
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 telehealth has
2 allowed states to implement innovative health policy reforms
3 that achieve significant cost savings and improve health
4 outcomes. There are many opportunities for improving health
5 care access in Hawaii through the use of telehealth, especially
6 in areas of the State faced with a shortage of health care
7 providers.

8 However, the legislature further finds that restrictions on
9 telehealth, such as geographical limitations on service,
10 limitations on patient setting, and restrictions on applicable
11 technology, act as barriers that prevent health care providers
12 and patients from realizing the full benefits of telehealth.

13 Accordingly, the purpose of this Act is to enhance access
14 to care via telehealth by:

15 (1) Requiring the State's medicaid managed care and fee-
16 for-service programs to cover services provided
17 through telehealth;



- 1 (2) Specifying that any telehealth services provided shall
2 be consistent with all federal and state privacy,
3 security, and confidentiality laws;
- 4 (3) Specifying medical professional liability insurance
5 policy requirements with regard to telehealth
6 coverage;
- 7 (4) Clarifying that reimbursement for services provided
8 through telehealth shall be equivalent to
9 reimbursement for the same services provided via face-
10 to-face contact between a health care provider and a
11 patient;
- 12 (5) Requiring written disclosure of coverages and benefits
13 associated with telehealth services;
- 14 (6) Ensuring that telehealth encompasses store and forward
15 technologies, remote monitoring, live consultation,
16 and mobile health;
- 17 (7) Ensuring that telehealth is covered when originating
18 in a patient's home and other non-medical
19 environments;



- 1 (8) Clarifying requirements for physicians and out-of-
- 2 state physicians to establish a physician-patient
- 3 relationship via telehealth;
- 4 (9) Ensuring that reimbursement requirements for
- 5 telehealth services apply to all health benefits plans
- 6 under chapter 87A, Hawaii Revised Statutes; and
- 7 (10) Making other conforming amendments related to
- 8 telehealth for clarity.

9 SECTION 2. Chapter 346, Hawaii Revised Statutes, is
 10 amended by adding a new section to be appropriately designated
 11 and to read as follows:

12 "§346- Coverage for telehealth. (a) The State's
 13 medicaid managed care and fee-for-service programs shall not
 14 deny coverage for any service provided through telehealth that
 15 would be covered if the service were provided through in-person
 16 consultation between a patient and a health care provider.

17 (b) Reimbursement for services provided through telehealth
 18 shall be equivalent to reimbursement for the same services
 19 provided via face-to-face contact between a health care provider
 20 and a patient. Nothing in this section shall require a health
 21 care provider to be physically present with the patient at an



1 originating site unless a health care provider at the distant
2 site deems it necessary.

3 (c) There shall be no geographic restrictions or
4 requirements for telehealth coverage or reimbursement under this
5 section.

6 (d) There shall be no restrictions on originating site
7 requirements for telehealth coverage or reimbursement under this
8 section.

9 (e) Services provided by telehealth pursuant to this
10 section shall be consistent with all federal and state privacy,
11 security, and confidentiality laws.

12 (f) Notwithstanding any other law to the contrary, the
13 provisions of this section shall comply with the applicable
14 federal requirements related to utilization, coverage, and
15 reimbursement for telehealth services.

16 (g) For the purposes of this section:

17 "Distant site" means the location of the health care
18 provider delivering services through telehealth at the time the
19 services are provided.

20 "Health care provider" means a provider of services, as
21 defined in title 42 United States Code section 1395x(u), a



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

10 "Originating site" means the location where the patient is
11 located, whether accompanied or not by a health care provider,
12 at the time services are provided by a health care provider
13 through telehealth, including but not limited to a health care
14 provider's office, hospital, critical access hospital, rural
15 health clinic, federally qualified health center, a patient's
16 home, and other non-medical environments such as school-based
17 health centers, university-based health centers, or the work
18 location of a patient.

