

# HB 808

**Measure  
Title:**

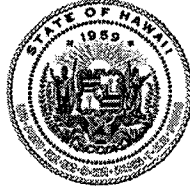
**RELATING TO HEALTH.**

**Report  
Title:**

**Telehealth; Medicine and Surgery;  
Expansion of Services**

**Description:**

**Makes amendments to clarify the support and expansion of new technology in the use of telemedicine; clarifies that telehealth is within the scope of a physician's practice.**



LINDA LINGLE  
GOVERNOR  
  
JAMES R. AIONA, JR.  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
335 MERCHANT STREET, ROOM 310  
P.O. Box 541  
HONOLULU, HAWAII 96809  
Phone Number: (808) 586-2850  
Fax Number: (808) 586-2856  
[www.hawaii.gov/dcca](http://www.hawaii.gov/dcca)

LAWRENCE M. REIFURTH  
DIRECTOR  
  
RONALD BOYER  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON HEALTH  
  
TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Monday, March 16, 2009  
3:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 808 – RELATING TO HEALTH.**

TO THE HONORABLE DAVID Y. IGE, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner (“Commissioner”), testifying on behalf of the Insurance Division (“Insurance Division”) of the Department of Commerce and Consumer Affairs. The Insurance Division supports this bill and concurs with the suggestions made by the Regulated Industries and Complaints Office (“RICO”).

The purpose of this bill is to support the expanded use of telemedicine services and technology in the State by adding a new section to Hawaii Revised Statutes (“HRS”) chapter 453 and by amending HRS §§ 431:10A-116.3, 432:1-601.5, and 432D-23.5.

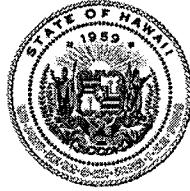
This bill is intended to address the State’s shortage of physicians and to improve access to health care services and certain medical specialists, particularly in rural areas.

Although it may not be appropriate for all medical situations, telemedicine provides a cost-effective and convenient alternative in certain circumstances. This is especially important in rural areas where access to any medical care is difficult.

Medical reports from telemedicine services include a documented patient evaluation, which will become part of the patient's health record and be made available to the patient. The Insurance Division has been encouraging implementation of electronic medical records to reduce costs and errors.

This bill is also consistent with the Legislature's and Administration's efforts to enhance broadband capability, as reflected in Senate Bill Nos. 1680 and 895.

We thank this Committee for the opportunity to present testimony on this matter and ask for your favorable consideration.



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PRESENTATION OF  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
REGULATED INDUSTRIES COMPLAINTS OFFICE

TO THE SENATE COMMITTEE ON HEALTH

TWENTY-FIFTH STATE LEGISLATURE  
REGULAR SESSION, 2009

MONDAY, MARCH 16, 2009  
3:00 P.M.

TESTIMONY ON HOUSE BILL NO. 808 – RELATING TO HEALTH

TO THE HONORABLE DAVID Y. IGE, CHAIR,  
AND TO THE HONORABLE JOSH GREEN, M.D., VICE-CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Regulated Industries Complaints Office ("RICO") of the Department of Commerce and Consumer Affairs appreciates the opportunity to testify on House Bill No. 808, Relating to Health. My name is Jo Ann Uchida, RICO's Complaints and Enforcement Officer. RICO offers the following comments.

House Bill No. 808 clarifies that telemedicine is within a physician's scope of practice and is authorized when practiced by a licensed physician. The bill provides that "telemedicine" means telecommunication services, which includes real-time video or web conferencing communication, or secure interactive

or non-interactive web-based communication used to establish a physician-patient relationship or for the evaluation or treatment of a patient.

This Committee heard a similar bill, Senate Bill No. 1676, and passed that bill out with a Senate Draft 1. The Senate Committee on Commerce and Consumer Protection further amended the bill.

With regard to House Bill No. 808, RICO notes that the definition of "telehealth" in §§432:1-601.5(e)(coverage for telehealth), 431:10A-116.3(e)(coverage for telehealth), and 432D-23.5(e)(coverage for telehealth), Hawaii Revised Statutes ("HRS"), states that "telecommunications" is as defined in §269-1, HRS, but excludes standard telephone contacts, facsimile transmissions or email text, in combination or by itself. To promote consistency with these other statutory provisions, as well as more effective enforcement, the same language specifying what does not constitute telecommunications services is needed in Chapter 453, HRS. As such, RICO respectfully requests adding the following language to the definition of "telemedicine" on page 4:

(b) For purposes of this section, telemedicine means the use of telecommunication services, as defined in section 269-1, including real-time video or web conferencing communication, or secure interactive or non-interactive web-based communication, for the purposes of establishing a physician-patient relationship, or evaluating or treating a patient. Standard telephone contacts, facsimile transmissions, or email text, in combination or by itself, does not constitute a telemedicine service for purposes of this chapter.

