

# PATHOLOGY

A COMPREHENSIVE GUIDE TO  
PATHOLOGY ARRANGEMENTS



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## WELCOME

*HealthCare Appraisers is pleased to present its Comprehensive Guide to Pathology Arrangements. This guide provides an overview of key concepts and terminology used in pathology as well as a more in-depth description of the five most common pathology service arrangements we observe through our work with health system clients across the country. Our firm has provided fair market value (FMV) opinions for several hundred, single and multi-component pathology compensation arrangements. We have prepared this guide to share the benefit of our experience and to help “demystify” some of the nuances of such arrangements.*

*For more than 20 years, HealthCare Appraisers has provided healthcare transactional advisory services and FMV opinions for clients across the U.S. and around the world.*

*Thank you for reviewing our Comprehensive Guide to Pathology Arrangements, and we hope you find it to be a helpful resource.*

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# EXECUTIVE SUMMARY

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Many hospitals operate laboratories that require pathologist oversight. While administrative oversight for hospital departments is often obtained through traditional medical directorships, pathology administrative services are often embedded in comprehensive pathology services arrangements that do not typically exist for other hospital-based specialties. This guide details the various services that may be provided under the five most common pathology compensation arrangements including (i) medical director services, (ii) 'Part A' type services (also known as professional oversight of the clinical laboratory), (iii) coverage services, (iv) anatomic pathology services, and (v) autopsy services. 🌐

# PATHOLOGY OVERVIEW



## ➤ ANATOMIC PATHOLOGY

Anatomic pathology includes the examination of surgical specimens removed from the body and the examination of the whole body (in the case of autopsies) to investigate and diagnose disease. Anatomic pathology is further classified into sub-specialties, including:

- **SURGICAL PATHOLOGY** - Examination of specimens obtained during surgery, such as a breast lump biopsy obtained during a mastectomy.
- **CYTOPATHOLOGY** - The study of cells that have been shed into bodily fluids or have been obtained by scraping or aspirating tissue are examined. Typical examples include cervical smear and sputum and gastric washings.
- **HISTOPATHOLOGY** - Examination of cells under a microscope after they have been stained with appropriate dyes.
- **FORENSIC PATHOLOGY** - Post mortem examination of a corpse for cause of death (autopsies).
- **DERMATOPATHOLOGY** - The study of skin diseases.

## ➤ CLINICAL PATHOLOGY

Clinical pathology involves laboratory analysis of bodily fluids (e.g., blood, urine or cerebrospinal fluid) and bodily tissue for the diagnosis of disease. Clinical pathology is further classified into sub-specialties, including:

- **CHEMICAL PATHOLOGY** - The assessment of various components in bodily fluids such as the blood or urine, namely the analysis of blood serum and plasma.
- **IMMUNOPATHOLOGY** - The study of immune system disorders such as immunodeficiency, transplant rejection and allergies.
- **HEMATOPATHOLOGY** - The investigation and diagnosis of blood diseases.

## ➤ MOLECULAR PATHOLOGY

Molecular pathology is a multi-disciplinary field that focuses on disease at the sub-microscopic, molecular level, and includes a mixture of anatomic pathology, clinical pathology, genetics, molecular biology and biochemistry.

# PATHOLOGY SERVICES

## ➤ MEDICAL DIRECTOR SERVICES

### DESCRIPTION OF SERVICE

Similar to other service line medical director arrangements, pathology medical directorships include physician administrative oversight of the entire pathology service line. Some common duties of pathology medical directors include (i) recommendations on equipment purchases, (ii) recruiting, training, and supervision of staff, (iii) budgeting and planning, (iv) quality assurance, (v) participation on committees, (vi) reimbursement assistance, and (vii) community outreach.

### COMPENSATION STRUCTURE

Pathology medical director services are most commonly structured as hourly arrangements with a specified maximum monthly/annual number of service hours. Sometimes, a fixed monthly or annual payment is preferred, in which case a minimum number of service hours should be stipulated.

