Testimony in Support of:

LD 1301, *An Act to Prohibit the Use of Artificial Intelligence in the Denial of Health Insurance Claims* and **LD 955**, *An Act to Ensure Human Oversight in Medical Insurance Payment Decisions*

Senator Bailey, Representative Mathieson and Honorable Members of the HCIFS Committee:

My name is Gwen Simons. I am a physical therapist and healthcare lawyer in Scarborough and the lobbyist for the Maine Chapter of the American Physical Therapy Association ("MEAPTA"). The Maine APTA represents over 2500 physical therapists (PTs) and physical therapist assistants (PTAs) in Maine.

The use of AI in prior authorization and medical review procedures in physical therapy has been a huge problem for the last 15 years. The algorithms that are being used are arbitrary and capricious – designed just to frustrate providers and patients so they won't ask for more visits and won't pursue appeals. We believe carriers should be using clinical peer reviewers who can apply evidence-based practice guidelines to the medical issues in each individual patient's case. Algorithms don't make medical decisions, providers do.

Our only input on the drafting of these bills is:

- LD 955 – In lines 13 and 29 where it states the utilization review must be conducted by a physician, add "or clinical peer" as defined by Rule 850. This is necessary for the language to be consistent with the state and federal laws for medical necessity appeals.
- In whatever language comes out of the merging of these two bills, make it clear that a *failure to approve* a prior authorization request for treatment *is a constructive denial* so that carriers cannot circumvent the intent of the law by using AI to partially, but not fully, approve a course of treatment.

If you need any additional information, please feel free to contact me.

Respectfully,

Gwen Simons, Esq, PT, OCS, FAAOMPT

Gwen Simons, Esq, PT, OCS, FAAOMPT
Lobbyist, Maine Chapter APTA
gwen@simonsassociateslaw.com 207.205.2045