

AMENDED IN ASSEMBLY AUGUST 20, 2007

AMENDED IN ASSEMBLY JUNE 28, 2007

AMENDED IN ASSEMBLY JUNE 18, 2007

AMENDED IN SENATE APRIL 10, 2007

**SENATE BILL**

**No. 661**

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**Introduced by Senator Maldonado**

February 23, 2007

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An act to add Section 655.7 to, and to repeal Section 655.6 of, the Business and Professions Code, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 661, as amended, Maldonado. Healing arts: anatomic pathology services.

Existing law makes it unlawful for healing arts practitioners to charge, bill, or otherwise solicit payment from any patient, client, customer, or 3rd-party payer for cytologic services relating to the examination of gynecologic slides if those services were not actually rendered by the practitioner or under his or her direct supervision. Existing law also requires clinical laboratories performing cytologic examinations of gynecologic slides to directly bill either the patient or the responsible 3rd-party payer for the cytology services rendered by the laboratory, except as specified. Under existing law, a violation of these provisions is a crime.

This bill would delete the prohibition against a healing arts practitioner charging, billing, or otherwise soliciting payment for cytological services relating to the examination of gynecologic slides. The bill would instead prohibit a healing arts practitioner from charging, billing, or otherwise soliciting payment for anatomic pathology services, as defined, if those

services were not actually rendered by the practitioner or under his or her direct supervision, except as specified. The bill would also require a clinical laboratory and a physician and surgeon performing anatomic pathology services to directly bill the patient, the responsible 3rd-party payer, the clinical laboratory that sent the sample for specialized testing, if certain requirements are met, the requesting hospital or clinic, or the governmental agency or its specified public or private agent, agency, or organization responsible for payment for those services, except as specified.

Because a violation of these provisions would be punishable as a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 655.6 of the Business and Professions
- 2 Code is repealed.
- 3 SEC. 2. Section 655.7 is added to the Business and Professions
- 4 Code, to read:
- 5 655.7. (a) (1) A person licensed under this division or under
- 6 an initiative act referred to in this division shall not charge, bill,
- 7 or otherwise solicit payment, directly or indirectly, for anatomic
- 8 pathology services, if those services were not actually rendered
- 9 by that person or under his or her direct supervision.
- 10 (2) Notwithstanding paragraph (1), a clinical laboratory may
- 11 seek payment for anatomic pathology services, provided directly
- 12 or through arrangements with a pathologist in compliance with
- 13 Article 18 (commencing with Section 2400) of Chapter 5, if it is
- 14 required to send a sample to another clinical laboratory for
- 15 specialized testing or services and if that clinical laboratory has
- 16 performed the services described in subdivision (e) related to that
- 17 sample.
- 18 (3) Notwithstanding paragraph (1), a clinical laboratory may
- 19 bill for anatomic pathology services that were performed by an

1 affiliated clinical laboratory. For purposes of this section, an  
2 “affiliated clinical laboratory” means a clinical laboratory that is  
3 wholly owned by, is the parent company of, or is under common  
4 ownership with, the clinical laboratory billing for the anatomic  
5 pathology services. For purposes of this section, “wholly owned”  
6 means 100 percent ownership directly or through one or more  
7 subsidiaries, and “common ownership” means 100 percent  
8 ownership by a common parent company.

9 (b) A clinical laboratory or a physician and surgeon performing  
10 anatomic pathology services shall seek payment for those services  
11 solely from the following:

12 (1) The patient.

13 (2) The insurer, health care service plan, or other third-party  
14 payer responsible for payment of the services.

15 (3) The hospital, public health clinic, or nonprofit health clinic  
16 ordering the services.

17 (4) The clinical laboratory that sent the sample for specialized  
18 testing or services only if that clinical laboratory has performed  
19 the services described in subdivision (e) related to that sample.

20 (5) A governmental agency or its specified public or private  
21 agent, agency, or organization responsible for payment of the  
22 services.

23 (c) No person is required to reimburse a person licensed under  
24 this division or under an initiative act referred to in this division  
25 for a charge or claim made in violation of this section.

26 (d) This section shall not apply to any of the following:

27 (1) A person who, or a clinical laboratory that, contracts directly  
28 with a health care service plan licensed pursuant to Section 1349  
29 of the Health and Safety Code, if services are to be provided to  
30 enrollees of the plan on a prepaid basis.

31 (2) A person who, or a clinic that, provides anatomic pathology  
32 services without charge to the patient, or on a sliding scale payment  
33 basis if the patient’s charge for services is determined by the  
34 patient’s ability to pay.

35 (3) Health care programs operated by public entities, including,  
36 but not limited to, colleges and universities.

37 (4) Health care programs operated by private educational  
38 institutions to serve the health care needs of their students.

39 (5) A person who, or a clinic that, contracts with an employer  
40 to provide medical services to its employees if the anatomic

1 pathology services relating to the examination of gynecologic  
2 slides are provided under the contract.

3 (e) For the purposes of this section, the term “anatomic  
4 pathology services” means any of the following:

5 (1) Histopathology, meaning the gross and microscopic  
6 examination ~~after histologic processing~~ of organ tissue performed  
7 by a physician and surgeon or under the supervision of a physician  
8 and surgeon.

9 (2) Cytopathology, meaning the examination of cells from fluids,  
10 aspirates, washings, brushings, or smears, including the Pap test  
11 examination, performed by a physician and surgeon or under the  
12 supervision of a physician and surgeon.

13 (3) Hematology, meaning the microscopic evaluation of bone  
14 marrow aspirates and biopsies performed by a physician and  
15 surgeon, or under the supervision of a physician and surgeon, and  
16 peripheral blood smears when the attending or treating physician  
17 and surgeon or technologist requests that a blood smear be  
18 reviewed by a pathologist.

19 (4) Subcellular pathology and molecular pathology, when  
20 required to be reviewed by a pathologist.

21 (5) Surgical pathology, meaning the gross and microscopic  
22 examination of organ tissue performed by a physician and surgeon  
23 or under the supervision of a physician and surgeon.

24 (6) Transfusion medicine or blood banking services performed  
25 by a pathologist.

26 SEC. 3. No reimbursement is required by this act pursuant to  
27 Section 6 of Article XIII B of the California Constitution because  
28 the only costs that may be incurred by a local agency or school  
29 district will be incurred because this act creates a new crime or  
30 infraction, eliminates a crime or infraction, or changes the penalty  
31 for a crime or infraction, within the meaning of Section 17556 of  
32 the Government Code, or changes the definition of a crime within  
33 the meaning of Section 6 of Article XIII B of the California  
34 Constitution.