



June 5, 2015

The Honorable Orrin Hatch
Chairman
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Ron Wyden
Ranking Member
Committee on Finance
U.S. Senate
219 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Hatch and Ranking Member Wyden:

On June 3, a *Wall Street Journal* [article](#) highlighted a known flaw in the existing Medicare self-referral statute, the In-Office Ancillary Services (IOAS) exception. As you can see, the need to narrow the IOAS exception to remove anatomic pathology and other complex ancillary services is imperative to protect both program integrity as well as beneficiaries. On behalf of our membership, the American Clinical Laboratory Association (ACLA) encourages you to specifically prohibit the provision of anatomic pathology under the IOAS exception. In addition to improving patient care and reducing inappropriate utilization of health care services, enactment of reform will generate substantial savings to the Medicare program, scored by the Congressional Budget Office at \$3.4 billion over ten years for the elimination of anatomic pathology, advanced diagnostic imaging, physical therapy, and radiation therapy.

The intent of the IOAS exception was to allow clinicians to provide certain non-complex services, such as simple blood tests, necessary for the effective diagnosis and treatment of Medicare beneficiaries during an initial office visit. However, there is significant evidence that the IOAS exception in current law is being exploited regularly by clinicians to provide complex ancillary services, such as anatomic pathology, where they have a financial interest in the provision of these services-- even though they cannot be completed within the time frame of any patient visit. Specifically, the GAO reported self-referring providers made an estimated 918,000 more referrals for anatomic pathology services than those who did not self-refer, at a cost of \$69 million to the Medicare program in 2010 (GAO-13-445). Aside from the financial implications of increased costs to the Medicare program, the GAO also found overutilization of anatomic pathology and other complex ancillary services increases the risk of medical complications for beneficiaries.

This policy change has been recommended by physicians themselves in the *Journal of the American Medical Association*, President Obama in his Budgets for Fiscal Years 2014-2016, and others including the Bipartisan Policy Center and the Moment of Truth Project.

Therefore, ACLA urges you and your colleagues on the Finance Committee to protect both Medicare beneficiaries and the financial health of the program by eliminating the ability of providers to subvert the IOAS exception for anatomic pathology. Please contact Francesca Fierro O'Reilly at either foreilly@acla.com or 202-637-9466 for additional information.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads 'Alan Mertz'.

Alan Mertz,
President