



COLLEGE of AMERICAN
PATHOLOGISTS

The CAP: Your Professional and Advocacy Home

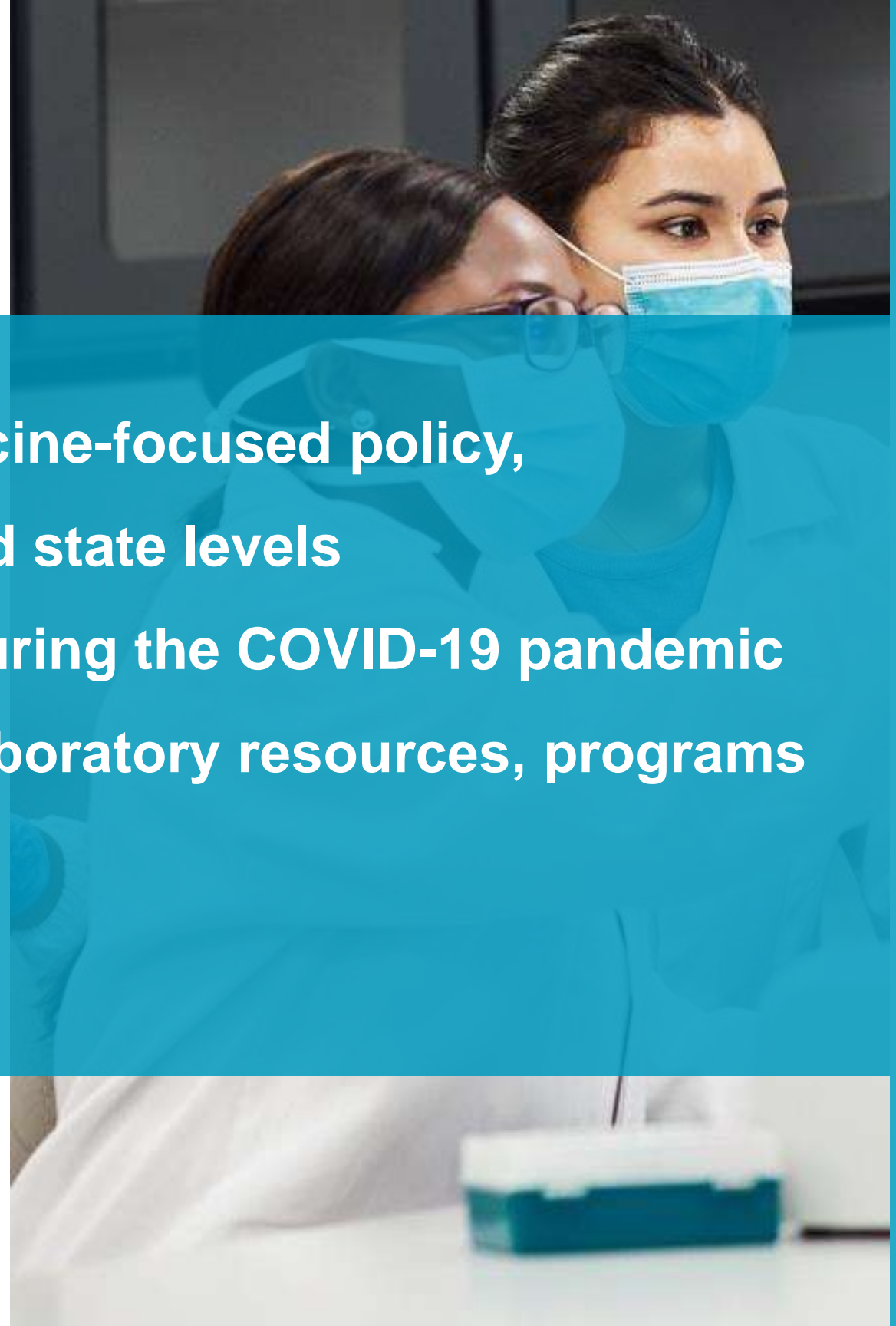
Arizona Society of Pathologists Fall 2021 Meeting