19 "Telehealth" means the use of telecommunications services,
20 as defined in section 269-1, to encompass four modalities:
21 store and forward technologies, remote monitoring, live



1 consultation, and mobile health; and which shall include but not
 2 be limited to real-time video conferencing-based communication,
 3 secure interactive and non-interactive web-based communication,
 4 and secure asynchronous information exchange, to transmit
 5 patient medical information, including diagnostic-quality
 6 digital images and laboratory results for medical interpretation
 7 and diagnosis, for the purpose of delivering enhanced health
 8 care services and information while a patient is at an
 9 originating site and the health care provider is at a distant
 10 site. Standard telephone contacts, facsimile transmissions, or
 11 e-mail text, in combination or by itself, does not constitute a
 12 telehealth service for the purposes of this section."

13 SECTION 3. Chapter 457, Hawaii Revised Statutes, is
 14 amended by adding a new section to be appropriately designated
 15 and to read as follows:

16 "§457- Telehealth; privacy, security, and
 17 confidentiality. Services relating to the practice of nursing
 18 provided by telehealth pursuant to this chapter shall be
 19 consistent with all federal and state privacy, security, and
 20 confidentiality laws."



1 SECTION 4. Chapter 671, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§671- Professional liability insurance; coverage for
5 telehealth. (a) Every insurer providing professional liability
6 insurance for a health care provider shall ensure that every
7 policy that is issued, amended, or renewed in this State on or
8 after the effective date of Act , Session Laws of Hawaii
9 2016, shall provide malpractice coverage for telehealth that
10 shall be equivalent to coverage for the same services provided
11 via face-to-face contact between a health care provider and a
12 patient.

13 (b) No insurer providing professional liability insurance
14 policies shall require face-to-face contact between a health
15 care provider and a patient as a prerequisite for coverage of
16 services appropriately provided through telehealth in accordance
17 with generally accepted health care practices and standards
18 prevailing in the applicable professional community at the time
19 the services were provided. The coverage required in this
20 section may be subject to all terms and conditions of the policy
21 agreed upon between the health care provider and the insurer.



1 (c) For purposes of this section:

2 "Distant site" means the location of the health care
3 provider delivering services through telehealth at the time the
4 services are provided.

5 "Originating site" means the location where the patient is
6 located, whether accompanied or not by a health care provider,
7 at the time services are provided by a health care provider
8 through telehealth, including but not limited to a health care
9 provider's office, hospital, critical access hospital, rural
10 health clinic, federally qualified health center, a patient's
11 home, and other non-medical environments such as school-based
12 health centers, university-based health centers, or the work
13 location of a patient.

14 "Telehealth" means the use of telecommunications services,
15 as defined in section 269-1, to encompass four modalities:
16 store and forward technologies, remote monitoring, live
17 consultation, and mobile health; and which shall include but not
18 be limited to real-time video conferencing-based communication,
19 secure interactive and non-interactive web-based communication,
20 and secure asynchronous information exchange, to transmit
21 patient medical information, including diagnostic-quality



1 digital images and laboratory results for medical interpretation
 2 and diagnosis, for the purpose of delivering enhanced health
 3 care services and information while a patient is at an
 4 originating site and the health care provider is at a distant
 5 site. Standard telephone contacts, facsimile transmissions, or
 6 e-mail text, in combination or by itself, does not constitute a
 7 telehealth service for the purposes of this section."

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

11 "Medical and health care services" means medical
 12 research[7] and clinical trials, [~~and telehealth7~~] but not
 13 routine medical treatment or services."

14 SECTION 6. Section 431:10A-116.3, Hawaii Revised Statutes,
 15 is amended to read as follows:

16 "§431:10A-116.3 Coverage for telehealth. (a) It is the
 17 intent of the legislature to recognize the application of
 18 telehealth as a reimbursable service by which an individual
 19 shall receive medical services from a health care provider
 20 without face-to-face contact with the health care provider.



