

Honolulu, Hawaii

FEB 20 2009

RE: S.B. No. 1676  
S.D. 1

Honorable Colleen Hanabusa  
President of the Senate  
Twenty-Fifth State Legislature  
Regular Session of 2009  
State of Hawaii

Madam:

Your Committee on Health, to which was referred S.B. No. 1676  
entitled:

"A BILL FOR AN ACT RELATING TO HEALTH,"

begs leave to report as follows:

The purpose of this measure is to increase access to health  
care for rural residents of the State by supporting the expanded  
use of technology for telemedicine services.

The measure accomplishes this purpose by clarifying:

- (1) That telemedicine is in a physician's scope of practice  
and is authorized in Hawaii when practiced by a licensed  
physician providing services to patients; and
- (2) Current laws regarding telehealth to ensure compliance  
with changes made to the law regulating the practice of  
medicine.

Your Committee received testimony in support of this measure  
from the Department of Commerce and Consumer Affairs, Hawaii  
Medical Service Association, The Chamber of Commerce of Hawaii,  
and one individual. Comments were received on this measure by the  
Hawaii Medical Board and the Hawaii Medical Association.

Written testimony presented to the Committee may be reviewed  
on the Legislature's website.



Your Committee finds that this measure will enhance the Legislature's efforts to expand broadband capability as well as provide a cost-effective means to improve access to health care services, particularly in rural areas of the State.

Your Committee has amended this measure by clarifying that the applicable standards of medical practice when treatment recommendations are made via telemedicine, including issuing a prescription via electronic means, are the same standards of appropriate practice as those in traditional physician-patient settings 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.

As affirmed by the record of votes of the members of your Committee on Health that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1676, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1676, S.D. 1, and be referred to the Committee on Commerce and Consumer Protection.

Respectfully submitted on  
behalf of the members of the  
Committee on Health,



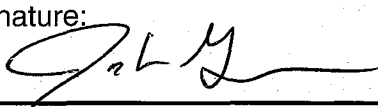
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DAVID Y. ICE, Chair



The Senate  
Twenty-Fifth Legislature  
State of Hawaii

**Record of Votes**  
**Committee on Health**  
**HTH**

Bill / Resolution No.:* <b>SB 1676</b>	Committee Referral: <b>HTH, CPN</b>	Date: <b>2/11/9</b>		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye /	Aye (WR)	Nay	Excused
IGE, David Y. (C)	✓			
GREEN, M.D., Josh (VC)		✓		
BAKER, Rosalyn H.	✓			
ESPERO, Will	✓			<b>AD</b>
NISHIHARA, Clarence K.				✓
HEMMINGS, Fred	✓			
<b>TOTAL</b>	<b>4</b>	<b>1</b>	<b>0</b>	<b>1</b>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <div style="text-align:center;"></div>				
<b>Distribution:</b> Original     Yellow     Pink     Goldenrod File with Committee Report     Clerk's Office     Drafting Agency     Committee File Copy				

\*Only one measure per Record of Votes

**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. (SD1)

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# A BILL FOR AN ACT

RELATING TO HEALTH.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Since 1999, the legislature has supported the  
2 use and expansion of telehealth services and technology in  
3 Hawaii. In the past, telehealth services were primarily  
4 facility-based without a consumer driven component. With  
5 internet-based technology revolutionizing the way consumers  
6 acquire goods and services today, it was only a matter of time  
7 before this type of technology was applied to health care.  
8 Hawaii is poised to become the first state in the nation to  
9 provide statewide consumer access to local physicians via the  
10 Internet and telephone. Individuals will be able to interact  
11 with local physicians in a real time, secure, and private online  
12 environment.

13           Supporting this expanded use of technology for telemedicine  
14 services will increase access to health care for rural residents  
15 on the neighbor islands and Oahu. People living in Hawaii's  
16 rural areas often find it more difficult to access specialty  
17 physician care. The use of new and improved telemedicine

1 technologies to deliver effective and prompt health care will  
2 provide a method for residents to immediately consult with a  
3 specialist.