Donald S. Karcher, MD, FCAP
President-Elect, College of American Pathologists

November 13, 2021

How the CAP Is Helping You

- **Influencing pathology- and laboratory medicine-focused policy, regulations and legislation at the federal and state levels**
- **Supporting pathologists and laboratories during the COVID-19 pandemic**
- **Providing the CAP's various member and laboratory resources, programs and services**



Influencing Public Policy and Amplifying Pathology's Voice

To ensure pathologists are treated fairly and paid for the work they do

Medicare's Efforts to Shift Reimbursement to Primary Care

- In 2019, CMS approved a proposal for E/M code revaluation to redistribute \$7 billion in Medicare payments from **specialists** to **primary care physicians**.
- Would result in ~9% ↓ for pathology services (due to budget neutrality).
- A CAP advocacy priority since 2018: Started opposing the proposed cuts to pathologists.



CAP Advocacy Campaign Results in 2020

- On Dec. 21, 2020, Congress passed legislation to mitigate the 2021 cut:
 - Added \$3 billion to the 2021 Medicare Physician Fee Schedule to offset the cuts to specialists
→ restored ~3.75% to pathologists
 - Delayed a new E/M add-on code → restored ~3%
- This action resulted in up to \$85 million more for pathologists in 2021.
- What was once a 9% overall cut to pathologists in 2021 was mitigated and reduced to ~2.25%.



Advocacy in 2021 on E/M-Related Medicare Cuts

- During the CAP's Hill Day in May, a record number of CAP members met virtually with 268 congressional offices and urged Congress to mitigate these cuts again.
- Virtual “fly-in” on October 12
- Our ask is to extend the relief enacted for 2021 again for 2022 and 2023.
- Congress likely won't act until December. We need all pathologists to remain engaged for the rest of the year.



2022 Medicare Physician Fee Schedule Highlights

- **2022 PFS final rule released by CMS on November 2**
- **Overall, pathologists are facing a Medicare cut of 3.7% next year.**
 - Stemming from budget neutrality requirements to offset payment increases for E/M services
- **CAP successfully averted an additional 1% cut by opposing updates to practice expense clinical labor rates.**
- **Pathologists will now have new CPT codes for pathology clinical consultation services (80503-80506).**
- **More details are available at cap.org.**
 - Special edition of Advocacy Update published November 2; includes impact table on path. services
 - CAP webinar on December 3 reviewing the PFS and MACRA/MIPS changes

Multiple Potential Medicare Cuts in 2022 and Beyond

- **3.7% cut in 2022 Physician Fee Schedule**
 - Required to offset increased payments for E/M services, due to budget neutrality.
- **2% cut in 2022 from budget sequester mechanism**
 - Congress agreed in April to delay cut to 2022.
- **4% cut in 2022 from American Rescue Plan (pay-as-you-go, or PAYGO, requirement)**
- **~3% cut in 2024 from new E/M add-on code**
 - Congress delayed from 2021 to 2024.

CAP Advocacy Win: New Consult Codes in 2022 Medicare Physician Fee Schedule

Clinical Pathology Consultation Services

- The current clinical pathology consultation services were identified as potentially misvalued for review by the AMA RUC's Relativity Assessment Workgroup.
 - 80500 - Clinical pathology consultation; limited, without review of patient's history and medical records (2021 Work RVU 0.37)
 - 80502 - Clinical pathology consultation; comprehensive, for a complex diagnostic problem, with review of patient's history and medical records (2021 Work RVU 1.33)

Pathology Clinical Consultation Services

CPT Code	Description	RUC Recommended Work RVU	2022 Final Work RVU
80503	Pathology clinical consultation; <u>for a clinical problem with limited review of patient's history and medical records and straightforward medical decision making</u> . When using time for code selection, <u>5-20 minutes of total time</u> is spent on the date of the consultation.	0.50	0.43
80504	Pathology clinical consultation; <u>for a moderately complex clinical problem, with review of patient's history and medical records and moderate level of medical decision making</u> . When using time for code selection, <u>21-40 minutes of total time</u> is spent on the date of the consultation	0.91	0.91
80505	Pathology clinical consultation; <u>for a highly complex clinical problem, with comprehensive review of patient's history and medical records and high level of medical decision making</u> . When using time for code selection, <u>41-60 minutes of total time</u> is spent on the date of the consultation	1.80	1.71
80506	Pathology clinical consultation; <u>prolonged service, each additional 30 minutes</u> (List separately in addition to code for primary procedure)	0.80	0.80

