



MASSACHUSETTS MEDICAL SOCIETY

Every physician matters, each patient counts.

December 29, 2020

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The Honorable Charlie Baker
Governor of the Commonwealth of Massachusetts
State House
Boston MA 02133

Dear Governor Baker,

The Massachusetts Medical Society (MMS) appreciates the legislature's attention to the health care needs of the residents of the Commonwealth and its passage of S.2984, *An Act promoting a resilient health care system that puts patients first*. This bill was enacted in the House and Senate late last week and is currently on your desk for further action. The MMS supports much of this landmark legislation that will benefit patients and our health care system as the Commonwealth continues to face the most serious public health crisis in modern history.

The telehealth provisions of this bill are particularly important and will bring telehealth services permanently to Massachusetts by requiring insurance carriers, including MassHealth, to cover telehealth services in any case where the same in-person health care service would be covered and where the use of telehealth is appropriate. The bill also permanently extends payment rate parity for behavioral health services delivered via telehealth; extends payment rate parity for primary care and chronic disease management services delivered via telehealth for the next two years; and requires parity for all other health care services for 90 days beyond the end of the COVID-19 state of emergency.

While the Medical Society appreciates these mandates, we believe that permanent payment parity for all telehealth services would most benefit patients of the Commonwealth in promoting access to health care by ensuring availability and accessibility of telehealth services. For similar reasons, the MMS also appreciates the inclusion of audio-only services in the definition of 'telehealth' and the allowing of proxy-credentialing to reduce administrative burdens for hospital-to-hospital telemedicine. Although we would prefer the bill allow for permanent parity across all medical specialties, the positive development in the bill's telehealth provisions is strongly supported by the Medical Society. We encourage your support as well.

The Medical Society also strongly supports the COVID-19 related provisions contained in this legislation. These provisions include the requirement that all insurance carriers, including MassHealth, cover all COVID-19-related emergency, inpatient, and cognitive rehabilitation services, including all professional, diagnostic and laboratory services, at both in-network and out-of-network providers, without any out-of-pocket costs to patients. Additionally, this bill mandates coverage for medically necessary outpatient

COVID-19 testing, including testing for asymptomatic individuals under circumstances to be defined by guidelines established by the Secretary of Health and Human Services within 30 days of the effective date of the bill. These requirements are extremely important provisions to help the Commonwealth combat the health and economic fallout from the pandemic. Similarly, the provisions that extend the effective term of a licensed professional's Massachusetts Controlled Substance Registration beyond one year to equal the effective term of their professional license, and the elimination of the requirement that MassHealth patients first obtain a referral from their primary care provider before seeking treatment at an urgent care facility, will help ensure uninterrupted access to care for all patients.

The Medical Society also appreciates the fact that, in acknowledgement of federal action on surprise billing, this legislation does not include an inflexible, comprehensive out-of-network billing provision but instead instructs the Executive Office of Health and Human Services, the Health Policy Commission, the Center for Health Information and Analysis, and the Division of Insurance to study potential out-of-network billing solutions and report back recommendations by September 1, 2021. The MMS looks forward to monitoring the work of this commission and offering our expertise and resources as may be requested.

However, the Medical Society has some concerns regarding the notice provisions for non-emergency care. The MMS supports and believes it is appropriate for the Commonwealth to require insurers to be more transparent and responsive to patients' questions about network adequacy, transparency of coverage, and questions relative to a particular provider's status as a network provider. The Medical Society has concerns, however, about the requirements for health care providers to assume the burden of notifying patients of a health care provider's network status before a non-emergency procedure occurs. While the Medical Society supports the intent of clinician disclosure requirements to provide notice of non-emergent out-of-network care, and believes such requirements can provide meaningful safeguards for patients, ensure transparency, and protect against potential surprise billing situations, we believe the provisions in S.2984 are overly burdensome. Access to such information as facility fees and referral provider network status is not always readily available, and thus these provisions will introduce even more administrative burden for providers attempting to implement new practice processes in a timely and accurate manner. The bill does not ensure an appropriate balance in the disclosures such that they provide meaningful notice to patients while not unduly burdening physicians, and thus the disclosure requirements are not supported by the MMS.

The Medical Society further opposes the piecemeal approach to addressing out-of-network billing. Recognizing that this issue is being addressed currently on the federal level, and in the coming months within the Commonwealth, the Medical Society believes it far more appropriate to leave notice provisions aside until out-of-network billing can be addressed in a comprehensive manner, cognizant of the nuanced relationships between the intricacies of all the patient protections and complex billing mandates. Yet further, the Medical Society strongly opposes financial penalties for being unsuccessful at complying with these mandates that rely on network provider

directories whose accuracy is often in question and are fraught with administrative complexity. For this reason, the Medical Society at this time cannot support the provisions related to out-of-network disclosures.

In turning to provisions relative to scope of practice, the physician community does not support increased independent practice for nurse practitioners, psychiatric nurse mental health clinical specialists, and certified registered nurse anesthetists (CRNAs). The Medical Society appreciates the bill's requirements that such practitioners meet certain education and training standards, practice under supervision for at least two years, and be held to the same requirements as physicians with respect to liability requirements, public profiles, investigation of complaints, and other aspects of professional conduct and discipline. However, the MMS continues to believe that a team-based, physician-led health care team is the gold standard of care and that to which the Commonwealth should adhere.

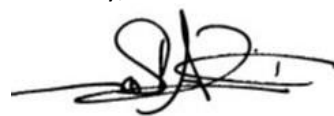
A physician-led, team-based model of care best promotes coordinated, patient-centered care by maximally utilizing all health care professionals in their most appropriate capacities while maintaining important patient protections and promoting access to high-quality care. Expanding independent practice encourages the siloing and separation of healthcare practice and is antithetical to the general movement toward more integrated, value-based accountable care models. Any effort to modify our current laws should carefully consider the benefits and patient safety protections inherent in a team-based model. We believe the inclusion of CRNAs in the bill is particularly alarming as such providers are participating in surgery, where a bad outcome could be the immediate difference between life and death.

The MMS also opposes the increased scope of practice for optometrists. While being referred to as "allowing optometrists to treat glaucoma," the language actually goes far beyond that expansion and would allow optometrists to prescribe medications for diseases beyond glaucoma and may further allow them to perform other procedures including, but not limited to, laser surgery.

For the reasons outlined above, the MMS urges you to send the bill back to the legislature with amendments eliminating the notice provisions on non-emergency care (Section 25), independent practice for nurse practitioners, psychiatric nurse mental health clinical specialists, and CRNAs (Sections 4, 5, 7, 8, 10-12, 14, 16-18, 20-23, 32-38) and Optometrists (Sections 6, 13, 15, 19, 28-31).

On behalf of over 25,000 MMS physician and student members, I thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Rosman", with a long horizontal flourish extending to the left.

David A. Rosman, MD, MBA