RICO also notes that it is unclear whether House Bill No. 808 permits a licensee located out-of-state to treat a patient located in Hawaii and requests amendments to clarify this issue. The bill at page 3 lines 5-7 suggests that the bill

Testimony on House Bill No. 808  
March 16, 2009  
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is intended to apply to physicians located in Hawaii, but the revisions proposed in the bill do not preclude interstate telemedicine.

Thank you for the opportunity to testify on House Bill No. 808. I will be happy to answer any questions the members of the Committee may have.

**PRESENTATION OF THE  
HAWAII MEDICAL BOARD**

TO THE SENATE COMMITTEE ON HEALTH

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Monday, March 16, 2009  
3:00 p.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON HOUSE BILL NO. 808, RELATING TO HEALTH.**

TO THE HONORABLE DAVID Y. IGE, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide written testimony on H.B. No. 808, Relating to Health. The purpose of this bill is to make amendments to clarify the support and expansion of new technology in the use of telemedicine and to clarify that telehealth is within the scope of a physician's practice.

The companion bill, S.B. No. 1676, was heard by the Senate Committee on Health on February 6, 2009 and the Senate Committee on Commerce and Consumer Protection on March 3, 2009. Each time, it passed out with amendments.

The Board requests that an amendment be made to this bill to insert the term "community" on page 5, line 3, to read as follows:

"held to the same **community** standards of appropriate practice as those in".

This amendment will bring it in line with the laws on the insurance code, mutual benefit societies and fraternal benefit societies as they relate to coverage for telehealth. The pertinent parts of those laws are:

Insurance Code:

**“§431:10A-116.3 Coverage for telehealth.** (b) No accident and health or sickness insurance plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional **community** at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the insurer, and the provider.” (emphasis added)

Mutual Benefit Societies:

**“§432:1-601.5 Coverage for telehealth.** b) No mutual benefit society plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health



care practices and standards prevailing in the applicable professional **community** at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the mutual benefit society, and the provider." (emphasis added)

Fraternal Benefit Societies:

**"432D-23.5 Coverage for telehealth.** (b) No health maintenance organization plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional **community** at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the health maintenance organization, and the provider." (emphasis added)

With this amendment, the Board supports the bill. Thank you for the opportunity to provide written comments on this bill.

# HMSA



Blue Cross  
Blue Shield  
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

March 16, 2009

The Honorable David Ige, Chair  
The Honorable Josh Green M.D., Vice Chair

Senate Committee on Health

**Re: HB 808 – Relating to Health**

Dear Chair Ige, Vice Chair Green and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in strong support of HB 808 which would ensure that Hawaii is able to remain a leader in the realm of telemedicine by adding statutory language that clarifies a physician's scope of practice in relation to the provision of telehealth services.

Hawaii is on its way to becoming a national leader in the field of health care technology. Our unique geographic location necessitates that cutting edge ideas and technologies are fostered to help overcome issues regarding access to medical care especially in rural areas.

Earlier this year, HMSA launched its Online Care program, aimed at improving access to care throughout the Islands. Residents can speak with a local physician from HMSA's network of credentialed participating physicians 24 hours-a-day, 7 days-a-week. We believe that this program will benefit all the people of Hawaii and can serve as a model as we look for solutions to improve the health care system across the nation.

We understand that the current House version of this measure does not contain amendments made by the Senate that further clarifies existing state law allowing physicians to engage in telemedicine. We do support these changes and would respectfully urge the Committee's continued support of this legislation.

Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read 'JDiesman'.

Jennifer Diesman  
Assistant Vice President  
Government Relations



**Testimony to the Senate Committees on Health  
Monday, March 16, 2009 at 3:00 p.m.  
Conference Room 016, State Capitol**

**RE: HOUSE BILL NO. 808 RELATING TO HEALTH**

Chair Ige, Vice Chair Green, and Members of the Committee:

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). The Chamber supports House Bill 808 relating to Health.

The Chamber is the largest business organization in Hawaii, representing more than 1,100 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

This measure makes amendments to clarify the support and expansion of new technology in the use of telemedicine and clarifies that telehealth is within the scope of a physician's practice.

Quality health care is critical to the people and economy of Hawaii. However, the quality that Hawaii has enjoyed for years is now in jeopardy. Some of the prevalent problems include the lack of access to healthcare, especially on the neighbor islands, and the shortage of acute beds.

The Chamber believes this measure will help alleviate some of these problems by allowing residents, especially in rural areas, to gain access to a physician for less than serious ailments, thus freeing up acute beds for more serious and dire situations.

Therefore, The Chamber supports improvements which can assist in promoting the quality of our health care system. This includes legislation that will clarify that physicians have the ability to engage in telemedicine.

In light of the above, The Chamber of Commerce of Hawaii supports HB 808. Thank you for the opportunity to testify.