## ➤ PART A TYPE SERVICES

### BACKGROUND

The need for Part A type services, and, specifically, the need to compensate pathologists for such services, has been well

documented by the federal government and the College of American Pathologists. In 1982, the Tax Equity and Fiscal Responsibility Act (TEFRA) defined a plan under which healthcare facilities received the pathologist's payment for most of the pathologist's services as part of the DRG payment. Initially, hospitals paid pathologists under a formula known as the Reasonable Compensation Equivalent (RCE). This formula was replaced by a system whereby pathologists and hospitals were expected to negotiate with each other for the fee payable under Part A, related to those activities rendered for the general benefit of patients in a hospital or skilled nursing facility.<sup>1</sup> These activities include clinical pathology services, such as setting up test protocols, calibrating laboratory equipment, supervising testing, and being available to discuss certain test results with other clinicians.

Based on the discussion above, it is generally viewed that (i) hospitals receive Part A compensation from Medicare (and potentially other payors) related to the "provider component" (i.e., those services rendered

<sup>1</sup> Until 2004, the OIG guidance explained that the payment of either no or token Part A compensation to pathologists may violate the Medicare and Medicaid anti-kickback law. This language was softened in 2004, suggesting that the determination as to whether the lack of an agreement would violate anti-kickback statute would depend on the specific facts and circumstances, concerning some pathologists.

by pathologists for the general benefit of a hospital's Medicare patients, which, in turn, should be paid to the pathologists), and (ii) payments for such professional services are intended to be forwarded to the pathologists.

### DESCRIPTION OF SERVICE

While Part A type services are administratively oriented, they relate specifically to the oversight of the clinical laboratory and are not the same as medical director oversight of the pathology department. Depending on the arrangement, these services may be included in the overall duties for a medical directorship. However, these services can also be separately carved out and compensated on a standalone basis. The duties associated with Part A type services for activities performed in the clinical laboratory include:

- Ensuring that tests, examinations and procedures are properly performed, recorded and reported;
- Interacting with members of the medical staff regarding issues of laboratory operations, quality and test availability;
- Designing protocols and establishing parameters for performance of clinical testing;
- Recommending additional diagnostic or therapeutic tests, when appropriate;
- Supervising laboratory technical personnel and advising them regarding aberrant results;

- Selecting, evaluating and validating test methodologies;
- Directing, performing and evaluating quality assurance control procedures;
- Evaluating clinical laboratory data and establishing a process for review of tests prior to issuance of patient reports; and
- Ensuring the healthcare facility's compliance with state licensure laws, Medicare conditions, TJC standards, the CAP Laboratory Accreditation Program as well as any other federal certification standards.

### COMPENSATION STRUCTURE

Although Part A type services are most commonly structured as fixed compensation amounts, we have also observed arrangements based on hourly compensation for a specified number of services hours.

*Note: Language within pathology agreements are, at times, overly broad or vague with respect to the duties associated with administrative services arrangements, and Part A type services may be embedded within the overall medical director duties. At the same time, pathologists may also reserve the right to bill for the professional component of clinical laboratory tests (i.e., Part A type services). Care must be taken in these cases to ensure that (i) the hours dedicated to medical director duties do not*

overlap with Part A type services duties such that the pathologists are not being paid twice for the same services, and (ii) the hours dedicated to Part A type services compensated under an arrangement consider only those hours for which the pathology group cannot bill.

## ➤ COVERAGE SERVICES

### DESCRIPTION OF SERVICE

Coverage services relate to the availability of pathologists to perform professional services on behalf of a hospital's pathology department, which may be provided through a combination of in-house and/or remote/on-call coverage. While in-house, a pathologist may review specimens and be available to assist staff and respond to surgical events. Similarly, remote/on-call coverage ensures the availability of a pathologist to provide professional pathology services in response to emergent events, such as frozen sections, acute leukemia evaluations and emergent cytologic examinations.

### COMPENSATION STRUCTURE

Coverage services are most commonly structured as fixed compensation amounts, though, less frequently, arrangements may be based on hourly rates of pay for a specified number of hours.

