AMA
AMERICAN MEDICAL ASSOCIATION

JAMES L. MADARA, MD
EXECUTIVE VICE PRESIDENT, CEO

ama-assn.org
t (312) 464-5000

September 25, 2020

The Honorable Pamela Hunter
Chair
The Honorable Deborah Ferguson
Vice Chair
National Council of Insurance Legislators
Health Insurance & Long-Term Care
Issues Committee
2317 Route 34 S, Suite 2B
Manasquan, NJ 08736

Re: AMA Comments on NCOIL Telemedicine Authorization and Reimbursement Act

Dear Chairwoman Hunter and Vice Chairwoman Ferguson:

On behalf of the American Medical Association (AMA) and our physician and student members, I write to offer comments on the National Council of Insurance Legislators' (NCOIL) draft Telemedicine Authorization and Reimbursement Act (draft model act).

The AMA appreciates the opportunity to engage with NCOIL, and specifically the Health Insurance and Long-Term Care Issues Committee (the Committee), on such a timely effort when the COVID-19 pandemic is pushing stakeholders to realize the value of care provided via telehealth. The AMA sees the current draft model act as a good starting point for an important resource for state legislatures.

The telemedicine landscape is quickly evolving, especially due to its rapid adoption during the COVID-19 pandemic. The AMA is currently in the process of defining key terms within the digital medicine landscape, including telehealth and telemedicine. As such, we will not comment on the definitions section at this time, however, we welcome the opportunity to provide more detailed comments on this section and share our language for consideration by the Committee in the near future.

Below are several recommendations to the current draft. As you will see, our priorities are focused largely on advancing the availability of telemedicine as a valuable means of providing care when clinically appropriate, though not as a replacement for offering covered services in-person. Telemedicine should be integrated seamlessly into the health care system, accessible to patients and physicians alike and covered in the same manner as care provided in-person. Telemedicine has the ability to improve care coordination, ensure that vulnerable populations have access to their physicians and providers and to create efficiencies in the health care system that come with expanding the means by which care can be provided.

Section 4, Coverage of Telemedicine Services

The AMA supports the language in Section 4 of the model bill expanding coverage and payment of services provided via telemedicine. In particular, the AMA strongly supports the language in subsections (A) and (B)—specifically the language stating that insurers should not exclude a service for coverage solely because the service is provided through telemedicine services. The AMA also supports fair payments to further the advancement of telemedicine and believe as audio-video telemedicine is commensurate with in-person visits, payment should be the same.

As more physicians have implemented telemedicine into their practices, it is increasingly likely patients can access services via telemedicine from the same physician who provides their care in-person. We see this as means of strengthening the patient-physician relationship and promoting continuity of care. The AMA believes telemedicine policies should support this framework centered on the notion that telemedicine should be a supplement to, not a replacement for, in-person care or provider networks. As such, the **AMA also respectfully suggests the following recommendations to support this framework:**

- Under **subsection (E),** the AMA urges the Committee to prohibit using cost-sharing as a means to incentivize the use of telemedicine or in-person care or as a means to incentivize care from a separate or preferred telehealth network. Additionally, the AMA suggests clarifying that payers may not create separate cost-sharing requirements or structures for in-person care and care provided via telemedicine.

- Under **subsection (I),** the AMA suggests adding language to prevent utilization review requirements from being used a tool to incent either the use of telemedicine or in-person services, provided that telemedicine would be a clinically appropriate means of providing the covered care**.**

- **The AMA urges the committee to add a subsection that ensures payers allow all contracted physicians to provide care via telemedicine.** The AMA hears from physicians who are being prevented from, or facing barriers to, providing covered services via telemedicine to their patients. Usually this is because payers have separate or preferred telemedicine provider networks. However, perpetuation of separate networks is confusing for patients and threatens continuity of care and the patient-physician relationship.

- **The AMA supports the addition of language that recognizes access to telemedicine as a supplement to, not a replacement for, access to in-person care.** Patients should always have the opportunity, to access care in-person if they choose without additional cost-sharing or other barriers. Moreover, it is often impossible for a physician to know whether a telemedicine visit may necessitate follow-up care in person. As such, we urge the Committee to add language that prevents the "counting" of telemedicine-only providers as a way to meet network adequacy requirements (i.e. regulators must evaluate network adequacy based on access to in-person care).

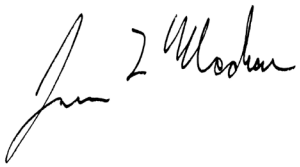
- **The AMA emphasizes that transparency of coverage is important** and urges the Committee to include language in the draft model act that requires payers to clearly publish and communicate the scope of coverage and patient cost-sharing of services provided via telemedicine. This provision should apply to all plans regulated by the state, including short-term limited duration insurance plans.

Section 5, Limited Telemedicine License

To protect patients, the AMA believes that physicians and other health care professionals providing care via telemedicine must be licensed or otherwise authorized to practice in the state where the patient is receiving care. This ensures the state practice acts, informed consent and scope of practice laws apply, and the state has oversight of the health care professional. The AMA cautions against language creating a new mechanism for a limited telemedicine license and would encourage the Committee to consider supporting the Interstate Medical Licensure Compact (IMLC), which has already been adopted by 29 states plus DC and Guam and was created, in part, to promote telemedicine. The IMLC provides an expedited pathway for physicians to obtain a full unrestricted license to practice medicine from other Compact states.

The AMA thanks you for this opportunity to comment and looks forward to the opportunity to discuss these and other suggested changes to the draft model act with the Committee at the NCOIL 2020 Summer Meeting. In the meantime, please contact Kimberly Horvath, JD, Senior Legislative Attorney, AMA Advocacy Resource Center at kimberly.horvath@ama-assn.org or Emily Carroll, JD, Senior Legislative Attorney, AMA Advocacy Resource Center at emily.carroll@ama-assn.org with any questions.

Sincerely,



James L. Madara, MD