



For Immediate Release  
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## **AAB/NILA Joins the PAMA Fight**

ST. LOUIS, MO | (2/21/18) – On Wednesday, the American Association of Bioanalysts filed a motion in federal District Court in Washington D.C. for permission to file an Amicus Curiae Brief in support of the lawsuit commenced by the American Clinical Laboratory Association challenging how the Secretary of Health and Human Services (HHS) has implemented the Protecting Access to Medicare Act, known as PAMA.

The lawsuit contends that HHS violated its mandate from Congress when it promulgated regulations that limited the clinical laboratories that had to report their private payor data to those that had their own National Provider Identifier (NPI) numbers.

“By adding the unique NPI requirement, HHS exempted virtually all of the hospital outreach laboratory services from being included in the calculation of new PAMA rates,” explains Mark S. Birenbaum, PhD, Administrator of AAB.

AAB’s Brief contends the Secretary purposefully added the NPI requirement to the definition that Congress created for an “applicable laboratory” that had to report payment data in order to lower the PAMA Medicare rates far below that intended by Congress.

“Many hospital outreach laboratories receive 2-3 times what independent labs get from private payors, but only 21 of approximately 7,000 hospital laboratories reported their data,” said Birenbaum. “As a result, instead of the projected \$100 million savings under PAMA, there is a projected \$670 million reduction in Medicare payments for laboratory services.”

With supporting declarations from laboratories, the AAB Brief argues that these cuts will cause community and regional laboratories to close, reduce services and lay off employees, defeating the purpose of PAMA to sustain the Medicare program and protect access to care for the aged and disabled.

AAB is represented by Jeffrey Sherrin and Danielle E. Holley of the law firm of O’Connell and Aronowitz in Albany, New York. Sherrin explained that “the Secretary’s redefining the term ‘applicable laboratory’ is directly contrary to the express language of the PAMA statute and no authority has been given to HHS by Congress to do so.” Sherrin explained further that “this regulation is unreasonable because it defeats the purpose of PAMA and runs counter to the aim of the Medicare

Act and PAMA to ensure access to care. We feel very strongly that the Court will hold the Secretary to the letter of the law.”

AAB’s Brief asks the Court to require that new rates be calculated that include hospital outreach laboratory data, and that pending new rates being published, HHS should be directed to reinstate the 2017 Part B Clinical Laboratory Fee Schedule rates.

[Click here to view AAB's Amicus Curiae Brief.](#)

### **About AAB**

The American Association of Bioanalysts (AAB), founded in 1957, is a professional association representing bioanalysts (clinical laboratory directors, owners, managers and supervisors), medical technologists, medical laboratory technicians, and physician office laboratory technicians. AAB is committed to the pursuit of excellence in clinical laboratory testing by enhancing the professional skills of each of its members; promoting more efficient and productive operations; and representing the interests of its members. AAB’s specialized membership sections include the AAB Associate Member Section (AMS), College of Reproductive Biology (CRB), Environmental Biology and Public Health (EBPH) Section, and the National Independent Laboratory Association (NILA). AAB provides a broad range of services, including representation before federal and state legislative and regulatory agencies, educational programs and publications. AAB’s Proficiency Testing Service is approved under the federal CLIA regulations and is one of the largest PT providers in the United States.