## ➤ ANATOMIC PATHOLOGY SERVICES

### DESCRIPTION OF SERVICE

As previously described, anatomic pathology services relate to the collection, processing and interpretation of tissue specimens. With respect to the interpretation component, this professional service is performed and billed by the pathologist, and typically comprises a majority of the in-house component of coverage services.<sup>2</sup>

In order to prepare an anatomic specimen for a pathologist to interpret, the specimen must first undergo certain technical processing. Oftentimes, hospital laboratories lack the capabilities to perform the technical processing of anatomic pathology specimens. In such circumstances, the hospital outsources this service to a pathologist's laboratory and compensates the pathologist for the provision of this service. Though non-governmental payors may directly reimburse the pathologist for the technical component of anatomic pathology, reimbursement for this service is often embedded in the hospital's case rate reimbursement for a patient, thereby

<sup>2</sup> Though infrequently observed in practice, pathologists may forego the right to bill for these services, and, instead, elect to be compensated by the contracting hospital on a per CPT code basis, via an hourly or fixed payment, or as a support payment. This may occur in situations in which the payor population is generally poor and/or the volume of pathology services is very low.

necessitating a downstream compensation arrangement with the pathologist. Furthermore, CMS has eliminated direct payments to independent laboratories for the provision of the technical component of anatomical pathology services provided to hospital inpatients and outpatients, requiring such laboratories to bill hospitals for those services.

Hospitals that operate anatomic pathology laboratories, may also offer to provide technical specimen processing services to local providers that lack anatomic pathology laboratories. Under these circumstances, the provider will typically retain the global reimbursement for the provision of pathology services (*i.e.*, including the technical and professional components) and then compensate the reference hospital for the provision of the technical component of anatomic pathology specimen processing.

### COMPENSATION STRUCTURE

For the provision of the technical component of anatomic pathology services, the service provider may be compensated based upon a standard fee schedule defined by various pathology CPT codes (*e.g.*, \$50 per CPT code 88305-TC), or may be reimbursed a pre-defined percentage of the applicable Medicare Physician Fee Schedule (PFS) for all CPT codes performed.

## ➤ AUTOPSY SERVICES

### DESCRIPTION OF SERVICE

Autopsies are complex and invasive surgical examinations performed by pathologists for the purpose of determining the cause and manner of death. An autopsy may be performed at the request of the deceased's family, by a Coroner or Medical Examiner (for cases of sudden, unexpected, violent or traumatic death), or by hospitals for loss control/risk management purposes to eliminate suspicion, provide reassurance to families, reduce the number of claims and improve the quality of care.

### COMPENSATION STRUCTURE

Autopsies are most commonly compensated based on a fixed fee per autopsy, which may be defined by a specific CPT code or a general description of the autopsy performed. Some pathologists charge a flat rate regardless of the extensiveness of the autopsy performed, while other pathologists may offer a fee schedule with lower compensation rates for less complex autopsies (single organ, localized region of body, etc.) and higher rates for more complex autopsies (complete autopsy, complete autopsy with CNS, etc.). Less commonly, pathologists may be

reimbursed on an hourly basis for autopsy services, often subject to a compensation cap.

## ➤ OTHER SERVICES (INFREQUENT IN NATURE)

**Space lease arrangements** occur when a hospital elects to charge a pathologist for the space within the hospital utilized by the physician to provide professional pathology services. These arrangements are typically structured as a fixed monthly rental rate based on the underlying square footage of the space.

**Compensation for indigent care patients or globally reimbursed patients** occurs in arrangements whereby a pathologist provides professional services, but is unable to directly obtain reimbursement from patients or payors due to the nature of these services. Similar to arrangements whereby a pathologist provides the technical component of anatomic pathology services on a compensated basis, compensation is often based on a fee schedule defined by various pathology CPT codes, or based upon a pre-determined percentage of the Medicare Physician Fee Schedule (PFS) for all CPT codes performed.

**Laboratory management arrangements** occur whereby an organization with significant expertise in certain areas of pathology is engaged to setup and operate a laboratory service line for a provider. Compensation for such arrangements is generally structured based on a fixed monthly or annual payment, but may also contain variable components related to the level of test volumes or associated service line revenues. 🌐





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# OUR COMPENSATION VALUATION EXPERTISE

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PUBLISHED IN 2020