1 (b) No accident and health or sickness insurance plan that
2 is issued, amended, or renewed shall require face-to-face
3 contact between a health care provider and a patient as a
4 prerequisite for payment for services appropriately provided
5 through telehealth in accordance with generally accepted health
6 care practices and standards prevailing in the applicable
7 professional community at the time the services were provided.
8 The coverage required in this section may be subject to all
9 terms and conditions of the plan agreed upon among the enrollee
10 or subscriber, the insurer, and the health care provider.

11 (c) Reimbursement for services provided through telehealth
12 shall be equivalent to reimbursement for the same services
13 provided via face-to-face contact between a health care provider
14 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.] Nothing in this section shall~~
14 ~~require a health care provider to be physically present with the~~
15 ~~patient at an originating site unless a health care provider at~~
16 ~~the distant site deems it necessary.~~

17 (d) Notwithstanding chapter 453 or rules adopted pursuant
18 thereto, in the event that a health care provider-patient
19 relationship does not exist between the patient and the health
20 care provider to be involved in a telehealth interaction between
21 the patient and the health care provider, a telehealth mechanism



1 may be used to establish a health care provider-patient
2 relationship.

3 (e) All insurers shall provide current and prospective
4 insureds with written disclosure of coverages and benefits
5 associated with telehealth services, including information on
6 copayments, deductibles, or coinsurance requirements under a
7 policy, contract, plan, or agreement. The information provided
8 shall be current, understandable, and available prior to the
9 issuance of a policy, contract, plan, or agreement, and upon
10 request after the policy, contract, plan, or agreement has been
11 issued.

12 (f) Services provided by telehealth pursuant to this
13 section shall be consistent with all federal and state privacy,
14 security, and confidentiality laws.

15 [~~e~~] (g) For the purposes of this section[~~7~~
16 ~~"telehealth"~~]:

17 "Distant site" means the location of the health care
18 provider delivering services through telehealth at the time the
19 services are provided.

20 "Health care provider" means a provider of services, as
21 defined in title 42 United States Code section 1395x(u), a



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

10 "Originating site" means the location where the patient is
11 located, whether accompanied or not by a health care provider,
12 at the time services are provided by a health care provider
13 through telehealth, including but not limited to a health care
14 provider's office, hospital, health care facility, a patient's
15 home, and other non-medical environments such as school-based
16 health centers, university-based health centers, or the work
17 location of a patient.

18 "Telehealth" means the use of telecommunications services,
19 as defined in section 269-1, [~~including~~] to encompass four
20 modalities: store and forward technologies, remote monitoring,
21 live consultation, and mobile health; and which shall include



1 but not be limited to real-time video conferencing-based
 2 communication, secure interactive and non-interactive web-based
 3 communication, and secure asynchronous information exchange, to
 4 transmit patient medical information, including diagnostic-
 5 quality digital images and laboratory results for medical
 6 interpretation and diagnosis, for the purpose of delivering
 7 enhanced health care services and information [~~to parties~~
 8 ~~separated by distance.~~] while a patient is at an originating
 9 site and the health care provider is at a distant site.
 10 Standard telephone contacts, facsimile transmissions, or e-mail
 11 text, in combination or by itself, does not constitute a
 12 telehealth service for the purposes of this chapter."

13 SECTION 7. Section 432:1-601.5, Hawaii Revised Statutes,
 14 is amended to read as follows:

15 "§432:1-601.5 Coverage for telehealth. (a) It is the
 16 intent of the legislature to recognize the application of
 17 telehealth as a reimbursable service by which an individual
 18 shall receive medical services from a health care provider
 19 without face-to-face contact with the health care provider.

20 (b) No mutual benefit society plan that is issued,
 21 amended, or renewed shall require face-to-face contact between a



1 health care provider and a patient as a prerequisite for payment
2 for services appropriately provided through telehealth in
3 accordance with generally accepted health care practices and
4 standards prevailing in the applicable professional community at
5 the time the services were provided. The coverage required in
6 this section may be subject to all terms and conditions of the
7 plan agreed upon among the enrollee or subscriber, the mutual
8 benefit society, and the health care provider.

