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February 5, 2021

The Honorable Rachel Prusak
Chair, House Health Care Committee
900 Court St. NE
Salem, OR 97301

RE: House Bill 2508 – Reimbursement parity for telemedicine

Dear Chair Prusak and members of the committee:

As the largest health care provider in the state, Providence Health & Services provides telemedicine services across our continuum of care and understands the importance that this technology plays in serving our patients, especially through the COVID-19 pandemic. While House Bill 2508 would increase our reimbursement for telemedicine services, it would work in conflict of our other shared goals of transitioning to value-based purchasing models and reducing the total cost of care in Oregon. Providence is committed to these goals and has serious concerns that this bill will add more cost to the system without additional value.

Align HB 2508 with priorities to reduce the total cost of care
The legislature has made it a top priority for payers and providers to realize significant cost-savings in order to meet the requirements outlined in Senate Bill 889 (2019). These goals can only be met through a combination of systems innovation, technology and new reimbursement models. Mandating payment parity with an in-person visit for the range of synchronous, asynchronous and general patient communication tools required in HB 2508 is counter to the state's goals of driving reimbursement for additional value.

To this end we would recommend the following:

- Limited two-year expansion of telemedicine parity: A temporary two-year period of pay parity would allow providers to adopt a new way to integrate telehealth technologies while also finding efficiencies over time. A sunset provision date would also motivate providers and insurers to move away from fee-for-service.
- Require a report to the legislature: The committee tracking sustainable cost growth should submit a report to the legislature in 2023 on the cost impact of telehealth parity, we expect there will be a lot of learnings from the collaborative efforts of health plans and providers to respond to the COVID-19 pandemic.
- Allow opportunity to realize telemedicine cost-savings: As outlined below, parity for telemedicine should be required for synchronous 2-way video during the public health emergency and during this period of change while providers are adapting their practice models to include a substantial amount telehealth delivery. As that practice model evolves, it will be important that we use tools to ensure we drive savings in the system over time.

Add clarifying definitions
The broad definitions related to what interaction qualifies as telemedicine in HB 2508 continues to create significant confusion. We would recommend creating two distinct categories consistent with other state and federal standards. The following definitions are used in Washington State's telemedicine parity law and would work well for Oregon's purposes:

- "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, "telemedicine" does not include the use of audio-only telephone, facsimile, or email.
- "Store and forward technology" means use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email.

As currently drafted, House Bill 2508 includes patient communications in the definition of telemedicine. Patient communications including phone calls, emails and texts should be paid for, and are commonly paid for through a per member per month (PMPM) standardized payment to providers. Access to phone calls, emails and texts can reduce in-person visits, thus creating savings in the system, however, they are not a one-for-one replacement for an in-person visit nor do they drive the same value as an in-person visit. To treat them the same, for reimbursement purposes, as an in-person visit will raise costs without increasing value. As a large provider, Providence would benefit from this provision – yet, we urge this committee not to adopt these changes. In alignment with our priority to focus on total cost of care, Providence is opposed to including patient communications under the definition of telemedicine as they would greatly increase costs in this state without increasing value.

Maintain existing language "provide coverage" rather than "reimburse the cost/provider"
We would request maintaining the "provide coverage" language in Sec. 3 (2); (2)(a); and (3)(b). The use of the phrase "reimburse the cost" can be read to require payment of billed charges. If the intention is to require a coverage mandate for defined "telemedicine," it should continue to be phrased in terms of "coverage."

Delete Sec. 3 (a) (A-B) related to permissible telemedicine applications
This subsection is no longer needed if clarification is provided through the addition of definitions for "telemedicine" and "store and forward technology" outlined above.

Revisit Sec. 3 (b) regarding privacy and security during a state of emergency
Providence has serious concerns about preempting federal laws governing the privacy and security of protected health information during a state of emergency. Once providers have adopted telemedicine as a function of their day-to-day practice, it is reasonable to expect the technology used will meet federal privacy and security standards. Early in this pandemic, an exemption was put in place for meeting this standard as the switch to telemedicine was made quickly and the ability to ensure technology compliance with privacy laws was murky in the beginning. After nearly a year of practice with this technology, and the ability to operate within appropriate guidelines moving forward, Providence does not believe it is appropriate to make a statutory assumption that in future state of emergency situations that we must disregard patient privacy guidelines. Instead, Providence recommends any need for an exemption be evaluated on a case-by-case basis at the federal level.

Delete Sec. 3 (4) to protect patient safety and promote evidence-based practice
The provisions outlined in this subsection restrict the ability of health benefit plans to ensure safe and effective clinical care is provided to members. The provisions outlined in Sec. 3 (4) (a-m), would jeopardize the ability to ensure medical necessity, safety and effectiveness, and patient privacy.

A couple of relevant examples are outlined below:
- (b) Restricting delivery of service may be necessary due to a disagreement about rates or improper security for telemedicine services.
- (c) If telemedicine providers are being reimbursed at parity, it should be permissible for health benefit plans to utilize those providers to meet network adequacy standards.

- (e) The scope of services appropriate for telemedicine are inherently smaller, some services require physical examination for which telemedicine would not be effective.
- (g) Provisions related to annual dollar amounts and prior authorization are important tools for lowering patient costs and ensuring quality. A health benefit plan may incentivize the use of telemedicine by putting it before the deductible in the plan design or decline utilization of telemedicine for a service that is not appropriately delivered remotely.
- (h) State statute no longer requires originating sites, so the purpose of this provision is unclear.
- As stated above, to ensure patient safety and clinical effectiveness, health benefit plans may need to deny inappropriate care that cannot be effectively delivered via telemedicine.
- (j) Not all benefit plans include coverage for telemedicine from out-of-network providers.
- (k) We would suggest adding further clarity to this provision, specifically which state's scope of practice is to be considered.
- (L) The intent of this provision is unclear, specifically how administering drugs or medical supplies can occur through telemedicine.
- (m) To ensure patient safety and clinical effectiveness, it may be appropriate for certain conditions or diagnosis to occur in-person, therefore health benefit standards may vary between telemedicine and in-person.

Delete Sec. 3 (5) as accountability applies to the provider
The requirements of a health benefit plan outlined in this section seem to go beyond the plan's control, particularly when the contracting mechanisms for placing requirements on providers are excluded in the previous section. We would recommend deleting this provision, as many of these requirements are already required as a condition of the enrollee's health benefit plan.

Align Sec. 3 (7) with intent around reimbursement and different levels of service
Providence recommends new definitions for "telemedicine," "store and forward technology," and the addition of a two-year sunset. With these additions, Providence recommends the following parity language be in place for a two-year period:

- A health benefit plan shall reimburse for health services provided to a covered enrollee through telemedicine at the same rate as if the health care service was provided in person by the provider.
- Reimbursement of store and forward technology is available only for those covered services specified in the negotiated agreement between the health plan and health care provider.
- Provisions of this section are not required if a provider opts-out of the reimbursement methodologies outlined above.
- Applicability of the section to fee-for-service contracts only. Allow providers and payers to negotiate value-based payments, alternative payment methodologies, and capitated arrangements that allow for flexibility in how telemedicine is used to achieve savings and increased value in those contracts.

Providence appreciates the opportunity to provide feedback on the bill as written. To date, we have not seen amendments to the bill and cannot ascertain whether proposed changes have resolved any or all of the concerns above. Providence is eager to be a part of future conversations on this bill and thanks the committee for the opportunity to share our perspective.

Sincerely,

William Olson
Chief Operating Officer
Providence Health & Services - Oregon