4       Difficulty in accessing health care due to the inability to  
5 visit a specialist because of work or family obligations often  
6 forces individuals to delay appropriate health care. These  
7 delays may ultimately lead to worsened health outcomes which  
8 could have been avoided. New telemedicine technology will  
9 provide additional options to access care through the ability to  
10 engage in a discussion with a local physician live via the  
11 Internet or telephone twenty-four hours a day, seven days a  
12 week.

13       Expansion of telemedicine services may also assist in  
14 containing rising health care costs. The availability of  
15 immediate access to physicians may prevent inappropriate and  
16 expensive trips to the emergency room. Those without health  
17 care coverage who access non-emergent care in the emergency room  
18 would now be able to visit a physician online. As consumers  
19 become more comfortable receiving care through this technology,  
20 hospitals could see a decrease not only in inappropriate  
21 emergency room usage, but also a decrease in the amount of  
22 uncompensated care they provide to the community.

1           In addition, since rural areas locally and across the  
2 nation find it increasingly difficult to attract and retain  
3 physicians, particularly specialists, expansion of telemedicine  
4 services may attract physicians to practice in these areas.  
5 Telemedicine will provide physicians with greater flexibility  
6 and freedom within their practices wherever they are physically  
7 located in Hawaii. The resulting lifestyle improvement without  
8 having to sacrifice income could prove to be an attractive  
9 incentive for physicians to practice in rural areas.

10           Despite the legislature's clear and consistent support of  
11 expanded and continued use of telemedicine as a resource to  
12 improve access to health care services throughout the State,  
13 questions have recently been raised by the Hawaii medical board  
14 about the appropriate use of this technology to establish the  
15 physician-patient relationship. Therefore, the purpose of this  
16 Act is to reinforce the legislature's support of online care  
17 services through telemedicine by:

18           (1) Clarifying that telemedicine is in a physician's scope  
19           of practice and is authorized in Hawaii when practiced  
20           by a licensed physician providing services to  
21           patients; and

1 (2) Further clarifying the current laws regarding  
2 telehealth to ensure compliance with changes made to  
3 the law regulating the practice of medicine.

4 SECTION 2. Chapter 453, Hawaii Revised Statutes, is  
5 amended by adding a new section to be appropriately designated  
6 and to read as follows:

7 "§453- Practice of telemedicine. (a) Nothing in this  
8 section shall preclude any physician, within the scope of the  
9 physician's license to practice, from practicing telemedicine as  
10 defined in this section.

11 (b) For the purposes of this section, "telemedicine" means  
12 the use of telecommunications services, including real-time  
13 video or web conferencing communication, or secure interactive  
14 or non-interactive web-based communication, for the purposes of  
15 establishing a physician-patient relationship, or evaluating or  
16 treating a patient.

17 (c) Telemedicine services shall include a documented  
18 patient evaluation, including history and a discussion of  
19 physical symptoms adequate to establish a diagnosis and identify  
20 underlying conditions or contra-indications to the treatment  
21 recommended or provided.



1       (d) Treatment recommendations made via telemedicine,  
2 including issuing a prescription via electronic means, shall be  
3 held to the same standards of appropriate practice as those in  
4 traditional physician-patient settings that do not include a  
5 face to face visit but in which prescribing is appropriate,  
6 including on-call telephone encounters and encounters for which  
7 a follow-up visit is arranged. Issuing a prescription based  
8 solely on an online questionnaire is not treatment for the  
9 purposes of this section and does not constitute an acceptable  
10 standard of care. For the purposes of prescribing a controlled  
11 substance, a physician-patient relationship shall be established  
12 pursuant to chapter 329.

13       (e) All medical reports resulting from telemedicine  
14 services are part of a patient's health record and shall be made  
15 available to the patient. Patient medical records shall be  
16 maintained in compliance with all applicable state and federal  
17 requirements including privacy requirements.

18       (f) A physician shall not practice telemedicine in this  
19 State without a license to practice medicine in Hawaii."