No Surprises Act Implementation

- **Enacted in 2020, rulemaking ongoing now, law takes effect January 1, 2022.**
- **Qualifying Payment Amount (QPA) for out-of-network service is median of contracted rate for that service recognized by insurer on Jan. 31, 2019.**
 - Annually adjusted for inflation based upon CPI.
- **For independent dispute resolution (IDR), the arbiter must assume the insurer's QPA is the appropriate out-of-network payment.**
 - The CAP opposes this rule as Congress did not weight the insurer-controlled QPA over other factors.
- **Physicians (by NPI or TIN) have option to batch multiple claims for IDR.**
- **Fees for IDR include \$50 administrative fee for each party and IDR entity fee (~\$400) that's held in escrow and paid by non-prevailing party.**

IDR Timing and Process

Payment/Denial

Within 30 days of bill for services, health plan must send initial payment or notice of denial of payment.

Open Negotiation

Physician and health plan enter 30-day “open negotiation” period to agree on payment. If there’s no agreement, you have 4 days to say you want an independent dispute resolution (IDR).

IDR Process

Within 30 days of IDR notification, an IDR entity must consider specified factors and select one of the offers submitted by IDR parties to be the payment amount.

Private Health Care Payers


- **UnitedHealthcare:** We opposed requirements for a test registry.
 - Now delayed to 2022.
- **Anthem:** We engaged with the insurer multiple times to argue against cuts to pathologists.
- **Cigna:** We opposed a new effort to deny payment for the professional component of clinical pathology services



Cigna PC of CP Policy

- On April 12, Cigna announced plans to deny claims for the professional component (modifier 26) of clinical pathology services.
- Cigna had cited Medicare policy to support the change.
- The CAP objected for several reasons, engaged with state pathology societies, and Cigna delayed its implementation.

04/12/21: Notification for denial of Modifier 26 when inappropriately billed per the CMS National Physician Fee Schedule Relative Value File (NPF SRVF). Effective 07/11/2021.



Reimbursement Policy

Effective Date 05/22/2018
Reimbursement Policy Number M26

Modifier 26 Professional Component

Table of Contents	Related Policies
Overview 1	Modifier TC- Technical Component
Reimbursement Policy 1	
General Background 1	
References 3	
Policy History/Update 3	

INSTRUCTIONS FOR USE
Reimbursement policies are intended to supplement certain standard benefit plans. Please note, the terms of an individual's particular benefit plan document (Group Service Agreement (GSA), Evidence of Coverage, Certificate of Coverage, Summary Plan Description (SPD) or similar plan document) may differ significantly from the standard benefit plans upon which a reimbursement policy is based. For example, an individual's benefit plan document may contain specific language which contradicts the guidance outlined in a reimbursement policy. In the event of a conflict, an individual's benefit plan document **always supersedes** the information in a reimbursement policy. Reimbursement terms in agreements with participating health care providers may also supersede the information in reimbursement policy. Proprietary information of Cigna. Copyright ©2021 Cigna

Overview

This policy applies to the professional component of the global fee for the service rendered.

Reimbursement Policy

Cigna provides separate reimbursement for the professional component of the global fee at the fee schedule or other allowed amount when modifier 26 is appended correctly as determined by the Professional Component/Technical Component (PC/TC) indicators in the CMS Payment Policies provided in the National Physician Fee Schedule Relative Value File (NPF SRVF).

General Background

The Centers for Medicare and Medicaid Services (CMS) define a complete service (i.e. global fee) as one in which the physician provides the entire service, including the equipment, supplies, technical personnel and the physician's professional services. There are services, however, that may be reported separately as the professional component (modifier 26) and/or the technical component (modifier TC).