9 (c) Reimbursement for services provided through telehealth
10 shall be equivalent to reimbursement for the same services
11 provided via face-to-face contact between a health care provider
12 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 and the patient is accompanied by a
17 treating health care provider at the time telehealth services
18 are provided by the consulting health care provider; provided
19 that when behavioral health services are provided, a second
20 health care provider shall not be required to accompany the
21 patient.]~~



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, oral health providers,~~
8 ~~physicians and osteopathic physicians licensed under chapter~~
9 ~~453, advanced practice registered nurses licensed under chapter~~
10 ~~457, psychologists licensed under chapter 465, and dentists~~
11 ~~licensed under chapter 448.] Nothing in this section shall~~
12 ~~require a health care provider to be physically present with the~~
13 ~~patient at an originating site unless a health care provider at~~
14 ~~the distant site deems it necessary.~~

15 (d) Notwithstanding chapter 453 or rules adopted pursuant
16 thereto, in the event that a health care provider-patient
17 relationship does not exist between the patient and the health
18 care provider to be involved in a telehealth interaction between
19 the patient and health care provider, a telehealth mechanism may
20 be used to establish a health care provider-patient
21 relationship.



1 (e) All insurers shall provide current and prospective
 2 enrollees or subscribers with written disclosure of coverages
 3 and benefits associated with telehealth services, including
 4 information on copayments, deductibles, or coinsurance
 5 requirements under a policy, contract, plan, or agreement. The
 6 information provided shall be current, understandable, and
 7 available prior to the issuance of a policy, contract, plan, or
 8 agreement, and upon request after the policy, contract, plan, or
 9 agreement has been issued.

10 (f) Services provided by telehealth pursuant to this
 11 section shall be consistent with all federal and state privacy,
 12 security, and confidentiality laws.

13 ~~[(e)]~~ (g) For the purposes of this section~~[-~~
 14 ~~"telehealth"]~~:

15 "Health care provider" means a provider of services, as
 16 defined in title 42 United States Code section 1395x(u), a
 17 provider of medical and other health services, as defined in
 18 title 42 United States Code section 1395x(s), and any other
 19 person or organization who furnishes, bills, or is paid for
 20 health care in the normal course of business, including but not
 21 limited to primary care providers, mental health providers, oral



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

5 "Originating site" means the location where the patient is
6 located, whether accompanied or not by a health care provider,
7 at the time services are provided by a health care provider
8 through telehealth, including but not limited to a health care
9 provider's office, hospital, health care facility, a patient's
10 home, and other non-medical environments such as school-based
11 health centers, university-based health centers, or the work
12 location of a patient.

13 "Telehealth" means the use of telecommunications services,
14 as defined in section 269-1, [~~including~~] to encompass four
15 modalities: store and forward technologies, remote monitoring,
16 live consultation, and mobile health; and which shall include
17 but not be limited to real-time video conferencing-based
18 communication, secure interactive and non-interactive web-based
19 communication, and secure asynchronous information exchange, to
20 transmit patient medical information, including diagnostic-
21 quality digital images and laboratory results for medical



1 interpretation and diagnosis, for the purpose of delivering
2 enhanced health care services and information [~~to parties~~
3 ~~separated by distance.~~] while a patient is at an originating
4 site and the health care provider is at a distant site.

5 Standard telephone contacts, facsimile transmissions, or e-mail
6 text, in combination or by itself, does not constitute a
7 telehealth service for the purposes of this chapter."

8 SECTION 8. Section 432D-23.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§432D-23.5 Coverage for telehealth. (a) It is the
11 intent of the legislature to recognize the application of
12 telehealth as a reimbursable service by which an individual
13 shall receive medical services from a health care provider
14 without face-to-face contact with the health care provider.

15 (b) No health maintenance organization plan that is
16 issued, amended, or renewed shall require face-to-face contact
17 between a health care provider and a patient as a prerequisite
18 for payment for services appropriately provided through
19 telehealth in accordance with generally accepted health care
20 practices and standards prevailing in the applicable
21 professional community at the time the services were provided.



