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Testimony on H.742 – Telehealth Components
March 19, 2020

To:

Senate Health and Welfare Committee

From:

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Our health care providers are setting up systems to provide care to Vermonters relying on tools for remote access where possible, and reduced in-person interaction where face-to-face is required. This response is both directly related to COVID-19 diagnosis and treatment, and also to avoid disruptions in care during this emergency regardless of the particular health need.

In setting up these systems we run into several challenges that require legislative action.

Because so much of telehealth and telecommunications is defined in statute, general emergency waivers do not give state agencies and departments the authority to change the rules we need temporarily adjusted. Section 13 in H.742 addresses this need for the Department of Financial Regulation. Language in Section 24 avoids running into this problem again in the future or as the COVID-19 emergency evolves across time.

Additionally, the components of telehealth implementation are spread across several different statutes, rules, and billing definitions for reimbursement. This requires some very specific language to ensure that full waiver authority is given to allow effective implementation. This includes:

- Our recommended addition to Section 13 (submitted via email by Jessa Barnard, 3/19/20) to specify that DFR emergency authority covers both telemedicine and telecommunications, and to broadly define the types of services provided through these mechanisms.
- Recommended waiver on the HIPAA rules in Section 24, which allows Vermont state to match current federal guidance through the Office of Civil Rights.
- Recommended waiver to allow patient consent rules to match temporary emergency rules, recommended change in Section 25.
- Expanded licensing rules to allow telework across state lines, recommended language change to Section 28 (submitted as part of Jill Olson's testimony, 3/19/20).

We need to set up a system today that can serve Vermonters for what might be months of social isolation or social distancing to manage the COVID-19 crisis. This means that we need the fundamental telehealth

adjustments that were originally in H.723 and are replicated in H.742, found in Sections 23-26. These were well-vetted by House Health Care and reflected extensive stakeholder work and consensus.

The primary focus of that new language in telehealth is store-and-forward tools. These tools are used to reduce the need for patients to visit specialists in-person, allowing remote specialist review of patient materials to assess treatment needs. We need that option to reduce unnecessary in-person meetings, reduce burdens on the hospital system by removing unnecessary visits, and also to ensure that patients who need specialist treatment urgently are identified and prioritized. These tools are more important now than ever before. Language added in Section 27 in H.742 allows DFR to move up the date for enactment.

Another key element in the underlying telehealth language is the addition of dental services to telehealth. As dental practices across the state close for all but urgent care in response to COVID-19, it is essential that they have tools to serve patients when it is possible. Store and forward, as described above, can be particularly important for managing urgent cases. Again, this is contained in Sections 23-26, with language in Section 26 allowing DFR to expedite implementation.

We feel an exceptional sense of urgency in making all possible telehealth and telecommunications tools available immediately for our practices. We need authority to rest with state entities to make necessary future adjustments that might arise during implementation. We are entering into an entirely new way of doing the business of health care, in a stressful and very rapidly evolving environment; we cannot risk needing to return to a legislative process in future months for issues that need to be addressed immediately to maintain a functional health care system. We urge the committee to allow providers full access to remote care tools at this critical time.

Thank you for your consideration.