
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. The use of telehealth to deliver health care from
6 a 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 a state like
9 Hawaii, where residents on the neighbor islands and in rural
10 areas lack the same level of access to care that residents in
11 urban areas of Oahu enjoy.

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 provided by a health care provider to a
13 patient, regardless of whether the service is provided
14 through telehealth or via face-to-face contact between
15 health care provider and patient;
- 16 (2) Clarify that health care providers for purposes of
17 telehealth include primary care providers, mental
18 health providers, and oral health providers, such as
19 physicians and osteopathic physicians, advanced
20 practice registered nurses, psychologists, and
21 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.

21 For the purposes of this section, "health care provider"
22 means a provider of services, as defined in 42 U.S.C. 1395x(u),



1 a provider of medical and other health services, as defined in
2 42 U.S.C. 1395x(s), and any other person or organization who
3 furnishes, bills, or is paid for health care in the normal
4 course of business[-], including but not limited to primary care
5 providers, mental health providers, and oral health providers,
6 such as physicians and osteopathic physicians licensed under
7 chapter 453, advanced practice registered nurses licensed under
8 chapter 457, psychologists licensed under chapter 465, and
9 dentists licensed under chapter 448."

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

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



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

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

14 "(c) Reimbursement for services provided through
15 telehealth shall be equivalent to reimbursement for the same
16 services provided via face-to-face contact between a health care
17 provider and a patient. There shall be no reimbursement for a
18 telehealth consultation between health care providers unless an
19 existing health care provider-patient relationship exists
20 between the patient and one of the health care providers
21 involved in the telehealth interaction[-] and the patient is
22 accompanied by a treating health care provider at the time



1 telehealth services are provided by the consulting health care
2 provider.

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 or other health services, as defined in 42
6 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, and oral health providers,
10 such as physicians and osteopathic physicians licensed under
11 chapter 453, advanced practice registered nurses licensed under
12 chapter 457, psychologists licensed under chapter 465, and
13 dentists licensed under chapter 448."

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

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

18 (1) Promote and encourage use of telework alternatives for
19 public and private employees, including appropriate
20 policy and legislative initiatives;

21 (2) Advise and assist state agencies, and upon request of
22 the counties, advise and assist the counties, in



1 planning, developing, and administering programs,
2 projects, plans, policies, and other activities to
3 promote telecommuting by employees of state and county
4 agencies;

5 (3) Support the efforts of both public and private
6 entities in Hawaii to enhance or facilitate the
7 deployment of, and access to, competitively priced,
8 advanced electronic communications services, including
9 broadband and its products and services and internet
10 access services of general application throughout
11 Hawaii;

12 (4) Make recommendations to establish affordable,
13 accessible broadband services to unserved and
14 underserved areas of Hawaii and monitor advancements
15 in communications that will facilitate this goal;

16 (5) Advocate for, and facilitate the development and
17 deployment of, expanded broadband applications,
18 programs, and services, including telework,
19 [~~telemedicine,~~] telehealth, and e-learning, that will
20 bolster the usage of and demand for broadband level
21 telecommunications;



- 1 (6) Serve as a broadband information and applications
2 clearinghouse for the State and a coordination point
3 for federal American Recovery and Reinvestment Act of
4 2009 broadband-related services and programs; and
- 5 (7) Promote, advocate, and facilitate the implementation
6 of the findings and recommendations of the Hawaii
7 broadband task force established by Act 2, First
8 Special Session Laws of Hawaii 2007."

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

11 "**§453-1.3 Practice of ~~[telemedicine.]~~ telehealth.** (a)
12 Subject to section 453-2(b), nothing in this section shall
13 preclude any physician acting within the scope of the
14 physician's license to practice from practicing ~~[telemedicine]~~
15 telehealth as defined in this section.

16 (b) For the purposes of this section, ~~["telemedicine"]~~
17 "telehealth" means the use of telecommunications ~~[services,]~~ as
18 that term is defined in section 269-1, including but not limited
19 to real-time video ~~[or web conferencing]~~ conferencing-based
20 communication ~~[or]~~, secure interactive and non-interactive web-
21 based communication ~~[to establish], and secure asynchronous~~
22 information exchange, to transmit patient medical information,



1 including diagnostic-quality digital images and laboratory
2 results for medical interpretation and diagnosis, for the
3 purposes of delivering enhanced health care services and
4 information to parties separated by distance, establishing a
5 physician-patient relationship, [~~to evaluate~~] evaluating a
6 patient, or [~~to treat~~] treating a patient. [~~"Telehealth" as~~
7 ~~used in chapters 431, 432, and 432D, includes "telemedicine" as~~
8 ~~defined in this section.]~~

9 (c) [~~Telemedicine~~] Telehealth services shall include a
10 documented patient evaluation, including history and a
11 discussion of physical symptoms adequate to establish a
12 diagnosis and to identify underlying conditions or
13 contraindications to the treatment recommended or provided.

