



EXECUTIVE CHAMBERS
HONOLULU

NEIL ABERCROMBIE
GOVERNOR

GOV. MSG. NO. 1262

June 30, 2014

The Honorable Donna Mercado Kim,
President
and Members of the Senate
Twenty-Seventh State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

The Honorable Joseph M. Souki,
Speaker and Members of the
House of Representatives
Twenty-Seventh State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear President Kim, Speaker Souki, and Members of the Legislature:

This is to inform you that on June 30, 2014, the following bill was signed into law:

SB2469 SD2 HD3 CD1

RELATING TO TELEHEALTH
ACT 159 (14)

Sincerely,

NEIL ABERCROMBIE
Governor, State of Hawaii

A BILL FOR AN ACT

RELATING TO TELEHEALTH.

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

1 SECTION 1. The legislature finds that one of the
2 challenges faced by the country's health care system is
3 providing quality care to segments of the population who do not
4 have access to essential services because of geographic
5 limitations. Using telehealth to deliver health care from a
6 distance is an effective way of overcoming certain barriers to
7 accessing care, particularly for communities located in rural
8 and remote areas. This is especially important in Hawaii, where
9 residents on the neighbor islands and in rural areas do not have
10 the same level of access to care as residents in urban areas of
11 Oahu.

12 The legislature further finds that telehealth services are
13 used extensively across the country with no compromise in
14 quality of care when the services are within the scope of
15 practice of a provider. However, reimbursement policies vary
16 between health plans, leading to confusion among health care
17 providers and restrictions on patient access to quality health
18 care.



1 The legislature additionally finds that requiring parity
2 for telehealth services will empower consumer choice, reduce
3 disparities in access to care, enhance health care provider
4 availability, and improve quality of care.

5 The legislature also finds that various sections of the
6 Hawaii Revised Statutes contain different definitions for or
7 references to "telemedicine" and "telehealth" and notes that
8 these definitions and references should be harmonized for
9 consistency.

10 Accordingly, the purpose of this Act is to:

- 11 (1) Require equivalent insurance reimbursement for
12 services, including behavioral health services,
13 provided by a health care provider to a patient
14 regardless of whether the service is provided through
15 telehealth or via face-to-face contact between health
16 care provider and patient;
- 17 (2) Clarify that health care providers for purposes of
18 telehealth include primary care providers, mental
19 health providers, oral health providers, physicians
20 and osteopathic physicians, advanced practice
21 registered nurses, psychologists, and dentists; and



1 (3) Change references to "telemedicine" in the Hawaii
2 Revised Statutes to "telehealth" for consistency.

3 SECTION 2. Section 209E-2, Hawaii Revised Statutes, is
4 amended by amending the definition of "medical and health care
5 services" to read as follows:

6 "Medical and health care services" means medical research,
7 clinical trials, and [~~telemedicine,~~] telehealth, but not routine
8 medical treatment or services."

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

11 "(c) Reimbursement for services provided through
12 telehealth shall be equivalent to reimbursement for the same
13 services provided via face-to-face contact between a health care
14 provider and a patient. There shall be no reimbursement for a
15 telehealth consultation between health care providers unless a
16 health care provider-patient relationship exists between the
17 patient and one of the health care providers involved in the
18 telehealth interaction[~~-~~] and the patient is accompanied by a
19 treating health care provider at the time telehealth services
20 are provided by the consulting health care provider; provided
21 that when behavioral health services are provided, a second



1 health care provider shall not be required to accompany the
2 patient.

3 For the purposes of this section, "health care provider"
4 means a provider of services, as defined in 42 U.S.C. 1395x(u),
5 a provider of medical and other health services, as defined in
6 42 U.S.C. 1395x(s), and any other person or organization who
7 furnishes, bills, or is paid for health care in the normal
8 course of business[-], including but not limited to primary care
9 providers, mental health providers, oral health providers,
10 physicians and osteopathic physicians licensed under chapter
11 453, advanced practice registered nurses licensed under chapter
12 457, psychologists licensed under chapter 465, and dentists
13 licensed under chapter 448."

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

16 "(c) Reimbursement for services provided through
17 telehealth shall be equivalent to reimbursement for the same
18 services provided via face-to-face contact between a health care
19 provider and a patient. There shall be no reimbursement for a
20 telehealth consultation between health care providers unless a
21 health care provider-patient relationship exists between the
22 patient and one of the health care providers involved in the



1 telehealth interaction[-] and the patient is accompanied by a
2 treating health care provider at the time telehealth services
3 are provided by the consulting health care provider; provided
4 that when behavioral health services are provided, a second
5 health care provider shall not be required to accompany the
6 patient.