1 The coverage required in this section may be subject to all
2 terms and conditions of the plan agreed upon among the enrollee
3 or subscriber, the health maintenance organization, and the
4 health care provider.

5 (c) Reimbursement for services provided through telehealth
6 shall be equivalent to reimbursement for the same services
7 provided via face-to-face contact between a health care provider
8 and a patient. ~~[There shall be no reimbursement for a
9 telehealth consultation between health care providers unless an
10 existing health care provider patient relationship exists
11 between the patient and one of the health care providers
12 involved in the telehealth interaction and the patient is
13 accompanied by a treating health care provider at the time
14 telehealth services are provided by the consulting health care
15 provider; provided that when behavioral health services are
16 provided, a second health care provider shall not be required to
17 accompany the patient.]~~

18 ~~For the purposes of this section, "health care provider"~~
19 ~~means a provider of services, as defined in 42 U.S.C. 1395x(u),~~
20 ~~a provider of medical or other health services, as defined in 42~~
21 ~~U.S.C. 1395x(s), and any other person or organization who~~



1 ~~furnishes, bills, or is paid for health care in the normal~~
 2 ~~course of business, including but not limited to primary care~~
 3 ~~providers, mental health providers, oral health providers,~~
 4 ~~physicians and osteopathic physicians licensed under chapter~~
 5 ~~453, advanced practice registered nurses licensed under chapter~~
 6 ~~457, psychologists licensed under chapter 465, and dentists~~
 7 ~~licensed under chapter 448.] Nothing in this section shall~~
 8 require a health care provider to be physically present with the
 9 patient at an originating site unless a health care provider at
 10 the distant site deems it necessary.

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

18 (e) All health maintenance organizations shall provide
 19 current and prospective insureds with written disclosure of
 20 coverages and benefits associated with telehealth services,
 21 including information on copayments, deductibles, or coinsurance



1 requirements under a policy, contract, plan, or agreement. The
2 information provided shall be current, understandable, and
3 available prior to enrollment in a policy, contract, plan, or
4 agreement and upon request after enrollment in the policy,
5 contract, plan, or agreement.

6 (f) Services provided by telehealth pursuant to this
7 section shall be consistent with all federal and state privacy,
8 security, and confidentiality laws.

9 ~~[-(e)]~~ (g) For the purposes of this section[,
10 "telehealth"]:

11 "Distant site" means the location of the health care
12 provider delivering services through telehealth at the time the
13 services are provided.

14 "Health care provider" means a provider of services, as
15 defined in title 42 United States Code section 1395x(u), a
16 provider of medical and other health services, as defined in
17 title 42 United States Code section 1395x(s), and any other
18 person or organization who furnishes, bills, or is paid for
19 health care in the normal course of business, including but not
20 limited to primary care providers, mental health providers, oral
21 health providers, physicians and osteopathic physicians licensed



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

4 "Originating site" means the location where the patient is
5 located, whether accompanied or not by a health care provider,
6 at the time services are provided by a health care provider
7 through telehealth, including but not limited to a health care
8 provider's office, hospital, health care facility, a patient's
9 home, and other non-medical environments such as school-based
10 health centers, university-based health centers, or the work
11 location of a patient.

12 "Telehealth" means the use of telecommunications services,
13 as defined in section 269-1, [~~including~~] to encompass four
14 modalities: store and forward technologies, remote monitoring,
15 live consultation, and mobile health; and which shall include
16 but not be limited to real-time video conferencing-based
17 communication, secure interactive and non-interactive web-based
18 communication, and secure asynchronous information exchange, to
19 transmit patient medical information, including diagnostic-
20 quality digital images and laboratory results for medical
21 interpretation and diagnosis, for the purpose of delivering



1 enhanced health care services and information [~~to parties~~
2 ~~separated by distance.~~] while a patient is at an originating
3 site and the health care provider is at a distant site.

4 Standard telephone contacts, facsimile transmissions, or e-mail
5 text, in combination or by itself, does not constitute a
6 telehealth service for the purposes of this chapter."