20       SECTION 3. Section 431:10A-116.3, Hawaii Revised Statutes,  
21 is amended by amending subsection (d) to read as follows:

1           "(d) Notwithstanding chapter 453 or rules adopted thereto,  
2 ~~[Fn]~~ in the event that a health care provider-patient  
3 relationship does not exist between the patient and the health  
4 care provider to be involved in a telehealth interaction between  
5 the patient and the health care provider, a telehealth mechanism  
6 may be used to establish a health care provider-patient  
7 relationship."

8           SECTION 4. Section 432:1-601.5, Hawaii Revised Statutes,  
9 is amended by amending subsection (d) to read as follows:

10           "(d) Notwithstanding chapter 453 or rules adopted thereto,  
11 ~~[Fn]~~ in the event that a health care provider-patient  
12 relationship does not exist between the patient and the health  
13 care provider to be involved in a telehealth interaction between  
14 the patient and health care provider, a telehealth mechanism may  
15 be used to establish a health care provider-patient  
16 relationship."

17           SECTION 5. Section 432D-23.5, Hawaii Revised Statutes, is  
18 amended by amending subsection (d) to read as follows:

19           "(d) Notwithstanding chapter 453 or rules adopted thereto,  
20 ~~[Fn]~~ in the event that a health care provider-patient  
21 relationship does not exist between the patient and the health  
22 care provider involved in a telehealth interaction between the

1 patient and the health care provider, a telehealth mechanism may  
2 be used to establish a health care provider-patient  
3 relationship."

4 SECTION 6. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect upon its approval.



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

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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LAWRENCE M. REIFURTH  
DIRECTOR  
  
RONALD BOYER  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON COMMERCE  
& CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Tuesday, March 3, 2009  
9:30 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON SENATE BILL NO. 1676, S.D. 1 – RELATING TO HEALTH.**

TO THE HONORABLE ROSALYN BAKER, 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 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.

**PRESENTATION OF THE  
HAWAII MEDICAL BOARD**

TO THE SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2009

Tuesday, March 3, 2009  
9:30 a.m.

**WRITTEN COMMENTS ON SENATE BILL NO. 1676, S.D. 1, RELATING TO HEALTH.**

TO THE HONORABLE ROSALYN H. BAKER CHAIR,  
AND MEMBERS OF THE COMMITTEE:

Thank you for the opportunity to provide written comments on S.B. No. 1676, S.D. 1, 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 Board understands that there were prior bills resulting in amendments to the Insurance Code which recognized telemedicine. In line with these recent amendments to the Insurance Code, the Board has been in discussion with the entity that raised the telemedicine issue with the Board in September 2008, to find common ground as to the circumstances in which a physician may treat a patient safely over the internet without having to perform a physical examination or take vital signs.

The Board recognizes that telemedicine fills a certain niche in health care and therefore, is not opposed to it. Given that the Board is in ongoing

Testimony on S.B. No. 1676, S.D. 1  
March 3, 2009  
Page 2

discussions with the entity that raised this issue to work toward a resolution on the safe use of the internet, the Board takes no position on this bill.

Thank you for the opportunity to provide written comments on this bill.



## Hawai'i Primary Care Association

345 Queen Street | Suite 601 | Honolulu, HI 96813-4718 | Tel: 808.536.8442 | Fax: 808.524.0347  
www.hawaiipca.net

To: **COMMITTEE ON COMMERCE AND CONSUMER PROTECTION**  
**Senator Rosalyn H. Baker, Chair**  
**Senator David Y. Ige, Vice Chair**

**Testimony on Senate Bill 1676 SD1 (Support with Amendments)**  
**Relating to Expansion of Telemedicine**  
**Submitted by: Christine Sakuda, Hawai'i Primary Care Association**  
**March 3, 2009, 9:30 a.m. agenda, Room 229**

The Hawai'i Primary Care Association supports the intent of SB1676 SD1; to clarify the support and expansion of telemedicine and, to clarify that telehealth is within the scope of a physician's practice. However, we believe that, the requirement for licensure in the State of Hawai'i to practice telemedicine will restrict and potentially contradict the intent of the bill.

