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March 15, 2005

House Human Services Committee  
Montana State Legislature

Re: Support for SB479

EXHIBIT 3  
DATE 3-16-05  
SB 479

Honorable Members of the House Human Services Committee:

I have been practicing pathology in Montana for 4<sup>1/2</sup> years. When I joined my partners in 2000, I was surprised to learn that some of our physician clients demanded that we bill them for our services rather than bill their patient directly. I was even more astonished to find out that the practice used to be more widespread, but my partners had successfully convinced many clients to allow us to bill their patients directly. However, the practice is on the rise around the country again, and we need your help to address it before it gets worse in Montana.

Client billing arrangements, such as described above, are bad medicine. A primary care physician would never consider asking a surgeon to bill them for the surgery they are going to perform on a referred patient. Both would consider that scenario outrageous. Yet it occurs in laboratory testing and turns my physician expertise in laboratory medicine and pathology into a commodity. It occurs because pathology specimens are transportable, and there are laboratories willing to bill physicians at a discount in order to get the business. When a physician acts as the middle-man for laboratory testing, they eliminate all competition and can bill their captive patients whatever they want.

When a referring physician has the opportunity to mark up tests, patients are not well served. It increases the cost of healthcare and decreases the quality. I have seen patients be harmed and receive unnecessary surgery as a result of the practice. Several times a year, I receive large skin resections from a plastic surgeon to remove skin cancer. Yet, when I analyze the tissue I find no cancer. I then discover that the original diagnosis was made on a biopsy that was sent to a laboratory in Texas. The primary care physician who performed the original biopsy sends specimens there because they bill him at a deep discount and he can mark up the patient's bill. I requested to look at the slides and realized that the original biopsy was misdiagnosed as cancer, and the patient didn't really need the second surgery. Not only is this an example of poor continuity of care, but a patient received unnecessary surgery and incurred unnecessary expense.

Another client of ours uses our services only when he needs a quality diagnosis or fast results. He refers his most challenging biopsies to us because he knows we will give him the right answer in a timely manner. Yet he sends his routine biopsies to a lab in Florida because they bill him at a discount rate that he can profit from. We refuse to bill the physician, so the majority of his patients receive slower results and questionable diagnoses. Who knows if the pathologists making the diagnosis are even licensed in Montana? The majority of his patients are receiving suboptimal care.

The practice of marking up tests is frustrating when I make a sales call to an OB-Gyn office that is currently sending their specimens to a lab in Spokane. The physicians in the office complain that the current service they receive is poor. It takes several weeks to get a diagnosis, and often they can't understand the report. Although I can provide clear, comprehensible results in 2 days, they choose not to use our service because we cannot match the deep discount that they already receive. It is apparent that the desire for profit supercedes the need for quality.

It has been clearly shown that states that have direct billing laws similar to SB479 experience lower laboratory charges, lower healthcare costs, and lower test utilization. It will improve quality and make medicine more transparent. Direct billing is good medicine. Please support SB479.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Brown', is written over the name 'Michael S. Brown, MD'.

Michael S. Brown, MD

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