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TO: Members of the Senate Committee on Insurance, Licensing and Forestry

**FROM: Matthew Stanford, General Counsel
Jon Hoelter, Vice President Federal & State Relations**

DATE: May 26, 2021

RE: WHA Testimony on SB 309 – Support for telehealth provisions with an additional amendment

The Wisconsin Hospital Association thanks the Committee for the opportunity speak again on advancing telehealth in Wisconsin. WHA was pleased to work with Senators Kooyenga and Bewley and Representatives Loudenbeck and Kolste on bipartisan Medicaid telehealth legislation in 2019. That legislation, which became 2019 Act 56 in March 2020, was governed by a simple premise: telehealth is health care.

That public policy approach to telehealth has served Wisconsin extremely well and helped Wisconsin health care providers quickly transition to from in-person care to care delivered via telehealth during the COVID pandemic. And based on very favorable patient satisfaction and quality data, it seems clear that patient demand for telehealth will continue well beyond the pandemic.

We appreciate Senator Kooyenga and Representative Loudenbeck’s goal of Senate Bill 309 to continue to remove barriers to telehealth by standardizing a definition of telehealth for the DSPS health care licensing boards. However, we believe that goal can be furthered by also including the sections included in the Medicaid telehealth act that protects telehealth from being regulated differently than in-person care, if the telehealth service is functionally equivalent to in person care. If telehealth is health care – then it should be regulated the same as in-person health care.

Following the COVID pandemic, we are now beginning to see examining boards at DSPS contemplate promulgating special telehealth rules ostensibly to further support telehealth practice in Wisconsin. For instance, the Psychology Examining Board has proposed a simple telehealth rule making clear that the standards of practice and professional conduct are the same for telehealth as they are in person, and that a psychologist providing telehealth in Wisconsin must hold a Wisconsin license. From our members’ perspective, making that clear in rule makes perfect sense.

Similarly, the DSPS Occupational Therapists Credentialing Board has proposed creating telehealth rules that also include clarification similar to the Psychology Board rules. However, they are also proposing a number of other requirements that would unnecessarily treat functionally equivalent telehealth services differently than face-to-face services. The proposed rule, for example would require a unique telehealth focused informed consent, unique telehealth collaboration requirements, and special technology training requirements, to name a few. WHA heard recently from its Telehealth Work Group members that these additional requirements would be burdensome to document and operationalize.

More importantly, WHA’s Telehealth Work Group was concerned that the DSPS Psychology Board rule and DSPS Occupational Therapist Board rules could be the beginning of a rush of multiple new and unique telehealth rules from multiple different DSPS boards – all of which would require their systems to develop different telehealth policies varying by provider type for compliance. The result could be a maze of inconsistent and differing standards depending on provider type that would create confusion for both patients and providers.

To guard against a future patchwork quilt of telehealth regulations from multiple DSPS boards, WHA supports an amendment to Senate Bill 309 that would incorporate language similar to Wisconsin’s Medicaid telehealth statute. The amendment would provide a common standard among all DSPS health care licensing boards that licensed professionals are not required to meet additional requirements solely because the service was delivered through telehealth if the transmission of information through telehealth is functionally equivalent to a face-to-face contact. WHA appreciates the opportunity to continue working with the bill authors on the amendment language.