Modifier 26 represents the professional component of the procedure. The professional component of the global fee is for the reading and interpretation of the diagnostic procedure/service.

The technical component of the global fee includes providing the equipment, supplies and technical personnel for a diagnostic procedure/service. Please refer to the CIGNA HealthCare Reimbursement Policy on Modifier TC for additional information regarding the technical component.

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Reimbursement Policy: M26

The CAP's Response to Cigna

- In late September, Cigna started sending letters to pathologists and laboratories stating it would go forward with an updated PC of CP pay policy.
- CAP sought additional information from Cigna:
 - Cigna will not pay pathologists the PC of CP when Cigna contracts with the facility/hospital for laboratory management and oversight services.
 - Cigna said this is similar to how Medicare pays for the PC of CP under Medicare Part A.
- CAP responded with a letter to Cigna on October 26 calling for more actionable specifics.
 - How can pathologists confirm they should be billing Cigna for the PC of CP or engage with their facility/hospital administration for payment discussions?

CAP Collaborates with State Pathology Societies

- Partnering on state advocacy
- Fundraising for lobbying
- Growing state society membership
- Promoting state society meetings



Update on Legislation in Arizona

- **HB 2069: Non-medical testing regulations and patient rights to genetic information**
 - Amendment exempts HIPAA and CLIA medical laboratory testing from exclusive property requirement.
 - Protects pathologists from reporting burdens and legal liability; protects scope of practice
 - Brings new privacy protections for consumers who use direct-to-consumer testing.



Update on Legislation in Arizona

continued

- **HB 2812: Would prohibit use/sharing of specimen materials without informed consent of patient.**
 - Would mandate disposal of materials at least three days after the completion of the diagnostic test.
 - Would infringe on federal CLIA regulations, harm patient health and safety, and change the governance of patient specimen retention.
 - CAP and ASP coordinated to oppose legislation.
 - The bill was rejected before the legislative session adjourned.



Pathologists and Laboratories in the News

- Promoting the practice of pathology
- COVID-19 media briefings



POPULAR SCIENCE

The New York Times

**Modern
Healthcare**

Medscape®



Pathologists and Laboratories in the News

- Promoting the practice of pathology
- COVID-19 media briefings

CAP MEDIA BRIEFING
March 11, 2021
11:00 AM -12:00 PM ET

The Rapidly Changing COVID-19
Testing Landscape:
Vaccines, Variants, and
Health Disparities



Pathologists and Laboratories in the News

- Promoting the practice of pathology
- COVID-19 media briefings

CAP MEDIA BRIEFING
April 28, 2021
11:00 AM - 12:00 PM ET

Life for Laboratories After COVID-19



Reaching Health Care Executives



How Pathologists
Help You Achieve
Health System
Goals

Without argument, the COVID-19 pandemic has shaken and challenged every health care system and organization. What has remained the same for health care providers is our unwavering commitment to care for our patients and communities.

Pandemic or not, pathologists are guiding hospitals and health systems to make decisions that ensure testing and diagnostic accuracy, improve patient care for better patient outcomes, mitigate risks, and ensure quality.

CAP Laboratory and Member Programs and Initiatives

- **Educational Resources**

- 512 live and online educational offerings; more than 71,000 CME activities completed in 2020
- Pathologists Leadership Summit in May and CAP 21 hybrid meeting in Chicago in September



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- **Practice Tools**

- Multiple test ordering modules and resource guides
- CAP Pathologists Quality Registry
- CAP Cancer Protocols, Electronic Cancer Checklists
- Clinical practice guidelines from the CAP Pathology and Laboratory Quality Center

