



MAINE MEDICAL ASSOCIATION

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TESTIMONY OF THE MAINE MEDICAL ASSOCIATION

IN OPPOSITION TO

L.D. 1244, AN ACT TO CLARIFY USUAL AND CUSTOMARY CHARGES UNDER THE WORKERS' COMPENSATION LAWS

Joint Standing Committee on Labor, Commerce, Research & Economic Development
Room 208, Cross State Office Building
Wednesday, April 13, 2011, 1:00 p.m.

Good afternoon Senator Rector, Representative Prescott, and Members of the Joint Standing Committee on Labor, Commerce, Research, & Economic Development. My name is Andrew MacLean and I am speaking in opposition to L.D. 1244 on behalf of the Maine Medical Association (MMA). The MMA is a professional association of more than 3400 Maine physicians, residents, and medical students whose mission is "to support Maine physicians, advance the quality of medicine in Maine, and promote the health of all Maine citizens."

L.D. 1244 apparently proposes a legislative solution to a long-standing dispute before the Workers' Compensation Board and in the courts about the establishment of a medical facility fee schedule. The MMA supports the establishment of a facility fee schedule and, in fact, has endorsed the recommendations of the Board's consultant on the subject made several years ago. We object to L.D. 1244 on procedural grounds because we believe this complicated matter is better handled through rulemaking at the Board level. We were pleased to see the substantial progress made on this issue by the Board at its meeting yesterday. We also object to L.D. 1244 on the merits because it seems practically unworkable because of logistical issues of data management and confidentiality.

As further background on the issue of "usual and customary charge," I have attached to my testimony, AMA House of Delegates Resolution 385.923, *Definition of "Usual, Customary and Reasonable" (UCR)* and Resolution 385.989, *Payment for Physicians Services*.

Thank you for considering the views of the MMA on L.D. 1244 and I would be happy to respond to any questions you may have.



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H-385.923 Definition of "Usual, Customary and Reasonable" (UCR)

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H-385.923 Definition of "Usual, Customary and Reasonable" (UCR)

Our AMA adopts as policy the following definitions: (1) "usual; fee means that fee usually charged, for a given service, by an individual physician to his private patient (i.e., his own usual fee); (2) a fee is 'customary' when it is within the range of usual fees currently charged by physicians of similar training and experience, for the same service within the same specific and limited geographical area; and (3) a fee is 'reasonable' when it meets the above two criteria and is justifiable, considering the special circumstances of the particular case in question, without regard to payments that have been discounted under governmental or private plans. (Res. 109. A-07)

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H-385.989 Payment for Physicians Services

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H-385.989 Payment for Physicians Services

Our AMA: (1) supports a pluralistic approach to third party payment methodology under fee-for-service, and does not support a preference for "usual and customary or reasonable" (UCR) or any other specific payment methodology; (2) affirms the following four principles: (a) Physicians have the right to establish their fees at a level which they believe fairly reflects the costs of providing a service and the value of their professional judgment. (b) Physicians should continue to volunteer fee information to patients, to discuss fees in advance of service where feasible, to expand the practice of accepting any third party allowances as payment in full in cases of financial hardship, and to communicate voluntarily to their patients their willingness to make appropriate arrangements in cases of financial need. (c) Physicians should have the right to choose the basic mechanism of payment for their services, and specifically to choose whether or not to participate in a particular insurance plan or method of payment, and to accept or decline a third party allowance as payment in full for a service. (d) All methods of physician payment should incorporate mechanisms to foster increased cost-awareness by both providers and recipients of service; and (3) supports modification of current legal restrictions, so as to allow meaningful involvement by physician groups in: (a) negotiations on behalf of those physicians who do not choose to accept third party allowances as full payment, so that the amount of such allowances can be more equitably determined; (b) establishing additional limits on the amount or the rate of increase in charge-related payment levels when appropriate; and (c) professional fee review for the protection of the public. (CMS Rep. A, A-84; Reaffirmed by CLRPD Rep. 3 - I-94; Reaffirmed: Sub. Res. 716, A-00; Reaffirmation A-02; Reaffirmation A-07; Reaffirmed in lieu of Res. 127, A-10)