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

9 "§453-1.3 Practice of telehealth. (a) Subject to section
10 453-2(b), nothing in this section shall preclude any physician
11 acting within the scope of the physician's license to practice
12 from practicing telehealth as defined in this section.

13 [~~(b) For the purposes of this section, "telehealth" means~~
14 ~~the use of telecommunications as that term is defined in section~~
15 ~~269-1, including but not limited to real time video~~
16 ~~conferencing based communication, secure interactive and non-~~
17 ~~interactive web based communication, and secure asynchronous~~
18 ~~information exchange, to transmit patient medical information,~~
19 ~~including diagnostic quality digital images and laboratory~~
20 ~~results for medical interpretation and diagnosis, for the~~
21 ~~purposes of delivering enhanced health care services and~~



1 ~~information to parties separated by distance, establishing a~~
2 ~~physician patient relationship, evaluating a patient, or~~
3 ~~treating a patient.~~

4 ~~(e)]~~ (b) Telehealth services shall include a documented
5 patient evaluation, including history and a discussion of
6 physical symptoms adequate to establish a diagnosis and to
7 identify underlying conditions or contraindications to the
8 treatment recommended or provided.

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



1 ~~329-]~~ after an in-person consultation between the prescribing
2 physician and the patient.

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

8 ~~[(f)]~~ (e) A physician shall not use telehealth to
9 establish a physician-patient relationship with a patient in
10 this State without a license to practice medicine in Hawaii. An
11 out-of-state physician shall not use telehealth to establish a
12 physician-patient relationship with a patient in this State
13 unless the out-of-state physician has an unrestricted license to
14 practice medicine in the out-of-state physician's state of
15 residence and a board certification in the specialty or
16 subspecialty in which the out-of-state physician practices.

17 (f) A physician-patient relationship may be established
18 via telehealth if the patient is referred to the telehealth
19 provider by another health care provider who has conducted an
20 in-person consultation and has provided all pertinent patient
21 information to the telehealth provider. Once a provider-patient



1 relationship is established, a patient or physician licensed in
2 this State may use telehealth for any purpose, including
3 consultation with a medical provider licensed in another state,
4 authorized by this section or as otherwise provided by law.

5 (g) The physician-patient relationship prerequisite under
6 this section shall not apply to telehealth consultations for
7 emergency department services.

8 [~~g~~] (h) Reimbursement for behavioral health services
9 provided through telehealth shall be equivalent to reimbursement
10 for the same services provided via face-to-face contact between
11 a health care provider and a patient.

12 (i) Services provided by telehealth pursuant to this
13 chapter shall be consistent with all federal and state privacy,
14 security, and confidentiality laws.

15 (j) For the purposes of this section:

16 "Distant site" means the location of the physician
17 delivering services through telehealth at the time the services
18 are provided.

19 "Originating site" means the location where the patient is
20 located, whether accompanied or not by a health care provider,
21 at the time services are provided by a physician through



1 telehealth, including but not limited to a physician's office,
2 hospital, health care facility, a patient's home, and other non-
3 medical environments such as school-based health centers,
4 university-based health centers, or the work location of a
5 patient.

6 "Telehealth" means the use of telecommunications as that
7 term is defined in section 269-1, to encompass four modalities:
8 store and forward technologies, remote monitoring, live
9 consultation, and mobile health; and which shall include but not
10 be limited to real-time video conferencing-based communication,
11 secure interactive and non-interactive web-based communication,
12 and secure asynchronous information exchange, to transmit
13 patient medical information, including diagnostic-quality
14 digital images and laboratory results for medical interpretation
15 and diagnosis, for the purposes of: delivering enhanced health
16 care services and information while a patient is at an
17 originating site and the physician is at a distant site;
18 establishing a physician-patient relationship; evaluating a
19 patient; or treating a patient."

