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October 12, 2006

The Honorable Senator Craig Thomas
United States Senate
307 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Thomas:

On behalf of our 4,800 member hospitals, health care systems and other health care organizations, and our 35,000 individual members, the American Hospital Association (AHA) strongly supports S. 3609, the Physician Pathology Services Continuity Act of 2006. This bill would provide a permanent extension of an existing grandfathering provision that is set to expire at the end of this year. While the bill would help many hospitals, it will especially help small and rural hospitals that do not perform enough surgery to justify the provision of in-house anatomic pathology technical component (TC) services.

Prior to 1999, Medicare had a long-standing history of paying these laboratories directly, under the physician fee schedule, for both the preparation and interpretation of the patient specimen. They did so because these hospitals did not have in-house laboratories and the costs were not included in the hospital's payments. In 1999, however, CMS proposed to eliminate separate billing and payment for these TC services. This proposal was based on questionable assumptions and would have created significant hardships for both laboratories and the hospitals they served.

Congressional action over the last six years has allowed for the grandfathering of separate billing for the TC services under arrangements between independent laboratories and some hospitals that were in place prior to the 1999 CMS action. Most recently, under the Medicare Modernization Act of 2003, Congress extended the grandfathering of these arrangements until 2006. Without further congressional action, this protection will expire at the end of this year.

The AHA is concerned that allowing this grandfather provision to expire will have a disproportionate impact on small and rural hospitals - hospitals that have longstanding arrangements with independent labs to perform their anatomic pathology services. Without your



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legislation, these hospitals would have to begin billing Medicare directly for the TC services and turn over some of their scarce Medicare funds – which have never incorporated the cost of these TC services – to the independent labs, or create the capacity to perform anatomic pathology TC services internally, which would bring unnecessary administrative and regulatory burdens on both the hospitals and the laboratories.

Therefore we urge Congress to enact S. 3609, which will allow these arrangements between grandfathered hospitals and labs to continue. We thank you for your leadership. If you have any questions, please contact Kristin Welsh at (202) 626-2322.

Sincerely,

Rick Pollack
Executive Vice President