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

TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2009

TUESDAY, MARCH 17, 2009
8:30 A.M.

TESTIMONY ON SENATE BILL NO. 1676 S.D.2—RELATING TO HEALTH

TO THE HONORABLE RYAN I. YAMANE, CHAIR,
AND TO THE HONORABLE SCOTT Y. NISHIMOTO, VICE-CHAIR,
AND TO MEMBERS OF THE COMMITTEE:

The Regulated Industries Complaints Office ("RICO") of the Department of Commerce and Consumer Affairs appreciates the opportunity to testify on Senate Bill No. 1676 S.D.2, Relating to Health. My name is Jo Ann Uchida, RICO's Complaints and Enforcement Officer. RICO offers the following comments.

Senate Bill No. 1676 S.D.2 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 web-based communication used to establish a physician-patient relationship, evaluate a

patient, or treat a patient. The bill further provides that "telemedicine" is included in "telehealth" as that term is used in Chapters 431, 432, and 432D, Hawaii Revised Statutes ("HRS").

Senate Bill No. 1676 S.D.2 also clarifies that the standards of medical practice that are applicable when treatment recommendations are made via telemedicine, including issuing a prescription via electronic means, are the same standards of practice as those in traditional physician-patient settings. The Senate Draft 2 indicates that these traditional physician-patient settings include those that do not include a face-to-face visit, but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged.

RICO recognizes that treatment rendered under the control of a health care service association by a network of credentialed participating physicians has certain built-in checks and balances that make "cutting-edge" medicine feasible and beneficial. However, not all licensees are credentialed, participating physicians who are providing covered treatment. The bill as drafted would mean that a licensee who, for example, advertises and prescribes a non-controlled substance like Viagra, would be able to do so through a telephone encounter.

RICO notes that the current 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), 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 replacing the definition of telemedicine on page 4 lines 8-14 in this draft with the following language that mirrors existing law:

(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.

There are already two different existing versions of "telemedicine" in Chapter 453, HRS, (§453-2(b)(3) and §453-2(b)(6)), as well as a definition of "telehealth" in §§432:1-601.5(e), 431:10A-116.3(e), and 432D-23.5(e), HRS. If the language in S.B. No. 1676 S.D.2 is adopted as is, there will be no fewer than **four** different definitions that the Board and RICO must reconcile. This will contribute to confusion among the public, health care practitioners, and affiliated organizations as to which definitions apply.

RICO believes that the current definitions of telehealth permit a measured level of "cutting edge" medicine to occur in the participating provider context and suggests that this level be maintained and not expanded as proposed on page 5 of the bill.

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March 17, 2009
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Thank you for the opportunity to submit testimony on Senate Bill No. 1676
S.D.2. I will be happy to answer any questions that the members of the
Committee may have.



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TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FIFTH LEGISLATURE
Regular Session of 2009

Tuesday, March 17, 2009
8:30 a.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL NO. 1676, S.D. 2 – RELATING TO HEALTH.

TO THE HONORABLE RYAN I. YAMANE, 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 and Administration's efforts to enhance broadband capability, as reflected in House Bill Nos. 984 and 1077.

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

**Testimony to the House Committee on Health
Tuesday, March 17, 2009 at 8:30 a.m.
Conference Room 329, State Capitol**

RE: SENATE BILL NO. 1676 SD2 RELATING TO HEALTH

Chair Yamane, Vice Chair Nishimoto, 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 Senate Bill 1676 SD2 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 legislature's support for the expanded use of new technology in telemedicine; clarifies that telehealth is within the scope of a physician's practice; clarifies that a provider-patient relationship may be established through telehealth where the provider is licensed to practice in this State. (SD2).

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 SB 1676 SD2. Thank you for the opportunity to testify.