The HPCA strongly feels that the following be removed: "SECTION 2. (f) A physician shall not practice telemedicine in this State without a license to practice medicine in Hawaii." The issue of licensure is already addressed in HRS 453-2 and therefore doesn't need to be addressed through this new section. This requirement places a new burden upon patients seeking expertise that does not exist within the State or upon patients who have limited access to providers within the state, particularly those on the neighbor islands with little or no health insurance.

**In recognition of the need to take full advantage of the potential of telemedicine, the HPCA supports the intent of the proposed legislation with the amended section.**

Thank you for the opportunity to provide this testimony.





**Testimony to the Senate Committee on Commerce and Consumer Protection  
Tuesday, March 3, 2009 at 9:30 a.m.  
Conference Room 229, State Capitol**

**RE: SENATE BILL NO. 1676 SD1 RELATING TO HEALTH**

Chair Baker, Vice Chair Ige, 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 SD1 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 SB 1676 SD1. Thank you for the opportunity to testify.

# HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

March 3, 2009

The Honorable Rosalyn Baker, Chair  
The Honorable David Ige, Vice Chair

Senate Committee on Commerce and Consumer Protection

**Re: SB 1676 SD1 – Relating to Health**

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

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of SB 1676 SD1 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.

Last month, 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 SD1 is meant to clarify existing state law that allows physicians to engage in telemedicine. Thank you for the opportunity to testify today. We would respectfully urge the Committee to support SB 1676 SD1 in its current form and pass the measure unamended.

Sincerely,

A handwritten signature in black ink, appearing to read "JD", with a long horizontal stroke extending to the right.

Jennifer Diesman  
Assistant Vice President  
Government Relations



February 26, 2009

Senator Rosalyn Baker, Chair  
Senator David Ige, Vice Chair  
Senate Committee on Commerce and Consumer Protection

**Re: SB 1676 SD1 – Relating to Telemedicine**

Dear Chair Baker, Vice Chair Ige 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 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.

We suggest a small, technical modification be made by deleting the last paragraph (f), as

Thank you for the opportunity to offer comments today.

Sincerely,

Rick Jackson  
President

Written Testimony for the Senate Committee on Consumer Protection & Commerce  
SENATE BILL 1676 SD1  
Tuesday, March 3, 2009  
9:30 AM

Deborah P. Birkmire-Peters, PhD  
Chair, Hawai`i Telehealth Collaborative  
Telehealth Research Institute  
John A. Burns School of Medicine  
University of Hawai`i at Mānoa

Thank you, Chair Baker and members of thje CPC Committee for this opportunity to present written testimony on SB 1676 SD1, Relating to Health.

I am presenting this testimony on behalf of the Hawai`i Telehealth Collaborative, which represents a consortium of stakeholders interested in the future of telehealth in the state of Hawai`i, including representatives of the medical community, academia, and industry.

There is a critical and growing shortage of available, affordable healthcare throughout the State of Hawai`i. Telehealth has the potential to leverage scarce healthcare resources across geographic and other barriers that limit access to healthcare services. Telehealth can play a critical role for the imperative to improve access to care in Hawai`i, while at the same time improving clinical outcomes and lowering costs.

While the bill clarifies the practice of telemedicine as within the scope of practice of medicine for physicians in the State of Hawai`i, the requirement for licensure in the State of Hawai`i to practice telemedicine will restrict and potentially contradict the intent of the bill. The Collaborative members strongly feel that the following be removed: "SECTION 2. (f) A physician shall not practice telemedicine in this State without a license to practice medicine in Hawaii." The issue of licensure is addressed in other existing statutes. As stated, this requirement places a new burden upon patients seeking expertise that does not exist within the State. While this is our preference, we understand that there are other interested parties in the community who are concerned about maintaining patient safety. To address those concerns, we recommend that HRS 453-2, License required; exceptions, that specifically governs medical licensure be amended as follows:

"Telemedicine consults performed within the state of Hawai`i shall require that the Hawai`i resident patient have, or establish, a physician-patient relationship with a physician licensed to practice medicine in the State of Hawai`i. The legal responsibility for direct patient care shall reside with a Hawai`i licensed physician. There shall be exceptions for patients where their needed medical specialty is not available or does not exist in the State of Hawai`i, and in times of emergency. In these cases, an out-of-state physician may be used for direct patient care and consultation provided that the physician has a valid license in the state in which they practice medicine and that the physician is in good standing in that state."

