

JAN 17 2014

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# 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 facing the country's health care system is providing  
3 quality care to segments of the population who do not have  
4 access to essential services because of geographic limitations.  
5 The use of telehealth to deliver health care from a distance is  
6 an effective way of overcoming certain barriers to care,  
7 particularly for communities located in rural and remote areas.  
8 This is especially important in a state like Hawaii, where  
9 residents on the neighbor islands and in rural areas lack the  
10 same level of access to care that residents on Oahu enjoy.

11           The legislature further finds that telehealth services are  
12 used extensively across the country with no compromise in  
13 quality of care when the services are within the scope of  
14 practice of a provider. However, reimbursement policies vary  
15 between health plans, leading to confusion among health care  
16 providers and restrictions on patient access to quality health  
17 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 reimbursement for services provided through  
12 telehealth to be equivalent to reimbursement for the  
13 same services provided via face-to-face contact  
14 between a health care provider and a patient;
- 15           (2) Clarify that a health care provider of telehealth  
16 includes primary care providers, mental health  
17 providers, and oral health providers such as  
18 physicians and osteopathic physicians, advanced  
19 practice registered nurses, psychologists, and  
20 dentists; and
- 21           (3) Amend references to "telemedicine" in the Hawaii  
22 Revised Statutes to "telehealth" for consistency.



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

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

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

9 "(c) Reimbursement for services provided through  
10 telehealth shall be equivalent to reimbursement for the same  
11 services provided via face-to-face contact between a health care  
12 provider and a patient. There shall be no reimbursement for a  
13 telehealth consultation between health care providers unless a  
14 health care provider-patient relationship exists between the  
15 patient and one of the health care providers involved in the  
16 telehealth interaction.

17 For the purposes of this section, "health care provider"  
18 means a provider of services, as defined in 42 U.S.C. 1395x(u),  
19 a provider of medical and other health services, as defined in  
20 42 U.S.C. 1395x(s), and any other person or organization who  
21 furnishes, bills, or is paid for health care in the normal  
22 course of business[~~-~~], including but not limited to primary care



1 providers, mental health providers, and oral health providers  
2 such as physicians and osteopathic physicians licensed under  
3 chapter 453, advanced practice registered nurses licensed under  
4 chapter 457, psychologists licensed under chapter 465, and  
5 dentists licensed under chapter 448."

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

8 "(c) Reimbursement for services provided through  
9 telehealth shall be equivalent to reimbursement for the same  
10 services provided via face-to-face contact between a health care  
11 provider and a patient. There shall be no reimbursement for a  
12 telehealth consultation between health care providers unless a  
13 health care provider-patient relationship exists between the  
14 patient and one of the health care providers involved in the  
15 telehealth interaction.

16 For the purposes of this section, "health care provider"  
17 means a provider of services, as defined in 42 U.S.C. 1395x(u),  
18 a provider of medical or other health services, as defined in 42  
19 U.S.C. 1395x(s), and any other person or organization who  
20 furnishes, bills, or is paid for health care in the normal  
21 course of business[=], including but not limited to primary care  
22 providers, mental health providers, and oral health providers



1 such as physicians and osteopathic physicians licensed under  
2 chapter 453, advanced practice registered nurses licensed under  
3 chapter 457, psychologists licensed under chapter 465, and  
4 dentists licensed under chapter 448."

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

7 "(c) Reimbursement for services provided through  
8 telehealth shall be equivalent to reimbursement for the same  
9 services provided via face-to-face contact between a health care  
10 provider and a patient. There shall be no reimbursement for a  
11 telehealth consultation between health care providers unless an  
12 existing health care provider-patient relationship exists  
13 between the patient and one of the health care providers  
14 involved in the telehealth interaction.

15 For the purposes of this section, "health care provider"  
16 means a provider of services, as defined in 42 U.S.C. 1395x(u),  
17 a provider of medical or other health services, as defined in 42  
18 U.S.C. 1395x(s), and any other person or organization who  
19 furnishes, bills, or is paid for health care in the normal  
20 course of business[~~-~~], including but not limited to primary care  
21 providers, mental health providers, and oral health providers  
22 such as physicians and osteopathic physicians licensed under



1 chapter 453, advanced practice registered nurses licensed under  
2 chapter 457, psychologists licensed under chapter 465, and  
3 dentists licensed under chapter 448."

