

October 14, 2015
Testimony of Jonathan Myles, MD
In Support of HB 224
On Behalf of the Ohio Society of Pathologists

Good morning Chairwoman Gonzales, Vice-Chairman Huffman, Ranking-Member Antonio and members of the House Health & Aging Committee. Thank you for allowing me to testify as a proponent to House Bill 224.

House Bill 224 would require each ACO in Ohio to establish a Clinical Laboratory Testing Advisory board for the purposes of making recommendations to the ACO regarding proper laboratory testing. The use of the Clinical Laboratory Advisory Board is an established medical best practice not only at the Cleveland Clinic where I practice but also at medical institutions (like Geisinger and Mayo) that were used for development of the ACO practice model as established under the Affordable Care Act. In addition, these Boards have been used by hospitals and other ACOs around the nation. Accordingly, this legislation is designed to promote clinical collaboration among physicians, including the physician laboratory director, when developing protocols or algorithms for pathology/laboratory utilization.

I know the first question in your mind is why does the government need to mandate these boards for ACOs? The reason is that the Affordable Care Act created financial incentives to reward ACOs for cost control and medical quality, but does not sufficiently protect patients from underutilization of medically necessary pathology and laboratory services. States are now acting to remedy the deficiencies in the ACA and that is why Ohio must act.

According to a 2014 national survey, only **11.7 %** of laboratories in ACOs have been able to engage in value initiatives with ACO leadership. Moreover, according to the same survey, **20.8%** of laboratories in ACO have **never been involved** in ACO operational discussions. This inability to fully integrate clinical laboratory physicians into ACO decision-making has potential to impair quality within the ACO operational structure. Paradoxically, the survey also found that approximately 80% of ACO executives believed that laboratory services have some/significant impact upon the success of the ACO.

The disparity between the acknowledged importance of pathology/laboratory services to the ACO and the actual participation rates of laboratory physician leaders in ACOs is due to many factors, including historical practice trends in laboratory/pathology medicine and ACO public policy driven imperatives in reducing costs, without commensurate public policy to ensure full benefit of physician judgment in decisions regarding these services.

Similar legislation was passed last year in Illinois and in 2013 in Massachusetts. It is part of a national model that is also under consideration in New Jersey and Tennessee. The bill has the support of the Ohio State Medical Association, as well as four national patient advocacy groups

- the Leukemia and Lymphoma Society, the National Brain Tumor Society, the Lung Cancer Alliance and the American Society of Breast Disease.

All of these groups support this legislation in the belief that these Boards, with physician input, will ensure that patients are protected and that medical quality is not diminished in the ACO effort to reduce costs. The conceptual support for this bill, as stated by the American Society of Breast Disease, illustrates the concern regarding new ACA financial incentives for cost reductions: "Advanced clinical laboratory testing, including genetic testing can be, in many cases, expensive; but such testing is critical to the identification of optimal pharmacological therapy selection targeted to specific biomarkers of the patient's cancer. Cancer patients, especially breast cancer patients, are benefiting from these targeted therapies, based on the genetic composition of the cancer cell... It is critical that clinical laboratory testing upon which these therapies are selected for cancer patients not be inadvertently curtailed by the ACO's imperative in controlling cost."

In conclusion, I am asking your support for a bill that mitigates some of the potential adverse effects of the Affordable Care Act by ensuring that patient care is preeminent and that ACOs are properly advised on the use of pathology and laboratory services. Thank you, again, for having me today, and I would be happy to answer any questions you may have.