



MASSACHUSETTS MEDICAL SOCIETY

Every physician matters, each patient counts.

June 8, 2021

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The Honorable Ronald Mariano, Speaker
Massachusetts House of Representatives
State House, Room 356
Boston, MA 02133

Dear Mr. Speaker:

The Medical Society would like to thank you for your leadership on a number of pressing health care issues related to the COVID-19 pandemic. We commend both the Administration and the Legislature on swift and thoughtful measures enacted throughout the emergency to protect and facilitate access to health care services for patients in Massachusetts, particularly for measures that enabled physicians to quickly adjust care delivery within their practices to embrace telehealth. As you consider Governor Baker's legislation (S. 2452, *An Act to temporarily extend certain measures adopted in the state of emergency*), MMS wishes to highlight a few areas of concern prompted by the lifting of the state of emergency that could be addressed, including: the sunset of certain telehealth reimbursement parity requirements; continuation of patient protections against surprise billing; and medical licensure issues related to practicing telehealth across state lines.

Sunset of Reimbursement Parity Requirements

The top concern for physicians across the Commonwealth is the expiration of certain telehealth reimbursement parity requirements. Chapter 260 of the Acts of 2020 sunsets reimbursement parity for many telehealth services 90 days after the end of the COVID-19 state of emergency. The physician community has previously voiced serious concern about the adequacy of a 90-day timeframe to address a significant shift in reimbursement policy. Given the Governor's announcement that the state of emergency will be lifted on June 15th, we believe an additional 90 days is essential to support as smooth a transition as possible. **We therefore ask the Legislature to amend Section 79 of Chapter 260 to extend the glidepath for changes in telehealth reimbursement by an additional 90 days, for a total of 180 days.**

Over the last few months, the Division of Insurance (DOI) and MassHealth facilitated a 5-part listening session with stakeholders. In these sessions, it became apparent that there are fundamental regulatory matters of interpretation that need to be addressed. For example, how will a telemedicine visit be defined? How will the state define the different categories of care identified – e.g. behavioral health services, primary care services, and chronic disease management services? How will the Division regulate billing and coding of services delivered via telemedicine? It is critical to have answers to these fundamental questions to understand how these changes in reimbursement

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requirements will impact the practice of medicine via telehealth. It will be exceedingly challenging, if not impossible, for providers and payers alike to establish a permanent framework for telehealth services if they do not know the rules.

Expiration of the parity requirements in September, before DOI has time to formally promulgate regulations, will not allow sufficient time for physicians, health systems, and payers to then incorporate the new framework into their clinical, billing, and payment systems. This sudden expiration will create massive uncertainty for physicians and patients, and it will be potentially disruptive to patients' access to care. Since the onset of the COVID-19 pandemic, physician offices have undergone a massive transformation to redesign care delivery, working to develop protocols and establish systems, workflows, and staffing for telehealth services alongside traditional in-person care. These changes took a significant amount of time and resources through complex coordination between revenue, contracting, and finance teams and it will be extremely challenging to adjust to a new – presently unknown – reimbursement framework. An additional 90 days is critical to give all stakeholders enough time to respond to forthcoming changes in medical coverage, adjust workflow and scheduling of patients, and respond to other administrative changes (e.g. billing), as well as prepare patient communications about the continued ability to access services through telehealth in the long-term.

Continuation of Patient Protections from Surprise Bills

The Medical Society has long supported efforts to protect patients from surprise medical bills. We supported temporary efforts throughout the COVID-19 state of emergency to ban balance billing to ensure that patients are held harmless from these bills. We support provisions in S.2452, *An Act to temporarily extend certain measures adopted in the state of emergency*, filed by Governor Baker, to extend these important patient protections for the remainder of the calendar year. We will continue to engage with the Legislature on the issue, as well as with the Secretary of Health and Human Services, the Health Policy Commission, the Center for Health Information and Analysis, and the Division of Insurance, as they work to develop a report and make recommendations on establishing a noncontracted, out-of-network commercial payment rate for emergency health care services and a noncontracted, out-of-network commercial payment rate for non-emergency health care services in the Commonwealth. The proposal in Section 3 of Senate bill 2452 to extend patient protections from surprise billing through this calendar year will provide a necessary and prudent bridge until the federal out-of-network billing law becomes effective in January 2022.

Physician Licensure: Practicing Telehealth Across State Lines

Lastly, as the state contemplates additional matters that will arise from the wind-down of the state of emergency, we wish to highlight the need to address physician licensure matters resulting from and exacerbated by the rapid increase in the use of telemedicine across state lines. MMS encourages the Senate to

amend S.2452 to add a provision directing EOHHS to establish a task force on interstate medical licensure compact and licensure reciprocity issues.¹ The task force would be charged with conducting an analysis and reporting on its evaluation of the Commonwealth's options to facilitate appropriate interstate medical practice and the practice of telemedicine, including the potential entry into an interstate medical licensure compact or another type of licensure reciprocity agreement.

The continued practice of medicine, in particular telemedicine, across state lines is an important but complicated issue impacting many aspects of physician practice in Massachusetts, especially in light of increased utilization of telehealth. As the Legislature has taken important steps to facilitate telemedicine access for patients within Massachusetts, questions have arisen about how Massachusetts physicians can provide care when their patients have crossed a state border. Careful consideration must be given to the existing physician workforce, the ability of physicians to maintain continuity of care across state lines, including via telehealth, an analysis of registration models for providers who may provide care for patients via telehealth with the provider located in one state and the patient located in another state, provider responsibilities for registration and reporting to state professional licensure boards, the impact on health care quality, cost and access, and barriers and solutions regarding prescribing across state lines.

The Interstate Medical Licensure Compact is fundamentally different than many other health care professional compacts. It does not grant a right to practice across state lines, but instead provides a pathway for physicians to apply for other state licenses in a streamlined fashion. It alone will likely not provide the solution for many physicians who may treat a small number of patients across many different states. We therefore urge that it be discussed as part of a larger Task Force on the topic of interstate medical practice and licensure, which will also explore alternative licensure solutions, such as the feasibility of a regional reciprocity agreement and interstate proxy credentialing, among other considerations.

The Medical Society wishes to thank the Baker Administration and the Legislature for acknowledging the need to address several issues that have arisen during this challenging, unprecedented transition out of a state of emergency. With some thoughtful, tailored legislative assistance, patients and physicians across the Commonwealth can plan for and understand a smooth, transparent transition to the new normal of post COVID-19 state of emergency.

Sincerely,

Carole E. Allen, MD, MBA, FAAP

¹ Applicable language was included as House Budget Amendment 434, filed by Rep. Driscoll. This language is also included in Section 27 of H.1101, *An Act relative to telehealth and digital equity for patients*, filed by Rep. Golden.