In recognition of the need to take full advantage of the potential of telemedicine, **the Hawai`i Telehealth Collaborative supports the intent of the proposed legislation with the amended section on licensure.**

Thank you for the opportunity to provide this testimony.

Sincerely,

Deborah P. Birkmire-Peters

## Eric Arquero

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**From:** Dale Alverson [DALverson@salud.unm.edu]  
**Sent:** Sunday, March 01, 2009 6:53 PM  
**To:** CPN Testimony  
**Subject:** SB 1676 SD1 written testimony

**Importance:** High

Dear Sirs and Madams:

Although I am from New Mexico, we have worked collaboratively with the State of Hawaii, the John A. Burns School of Medicine and others in Hawaii on Telehealth projects, such as Project TOUCH (Telehealth Outreach for Unified Community Health). Clearly telehealth offers the use of information and communication technologies to improve access to critical health services, particularly the under served in remote or rural areas, such as in Hawaii and New Mexico. Often there is the need to obtain specialty services for our patients outside of our own states. For this reason, New Mexico has been offering out-of-state physicians the option of obtaining a "Telemedicine license" based on reciprocity without obtaining a full medical license. This has proven critical and successful in filling the gaps in health care services our citizens so desperately need. I respectfully ask that you consider removing from SB1676 SD1 the language on page 5 section f line 18 that states "***A physician shall not practice telemedicine in this State without a license to practice medicine in the State of Hawaii.***" If not removed, I feel that language would severely hamper the access to health services from out-of state specialists that your citizens in Hawaii need, as it would in New Mexico, and thus that language should be removed. Thank you for your consideration. If you have further questions or comments, please feel free to contact me.

Sincerely, Dale Alverson

Dale C. Alverson, MD  
Professor of Pediatrics and Regents' Professor  
Medical Director, Center for Telehealth and Cybermedicine Research  
University of New Mexico  
Health Sciences Center  
1005 Columbia, NE  
Albuquerque, NM 87106  
Office: (505) 272-8633  
Fax: (505) 272-0800  
e-mail: [dalverson@salud.unm.edu](mailto:dalverson@salud.unm.edu)  
Web: <http://hsc.unm.edu/som/telehealth>

## Eric Arquero

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Sunday, March 01, 2009 4:57 PM  
**To:** CPN Testimony  
**Cc:** egreenia@hhsc.org  
**Subject:** Testimony for SB1676 on 3/3/2009 9:30:00 AM

Testimony for CPN 3/3/2009 9:30:00 AM SB1676

Conference room: 229  
Testifier position: comments only  
Testifier will be present: No  
Submitted by: Earl Greenia  
Organization: Kona Community Hospital  
Address: 79-1019 Haukapila St Kealahou HI  
Phone: 808-322-4433  
E-mail: [egreenia@hhsc.org](mailto:egreenia@hhsc.org)  
Submitted on: 3/1/2009

**Comments:**

Please amend this bill to permit out-of-state physicians to participate in telemedicine.

Not allowing them could have serious repercussions for any patient that might need the attention of a specialist that is only available on the mainland.

## Eric Arquero

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**From:** Iverson Bell [ibjrm@earthlink.net]  
**Sent:** Monday, March 02, 2009 5:42 AM  
**To:** CPN Testimony  
**Subject:** SB 1676 SD1 telemedicine amendment

I respectfully request that SB 1676 SD1 be corrected. It reads that no 'non-Hawaiian' in state MD be allowed to practice from out of state. There is a shortage of psychiatrists as well as other physicians and the transportation between islands can be difficult on an emergency basis. An out-of-state consultant might be able to provide some guidance to local medical professionals via telemedicine. The military has found telemedicine essential because of this.