14 (d) Treatment recommendations made via [~~telemedicine,~~]
15 telehealth, including issuing a prescription via electronic
16 means, shall be held to the same standards of appropriate
17 practice as those in traditional physician-patient settings that
18 do not include a face-to-face visit but in which prescribing is
19 appropriate, including on-call telephone encounters and
20 encounters for which a follow-up visit is arranged. Issuing a
21 prescription based solely on an online questionnaire is not
22 treatment for the purposes of this section and does not



1 constitute an acceptable standard of care. For the purposes of
2 prescribing a controlled substance, a physician-patient
3 relationship shall be established pursuant to chapter 329.

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

9 (f) A physician shall not use [~~telemedicine~~] telehealth to
10 establish a physician-patient relationship with a patient in
11 this State without a license to practice medicine in Hawaii.
12 Once a provider-patient relationship is established, a patient
13 or physician licensed in this State may use [~~telemedicine~~]
14 telehealth for any purpose, including consultation with a
15 medical provider licensed in another state, authorized by this
16 section[7] or as otherwise provided by law."

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

19 "(b) Nothing herein shall:

20 (1) Apply to so-called Christian Scientists; provided that
21 the Christian Scientists practice the religious tenets



1 of their church without pretending a knowledge of
2 medicine or surgery;

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

5 (3) Apply to any commissioned medical officer in the
6 United States armed forces or public health service
7 engaged in the discharge of one's official duty,
8 including a commissioned medical officer employed by
9 the United States Department of Defense, while
10 providing direct [~~telemedicine~~] telehealth support or
11 services to neighbor island beneficiaries within a
12 Hawaii National Guard armory on the island of Kauai,
13 Hawaii, Molokai, or Maui; provided that the
14 commissioned medical officer employed by the United
15 States Department of Defense is credentialed by
16 Tripler Army Medical Center;

17 (4) Apply to any practitioner of medicine and surgery from
18 another state when in actual consultation, including
19 in-person, mail, electronic, telephonic, fiber-optic,
20 or other [~~telemedicine~~] telehealth consultation with a
21 licensed physician or osteopathic physician of this
22 State, if the physician or osteopathic physician from



1 another state at the time of consultation is licensed
2 to practice in the state in which the physician or
3 osteopathic physician resides; provided that:

4 (A) The physician or osteopathic physician from
5 another state shall not open an office, or
6 appoint a place to meet patients in this State,
7 or receive calls within the limits of the State
8 for the provision of care for a patient who is
9 located in this State;

10 (B) The licensed physician or osteopathic physician
11 of this State retains control and remains
12 responsible for the provision of care for the
13 patient who is located in this State; and

14 (C) The laws and rules relating to contagious
15 diseases are not violated;

16 (5) Prohibit services rendered by any person certified
17 under part II of this chapter to provide emergency
18 medical services, or any physician assistant, when the
19 services are rendered under the direction and control
20 of a physician or osteopathic physician licensed in
21 this State except for final refraction resulting in a
22 prescription for spectacles, contact lenses, or visual



1 training as performed by an oculist or optometrist
2 duly licensed by the State. The direction and control
3 shall not be construed in every case to require the
4 personal presence of the supervising and controlling
5 physician or osteopathic physician. Any physician or
6 osteopathic physician who employs or directs a person
7 certified under part II of this chapter to provide
8 emergency medical services, or a physician assistant,
9 shall retain full professional and personal
10 responsibility for any act that constitutes the
11 practice of medicine when performed by the certified
12 person or physician assistant;

13 (6) Prohibit automated external defibrillation by:

14 (A) Any first responder personnel certified by the
15 department of health to provide automated
16 external defibrillation when it is rendered under
17 the medical oversight of a physician or
18 osteopathic physician licensed in this State; or

19 (B) Any person acting in accordance with section
20 663-1.5(e); or

21 (7) Prohibit a radiologist duly licensed to practice
22 medicine and provide radiology services in another



1 state from using [~~telemedicine~~] telehealth while
2 located in this State to provide radiology services to
3 a patient who is located in the state in which the
4 radiologist is licensed. For the purposes of this
5 paragraph:

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

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



1 combination or by themselves, do not constitute a
2 telehealth service for the purposes of this
3 paragraph."

