Karen Saylor, MD, President | Jeffrey S. Barkin, MD, President-Elect | Erik N. Steele, DO, FAAFP, Chair, Board of Directors
Andrew B. MacLean, JD, CEO | Dan Morin, Director of Communications & Government Affairs

TO: The Honorable Heather Sanborn, Chair
The Honorable Denise Tepler, Chair
Members, Joint Standing Committee Health Coverage, Insurance and Financial Services

FM: Dan Morin, Director of Communications and Government Affairs

DATE: April 21, 2021

RE: **Opposed**
LD 1481, An Act To Clarify Surprise Billing Restrictions

The Maine Medical Association is the state's largest professional physician organization representing more than 4300 physicians, residents, and medical students across all clinical specialties, organizations, and practice settings.

The MMA opposes LD 1481, An Act To Clarify Surprise Billing Restrictions, as amended.

PL 2019, c. 668, §2 (AMD) was a measured and balanced legislative solution, fair to both providers of emergency services and insurers while fully protecting patients from surprise bills. The groundwork for the new law treated stakeholders equally while protecting patient access to care. It has been law for only one year. LD 2105 was voted unanimously out of this committee and passed under the hammer in both chambers before being signed into law by Governor Mills as emergency legislation on March 18, 2020. Maine Bureau of Insurance rules were adopted a week before Halloween. Only 174 days ago. Shorter than the current school year. Why the quick move the change it?

LD 1481 will seemingly recreate imbalances in the private health care marketplace. We are highly concerned that repealing 24-A MRSA §4303-E, sub-§1 (G), will shift leverage back to health insurers at the expense of emergency physician services. Currently, that section of law allows reimbursement to the out-of-network provider as long as the provider's charges do not exceed the 80th percentile of charges by a health care professional in the same or similar specialty and in the

same geographical area for charges less than $750.

Repealing 24-A MRSA §4303-E, sub-§1 (G) while also removing the backstop of an additional independent medical claims database to the Maine Health Data Organization in 24-A MRSA §4303-C, sub-§2 (B) and replacing it with the carrier's median network rate is also problematic. Another known independent, transparent, and verifiable database is preferred.

Payments based only on median contracted rates will have a ripple effect on all future contracts placing the carriers—again—in the dominant position since the out-of-network payment rate becomes the new natural "high" in a geographic area, and future in-network contracts will always be lower. In fact, the Congressional Budget Office acknowledges as much in its most recent estimate of federal surprise billing discussions, noting that (*emphasis added*) **"...payment rates for both in- and out-of-network care would move toward the median in-network rate which tends to be lower than average rates**." (page 20, paragraph one)

It is no secret that national insurers posting large financial gains during the pandemic due to patients avoiding medical care and decreased hospital utilization during the emergency. Recently released fourth quarter COVID-19 numbers for carriers also showed substantial revenue increases.

Thank you for the opportunity to comment. The MMA urges a vote of Ought Not to Pass on LD 1481, An Act To Clarify Surprise Billing Restrictions, as amended.