

LATE

**PRESENTATION OF THE
HAWAII MEDICAL BOARD**

TO THE HOUSE COMMITTEE ON HEALTH

TWENTY-FIFTH LEGISLATURE
Regular Session of 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 MEMBERS OF THE COMMITTEE:

My name is Don Parsa, and I am a physician member of the Hawaii Medical Board. On behalf of the Board, I thank you for the opportunity to provide testimony on S.B. No. 1676, S.D. 2, Relating to Health.

The purpose of this bill is to clarify the support and expansion of new technology in the use of telemedicine, to clarify that telehealth is within the scope of a physician's practice, and to clarify that a provider-patient relationship may be established through telehealth where the provider is licensed to practice in this State.

The companion bill, H.B. No. 808, was heard by the House Committee on Health on January 30, 2009 and passed out unamended. Subsequently, it was heard jointly by the House committees on Consumer Protection and Commerce and Judiciary on February 23, 2009 and passed out unamended.

On March 3, 2009, the Board testified on S.B. No. 1676, S.D. 1 before the Senate committees on Commerce and Consumer Protection and Judiciary that

it had not taken a position on the bill. Subsequently, the Board met on March 13, 2009, reviewed the Senate Draft 2 and agreed, with our Deputy Attorney General's advice, on amendments we would like to suggest. With these amendments, the Board can support the bill.

Of the following amendments requested to the bill, the first three were not incorporated in H.B. No. 808.

The Board requests these changes be made to this bill, for the reasons provided:

- The Board requests that "patient or" on page 5, line 18, be deleted. The Board believes that consultation should occur between a patient's physician and a physician licensed in another state;
- The Board also requests that the word "any" be deleted from page 5, line 19 as it is too broad. In its place, the Board recommends the phrase "a legitimate medical" be inserted. Line 19 would then read as follows:

"physician licensed in this State may use telemedicine for a legitimate medical"; and
- The Board requests that the new subsections (a) and (b) be combined and revised to read as follows:

"(a) Nothing in this chapter shall preclude any physician, within the scope of the physician's license to practice, from practicing

telemedicine or telehealth as defined in sections 431:10A-116.3(b), 432:1-601.5(b), and 432D-23.5(b), for the purposes of establishing a physician-patient relationship, or evaluating or treating a patient.”

This revision is for the purposes of clarity and consistency. It would alleviate any confusion that could result with the use of the different terms “telemedicine” and “telehealth”. With this revision, the newly created subsections (c) and (d) would then be redesignated as (b) and (c).

- Lastly, 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."

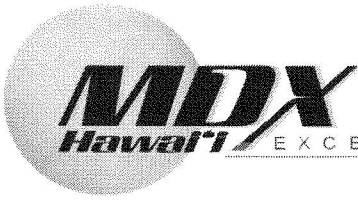
(emphasis added)

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 these amendments, the Board supports the bill. Thank you for the opportunity to provide comments on this bill.



LATE

March 16, 2009

Hon. Ryan Yamane, Chair
Senator Scott Nishimoto, Vice Chair
House Committee on Health

Re: SB 1676 SD2 – Relating to Health (Telemedicine)

Dear Chair Yamane, Vice Chair and Members of the Committee:

My name is Rick Jackson and I am Chief Operating Officer of MDX Hawai'i, a third party administrator of Hawai'i health benefit plans since 1985. Our health care clients include The Queen's Health Systems, Longs Drug, Aetna, Cigna, Deseret Mutual, United Healthcare and Wellpoint.

MDX Hawai'i appreciates the opportunity to testify in support of SB 1676 SD2 which would broaden access to physicians for patients in rural areas, potentially impact unnecessary emergency room visits and utilize proven internet and telecommunications technology familiar to Hawai'i residents in a patient-friendly fashion. We agree that it is important to clarify the definition of the practice of medicine in Hawai'i statute in order to accomplish this. Many Hawai'i physicians are unwilling to participate in the HMSA pilot program because of the issues dealt with in this bill and their effect on medical malpractice risk.

HMSA decided early on in its service delivery design for telemedicine services that it should not matter which Health Plan the patient belonged to...that their new service was open to patients from any insurer. Several local health plans, MDX Hawai'i included, have discussed with HMSA the idea of incorporating telemedicine services proposed in this bill into various of their own health plan benefit designs. We believe HMSA is taking a critical, correct step on behalf of the entire community.

Thank you for the opportunity to offer comments today.

Sincerely,

A handwritten signature in cursive script that reads "Rick Jackson".

Rick Jackson
President

LATE

HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

March 17, 2009

The Honorable Ryan Yamane, Chair
The Honorable Scott Nishimoto, Vice Chair

House Committee on Health

Re: SB 1676 SD2 – Relating to Health

Dear Chair Yamane, Vice Chair Nishimoto and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of SB 1676 SD2 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.

The language contained in SB 1676 SD2 is meant to clarify existing state law that allows physicians to engage in telemedicine. We would respectfully urge the Committee to support SB 1676 SD2 in its current form and pass the measure unamended. Thank you for the opportunity to testify today.

Sincerely,

A handwritten signature in black ink, appearing to read 'JD' with a flourish.

Jennifer Diesman
Assistant Vice President
Government Relations



LATE

Tuesday, March 17, 2009, 8:30am, CR 329

To: House Committee on Health
Rep. Ryan I. Yamane, Chair
Rep. Scott Y. Nishimoto, Vice Chair

From: Hawaii Medical Association
Gary A. Okamoto, MD, President
Philip Hellreich, MD, Legislative Co-Chair
Linda Rasmussen, MD, Legislative Co-Chair
April Donahue, Executive Director
Richard C. Botti, Government Affairs
Lauren Zirbel, Government Affairs

Re: SB 1676 RELATING TO HEALTH (Telemedicine)

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Chairs & Committee Members:

While Hawaii Medical Association favors the concept of telemedicine, we oppose this bill as it is currently written.

One major concern we have with the wording of this bill is that it allows for the establishment of a physician-patient relationship without the physician actually seeing the patient. Once a physician-patient relationship has been established with a person-to-person visit, the physician will have records of the patient, creating a history of the patient. Only then should telemedicine be acceptable.

What we do not want to see is a physician creating a practice of virtual patients that are never seen in person, and could actually be a forgery. Additionally there is concern that online consultation opens physicians to an additional liability by allowing them to make decisions about a patient's health without actually examining the patient. The solution is that online consultations should only occur after a physician-patient relationship has been previously established. The only exception to this requirement would be when a primary care physician needs immediate help from a specialist, and no specialist is available in that geographic location.

Another major concern with this bill is that it allows a physician licensed in this state to provide telemedicine services to Hawaii patients, because many physicians with Hawaii licenses do not actually practice in Hawaii. This opens the doors to the internet practice of medicine with no follow up by the physician if the patient needs to receive continued care. Hawaii physicians will take the brunt of mistakes and have difficulty obtaining records. There is also very little recourse against the physician if the patient is harmed. Technically, the state of Hawaii has jurisdiction, but there is tremendous cost and difficulty of investigating a case when the physician is not in Hawaii.

We believe telemedicine will help form the future of medicine. But it is also vulnerable to major pitfalls. Thus, we strongly recommend that if this measure is passed it be amended to specifically require that telemedicine only be allowed after the traditional physician-patient relationship has been established, and allowed only by physicians who practice in Hawaii.

Thank you for the opportunity to provide this testimony.

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