

AMENDED IN SENATE JULY 2, 1996
AMENDED IN SENATE JUNE 17, 1996
AMENDED IN ASSEMBLY MAY 24, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2588

Introduced by Assembly Member Morrow

February 21, 1996

An act to amend Section 655.5 of the Business and Professions Code, relating to clinical laboratory services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2588, as amended, Morrow. Clinical laboratory services.

Under existing law, the practices of chiropractic, clinical laboratory technology, dentistry, medicine, research psychoanalysis, speech pathology and audiology, optometry, occupational therapy, dietetics, physical therapy, nursing, vocational nursing, psychology, hearing aid dispensing, physician assisting, osteopathy, respiratory therapy, nursing home administration, pharmacy, psychiatric technology, veterinary medicine, acupuncture, marriage, family and child counseling, and social work are subject to licensure and regulation by the state.

Existing law prohibits any person licensed for one of those practices to charge, bill, or otherwise solicit payment from any patient, client, or customer, for any clinical laboratory service if the service was not actually rendered by that person or

under his or her direct supervision, unless the patient, client, or customer is apprised at the first, and any subsequent, solicitation for payment of the name, address, and charges of the clinical laboratory performing the service.

The bill would provide that the requirement for disclosure would be satisfied if the required disclosure is made to a 3rd-party payer of the patient, client, or customer, unless the patient is responsible for submitting the bill to the 3rd-party payer.

Existing law provides that violation of those provisions is a public offense punishable upon a first conviction by imprisonment in the county jail of not more than one year, or by imprisonment in the state prison, or by a fine not exceeding \$10,000, or by both imprisonment and fine. Existing law provides that a 2nd or subsequent conviction is punishable by imprisonment in the state prison.

This bill would instead provide that a violation of these provisions *by a physician and surgeon* for a first offense would be subject to the exclusive remedy of *reprimand* by the Medical Board of California ~~by reprimand~~ if the charge for a clinical laboratory service is less than the charge would have been if a clinical laboratory billed the patient, client, or customer directly for the service, and if the clinical laboratory charge is less than the charge listed in the clinical laboratory's schedule of fees.

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

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

1 SECTION 1. Section 655.5 of the Business and
 2 Professions Code is amended to read:
 3 655.5. (a) It is unlawful for any person licensed under
 4 this division or under any initiative act referred to in this
 5 division, or any clinical laboratory, or any health facility
 6 when billing for a clinical laboratory of the facility, to
 7 charge, bill, or otherwise solicit payment from any
 8 patient, client, or customer for any clinical laboratory
 9 service not actually rendered by the person or clinical
 10 laboratory or under his ~~or her~~ *her* or its direct supervision



1 unless the patient, client, or customer is apprised at the
2 first time of the charge, billing, or solicitation of the name,
3 address, and charges of the clinical laboratory performing
4 the service. The first such written charge, bill, or other
5 solicitation of payment shall separately set forth the
6 name, address, and charges of the clinical laboratory
7 concerned and shall clearly show whether or not the
8 charge is included in the total of the account, bill, or
9 charge. This subdivision shall be satisfied if the required
10 disclosures are made to the third-party payer of the
11 patient, client, or customer. If the patient is responsible
12 for submitting the bill for the charges to the third-party
13 payer, the bill provided to the patient for that purpose
14 shall include the disclosures required by this section. This
15 subdivision shall not apply to a clinical laboratory of a
16 health facility or a health facility when billing for a clinical
17 laboratory of the facility nor to a person licensed under
18 this division or under any initiative act referred to in this
19 division if the standardized billing form used by the
20 facility or person requires a summary entry for all clinical
21 laboratory charges. For purposes of this subdivision,
22 “health facility” has the same meaning as defined in
23 Section 1250 of the Health and Safety Code.

24 (b) Commencing July 1, 1994, a clinical laboratory
25 shall provide to each of its referring providers, upon
26 request, a schedule of fees for services provided to
27 patients of the referring provider. The schedule shall be
28 provided within two working days after the clinical
29 laboratory receives the request. For the purposes of this
30 subdivision, a “referring provider” means any provider
31 who has referred a patient to the clinical laboratory in the
32 preceding six-month period. Commencing July 1, 1994, a
33 clinical laboratory that provides a list of laboratory
34 services to a referring provider or to a potential referring
35 provider shall include a schedule of fees for the laboratory
36 services listed.

37 (c) It is also unlawful for any person licensed under
38 this division or under any initiative act referred to in this
39 division to charge additional charges for any clinical
40 laboratory service that is not actually rendered by the



1 licensee to the patient and itemized in the charge, bill, or
2 other solicitation of payment. This section shall not be
3 construed to prohibit any of the following:

4 (1) Any itemized charge for any service actually
5 rendered to the patient by the licensee.

6 (2) Any summary charge for services actually
7 rendered to a patient by a health facility, as defined in
8 Section 1250 of the Health and Safety Code, or by a person
9 licensed under this division or under any initiative act
10 referred to in this division if the standardized billing form
11 used by the facility or person requires a summary entry
12 for all clinical laboratory charges.

13 (d) This section shall not apply to any person or clinical
14 laboratory who or which contracts directly with a health
15 care service plan licensed pursuant to Section 1349 of the
16 Health and Safety Code, if the services are to be provided
17 to members of the plan on a prepaid basis and without
18 additional charge or liability on account thereof.

19 (e) A violation of this section is a public offense and is
20 punishable upon a first conviction by imprisonment in
21 the county jail for not more than one year, or by
22 imprisonment in the state prison, or by a fine not
23 exceeding ten thousand dollars (\$10,000), or by both that
24 imprisonment and fine. A second or subsequent
25 conviction is punishable by imprisonment in the state
26 prison.

27 (f) (1) Notwithstanding ~~subdivisions (a) to (e),~~
28 ~~inclusive subdivision (e),~~ a violation of this section *by a*
29 *physician and surgeon* for a first offense shall be subject
30 to the exclusive remedy ~~by~~ of reprimand by the Medical
31 Board of California if the transaction that is the subject of
32 the violation involves a charge for a clinical laboratory
33 service that is less than the charge would have been if the
34 clinical laboratory providing the service billed a patient,
35 client, or customer directly for the clinical laboratory
36 service, and if that clinical laboratory charge is less than
37 the charge listed in the clinical laboratory's schedule of
38 fees pursuant to subdivision (b).

39 (2) *Nothing in this subdivision shall be construed to*
40 *permit a physician and surgeon to charge more than he*



1 *or she was charged for the laboratory service by the*
2 *clinical laboratory providing the service unless the*
3 *additional charge is for service actually rendered by the*
4 *physician and surgeon to the patient.*

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