

IWIF Policy Covering Self Referrals

EFFECTIVE DATE February 11th, 2011

POLICY

In compliance with the Maryland Court of Appeals recent decision affirming the Maryland Self-Referral Law, IWIF DOES NOT REIMBURSE for MRI scans, CT scans, or radiation therapy that are self-referrals.

SUPPORTING DOCUMENTATION

MARYLAND COURT OF APPEALS AFFIRMS BOARD'S DECLARATORY RULING 2006-1:

The Maryland self-referral law prohibits a health care practitioner from referring a patient to another health care entity in which the health care practitioner has a financial interest. This is a complicated law with many exceptions. The Board of Physicians issued a declaratory ruling in 2006 addressing particular fact patterns of alleged self-referrals, with the intent of indicating the Board's view on the propriety of certain referrals. The Board's ruling on MRI scans was appealed and has now been affirmed by Maryland's highest court, the Maryland Court of Appeals.

The Board was correct in ruling that (1) the "group practice" exemption does not permit an orthopedic surgeon to refer his or her patient for a MRI or CT scan to be performed by another member of the orthopedic surgeon's practice group, and (2) the "direct supervision" exemption, which is limited to referrals to "outside" entities, requires that the referring physician be "personally present within the treatment area when the service is performed and either personally providing the service or directly supervising that service." As the Board and the Attorney General have pointed out, a contrary conclusion would offend several well established principles of statutory construction.

SAFETY SAVES *With* IWIF

**ADMINISTRATIVE LAW; DECLARATORY RULING OF THE MARYLAND STATE
BOARD OF PHYSICIANS; THE MARYLAND SELF-REFERRAL LAW:**

The prohibition against physician self-referrals applies to an orthopedic surgeon's referral of a patient to another health care provider in the same group practice for a MRI or a CT scan that will involve the use of an imaging or scanning machine in which the referring physician has a financial interest. The "group practice" and/or "direct supervision" exemptions to the Maryland Self-Referral Law are not applicable to such a referral.