

**Testimony of Newell Augur**  
**Before the Joint Standing Committee on Health and Human Services**  
**In Support of LD 595, Resolve to Ensure that Access to Oral and Facial Ambulatory**  
**Surgical Centers in Maine Remains Viable**

**Sponsored by Senator Stewart**

**March 25, 2021**

Senator Claxton, Representative Meyer and members of the Health and Human Services Committee, my name is Newell Augur. I am a lawyer with Pierce Atwood and a resident of Yarmouth. I am testifying today in support of LD 595, Resolve to Ensure that Access to Oral and Facial Ambulatory Surgical Centers in Maine Remains Viable.

The purpose of this bill is limited in scope, but it would have a significant impact. It would direct DHHS to increase the reimbursement rate for the facility fee for ambulatory surgical centers performing dentoalveolar procedures. Increasing this reimbursement rate would stabilize and secure the viability of the Northern Maine Oral and Facial Surgery Associates (NMOFS) and improve the practice's ability to see additional MaineCare patients. NMOFS is the only ASC facility in Maine that performs dentoalveolar procedures. It is the only oral surgery option north of Bangor and one of only two oral surgery practices in the State that accepts MaineCare without qualification. The other provider, located in Cumberland County, currently has about a four year wait to get an appointment.

Examples of dentoalveolar procedures include extractions (including the removal of impacted 3<sup>rd</sup> molars), surgical exposure of an unerupted tooth, surgical repositioning of teeth, and apicoectomy (which is an endodontic surgical procedure whereby a tooth's root top is removed and a root end cavity is prepared and filled with a biocompatible material). Apicoectomy is necessary when conventional root canal therapy has failed and a re-treatment was already unsuccessful or not advised, and hard or soft tissue grafting (to aid in the reconstruction of surgical, traumatic, or congenital defects of the facial bones). The current reimbursement for this billing code, 41899, is \$176.35.

MaineCare pays a facility fee to ambulatory surgery centers for these procedures in recognition of the many costs necessary to meet the exacting requirements to maintain that facility (as opposed to operating a general medical office). There are multiple ambulatory surgical centers in Maine that perform a variety of different services (orthopedic, ophthalmologic, gastroenterological). For NMOFS to maintain their surgical center they must pay AAAHC and State licensing fees, credentialing fees, yearly inspections, repair and testing of surgical equipment, as well as building, sprinkler, electrical, and ventilation upgrades.

As a point of comparison, the MaineCare reimbursement rate to ASC's for procedures of similar time and skill for is \$ 785.68 for a circumcision, \$ 781.71 for carpal tunnel surgery and \$ 977.33 for cataract surgery.

Because NMOFS has an ambulatory surgical center as part of its practice, it is able to treat especially acute patients who need special attention (such as severe autism) or who have complex medical history (such as malignant hypothermia, brain cancer). Similarly, at an ASC patients can receive care for more complicated procedures such as orbital fractures, nasal fractures, and other broken bones above the collar bone. In the alternative, these patients and these procedures would have to take place in a more controlled setting - usually a hospital - that can be - on average - ten times more expensive. That means higher costs to private payers as well as to MaineCare.

Further, because NMOFS is one of only two oral surgery associates that accepts MaineCare and the only option north of Bangor, the whole of Northern and Eastern Maine – if not the entire state – is dependent upon their work. NMOFS receives MaineCare referrals from across the State and has a waiting list of more than 1,000 patients. They receive nearly all the referrals from the Passamaquoddy and Micmac Nations and most of the referrals from Maliseet Nation as there are no oral surgeons in Washington County.

We realize the Department is engaged in a comprehensive assessment of MaineCare rate setting to move away from uncoordinated adjustments of rates and towards a model that embraces a regular, systematic review. We appreciate that effort and agree that it is long overdue. We are also encouraged by Director Probert's recent presentation to this Committee and to the Appropriation and Fiscal Affairs Committee where she cited the need to do further research in a number of dental services categories - and make an investment in 2022 to address lower rates for many of those dental procedures.

We would note that there is no corresponding Medicare rate for the ASC facility fee for dentalalveolar procedures. However, there are a number of equivalent benchmarks along the lines that Meyers & Stouffer used as part of their interim recommendation. Among private payers, the corresponding reimbursement rate in the VA is \$810.00; for Blue Cross Blue Shield, it is \$810.00; for EBPA (a health administrator of self-funded employer groups that works with Cary Medical Center), it is \$729.00.

With respect to the other five states Meyers & Stouffer looked to in evaluating MaineCare rates, Montana's Medicaid program pays \$2,042 for ASC facility fee for dentalalveolar procedures. New Hampshire's is \$218, but it's a phantom number in many respects because there is no free standing ambulatory surgical center in New Hampshire performing dentalalveolar procedures. Vermont, Connecticut and North Carolina did not have a specific listed procedure code (for unrelated reasons) although there are other states that do have a comparable billing code including Alaska (\$898.08), Colorado (\$1046.48), Kentucky (\$921.15) and Ohio (\$1,100).

Thank you in for the opportunity to testify. I'd be happy to answer any questions and will attend the work session