Please delete this amendment.

Respectfully  
Iverson Bell Jr., MD, DFAPA  
LTC USAR (ret.)

## Eric Arquero

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**From:** Lindsey, Jana [JLindsey@shrinenet.org]  
**Sent:** Monday, March 02, 2009 2:35 PM  
**To:** CPN Testimony  
**Subject:** SB 1676 SD1

**To: Hawaii State Senate Committee on Commerce and Consumer Protection Committee**  
Sen. Rosalyn H. Baker, Chair  
Sen. David Y. Ige, Vice Chair

DATE/TIME: Tuesday, March 3, 2009 at 9:30 a.m.  
PLACE: State Capitol Conference Room 229

### **Public Decision Making on: STATE OF HAWAII SB1676 SD1**

POSITION: Amend SB1676 SD1 by striking sentence on Page 5 section (f) that states “*A physician shall not practice telemedicine in this State without a license to practice medicine in Hawaii.*”

Telemedicine is intended to increase access to quality healthcare. Although the intent of SB1676 SD1 is to clarify that Telemedicine is within a physician’s scope of practice, the language addressing licensure should not be addressed in the Bill because it causes confusion. Medical licensure exception for telemedicine is already addressed by HRS 453-2.

From my experience as the Telemedicine Program Manager at Shriners Hospitals for Children, Honolulu, I am aware that Hawaii has lost its only Pediatric Hand Surgeon specialist a few years ago. Since his departure, Shriners has been consulting with a pediatric hand surgeon from another Shriners Hospital in Northern California through telemedicine. If it were not for the ability to consult with the out-of-state physician by telemedicine, the patient and the family member (children requires an escort) would have to fly over to Northern California for consultation, surgery, and follow-up. This involved at least 3 round trip visits, two of which were avoided by telemedicine.

Being forced to seek care out of the state results in a longer length of time in lost school/work time for the child/parent, and incurrence of expenses for airfare and accommodations on the mainland. Although the care we provide at Shriners is at no cost to the family, obtaining consultation and follow-up via telemedicine is financially beneficial and cost effective for the patient/family, Shriners, and the state of Hawaii. When patients leave the state to seek care, money also leaves the state. In addition, most of these kids have Medicaid/Quest, the State of Hawaii is burdened with the cost of off-island/out-of-state transportation if care isn’t available in our community.

According to the Medicaid Non-emergency Transportation: National Survey 2002-2003, the “State Medicaid programs are required to provide necessary transportation to and from medical providers. Hawaii had paid \$1 million on NEMT for fiscal year 2002. This expense represents about 4,000 one-way and 30,000 two-way NEMT trips.”

Having a sentence addressing licensure in SB1676 SD1 will pose a conflict to statute 453-2 and a threat to future specialty and sub-specialty consultations (for care that can only be found on the U.S. mainland) via telemedicine. Therefore, I am requesting that the sentence “*A physician shall not practice telemedicine in this State without a license to practice medicine in Hawaii*” be removed from SB1676 SD1. Medical licensing regarding Telemedicine is already addressed by HRS 453-2.

Thank you for this opportunity to provide my testimony and intense request to amend SB1676 SD1.

Sincerely,

*Jana L.C. Lindsey, RN, BSN, MBA, CMC*  
Telemedicine Program Manager, Shriners Hospital for Children – Honolulu



Founder/Past Chair, Pacific Islands Chapter of the American Telemedicine Association  
American Telemedicine Association Board of Director and Policy Committee Member  
Hawaii State Rural Health Association Board of Director and Secretary  
Hawaii Pacific Chapter for Health Information Management System Society Board of Director  
Hawaii Telehealth Collaborative and Hawaii State Telehealth Task Force Member

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## Eric Arquero

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**From:** Lawrence.Eron@kp.org  
**Sent:** Monday, March 02, 2009 2:10 PM  
**To:** CPN Testimony  
**Subject:** SB 1676 SD1

Dear Sir or Madam:

I am concerned that line 18, Section f, Page 5 of SB 1676 SD1 ("A physician shall not practice telemedicine in this State without a license to practice medicine in this State of Hawaii") will interfere with telemedicine connections to specialists on the mainland. Radiologists on the mainland are utilized to read Xrays, CT scans, and MRI scans performed here in Hawaii during evenings, and holidays. Expert pathology and dermatology consultations to specialists on the mainland are rendered through telemedicine.

