Maine Medical Association

TO: The Honorable Heather Sanborn, Chair
The Honorable Denise Tepler, Chair
Members, Joint Standing Committee Health Coverage, Insurance and Financial Services

FM: Dan Morin, Director of Communications and Government Affairs

DATE: May 6, 2021

RE: **Support**

LD 333— An Act Regarding Telehealth

The Maine Medical Association is the state's largest professional physician organization representing more than 4300 physicians, residents, and medical students across all clinical specialties, organizations, and practice settings is submitting testimony in support of LD 333, An Act Regarding Telehealth.

First, we would like to formally thank Representative Patty Hymanson, M.D., for her interest in the issue and for sponsoring the bill. She has been an excellent advocate for accessible health care her constituents, all residents of Maine, and her physician colleagues.

LD 333 does four basic things:

- It authorizes audio-only health care.
- Clarifies that reimbursement must be made on the same basis and the same rate as in person care.
- It identifies that no insurance carrier can implement separate deductible limits that are not applied in aggregate with other covered services.
- It prohibits insurance carriers from implementing more restrictive prescribing requirements for telehealth prescriptions than prescriptions given in person.

While telehealth has been around for many years, it took a global pandemic for it to truly go mainstream for many clinicians and their patients. Widespread use of telehealth has arrived. LD 333 helps us maintain gains that may have taken years to achieve, but instead took months, sometimes weeks, and days in some cases.

Will federal and state rules snap back and again present obstacles? We hope the discussions before you this Session on LD 333, and other bills before you today will help answer those questions.

The Maine Medical Association's goal with this legislation is to assist our physician members with telehealth options and guidelines to improve the care they provide their patients and sustain the business models they work under, whether that is in private practice, within a hospital, or part of a larger health system. That means exploring as many workable options as possible to promote ongoing accessible safe and affordable care in the environment best suited for providing it by clinicians best prepared, qualified, and trained to provide it.

When appropriate and necessary emergency pandemic measures were implemented in Maine last spring, the number of office visits for Maine patients either dramatically dropped or ceased all together. As a result, we heard countless concerns, especially from rural members about delayed and necessary care for their patients.

Rural Maine prays death will wait as pandemic upends tradition and civic life (Bangor Daily News, April 2020)
Unprecedented mental health crisis looms as Mainers battle COVID-19, economic downturn, experts warn (WCSH, May 2020)
More Mainers are delaying medical care because of the coronavirus (Bangor Daily News, May 2020)

At the federal level, the Centers for Medicare & Medicaid Services changed Medicare payment policies to reimburse telehealth visits for a wider range of care, and some Health Insurance Portability and Accountability Act (HIPAA) restrictions were temporarily loosened to make it easier for doctors to communicate with their patients through whatever devices they chose. Prior to the pandemic, telehealth would only be reimbursed by Medicare for limited circumstances, such as

patients living in rural areas with little access to care. The communication changes removed requirements for patients to only use often clunky HIPAA-compliant platforms, opening the ability to use smartphones and increasing consumer convenience. Most private payers also followed Medicare's lead and changed their reimbursement policies.

As an aside, yet important, telehealth also proved to be a lifeline for many medical practices across the country, including Maine, that suffered severe business impacts along with many other small Maine businesses. Keeping these access points available and viable could not have been done without telehealth advances.

Maine's Independent Physicians Saw Steep Revenue Declines When Offices Shut Down (Maine Public Radio, May 2020)

It is important that Mainers not lose the many advantages of continuing coverage of telehealth services beyond COVID-19. It has been a huge advantage for patients with mobility problems, those who lack transportation access or live far from their physician's office and all barriers to timely care. It is a major advantage in situations in which travel is dangerous or infeasible, epidemics, severe weather, natural disasters, etc. Telehealth is also preferable to many in situations in which in-person visits carry health risks, e.g., communicable diseases, immunocompromised patients.

Telehealth also enables more coordinated care by including two or more physicians or other clinicians (e.g., a PCP and a specialist) that are located in different places in the patient visit. It can also enable a family member or caregiver to participate in a visit along with the patient without having to be physically present.

Pandemic telehealth advances have led to high patient satisfaction: "The overall customer satisfaction score for telehealth services is 860 (on a 1,000-point scale), which is among the highest of all healthcare, insurance and financial services industry studies conducted by J.D. Power" J.D. Power 2020 U.S. Telehealth Satisfaction Study

It will be incredibly important to maintain appropriate reimbursement across the health care coverage spectrum. Fair payments, and ongoing state budget investment discussions, should also support advancement and investments in telehealth.

According to the COVID-19 Healthcare Coalition, Survey of physicians and other qualified health care professionals conducted between July 13 and August 15, 2020, 73.3% of physician respondents indicated no or low reimbursement for telehealth will be a major challenge post COVID.

LD 333 includes cost-sharing provisions for private carriers. They should not be used to incent care away from, or toward certain providers. Reducing cost-sharing for select telehealth providers who do not also provide in-person services inappropriately steers patients away from their current physician, fragmenting the health care system and disrupting the continuity of care.

We also hope any comprehensive telehealth legislation decided along with your legislative colleagues in the House and Senate be taken in concert with equitable access to telehealth through expanded broadband, expanded acceptable modalities, and policies to promote digital literacy. The same above-referenced COVID-19 Health Coalition Survey revealed that 64 percent of clinicians stated technology challenges for patients were a barrier to sustainable use of telehealth, including lack of access to technology, and/or internet/broadband and low digital literacy. These issues have been echoed in our discussions and correspondence with MMA members.

In closing, many members wanted to stress that in many cases a patient-physician relationship may need to be established before the provision of services via telehealth. However, for new patients, a relationship can be established via telehealth if it meets the standard of care, including via real-time audio/video under appropriate circumstances.

Thank you for your time and consideration of our comments and suggestions in support of LD 333, An Act Regarding Telehealth. We look forward to working with members of the Committee, the Governor's office, and stakeholders across Maine to pass meaningful legislation to maintain and improve the health of your constituents.

Ongoing Value of Telehealth

- Address longstanding health inequities
- Improve access to specialists in rural or underserved areas.
- Provide patients flexibility in how they receive care.
- Integrating high quality telehealth into physician practice (hybrid care) can improve overall quality of care.

Medicare Started Covering Audio-Only Visits

- CMS changed CPT codes for telephone evaluation and management services from non-covered to active, for new or established patients.
- Helps patients who cannot engage in 2-way, real-time audio-video communication due to lack of connectivity, or not having, knowing how to use, or being comfortable with audio-video devices.
- Payments for the three CPT codes for audio-only visits of 5-10, 11-20, or 21-30 minutes are equivalent to in-person established patient office visit codes.

Telehealth and Other Flexibilities During COVID-19 from the Drug Enforcement Agency (DEA) & Substance Abuse and Mental Health Services Administration (SAMSHA)

- Controlled substance prescriptions may be based on telehealth visit, including audio-only telephone visit.
- Physicians with X-waiver to prescribe buprenorphine for opioid use disorder can initiate or continue treatment with telehealth or phone visits.
- Opioid treatment programs (OTPs) can initiate new patients and treat existing patients on buprenorphine using telehealth or phone visits; existing patients on methadone can be treated via telehealth or phone.
- OTPs can provide stable patients with take-home medication.
- Alternate satellite locations (such as temporary surge hospitals) do not need to apply for their own DEA number.