20 SECTION 10. Section 453-2, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



- 1 "(b) Nothing herein shall:
- 2 (1) Apply to so-called Christian Scientists; provided that
- 3 the Christian Scientists practice the religious tenets
- 4 of their church without pretending a knowledge of
- 5 medicine or surgery;
- 6 (2) Prohibit service in the case of emergency or the
- 7 domestic administration of family remedies;
- 8 (3) Apply to any commissioned medical officer in the
- 9 United States armed forces or public health service
- 10 engaged in the discharge of one's official duty,
- 11 including a commissioned medical officer employed by
- 12 the United States Department of Defense, while
- 13 providing direct telehealth support or services to
- 14 neighbor island beneficiaries within a Hawaii National
- 15 Guard armory on the island of Kauai, Hawaii, Molokai,
- 16 or Maui; provided that the commissioned medical
- 17 officer employed by the United States Department of
- 18 Defense is credentialed by Tripler Army Medical
- 19 Center;
- 20 (4) Apply to any practitioner of medicine and surgery from
- 21 another state when in actual consultation, including



1 in-person, mail, electronic, telephonic, fiber-optic,
2 or other telehealth consultation with a licensed
3 physician or osteopathic physician of this State, if
4 the physician or osteopathic physician from another
5 state at the time of consultation is licensed to
6 practice in the state in which the physician or
7 osteopathic physician resides; provided that:

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

14 (B) The licensed physician or osteopathic physician
15 of this State retains control and remains
16 responsible for the provision of care for the
17 patient who is located in this State; and

18 (C) The laws and rules relating to contagious
19 diseases are not violated;

20 (5) Prohibit services rendered by any person certified
21 under part II of this chapter to provide emergency



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

18 (6) Prohibit automated external defibrillation by:

19 (A) Any first responder personnel certified by the
20 department of health to provide automated

21 external defibrillation when it is rendered under



1 the medical oversight of a physician or
 2 osteopathic physician licensed in this State; or
 3 (B) Any person acting in accordance with section
 4 663-1.5(e); or

5 (7) Prohibit a radiologist duly licensed to practice
 6 medicine and provide radiology services in another
 7 state from using telehealth while located in this
 8 State to provide radiology services to a patient who
 9 is located in the state in which the radiologist is
 10 licensed. For the purposes of this paragraph:

11 "Distant site" means the location of the
 12 radiologist delivering services through telehealth at
 13 the time the services are provided.

14 "Originating site" means the location where the
 15 patient is located, whether accompanied or not by a
 16 health care provider, at the time services are
 17 provided by a radiologist through telehealth,
 18 including but not limited to a radiologist's or health
 19 care provider's office, hospital, health care
 20 facility, a patient's home, and other non-medical
 21 environments such as school-based health centers,



1 university-based health centers, or the work location
2 of a patient.

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

7 "Telehealth" means the use of telecommunications,
8 as that term is defined in section 269-1, [~~including~~]
9 to encompass four modalities: store and forward
10 technologies, remote monitoring, live consultation,
11 and mobile health; and which shall include but not be
12 limited to real-time video conferencing-based
13 communication, secure interactive and non-interactive
14 web-based communication, and secure asynchronous
15 information exchange, to transmit patient medical
16 information, including diagnostic-quality digital
17 images and laboratory results for medical
18 interpretation and diagnosis, for the purpose of
19 delivering enhanced health care services and
20 information [~~to parties separated by distance.~~] while
21 a patient is at an originating site and the



1 radiologist is at a distant site. Standard telephone
 2 contacts, facsimile transmissions, or e-mail texts, in
 3 combination or by themselves, do not constitute a
 4 telehealth service for the purposes of this
 5 paragraph."

6 SECTION 11. Section 457-2, Hawaii Revised Statutes, is
 7 amended as follows:

8 1. By adding two new definitions to be appropriately
 9 inserted and to read:

10 "Distant site" means the location of the nurse delivering
 11 services through telehealth at the time the services are
 12 provided.

