AMA
AMERICAN MEDICAL ASSOCIATION

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July 14, 2021

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) and to provide additional information for the Health Insurance and Long-Term Care Issues Committee's (the Committee) consideration. The AMA appreciates the opportunity to engage with NCOIL and commends the Committee on their continued work on the draft model act.

Throughout the pandemic patients and physicians alike came to realize the value of telehealth first as a necessary modality to provide care that would otherwise be unavailable to the seamless integration of telehealth into the full spectrum of care. We continue to focus our priorities on supporting access, coverage, and payment policies that further the continued advancement of telehealth as a valuable means of providing care when clinically appropriate. As we move to a hybrid model of care where telehealth is integrated seamlessly into the health care system, accessible to patients and physicians alike, and covered in the same manner as care provided in-person, we encourage NCOIL to consider the following policy objectives:

- Coverage of telehealth should be on the same basis as comparable services provided in-person and not limited only to services provided by select corporate telemedicine providers.
- Payment of telehealth should be fair and equitable, regardless of whether the service is performed via audio-only, two-way audio-video, or in-person.
- Polices should promote equitable access to telehealth services, especially for at-risk and under-resourced patient populations and communities, including but not limited to supporting increased funding and planning for telehealth infrastructure such as broadband and internet-connected devices for both physician practices and patients.

The AMA offers the following specific comments for the Committee's consideration of Sections 4 and 5 of the August 25, 2020 version of the draft model act.

Section 4. Coverage of Telemedicine Services

The AMA reiterates our strong support for the draft model act's language in Section 4. The lack of reliable coverage and payment of telehealth is a major impediment to access to telehealth services. According to the COVID-19 Health Care Coalition telehealth survey, health care professional respondents (73%) cited low or no reimbursement as the biggest barrier or challenge to maintaining telehealth after COVID-19. As the public health emergency expires in many states, there is a growing concern around the potential roll-back of temporary payment and coverage policies for telehealth that were instrumental in the implementation of telehealth by physician practices over the past 18 months. As stated in our previous letter to the Committee, the AMA supports the language in Section 4 of the draft model act expanding coverage and payment of services provided via telehealth. 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 and equitable payments of telehealth, whether the service is performed via audio-only or two-way audio-video.

Since the Committee last met, additional research has become available demonstrating the value of telehealth which we believe supports the coverage and payment policies in NCOIL's August 2020 version of the draft model act. This includes a recently released report, *Return on Health: Moving Beyond the Dollars and Cents in Realizing the Value of Virtual Care* (the Report), developed by the AMA in partnership with Manatt Health, which sought to expand on existing research to create a more robust framework for measuring the overall value of telehealth. The Report focuses not just on narrow short-term measures of the financial value of telehealth such as the average cost of a telehealth visit compared to an in-person visit, but rather examines a broader framework including longer-term implications of telehealth across six value streams: clinical outcomes; quality and safety; access to care; patient, family and caregiver experiences; health care professional experience; financial and operational efficiencies; and health equity. The Report provides several real-world examples of the impact of virtual care, including telehealth, across these value streams, as well as a framework to measure the future value of digitally enabled care. **Based on findings from real-world examples and other studies referenced in the Report, virtual care, including telehealth, can result in costs savings, improved patient outcomes, increased patient satisfaction and real dollar savings in time and travel for patients, increased physician satisfaction, increased access to care, and improved financial and operational efficiencies.**

Another significant change over the last year is a shift from a system whereby telehealth and in-person care were provided on parallel tracks, to one where patients are more likely to access services via telemedicine from the same physician who provides their care in-person. This seamless integration of telehealth strengthens the patient-physician relationship and promotes continuity of care, which in turn results in improved patient satisfaction, improved patient outcomes, and lower overall health care costs. The AMA believes telemedicine policies should support this framework, as such, the **AMA also respectfully suggests the following recommendations be included in Section 4 of the draft model act:**

- Under **subsection (E),** the AMA urges the Committee to add language prohibiting payers from 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 as 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 continues to hear 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. Many states have language stating telehealth/telemedicine coverage shall not be limited to services delivered by third-party providers, which could serve as a model.

- **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.

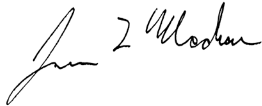
- We understand the Committee will be considering whether to address network adequacy in the draft model bill. The AMA supports the addition of language that recognizes access to telemedicine as a supplement to, not a replacement for, access to in-person care. Patients should always have the opportunity 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. Regulators must evaluate network adequacy based on access to in-person care.**

<u>Section 5. Limited Telemedicine License</u>

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 broad 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 33 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. To support ongoing care of patients, the AMA also supports state efforts to create a separate exemption for licensure or other means to allow out-of-state physicians to care for patients if there is an established ongoing patient-physician relationship and previous in-person visits, and the care is incident to an ongoing care plan or one that is being modified.

The AMA thanks you for this opportunity to comment and looks forward to the Committee's continued work on the draft model bill. 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 or if we can be of further assistance.

Sincerely,



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