties (i.e. radiology, pathology, and hospitalists) at in-network facilities under any health plan, including any qualified health plan (QHP) approved by the state or federal government.

Specifically, every state or federal standard to govern health insurance plan network adequacy should assess whether the health plan network includes physicians who specialize in pathology, radiology and hospitalists in sufficient numbers at any in-network facility or in-network hospital included in such plan so that patients enrolled in these plans have reasonable and timely access to these in-network physician specialists.

If a health plan is inadequate for physician specialist services in hospitalist care, radiology and/or pathology/laboratory services the plan should be responsible under law for paying out-of-network physicians the reasonable and customary rates for out of network services and at no greater out-of-pocket expense to the patient as would be the case for an in-network physician service.

College of American Pathologists (CAP)
American College of Radiology (ACR)
Society of Hospital Medicine (SHM)
National Brain Tumor Society (NBTS)
Leukemia and Lymphoma Society (LLS)
National Kidney Foundation (NKF)
Congenital Adrenal hyperplasia Research, Education & Support Foundation (CARES Foundation, Inc.)
Epilepsy Foundation
Bladder Cancer Advocacy Network (BCAN)
Breast Cancer Action (BCA)
Ovarian Cancer Research Fund Alliance (OCRFA)
Kidney Cancer Association (KCA)
International Myeloma Foundation (IMF)
Huntington's Disease Society of America (HDSA)

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