CAP Pathology & Laboratory Quality Center Guidelines

Updates

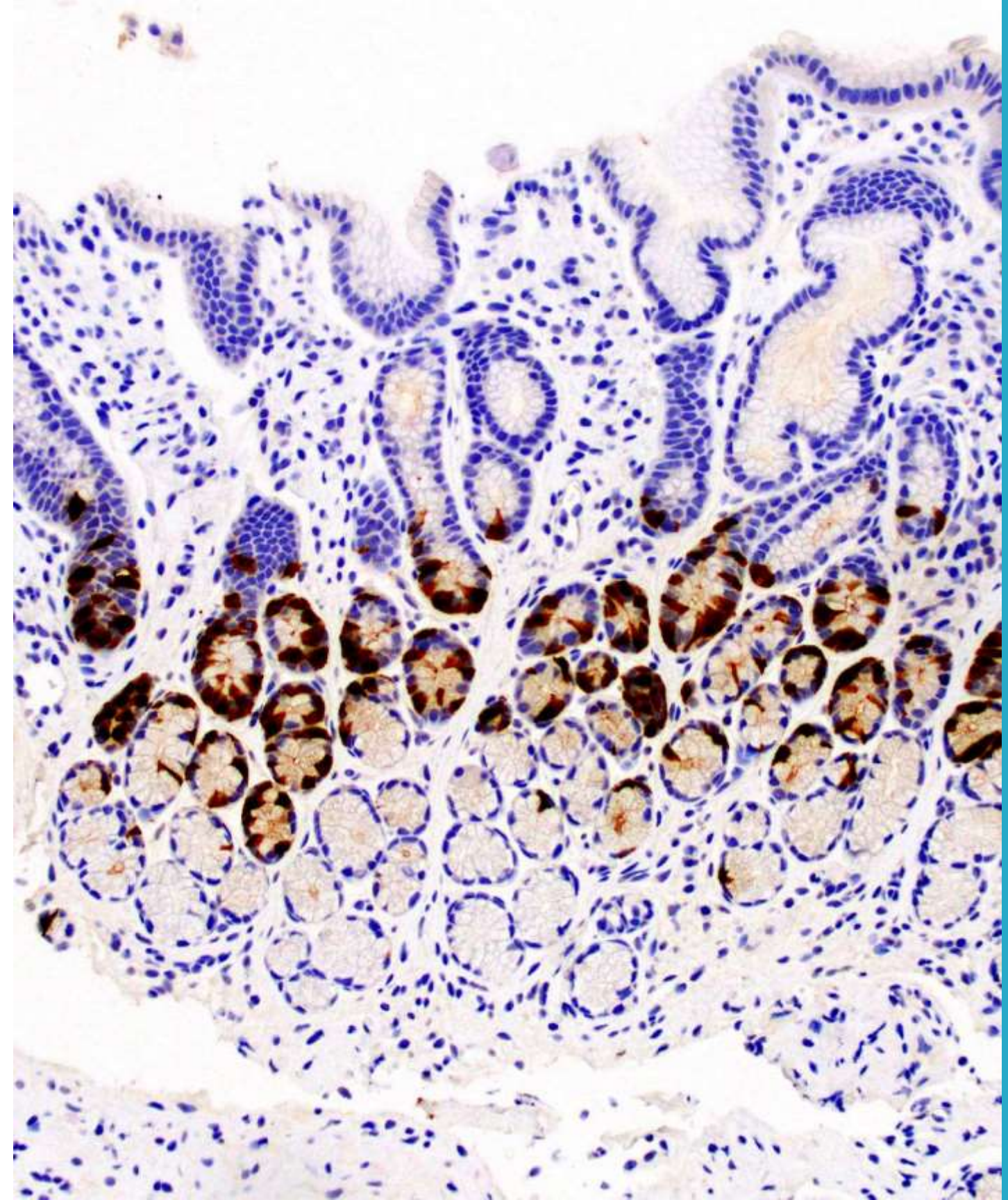
- Validating Whole Slide Imaging (WSI) for Diagnostic Purposes in Pathology

Recently Published

- Laboratory Work-up and Initial Diagnosis of Monoclonal Gammopathies

In Progress

- PD-L1 Testing of Patients with Lung Cancer for Immunooncology Therapies
- Principles of Analytic Validation of Immunohistochemical (IHC) Assays Update



