***This language will be discussed alongside NH SB 408 during the Health Insurance & Long Term Care Issues Committee on Friday, November 20, 2026 and both will be used as the basis for development of Model Legislation sponsored by Rep. Brenda Carter (MI), NCOIL Secretary, and Sen. Bill Gannon (NH).***

An Act to Improve Access to Prostheses and Orthoses for Adults and Children with Limb Loss, Limb Absence or Limb Impairment

BE IT ENACTED BY [STATE LEGISLATURE] THAT THE FOLLOWING SECTIONS BE ADDED TO [INSERT APPLICABLE STATE LAW]

**SECTION 1. Required coverage**. All individual and group health insurance policies providing coverage for hospital, medical or surgical expenses shall include coverage for prostheses and orthoses in all health plans subject to state regulation. Covered benefits must be provided for more than one prosthesis or orthosis when medically necessary and include coverage for each of the following:

A. A prosthesis or custom orthosis prescribed by the enrollee's physician (or other advanced practice provider) and deemed by the enrollee's prosthetic or orthotic care provider to be the most appropriate prosthesis or orthosis that adequately meets the medical needs of the enrollee to restore or maintain the individual's ability to perform activities of daily living or essential job-related functions and, at a minimum, equals the coverage [and payment] for prostheses and orthoses provided under federal laws and regulations for the aged and disabled pursuant to 42 United States Code, Sections 1395k, 1395l and 1395m and 42 Code of Federal Regulations, Sections 414.202, 414.210, 414.228 and 410.100, irrespective of cost sharing.

B. In addition to coverage of a prosthesis or orthosis required under paragraph A, a prosthesis or custom orthosis determined by the enrollee's prosthetic or orthotic care provider to be the most appropriate prosthesis or orthosis that meets the medical needs of the enrollee for purposes of performing physical activities, as applicable, such as running, biking, swimming, strength training, and to maximize enrollee's whole-body health and lower and/or upper limb function.

C. In addition to coverage of a prosthesis or orthosis required by paragraphs A and B, a prosthesis or custom orthosis determined by the enrollee's prosthetic or orthotic care provider to be the most appropriate prosthesis or orthosis that meets the medical needs of the enrollee for purposes of showering or bathing.

D. All materials and components necessary to use such prostheses and orthoses;

E. Instruction to the enrollee on using the device; and

F. With respect to the prostheses and custom orthoses covered under subsections A, B, and C above, the medically necessary repair or replacement of a prosthesis or orthosis.

**SECTION 2. Medical Necessity and Nondiscrimination Standards for Coverage of Prostheses and Orthoses.**

A. An individual health plan that is delivered, issued for delivery, or renewed in this state that covers prostheses and custom orthoses shall consider these benefits rehabilitative and habilitative services and devices for purposes of any state or federal requirement for coverage of essential health benefits.

B. With respect to a covered person receiving a prosthesis or orthosis under subsection A of Section 1 above, covered benefits under subsection B and C of Section 1 above shall require the treating physician (or other advanced practice provider) to determine that the additional prosthesis or custom orthosis is necessary to enable the person to engage in physical activities, as applicable, such as running, biking, swimming, strength training, showering, bathing, and to maximize enrollee's whole-body health and lower and/or upper limb function.

C. Determinations under this section are subject to applicable utilization review procedures, provided that such procedures are rendered in a nondiscriminatory manner. Utilization review procedures shall not deny coverage for rehabilitative and habilitative services and devices, including prostheses or custom orthoses, solely on the basis of an insured's disability.

D. An insurer shall not deny coverage of a prosthesis or custom orthosis for an individual with limb loss, limb absence, or limb impairment that would otherwise be covered for a non-disabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same physical activity.

E. A health benefits plan that is delivered, issued for delivery, or renewed in this state that covers prostheses and custom orthoses shall include language describing an insured's rights pursuant to subsections C and

D of this Section in its evidence of coverage, and, with respect to claim denials based on medical necessity, such denials are in writing and include clear reasoning and descriptions of how and why the request or claim does not meet medical necessity standards.

F. Coverage of prostheses and orthoses shall not be subject to separate financial requirements that are applicable only with respect to that coverage. An individual health plan may impose cost sharing on prostheses or custom orthoses; provided that any cost-

sharing requirements shall not be more restrictive than the cost-sharing requirements applicable to the plan's coverage for inpatient, physician and surgical services.

G. A health plan that provides coverage for prostheses or custom orthoses shall ensure access to medically necessary clinical care and to prostheses and custom orthoses from not less than two distinct prosthetic and custom orthotic providers in the managed care plan's provider network located in the state. In the event that medically necessary covered orthoses and prostheses are not available from an in-network provider, the insurer shall provide processes to refer a member to an out-of-network provider and shall fully reimburse the out-of-network provider at a mutually agreed upon rate less member cost sharing determined on an in-network basis.

H. If coverage for prostheses or custom orthoses is provided, payment shall be made for the replacement of a prosthesis or custom orthosis or for the replacement of any part of such prosthesis or orthosis, without regard to continuous use or useful lifetime restrictions, if an advanced practice provider determines that the provision of a replacement prosthesis or orthosis, or a replacement part of such prosthesis or orthosis, is necessary because of any of the following:

1. A change in the physiological condition of the patient

2. An irreparable change in the condition of the prosthesis or orthosis or in a part of the prosthesis or orthosis; or

3. The condition of the prosthesis or orthosis, or the part of the prosthesis or orthosis requires repairs, and the cost of such repairs would be more than sixty percent of the cost of a replacement prosthesis or orthosis or of the part being replaced.

I. Confirmation from an advanced practice provider may be required if the prosthesis or custom orthosis or part being replaced is less than three years old.

**SECTION 3. Reporting Requirement**. No later than [INSERT DATE HERE], the [ENTER STATE NAME HERE] Department of Insurance shall publish a list of all insurance plans subject to the requirements outlined in this Section on its website and via a bulletin to insurance plans doing business in the state, unless otherwise required. Such information will be updated on an annual basis. No later than [INSERT DATE HERE], each health plan subject to this Section shall issue a notice to its members and update members' evidence of coverage that such law is in effect and applies to their plan. Each health plan subject to this section shall also report to the superintendent on its experience pursuant to this Section no later than [INSERT DATE HERE] for plan years [INSERT DATES HERE]. The report must be in a form prescribed by the superintendent and must include the number of claims and the total amount of claims paid in this State for the services required by this Section, unless otherwise required. The superintendent shall aggregate this data by plan

year in a report and submit the report to the joint standing committee of the Legislature having jurisdiction over health coverage and insurance matters no later than [INSERT DATE HERE].

**SECTION 4. Application**. The requirements of this Act apply to all policies, contracts, and certificates executed, delivered, issued for delivery, continued or renewed in this State on or after [INSERT DATE HERE]. For the purposes of this Act, all contracts are deemed to be renewed no later than the next yearly anniversary of the contract date. All state laws in conflict with this legislation are hereby declared null and void.