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

6 "~~§~~**455-1.5**~~§~~ **Exceptions; scope of chapter.** Nothing in
7 this chapter shall be construed to prohibit or restrict:

8 (1) The practice of a profession by individuals who are
9 licensed, certified, or registered under the laws of
10 this State who are performing services within their
11 authorized scope of practice;

12 (2) The practice of naturopathic medicine by an individual
13 employed by the government of the United States while
14 the individual is engaged in the performance of duties
15 required of the individual by the laws and regulations
16 of the United States;

17 (3) The practice of naturopathic medicine by students
18 enrolled in a school that meets the requirements of
19 section 455-3. The performance of naturopathic
20 medicine by students shall be pursuant to a course of
21 instruction or assignments from an instructor and
22 under the supervision of an instructor who is a



1 naturopathic physician licensed pursuant to this
2 chapter; and

3 (4) The practice by a doctor of naturopathic medicine duly
4 registered or licensed in another state, territory, or
5 the District of Columbia who is called into this State
6 for consultation with a licensed naturopathic
7 physician, including in-person, mail, electronic,
8 telephonic, fiber-optic, or other [~~telemedicine~~]
9 telehealth consultation; provided that:

10 (A) The naturopathic physician from another state
11 shall not open an office, appoint a place to meet
12 patients, or receive calls within this State for
13 the provision of care for a patient who is
14 located in this State; and

15 (B) The licensed naturopathic physician of this State
16 retains control and remains responsible for the
17 provision of care for the patient who is located
18 in this State."

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

21 "(a) Practice as an advanced practice registered nurse
22 means the scope of nursing in a category approved by the board,



1 regardless of compensation or personal profit, and includes the
2 registered nurse scope of practice. The scope of an advanced
3 practice registered nurse includes but is not limited to
4 advanced assessment; telehealth; and the diagnosis,
5 prescription, selection, and administration of therapeutic
6 measures including over the counter drugs, legend drugs, and
7 controlled substances within the advanced practice registered
8 nurse's role and specialty-appropriate education and
9 certification."

10 SECTION 11. Section 466J-6, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) Any provision in this chapter to the contrary
13 notwithstanding, a license shall not be required for:

- 14 (1) A licensed medical practitioner in radiology;
- 15 (2) A licensed practitioner of nuclear medicine;
- 16 (3) A licensed physician assistant;
- 17 (4) A licensed doctor of dentistry;
- 18 (5) A licensed dental technician;
- 19 (6) A licensed dental hygienist;
- 20 (7) A student in an approved school for radiographers,
21 radiation therapists, or nuclear medicine
22 technologists, or in a school of medicine, podiatry,



1 dentistry, or a chiropractic school; provided that the
2 student is operating x-ray machines under the direct
3 supervision of a licensed radiographer, licensed
4 radiation therapist, licensed nuclear medicine
5 technologist, or a qualified person pursuant to this
6 chapter; and

- 7 (8) A radiologist duly licensed to practice medicine and
8 radiology services in another state who uses
9 [~~telemedicine~~] telehealth while located in this State
10 to provide radiology services to a patient who is
11 located in the state in which the radiologist is
12 licensed. For the purposes of this paragraph:

13 "Radiologist" means a doctor of medicine or a
14 doctor of osteopathy certified in radiology by the
15 American Board of Radiology or the American Board of
16 Osteopathy.

17 [~~"Telemedicine"~~] "Telehealth" means the use of
18 telecommunications [~~services~~], as that term is defined
19 in section 269-1, including but not limited to real-
20 time video conferencing-based communication, secure
21 interactive and non-interactive web-based
22 communication, and secure asynchronous information



1 exchange, to transmit patient medical information,
2 [~~such as~~] including diagnostic-quality digital images
3 and laboratory results for medical interpretation and
4 diagnosis, [~~and deliver~~] for the purpose of delivering
5 enhanced health care services and information to
6 parties separated by distance. Standard telephone
7 contacts, facsimile transmissions, or email texts, in
8 combination or by themselves, do not constitute a
9 telehealth service for the purposes of this
10 paragraph."

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

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



Report Title:

Telehealth; Insurance; Health Care Providers; Reimbursement

Description:

Requires equivalent reimbursement for services provided through telehealth as for the same services provided via face-to-face contact. Clarifies definition of health care provider for telehealth purposes. Changes statutory references to "telemedicine" to "telehealth" for consistency. (SB2469 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