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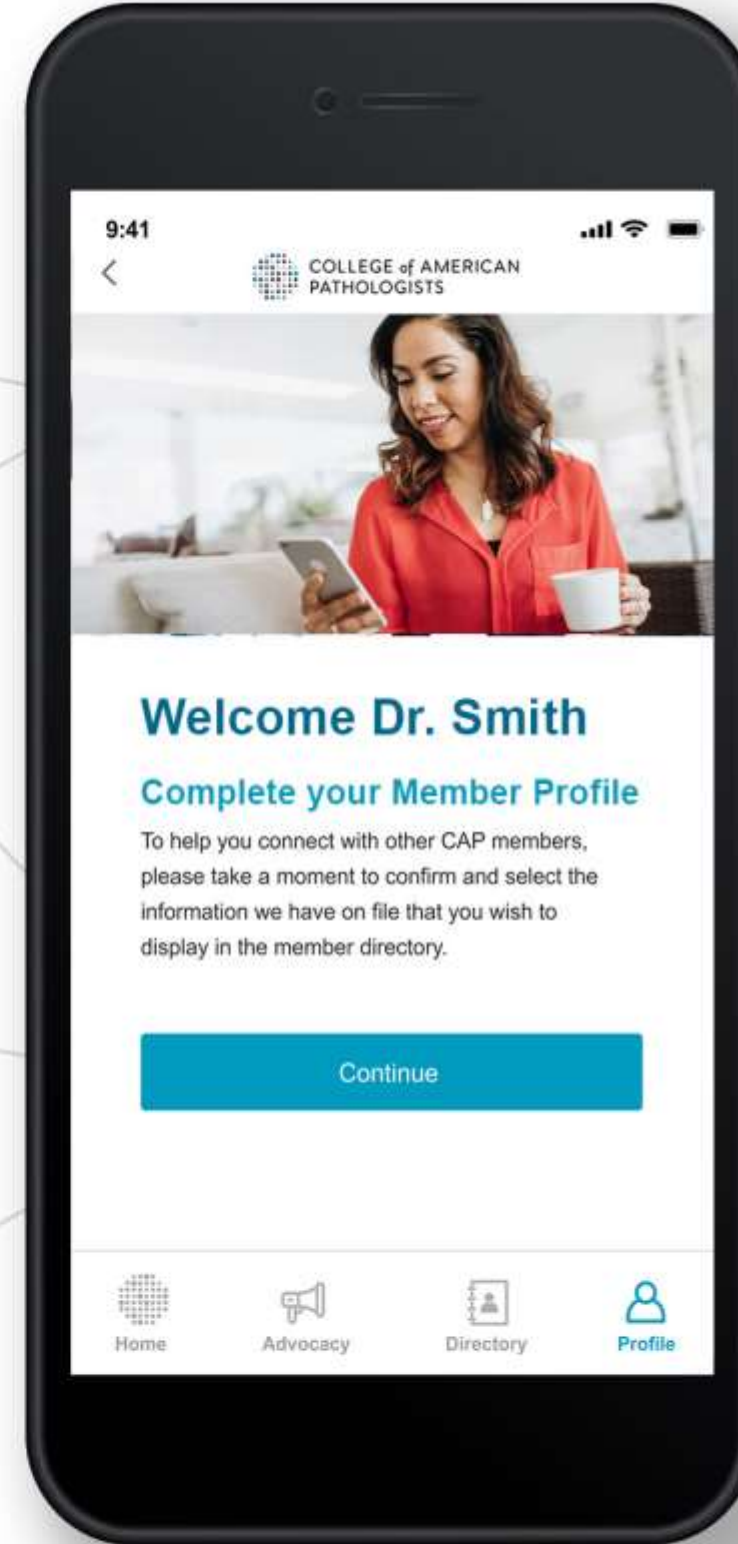
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- **Laboratory Accreditation and Quality**

- Nearly 8,000 laboratories CAP-accredited worldwide
- Over 23,000 laboratories in more than 100 countries use CAP PT materials

- **Member Services**

MyCAP



The CAP Is Your Professional Home

For Advocacy

For Quality

For Your Career

Please take a moment to give us your feedback by completing a CAP evaluation form.



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