SANFORD HEALTH PLAN

Chairwoman Lee and members of the North Dakota Senate Human Services Committee,

My name is Dylan Wheeler, Senior Legislative Affairs Specialist, Sanford Health. On behalf of Sanford Health, I would like to provide comments re: SB 2179, legislation requiring Telemedicine Payment Parity.

Telemedicine has played a critical role over the past year during COVID-19 for patients, members, providers, and payers alike. Payers, such as Sanford Health Plan (SHP) in partnership with the ND Department of Insurance, responded by waiving member cost-sharing for telemedicine visits. The provider community stepped up and met the challenge of adapting to and implementing telemedicine to meet the needs of patients. The regulatory and statutory flexibility currently in North Dakota played a key role in quickly responding to the COVID 19/Public Health Emergency. Looking forward, continued regulatory flexibility is recommended as telemedicine continues to evolve – for payer, provider, patient, and member

Sanford Health supports utilization of telemedicine as it leverages one of many tools available to improve health quality outcomes, increase access to care, and reduce costs. However, measures contained in SB2179 could lead to increased costs, cost-shifting, and/or growth in spending which are counterproductive to the shared objective of reducing overall healthcare costs. Moreover, we recognize that in order to effectively maintain access and provider-patient relationship, states must adopt policies that adequately address safe and effective portability/reciprocity for licensure.

We would like to share with the committee several key concerns:

1. Audio Only Definition Addition
2. Coinsurance or Copayment Parity
3. Utilization Management Parity
4. Telemedicine Payment Parity

Expansion of the Definition of Telehealth to Include "Audio Only"

The proposed addition of "audio-only" to the statutory definition of telehealth gives rise to the questions whether an audio-only provider/patient interaction is in parity (the equivalent or directly comparable) with either a video/virtual or in-person interaction. Audio-only may not allow the use of several diagnostic tools often required for medical diagnosis. The wording of the proposed definition change (reference lines 13-19) presents implementation and compliance challenges – such as tracking "adequate broadband access" or determining "other means of communications technology." From an operations perspective, adequately tracking or monitoring those factors may be difficult. Likewise, by carving in audio-only could presents hurdles for care-coordination and utilization management. An audio-only patient interaction, if outside of

traditional patient-provider EHR record platform, could result in an incomplete medical record. However, we do not want to minimize the value that audio-only interactions may have in practice, such as behavioral health. The question here is whether those are to be considered the same for reimbursement.

Coinsurance or Copayment Parity Amendment

As written, this amendment and requirement could actually stifle future telehealth utilization and innovation. For example, by prohibiting payers from allowing lower copayments for telehealth visits, consumers would be penalized, especially if they chose to continue using telehealth after the PHE. Payers-- during the Public Health Emergency/COVID-19- **have waived member cost-sharing for telehealth visits**. As written, this amendment would prohibit such proactive steps and market flexibility. We would recommend removing or striking this amendment in its entirety from the bill.

Utilization Management Parity Amendment

Utilization management is another tool that payers, in partnership with providers, use to help guide and track patients through the healthcare process. The prohibition of "any type of utilization management" as written in the bill is concerning. We are still learning about consumer behavior and telemedicine (e.g. utilization) during the COVID-19 pandemic. Prohibiting payers and providers from adjusting utilization management policies before fully knowing and understanding use patterns post-COVID may lead to unintended consequences or inhibit positive adjustments to adapt to patient behavior. We would recommend removing or striking this amendment in its entirety from the bill.

Telemedicine Payment Parity

SB2179, as currently written, specifically mandates that reimbursement for telehealth services "may not be less than" its in-person counterpart. Statutorily setting the minimum reimbursement threshold would be counterproductive to market flexibility, future innovation, and may inflate costs to the patient/member. This is particularly of concern for the inclusion of "audio-only" in the definition. Under this requirement, payers must reimburse providers for an audio-only interaction not less than an in-person visit – is this the precedent to set?

Other Considerations

The healthcare system has seen a drastic increase in telemedicine utilization over the past year – due in large part to the COVID-19 pandemic. Before setting any statutory price/parity requirements, we should consider to what extent telemedicine has been utilized and can or will be used going forward. As payers and providers move away from fee-for-service reimbursement mechanism – telemedicine payment parity requirements could thwart the health care systems shift to value based payments or other quality based reimbursement/payment models.

This "parity payment" requirement fails to capture the cost savings that telehealth can bring to the health care system for consumers. Telehealth should make health care more efficient. And that

means that telehealth should not only be more affordable, but also used appropriately to best fit each patient's health care needs

Additionally, provider licensure recognition across state lines is an integral part of the long-term and broader telemedicine policy discussion. Recognizing other state licenses of healthcare providers may better serve broader populations, provider greater access, and reduce overall costs and spending.

Thank you for your time and consideration. We respectfully, at this time, oppose the legislation as written.

Respectfully Submitted,

Dylan C. Wheeler, JD
Senior Legislative Affairs Specialist
Sanford Health Plan