These are only two examples of where the wording in SB 1676 SD1 will set the practice of medicine back 50 years in Hawaii.

Lawrence Eron MD FACP FIDSA  
Kaiser Foundation Hospital Honolulu

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## Eric Arquero

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**From:** Mark Vanderwerf [mkvanderwerf@yahoo.com]  
**Sent:** Sunday, March 01, 2009 4:34 PM  
**To:** CPN Testimony  
**Cc:** Jana Linsey; Jon Linkous  
**Subject:** Regarding SB1676 SD1

SB1676 SD1 contains language on page 5 section f line 18 that states “*A physician shall not practice telemedicine in this State without a license to practice medicine in the State of Hawaii .*”

This wording would set back telemedicine in the state of Hawaii and would be a detriment to the citizens of Hawaii. It also specifically conflicts with with an existing Hawaii statute (453-2)

I fully agree that it is necessary to protect the community and that the Licensing Board needs to oversee this process. This is in place. Hawaii currently has a licensing exception (statue 453-2) allowing Telemedicine to be practiced in Hawaii. This provides Hawaii citizens access to expertise from leading clinical experts from outside the state via telemedicine when needed. This has benefited patients in Hawaii and has no detrimental effect.

Hawaii has long been a leader and pioneer in the use of telemedicine to deliver high quality care to its citizens. This is leadership Hawaii can be very proud of. Should SB1676 SD become law as it is written, it would supersede statue 453-2, put the current Telemedicine programs in Hawaii at risk, and severely restricting access to consultations from out-of-state specialists. It would also restrict the use of expertise within some of the leading care providers that already provide care in Hawaii. With growing shortages in expert care givers in Hawaii and elsewhere, this is a decision that will harm Hawaii. This would also be a huge jump backwards for Telemedicine in Hawaii and for Hawaiian patients who need to access clinical expertise from outside Hawaii.

I worked for many years with Hawaii care providers to develop telemedicine programs beginning with breakthrough programs funded by the Harry and Jeanette Weinberg Foundation, the University of Hawaii, Kaiser Permanente, Shiners and other providers in Hawaii. Telemedicine has been good for Hawaii by almost any measure.

The wording of SB1676 restricting telemedicine and contradiction existing statute should be deleted.

Respectfully,

Mark VanderWerf

978-760-1800

**Eric Arquero**

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**From:** Billings, Greg T. [Greg.Billings@dbr.com]  
**Sent:** Monday, March 02, 2009 10:07 AM  
**To:** CPN Testimony  
**Attachments:** hawaii legislature2.doc (2198475\_1).DOC

Robert J. Waters

March 2, 2009

To Whom It May Concern:

I am writing to express my concern regarding a provision included in SB1676 SD1 that could seriously undermine efforts by the state of Hawaii to ensure the citizens of Hawaii have access to telemedicine services.

Section (f) line 18 of this legislation would effectively eliminate the consultation exception in Hawaii's state licensure law. Most states include consultation exceptions. These provisions are intended to ensure that locally licensed physicians can easily consult with other physicians who may not be licensed in-state in order to determine the proper treatment for their patients. It appears that Section (f) line 18 would allow Hawaii licensed physicians to only consult via telemedicine with other Hawaii licensed physicians. If this legislation were to pass in its current form, Hawaii would have one of the most restrictive consultation provisions in the nation. Hawaii licensed physicians would no longer be able to avail themselves of the vast medical expertise that has been developed in our nation's medical institutions and has traditionally been shared in order to improve patient care. Medical specialists located in other states are highly unlikely to obtain local licenses in order to participate in a handful of consultations which in many cases are not even compensated.