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

6 "[+](a)[+] In conjunction with broadband services, the  
7 director shall:

- 8 (1) Promote and encourage use of telework alternatives for  
9 public and private employees, including appropriate  
10 policy and legislative initiatives;
- 11 (2) Advise and assist state agencies, and upon request of  
12 the counties, advise and assist the counties, in  
13 planning, developing, and administering programs,  
14 projects, plans, policies, and other activities to  
15 promote telecommuting by employees of state and county  
16 agencies;
- 17 (3) Support the efforts of both public and private  
18 entities in Hawaii to enhance or facilitate the  
19 deployment of, and access to, competitively priced,  
20 advanced electronic communications services, including  
21 broadband and its products and services and internet



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

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



1           "~~+~~§453-1.3~~+~~ Practice of ~~[telemedicine.]~~ telehealth.

2       (a) Subject to section 453-2(b), nothing in this section shall  
3 preclude any physician acting within the scope of the  
4 physician's license to practice from practicing ~~[telemedicine]~~  
5 telehealth as defined in this section.

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

21       (c) [~~Telemedicine~~] Telehealth services shall include a  
22 documented patient evaluation, including history and a





1 discussion of physical symptoms adequate to establish a  
2 diagnosis and to identify underlying conditions or  
3 contraindications to the treatment recommended or provided.

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

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

21 (f) A physician shall not use [~~telemedicine~~] telehealth to  
22 establish a physician-patient relationship with a patient in



1 this State without a license to practice medicine in Hawaii.  
2 Once a provider-patient relationship is established, a patient  
3 or physician licensed in this State may use [~~telemedicine~~]  
4 telehealth for any purpose, including consultation with a  
5 medical provider licensed in another state, authorized by this  
6 section, or as otherwise provided by law."

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

9 "(b) Nothing herein shall:

- 10 (1) Apply to so-called Christian Scientists; provided that  
11 the Christian Scientists practice the religious tenets  
12 of their church without pretending a knowledge of  
13 medicine or surgery;
- 14 (2) Prohibit service in the case of emergency or the  
15 domestic administration of family remedies;
- 16 (3) Apply to any commissioned medical officer in the  
17 United States armed forces or public health service  
18 engaged in the discharge of one's official duty,  
19 including a commissioned medical officer employed by  
20 the United States Department of Defense, while  
21 providing direct [~~telemedicine~~] telehealth support or  
22 services to neighbor island beneficiaries within a



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

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

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

21 (B) The licensed physician or osteopathic physician  
22 of this State retains control and remains



1                   responsible for the provision of care for the  
2                   patient who is located in this State; and  
3                   (C) The laws and rules relating to contagious  
4                   diseases are not violated;  
5                   (5) Prohibit services rendered by any person certified  
6                   under part II of this chapter to provide emergency  
7                   medical services, or any physician assistant, when the  
8                   services are rendered under the direction and control  
9                   of a physician or osteopathic physician licensed in  
10                  this State except for final refraction resulting in a  
11                  prescription for spectacles, contact lenses, or visual  
12                  training as performed by an oculist or optometrist  
13                  duly licensed by the State. The direction and control  
14                  shall not be construed in every case to require the  
15                  personal presence of the supervising and controlling  
16                  physician or osteopathic physician. Any physician or  
17                  osteopathic physician who employs or directs a person  
18                  certified under part II of this chapter to provide  
19                  emergency medical services, or a physician assistant,  
20                  shall retain full professional and personal  
21                  responsibility for any act that constitutes the



1 practice of medicine when performed by the certified  
2 person or physician assistant;

3 (6) Prohibit automated external defibrillation by:

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

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

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

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

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

18           "[~~§~~455-1.5[~~§~~] **Exceptions; scope of chapter.** Nothing in  
19           this chapter shall be construed to prohibit or restrict:

- 20           (1) The practice of a profession by individuals who are
- 21           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  
22 telehealth service for the purposes of this chapter."



1 SECTION 12. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 13. This Act shall take effect upon its approval.  
4

INTRODUCED BY:

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# S.B. NO. 2469

**Report Title:**

Telehealth; Insurance; Health Care Providers; Reimbursement

**Description:**

Requires reimbursement for services provided through telehealth to be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Clarifies that a health care provider of telehealth includes primary care providers, mental health providers, and oral health providers such as physicians and osteopathic physicians, advanced practice registered nurses, psychologists, and dentists. Amends references to "telemedicine" in the Hawaii Revised Statutes to "telehealth" for consistency.

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