

**SB 2491**



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TO THE SENATE COMMITTEE ON COMMERCE AND  
CONSUMER PROTECTION

TWENTY-FIFTH LEGISLATURE  
Regular Session of 2010

Friday, February 19, 2010  
9:15 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON SENATE BILL NO. 2491, S.D. 1 – RELATING TO TELEMEDICINE.**

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

My name is J.P. Schmidt, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department limits its testimony to sections 2, 3 and 4 of the bill and offers the following comments.

The purpose of this bill is to clarify telemedicine as the practice of medicine and to require medical malpractice insurers to provide coverage for telemedicine by amending the statutory definitions of: (1) malpractice insurance in paragraph (13) of Hawaii Revised Statutes (“HRS”) § 431:1-209; (2) “medical malpractice insurance” in HRS § 435C-2; (3) “physician or surgeon” in HRS § 435E-1; and (4) “practice of medicine” in HRS § 453-1.

The Department cannot speculate how insurers will respond to or assess the impact of requiring coverage for telemedicine under medical malpractice insurance.

We thank this Committee for the opportunity to present testimony on this matter.



**HAWAII MEDICAL ASSOCIATION**

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**Friday, February 19, 2010, 9:15 a.m., Conference Room 229**

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

**From: Hawaii Medical Association**  
Gary A. Okamoto, MD, Legislative Co-Chair  
Linda Rasmussen, MD, Legislative Co-Chair  
April Donahue, Executive Director  
Lauren Zirbel, Government Affairs  
Dick Botti, Government Affairs

**Re: SB2491 RELATING TO TELEMEDICINE**

Oppose unless amended.

Chairs & Committee Members:

Hawaii Medical Association urges the committee to make an amendment to SB2491 Relating to Telemedicine. It is premature at this time to create a mandate for medical malpractice insurers to cover the practice of telemedicine. It is critical that the legislation make it optional to cover telemedicine, not mandatory. We suggest changing the following existing language "8431:l-209 General casualty insurance defined.(13):

"provided that, liability insurance covering the professional services of a physician or surgeon shall include coverage for claims or losses relating to the practice of telemedicine meeting the requirements of section 453-1.3"

to the following language:

"provided that, liability insurance covering the professional services of a physician or surgeon may include coverage for claims or losses relating to the practice of telemedicine meeting the requirements of section 453-1.3"

Mandating coverage for a relatively new type of care before a clear standard has been developed would hinder malpractice carriers in Hawaii. The standard of care as it relates to telemedicine is ambiguous and would be difficult if not impossible to defend, and could result in malpractice carriers leaving Hawaii due to the financial instability of doing business here. Additionally, before a mandate such as this is considered, there needs to be extensive research detailing how it would affect malpractice premium rates.

Unless SB2491 is amended to remove the mandate we regret that HMA is unable to offer support.

Thank you for your consideration and the opportunity to provide these comments.

**OFFICERS**

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Immediate Past President - Gary Okamoto, MD Treasurer - Stephen Kemble, MD Executive Director - April Donahue

Hawaii State Rural Health Association  
Testimony for SB2491 regarding health

The Hawaii State Rural Health Association would like to express our strongest support for SB2491. We have conducted published research on the rural health care needs across the State and found that while all communities are unique, there are some themes that are common throughout the state. Needs that are commonly identified in our rural and underserved communities include:

1. Financial assistance (insurance coverage, medication, free services)
2. Expanding services that are available to rural communities (**including telehealth/telemedicine services**)
3. Improving access to available services (Long term care, primary care, specialty care, mental health care, substance abuse treatment, health care training and other services)
4. Decreasing drug use
5. Increasing health education and training opportunities for community members
5. Increasing the number of health care providers working in rural areas
6. Increasing cultural sensitivity of providers

The most recent assessment of physicians in the State of Hawaii performed by my office at JABSOM estimates that we have **500** providers less than we need to meet the demand estimated by population mix. Furthermore, this deficit may grow to **1,500** providers by 2020 if no action is taken. Many things can be done to meet the growing demand for health care providers and SB2491 is essential for making telemedicine a viable option for meeting the need for medical services. Hawaii, as an island state, should have one of the finest telemedicine networks in America. But we have almost no providers participating. Part of the cause may be the lack of malpractice insurance coverage. If telemedicine is not covered under malpractice insurance, no providers will participate. Therefore it must be made clear that telemedicine visits are covered.

The Hawaii State Rural Health Association supports legislation that will increase services to rural communities, including legislation that supports expanding the health workforce, developing assistance programs for rural areas, and expanding the facilities available to rural citizens. We expect this to be done in culturally appropriate ways with significant grass roots community involvement at all steps of the process.

Therefore the Hawaii State Rural Health Association fully supports SB2491 because it will improve health in our rural areas. Without interventions such as these, the growing health crisis will get worse and lives will be lost that need not be.

Sincerely,

Kelley Withy, MD, PhD  
President, Hawaii State Rural Health Association