



March 14, 2012

The Honorable Ron Kind  
1406 Longworth House Office Building  
Washington, DC 20515

The Honorable Tom Price  
403 Cannon House Office Building  
Washington, DC 20515

Dear Congressmen Kind and Price:

On behalf of the American Clinical Laboratory Association (ACLA), I am writing in support of the Health Information Technology Reform Act, HR 4066, which seeks to exclude pathologists from incentive payments and penalties under Medicaid and Medicare as they pertain to the Meaningful Use of electronic health records (EHRs). ACLA is an association representing local, regional and national medical laboratories located throughout the United States, many of whom employ physician pathologists on staff.

The American Recovery and Reinvestment Act of 2009 created a set of Meaningful Use standards that “eligible professionals” must meet in order to be eligible to receive federal funding to promote the adoption of EHRs. Failure to meet these standards will result in reductions in Medicare payments starting January 1, 2015.

The current standards regarding Meaningful Use are largely inapplicable to the practice of pathology due to fundamental differences between the physician-office based practices and pathologist practices as to which meaningful use criteria are generally inapplicable. Because pathologists rarely have face-to-face encounters with patients, they are not in a position to meet many of the required meaningful use criteria. Further, unlike other physician specialties, medical records of pathologists are already generated, transmitted, received and stored in integrated laboratory information systems. Transitioning to another, less efficient records system just to avoid penalties under a legislative mandate would be wasteful and counterproductive. The failure of the meaningful use requirements to recognize the fundamental differences between pathology and other physician practices will result in the unfair penalization of pathologists starting in 2015, when physicians who have failed to meet these new standards will be assessed payment penalties under Medicare. This is particularly unfair since pathologists would not seek or qualify for incentives under the meaningful use rules. Legislation is needed to resolve this issue because CMS has taken the position that pathologists meet the definition of “eligible professionals” within the meaning of the law and that CMS lacks the authority to correct it.

The clinical laboratory industry has taken a leadership role in the adoption of EHRs by eligible physicians and is proving instrumental in helping to stem the rising cost of health care in the United States by reducing costs and improving the quality of patient care. However, penalizing pathologists for their failure to adopt standards that do not apply to their clinical setting appears to be an oversight that will lead to bad public policy. We strongly support the Health Information Technology Reform Act and appreciate your leadership in addressing this critical issue.

Sincerely,

A handwritten signature in black ink that reads "Alan Mertz". The signature is written in a cursive, flowing style.

Alan Mertz  
ACLA President