SB 479

SENATE PUBLIC HEALTH, WELFARE & SAFETY

EXHIBIT NO. 27

DATE: 2-18-05

BILL NO. SB479

Montana Society of Pathologists

Administrative Office:
2021 Eleventh Avenue, #1
Helena, Montana 59601

Phone: 406-443-4000
Fax: 406-443-4042
Email:
mma@mmaoffice.com

Officers

President
Jeffrey K. Smith, M.D.
Billings

Secretary-Treasurer
Michael S. Brown, M.D.
Billings

February 18, 2005

Senate Public Health, Welfare and Safety Committee
Montana State Legislature

Re: SB479: Direct Billing for Anatomic Pathology Services

Honorable Members of the Senate Public Health, Welfare and Safety Committee:

This letter requests your support of SB479: Direct Billing for Anatomic Pathology Services. As you know, physicians bill patients for the services they provide. Pathologists, being physicians, generally bill patients for their services as well. In anatomic pathology (e.g. tissue biopsies and Pap smears), there has been a history of referring physicians (e.g. the doctor who performs the biopsy or Pap smear) having arrangements with the pathology laboratory in that the pathologist and laboratory bill the referring physician at a deeply discounted rate, which allows the referring physician to mark up the services and bill the patient. This practice began 2+ decades ago when large national laboratories would try to gain market share in the local communities. The national labs offered this type of deal (known as "client billing" arrangements) to the local referring physicians, creating an economic incentive (sometimes referred to as an indirect kick-back or fee-splitting) for referring their business out of town to the national lab.

Historically, the practice involved primarily Pap smears and skin biopsies. Local pathology groups in Montana were asked by referring physicians to give them the same deal, otherwise they would send their specimens elsewhere. Begrudgingly, most pathology groups agreed in order to keep the business and provide continuity of care. In 1984, Medicare and Medicaid disallowed the practice of client billing and required direct billing to the patient/government program as a cost saving measure. This practice of client billing tapered off in the 1990's as reimbursements declined and referring physicians were not seeing the profit margins realized earlier. However, in the last 5 years the practice has been on the rise again around the country, particularly on the East coast, South and Southeast. The cause for the trend likely stems from decreasing reimbursement for physician services, resulting in physicians searching for alternate revenue streams for their practices.

The Montana Society of Pathologists has been concerned about the increasing trend around the country and has been closely monitoring the situation for the last 3 years. At the 2004 Annual Meeting, the Pathology Society decided to pursue legislation in the 2005 session that would require direct billing and prohibit client billing arrangements for anatomic pathology services. SB479 was introduced by Senator Greg Lind at the request of the Society.

SB479 will do much to help Montana patients. It will help improve the quality and safety of medical care in Montana, help reduce over utilization of services, reduce healthcare costs, and make medicine more transparent to patients and the public. These reasons are detailed in the accompanying attachment.

The Montana Medical Association and the College of American Pathologists (the national society of pathologists) support SB479, and the American Medical Association has extensive policy that supports direct billing of anatomic pathology services. We ask for your support for SB479. It is the right thing to do for patients.

Sincerely,

Jeffrey K. Smith, MD
President
Montana Society of Pathologists

SB479: Direct Billing for Pathology Services
Introduced by: Greg Lind

In 1984, Federal Medicare and State Medicaid laws were created to require direct billing for clinical laboratory and pathology services to remove the potential for physician mark-up of charges for these services. However, the practice continues for private pay patients, in which some referring physicians seek deeply discounted laboratory services in order to use these discounts as a profit margin opportunity to mark-up the cost to the patient. This type of economic activity increases costs to patients and discounts the value of physician expertise in laboratory medicine, especially anatomic pathology (e.g. tissue biopsies and Pap smears). It has been referred to as indirect kick-back or fee-splitting and is considered unethical by the American Medical Association. SB479 mandates direct billing of anatomic pathology services and prohibits a referring physician from billing for those services, eliminating the opportunity for mark-ups. Direct billing, as specified in SB479, is supported by the Montana Medical Association, the Montana Society of Pathologists, the College of American Pathologists and the American Pathology Foundation.

- **IMPROVES SAFETY AND THE QUALITY OF MEDICINE IN MONTANA**
  By eliminating the opportunity to mark up pathology testing, SB479 removes any economic incentive for specimen referral. Referral of pathology specimens would then be based on quality, rather than economics. It removes the incentive to refer specimens to suspect laboratories that offer the lowest price. Lower price often equates with lower quality, as these laboratories often cut corners or hire less qualified employees to perform testing. Further, those individuals performing the testing may not be licensed to practice medicine in Montana.

- **WILL HELP REDUCE UTILIZATION OF SERVICES**
  The economic incentive that occurs with client billing arrangements entices physicians to obtain more specimens for testing, perhaps when they are not medically necessary. The more biopsies a physician takes, the more tests they can mark up and profit from. SB479 eliminates any incentive to order medically unnecessary tests and will help to control test utilization.

- **REDUCES HEALTH CARE COSTS**
  When a referring physician bills for anatomic pathology services, the patient often gets stuck with extraneous charges that raise the cost of medical care. The direct billing requirement, as provided for in SB479, will eliminate any unnecessary charges. Patients and their insurers will see a cost savings. Medicare and Medicaid Laws require direct billing as a cost saving measure. A recent study by the Center for Health Policy Studies revealed that states with direct billing laws have seen a reduction in health care costs when compared to states without the law.

- **MAKES MEDICINE MORE TRANSPARENT TO PATIENTS AND THE PUBLIC**
  When the physician who performs or supervises a procedure bills the patient directly for the service, the patient is billed solely for the service performed. SB479 eliminates the opportunity for physician mark-ups and hidden fees. Direct billing is explicitly supported in the American Medical Association's Code of Ethics.