7 For the purposes of this section, "health care provider"
8 means a provider of services, as defined in 42 U.S.C. 1395x(u),
9 a provider of medical or other health services, as defined in 42
10 U.S.C. 1395x(s), and any other person or organization who
11 furnishes, bills, or is paid for health care in the normal
12 course of business[-], including but not limited to primary care
13 providers, mental health providers, oral health providers,
14 physicians and osteopathic physicians licensed under chapter
15 453, advanced practice registered nurses licensed under chapter
16 457, psychologists licensed under chapter 465, and dentists
17 licensed under chapter 448."

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

20 "(c) Reimbursement for services provided through
21 telehealth shall be equivalent to reimbursement for the same
22 services provided via face-to-face contact between a health care

1 provider and a patient. There shall be no reimbursement for a
 2 telehealth consultation between health care providers unless an
 3 existing health care provider-patient relationship exists
 4 between the patient and one of the health care providers
 5 involved in the telehealth interaction[-] and the patient is
 6 accompanied by a treating health care provider at the time
 7 telehealth services are provided by the consulting health care
 8 provider; provided that when behavioral health services are
 9 provided, a second health care provider shall not be required to
 10 accompany the patient.

11 For the purposes of this section, "health care provider"
 12 means a provider of services, as defined in 42 U.S.C. 1395x(u),
 13 a provider of medical or other health services, as defined in 42
 14 U.S.C. 1395x(s), and any other person or organization who
 15 furnishes, bills, or is paid for health care in the normal
 16 course of business[-], including but not limited to primary care
 17 providers, mental health providers, oral health providers,
 18 physicians and osteopathic physicians licensed under chapter
 19 453, advanced practice registered nurses licensed under chapter
 20 457, psychologists licensed under chapter 465, and dentists
 21 licensed under chapter 448."

1 SECTION 6. Section 440G-11.5, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "[f] (a) [+]" In conjunction with broadband services, the
4 director shall:

5 (1) Promote and encourage use of telework alternatives for
6 public and private employees, including appropriate
7 policy and legislative initiatives;

8 (2) Advise and assist state agencies, and upon request of
9 the counties, advise and assist the counties, in
10 planning, developing, and administering programs,
11 projects, plans, policies, and other activities to
12 promote telecommuting by employees of state and county
13 agencies;

14 (3) Support the efforts of both public and private
15 entities in Hawaii to enhance or facilitate the
16 deployment of, and access to, competitively priced,
17 advanced electronic communications services, including
18 broadband and its products and services and internet
19 access services of general application throughout
20 Hawaii;

21 (4) Make recommendations to establish affordable,
22 accessible broadband services to unserved and



- 1 underserved areas of Hawaii and monitor advancements
 2 in communications that will facilitate this goal;
- 3 (5) Advocate for, and facilitate the development and
 4 deployment of, expanded broadband applications,
 5 programs, and services, including telework,
 6 [~~telemedicine,~~] telehealth, and e-learning, that will
 7 bolster the usage of and demand for broadband level
 8 telecommunications;
- 9 (6) Serve as a broadband information and applications
 10 clearinghouse for the State and a coordination point
 11 for federal American Recovery and Reinvestment Act of
 12 2009 broadband-related services and programs; and
- 13 (7) Promote, advocate, and facilitate the implementation
 14 of the findings and recommendations of the Hawaii
 15 broadband task force established by Act 2, First
 16 Special Session Laws of Hawaii 2007."

17 SECTION 7. Section 453-1.3, Hawaii Revised Statutes, is
 18 amended to read as follows:

19 "**§453-1.3 Practice of [~~telemedicine,~~] telehealth.** (a)
 20 Subject to section 453-2(b), nothing in this section shall
 21 preclude any physician acting within the scope of the



1 physician's license to practice from practicing [~~telemedicine~~]
2 telehealth as defined in this section.

3 (b) For the purposes of this section, [~~"telemedicine"~~]
4 "telehealth" means the use of telecommunications [~~services,~~] as
5 that term is defined in section 269-1, including but not limited
6 to real-time video [~~or web conferencing~~] conferencing-based
7 communication [~~or~~], secure interactive and non-interactive web-
8 based communication [~~to establish~~], and secure asynchronous
9 information exchange, to transmit patient medical information,
10 including diagnostic-quality digital images and laboratory
11 results for medical interpretation and diagnosis, for the
12 purposes of delivering enhanced health care services and
13 information to parties separated by distance, establishing a
14 physician-patient relationship, [~~to evaluate~~] evaluating a
15 patient, or [~~to treat~~] treating a patient. [~~"Telehealth" as~~
16 used in chapters 431, 432, and 432D, includes "telemedicine" as
17 defined in this section.]

