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Testimony of Representative Patty Hymanson LD 333, “An Act Regarding Telehealth” May 6, 2021

Good afternoon Senator Sanborn, Representative Tepler and the esteemed Joint Committee on Health Coverage, Insurance and Financial Services. I am Representative Patricia Hymanson and I represent House District 4, which consists of parts of York, Wells, Sanford and all of Ogunquit. I come before you today to introduce LD 333, “An Act Regarding Telehealth.”

You will hear a lot of enthusiasm today for maintaining the expansion of telemedicine the pandemic has afforded us both in the provider and in the patient sectors. I share that enthusiasm and also caution. This bill reflects both.

I want to thank the Maine Medical Association for working with me on this bill, the clinicians around the state who shared their experiences with me and my own patients who left me with the idea that we needed telemedicine to help improve quality, improve access and lower the cost of care for patients. Of these 3 metrics, it is easy to see that telemedicine improves access, especially in a rural state. I had a patient with severe migraine who had to drive from Biddeford to my office in Portsmouth even when she had a migraine or when she could report to me that everything was going well. Because I knew her so well, both of these visits could have been handled via telemedicine if it were possible at the time.

The other 2 metrics, which to are improve quality and to lower the cost of care for patients, need to be looked at more carefully over time and with attention; otherwise we could have poorer care, inequities and even larger medical bills.

This bill, LD 333, adds “audio-only telephone” to the definition of “telehealth” but only after the provider determines that real-time visual with audio is not available, infeasible or impractical. If the exam is not in-person, audio-visual can be adequate but audio-only is not adequate unless there are barriers to better care.

There is still real value to an in-person exam using all the examiner’s senses. A diagnosis is more complete, as is the building of a trusting relationship for the future. The in-person examination is the standard of care and some states have laws that mandate the primary provider must physically examine the person at an interval, for example at least 18 months, before a telemedicine visit can be used. That is not in this bill but I ask you to consider it.

This bill provides for reimbursement through telehealth services on the same basis at which the carrier reimburses for a substantially similar service through in-person consultations. This bill establishes that telehealth is included in the deductible limits with other services with no separate deductible limit. Also, prescribing medication by telemedicine would be the same as if prescribed in-person.

In line 7 of page 2, I would ask that you consider amending the line by inserting “as determined by the provider” after “medically appropriate.” If I leave you with only one message, it is that telemedicine needs to be a tool for the provider, not a tool the payer controls. This is very important. A dermatologist in York told me she stopped using telemedicine to diagnose skin lesions because the lighting and contrast, and the inability to touch the skin, were impediments to her being able to make a diagnosis. The provider has to have discretion to stop the telemedicine visit and convert it to an in-person exam, require an in-person exam or judge that a telemedicine visit is the best option. Who pays for the telemedicine visit exam that the provider rightly converted? We talk about value-based care, but we still use fee-for-service payments.

This bill, like most others, was submitted by cloture in December 2020. Federal, state, payer and private companies have had vigorous conversations about how to manage telemedicine after the public health emergency. Waiting for the dust to settle a little more before changing Maine law by carrying over the Acts and bridging with a Resolve might help create better and longer-lasting statutes.

Thank you for your attention and consideration of this important and transformational tool to bring better quality, access and lower costs to health care so that Mainers can be their best and healthiest selves. I am happy to answer questions as I am able and I plan to be at the work session.