I serve as Counsel to the Center for Telehealth and e-Health Law (CTeL) and direct the Telehealth Leadership Initiative (TLI), and am writing on behalf of both of these organizations. I have spent over 15 years working on telemedicine-related licensure issues – particularly issues involving interstate licensure. As the legislature considers this measure, great care must be taken to avoid undercutting the progress that has been made in Hawaii involving telemedicine-related services.

If you wish to preserve access to these types of specialty consultations between physicians, you should delete the language on page 5 section (f) line 18 of SB 1676 SD1 that states "A physician shall not practice telemedicine in this State without a license to practice medicine in the State of Hawaii".

Robert J. Waters  
Drinker Biddle & Reath  
[Robert.waters@dbr.com](mailto:Robert.waters@dbr.com)  
202 230-5152

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Thank you very much.

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## Eric Arquero

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**From:** Robin Pilus [gardenbird@hawaii.rr.com]  
**Sent:** Friday, February 27, 2009 2:17 PM  
**To:** CPN Testimony  
**Cc:** Lorna Nekoba; JLindsey@shrinenet.org; lianne@hawaiiigenetics.org; Anthea Wang; Christina Higa; Christine Maii Sakuda; Dale Moyen; Joan Pan; Joseph Humphry; Karen L. Seth ; Linda Axtell Thompson; Lydia Hemmings; Peters, Deborah; Sylvia M. Au  
**Subject:** SB1676 SD1 - Severely limits access to telemedicine - PLEASE STRIKE KEY SENTENCE

**From:**

Robin G. Pilus

DATE: Tuesday, March 03, 2009  
TIME: 9:30 a.m.  
PLACE: Conference Room 229

### Public hearing on SB16176 SD1

**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. (SD1)

Please strike the sentence Page 5 "**18(f)** A physician shall not practice telemedicine in this **19** State without a license to practice medicine in Hawaii."

**This one sentence in the bill defies the greatest strength telecare technology offers to the sick and elderly in Hawaii, which is to provide our community access to the best and brightest medical experts that exist beyond our normal reach.** Hawaii is a small and remote community of islands located in the middle of the South Pacific. How does it make sense to limit telecare uses to ONLY physicians licensed in the State of Hawaii? Our patients (AND OUR PHYSICIANS) desperately need the ability to access out-of-state experts when caring for our ill. Hawaii has a well-documented and acknowledged physician shortage. What good is it to further limit physicians to help us manage our sick and aging population.

***Please allow the people of Hawaii the right to access every resource, every technology, every expert available to help them when they are sick.*** What this language does is effectively 'limit access' and 'limit possibilities' as well as put several of our community's important and ongoing Telehealth projects in jeopardy.

STRIKE THE SENTENCE that requires physicians to be licensed by the State of Hawaii to be able to provide Telehealth consults to Hawaii's patients.

The PURPOSE of Telecare is to connect medical experts to those that need their help, knowledge and care. We need to welcome and embrace wide uses of telemedicine and Teleconnection capabilities and not be concerned about 'feathering our own nest.'

The State's Telehealth Collaborative specifically told the author of this bill that it would not (COULD NOT) support the bill with this type of language in it. The author subsequently agreed via phone call to delete the language to gain the Collaborative's support. You can imagine the dismay of the Collaborative to still see this limiting language still in the bill.

That single sentence in this bill impedes Hawaii patients (once again) to their right access to expert healthcare.

PLEASE get that sentence removed to allow our community the advantage of a wealth of technology, medical knowledge and expertise that exists in beyond the limits of our state. Help repair healthcare.

Our people deserve it.

Please help.

Robin Pilus  
Maui AgeWave, LLC.  
*Building Connected Care in Hawaii*  
808-281-0094

Member – Hawaii Telehealth Collaborative

[www.mauiagetwave.com](http://www.mauiagetwave.com)