18 (c) [~~Telemedicine~~] Telehealth services shall include a
19 documented patient evaluation, including history and a
20 discussion of physical symptoms adequate to establish a
21 diagnosis and to identify underlying conditions or
22 contraindications to the treatment recommended or provided.



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

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

18 (f) A physician shall not use [~~telemedicine~~] telehealth to
19 establish a physician-patient relationship with a patient in
20 this State without a license to practice medicine in Hawaii.
21 Once a provider-patient relationship is established, a patient
22 or physician licensed in this State may use [~~telemedicine~~]



1 telehealth for any purpose, including consultation with a
2 medical provider licensed in another state, authorized by this
3 section[7] or as otherwise provided by law.

4 (g) Reimbursement for behavioral health services provided
5 through telehealth shall be equivalent to reimbursement for the
6 same services provided via face-to-face contact between a health
7 care provider and a patient."

8 SECTION 8. Section 453-2, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) Nothing herein shall:

11 (1) Apply to so-called Christian Scientists; provided that
12 the Christian Scientists practice the religious tenets
13 of their church without pretending a knowledge of
14 medicine or surgery;

15 (2) Prohibit service in the case of emergency or the
16 domestic administration of family remedies;

17 (3) Apply to any commissioned medical officer in the
18 United States armed forces or public health service
19 engaged in the discharge of one's official duty,
20 including a commissioned medical officer employed by
21 the United States Department of Defense, while
22 providing direct [~~telemedicine~~] telehealth support or



1 services to neighbor island beneficiaries within a
2 Hawaii National Guard armory on the island of Kauai,
3 Hawaii, Molokai, or Maui; provided that the
4 commissioned medical officer employed by the United
5 States Department of Defense is credentialed by
6 Tripler Army Medical Center;

- 7 (4) Apply to any practitioner of medicine and surgery from
8 another state when in actual consultation, including
9 in-person, mail, electronic, telephonic, fiber-optic,
10 or other [~~telemedicine~~] telehealth consultation with a
11 licensed physician or osteopathic physician of this
12 State, if the physician or osteopathic physician from
13 another state at the time of consultation is licensed
14 to practice in the state in which the physician or
15 osteopathic physician resides; provided that:

- 16 (A) The physician or osteopathic physician from
17 another state shall not open an office, or
18 appoint a place to meet patients in this State,
19 or receive calls within the limits of the State
20 for the provision of care for a patient who is
21 located in this State;



1 (B) The licensed physician or osteopathic physician
2 of this State retains control and remains
3 responsible for the provision of care for the
4 patient who is located in this State; and

5 (C) The laws and rules relating to contagious
6 diseases are not violated;

7 (5) Prohibit services rendered by any person certified
8 under part II of this chapter to provide emergency
9 medical services, or any physician assistant, when the
10 services are rendered under the direction and control
11 of a physician or osteopathic physician licensed in
12 this State except for final refraction resulting in a
13 prescription for spectacles, contact lenses, or visual
14 training as performed by an oculist or optometrist
15 duly licensed by the State. The direction and control
16 shall not be construed in every case to require the
17 personal presence of the supervising and controlling
18 physician or osteopathic physician. Any physician or
19 osteopathic physician who employs or directs a person
20 certified under part II of this chapter to provide
21 emergency medical services, or a physician assistant,
22 shall retain full professional and personal



1 responsibility for any act that constitutes the
2 practice of medicine when performed by the certified
3 person or physician assistant;

4 (6) Prohibit automated external defibrillation by:

5 (A) Any first responder personnel certified by the
6 department of health to provide automated
7 external defibrillation when it is rendered under
8 the medical oversight of a physician or
9 osteopathic physician licensed in this State; or

10 (B) Any person acting in accordance with section
11 663-1.5(e); or

12 (7) Prohibit a radiologist duly licensed to practice
13 medicine and provide radiology services in another
14 state from using [~~telemedicine~~] telehealth while
15 located in this State to provide radiology services to
16 a patient who is located in the state in which the
17 radiologist is licensed. For the purposes of this
18 paragraph:

19 "Radiologist" means a doctor of medicine or a
20 doctor of osteopathy certified in radiology by the
21 American Board of Radiology or the American Board of
22 Osteopathy.



1 ~~["Telemedicine"]~~ "Telehealth" means the use of
2 telecommunications ~~[services]~~, as that term is defined
3 in section 269-1, including but not limited to real-
4 time video conferencing-based communication, secure
5 interactive and non-interactive web-based
6 communication, and secure asynchronous information
7 exchange, to transmit patient medical information,
8 ~~[such as]~~ including diagnostic-quality digital images
9 and laboratory results for medical interpretation and
10 diagnosis, ~~[and deliver]~~ for the purpose of delivering
11 enhanced health care services and information to
12 parties separated by distance. Standard telephone
13 contacts, facsimile transmissions, or email texts, in
14 combination or by themselves, do not constitute a
15 telehealth service for the purposes of this
16 paragraph."

