



Maine Medical Association

Robert J. Schlager, MD, President | Amy Madden, MD, President-Elect | Karen Saylor, MD, Chair, Board of Directors
Andrew B. MacLean, JD, Interim CEO | Peter P. Michaud, JD, RN, General Counsel

MEMORANDUM

To: The Honorable Heather Sanborn, Senate Chair
The Honorable Denise Tepler, House Chair
Members, Joint Standing Committee on Health Coverage, Insurance & Financial Services
The Honorable Geoffrey Gratwick, M.D.
Colleen McCarthy-Reid, Legislative Analyst
Eric Cioppa, Superintendent of Insurance
Katherine Pelletreau, Executive Director, Maine Association of Health Plans
Karynlee Harrington, Executive Director, Maine Health Data Organization

From: Andrew B. MacLean, Interim CEO

Date: May 21, 2019

RE: **L.D. 1694, AN ACT TO AMEND THE MENTAL HEALTH INSURANCE LAWS**

I am writing to follow up the testimony at the public hearing on L.D. 1694 last week. Unfortunately, I cannot attend the work session this afternoon, but Peter Michaud will be between your committee and the HHS Committee and will try to attend.

Because I did not have written testimony, I will restate that the bill is based on model language developed by Tim Clement, M.P.H. of the American Psychiatric Association (APA). Please see written testimony from Mr. Clement and from the APA.

At the hearing, I asked you just to focus on the data collection part of the bill, first appearing as Section 1 of the bill on the first page and a half. Since the hearing, Senator Gratwick and I have discussed various approaches to the bill, any of which are acceptable to the MMA, such as a "Resolve" or letter asking the Bureau of Insurance to work with interested parties, such as the APA, MMA, the Maine Association of Health Plans, and MHDO, to identify key data fields and a data collection plan. Mr. Clement

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has volunteered to provide technical assistance to the Bureau as the APA has been doing in other states addressing parity implementation.

Based on the questions raised by Committee members during the public hearing, I posed the following questions to Mr. Clement. His responses follow the questions.

1. How might the bill affect/interact with Maine's long-standing parity laws?
2. Is there any experience from any of the other jurisdictions that have adopted this model?
3. Is there any evidence of a failure to comply with the parity laws?

Mr. Clement's response:

Maine does indeed have long-standing parity laws, which are better than most other state parity laws. The federal parity law, enacted in 2008 added some requirements that complement the Maine parity laws and also added some additional specifications around how insurers design and apply their managed care practices, such as utilization review, reimbursement rate setting, and provider network admission standards. Those are the areas in which insurers are still struggling to meet the letter of the law, due to the complexity of the federal law's language around those practices. This legislation unbundles the key terms of the federal law's regulations with the intention of creating an orderly and efficient way of demonstrating compliance. This legislation is designed to make sure that insurers are complying with the federal law and Maine's existing parity laws. There are no new "parity" requirements enacted. This is just about transparency regarding compliance with existing state and federal parity laws.

Experience with other jurisdictions has indicated that it is best if the state insurance department uses existing tools to collect the information. There are spreadsheets that are tailor-made for collecting this data. Those spreadsheets also have an accompanying guide that explains how to fill out the sheets. This has been used or is in the process of being used in a number of states (all of the states that enacted this did so last year, so implementation is underway right now). Delaware is currently issuing regulations after enacting this legislation last year. Those regulations will prescribe a specific format (including the mentioned spreadsheets and guide) to complete the analyses. It is highly recommended to look at what Delaware is doing if this legislation passes.

There is a good deal of evidence regarding non-compliance with the law. However, it is important to note that insurers are not intentionally violating the law. They are merely struggling with the more complex components of it. One of the purposes of this legislation is to provide a more efficient way of securing compliance and demonstrating it. The examples come from many different departments around the country, including Pennsylvania, Rhode Island, New Hampshire, New York, Montana, California, and several other states that have been looking into this. The US Department of Labor has

also found non-compliance in the plans they regulate. In fact, basically every investigation into the areas this bill is probing have found problems. The only way to correct this is to get the insurers to start doing the comparative analyses required by this legislation.