17 SECTION 9. Section 455-1.5, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "~~{~~\$455-1.5~~}~~ **Exceptions; scope of chapter.** Nothing in
20 this chapter shall be construed to prohibit or restrict:

- 21 (1) The practice of a profession by individuals who are
- 22 licensed, certified, or registered under the laws of



1 this State who are performing services within their
2 authorized scope of practice;

3 (2) The practice of naturopathic medicine by an individual
4 employed by the government of the United States while
5 the individual is engaged in the performance of duties
6 required of the individual by the laws and regulations
7 of the United States;

8 (3) The practice of naturopathic medicine by students
9 enrolled in a school that meets the requirements of
10 section 455-3. The performance of naturopathic
11 medicine by students shall be pursuant to a course of
12 instruction or assignments from an instructor and
13 under the supervision of an instructor who is a
14 naturopathic physician licensed pursuant to this
15 chapter; and

16 (4) The practice by a doctor of naturopathic medicine duly
17 registered or licensed in another state, territory, or
18 the District of Columbia who is called into this State
19 for consultation with a licensed naturopathic
20 physician, including in-person, mail, electronic,
21 telephonic, fiber-optic, or other [~~telemedicine~~]
22 telehealth consultation; provided that:



1 (A) The naturopathic physician from another state
2 shall not open an office, appoint a place to meet
3 patients, or receive calls within this State for
4 the provision of care for a patient who is
5 located in this State; and

6 (B) The licensed naturopathic physician of this State
7 retains control and remains responsible for the
8 provision of care for the patient who is located
9 in this State."

10 SECTION 10. Section 457-2.7, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Practice as an advanced practice registered nurse
13 means the scope of nursing in a category approved by the board,
14 regardless of compensation or personal profit, and includes the
15 registered nurse scope of practice. The scope of an advanced
16 practice registered nurse includes but is not limited to
17 advanced assessment; telehealth; and the diagnosis,
18 prescription, selection, and administration of therapeutic
19 measures including over the counter drugs, legend drugs, and
20 controlled substances within the advanced practice registered
21 nurse's role and specialty-appropriate education and
22 certification."



1 SECTION 11. Section 466J-6, Hawaii Revised Statutes, is
 2 amended by amending subsection (a) to read as follows:
 3 "(a) Any provision in this chapter to the contrary
 4 notwithstanding, a license shall not be required for:
 5 (1) A licensed medical practitioner in radiology;
 6 (2) A licensed practitioner of nuclear medicine;
 7 (3) A licensed physician assistant;
 8 (4) A licensed doctor of dentistry;
 9 (5) A licensed dental technician;
 10 (6) A licensed dental hygienist;
 11 (7) A student in an approved school for radiographers,
 12 radiation therapists, or nuclear medicine
 13 technologists, or in a school of medicine, podiatry,
 14 dentistry, or a chiropractic school; provided that the
 15 student is operating x-ray machines under the direct
 16 supervision of a licensed radiographer, licensed
 17 radiation therapist, licensed nuclear medicine
 18 technologist, or a qualified person pursuant to this
 19 chapter; and
 20 (8) A radiologist duly licensed to practice medicine and
 21 radiology services in another state who uses
 22 [~~telemedicine~~] telehealth while located in this State

1 to provide radiology services to a patient who is
2 located in the state in which the radiologist is
3 licensed. For the purposes of this paragraph:

4 "Radiologist" means a doctor of medicine or a
5 doctor of osteopathy certified in radiology by the
6 American Board of Radiology or the American Board of
7 Osteopathy.

8 [~~"Telemedicine"~~] "Telehealth" means the use of
9 telecommunications [~~services~~], as that term is defined
10 in section 269-1, including but not limited to real-
11 time video conferencing-based communication, secure
12 interactive and non-interactive web-based
13 communication, and secure asynchronous information
14 exchange, to transmit patient medical information,
15 [~~such as~~] including diagnostic-quality digital images
16 and laboratory results for medical interpretation and
17 diagnosis, [~~and deliver~~] for the purpose of delivering
18 enhanced health care services and information to
19 parties separated by distance. Standard telephone
20 contacts, facsimile transmissions, or email texts, in
21 combination or by themselves, do not constitute a



1 telehealth service for the purposes of this
2 paragraph."

3 SECTION 12. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 13. This Act shall take effect upon its approval.

APPROVED this 30 day of JUN 2014



GOVERNOR OF THE STATE OF HAWAII