13 "Originating site" means the location where the patient is
 14 located, whether accompanied or not by a health care provider,
 15 at the time services are provided by a nurse through telehealth,
 16 including but not limited to a nurse's or health care provider's
 17 office, hospital, health care facility, a patient's home, and
 18 other non-medical environments such as school-based health
 19 centers, university-based health centers, or the work location
 20 of a patient."

21 2. By amending the definition of "telehealth" to read:



1 "Telehealth" means the use of [~~electronic information and~~
2 ~~telecommunication technologies~~] telecommunications as that term
3 is defined in section 269-1, to encompass four modalities:
4 store and forward technologies, remote monitoring, live
5 consultation, and mobile health; and which shall include but not
6 be limited to real-time video conferencing-based communication,
7 secure interactive and non-interactive web-based communication,
8 and secure asynchronous information exchange, to transmit
9 patient medical information, including diagnostic-quality
10 digital images and laboratory results for medical interpretation
11 and diagnosis, to support long-distance clinical health care[7]
12 while a patient is at an originating site and the nurse is at a
13 distant site, patient and professional health-related education,
14 public health and health administration, to the extent that it
15 relates to nursing."

16 SECTION 12. Section 466J-6, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

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

20 (1) A licensed medical practitioner in radiology;

21 (2) A licensed practitioner of nuclear medicine;



- 1 (3) A licensed physician assistant;
- 2 (4) A licensed doctor of dentistry;
- 3 (5) A licensed dental technician;
- 4 (6) A licensed dental hygienist;
- 5 (7) A student in an approved school for radiographers,
- 6 radiation therapists, or nuclear medicine
- 7 technologists, or in a school of medicine, podiatry,
- 8 dentistry, or a chiropractic school; provided that the
- 9 student is operating x-ray machines under the direct
- 10 supervision of a licensed radiographer, licensed
- 11 radiation therapist, licensed nuclear medicine
- 12 technologist, or a qualified person pursuant to this
- 13 chapter; and
- 14 (8) A radiologist duly licensed to practice medicine and
- 15 radiology services in another state who uses
- 16 telehealth while located in this State to provide
- 17 radiology services to a patient who is located in the
- 18 state in which the radiologist is licensed[-];
- 19 provided that services provided by telehealth pursuant
- 20 to this paragraph shall be consistent with all federal



1 and state privacy, security, and confidentiality laws.

2 For the purposes of this paragraph:

3 "Distant site" means the location of the
4 radiologist delivering services through telehealth at
5 the time the services are provided.

6 "Originating site" means the location where the
7 patient is located, whether accompanied or not by a
8 health care provider, at the time services are
9 provided by a radiologist through telehealth,
10 including but not limited to a radiologist's or health
11 care provider's office, hospital, health care
12 facility, a patient's home, and other non-medical
13 environments such as school-based health centers,
14 university-based health centers, or the work location
15 of a patient.

16 "Radiologist" means a doctor of medicine or a
17 doctor of osteopathy certified in radiology by the
18 American Board of Radiology or the American Board of
19 Osteopathy.

20 "Telehealth" means the use of telecommunications,
21 as that term is defined in section 269-1, [~~including~~]



1 to encompass four modalities: store and forward
2 technologies, remote monitoring, live consultation,
3 and mobile health; and which shall include but not be
4 limited to real-time video conferencing-based
5 communication, secure interactive and non-interactive
6 web-based communication, and secure asynchronous
7 information exchange, to transmit patient medical
8 information, including diagnostic-quality digital
9 images and laboratory results for medical
10 interpretation and diagnosis, for the purpose of
11 delivering enhanced health care services and
12 information [~~to parties separated by distance.~~] while
13 a patient is at an originating site and the
14 radiologist is at a distant site. Standard telephone
15 contacts, facsimile transmissions, or e-mail texts, in
16 combination or by themselves, do not constitute a
17 telehealth service for the purposes of this
18 paragraph."

19 SECTION 13. Notwithstanding any other law to the contrary,
20 the reimbursement for telehealth services required under
21 sections 6, 7, and 8 of this Act shall apply to all health



1 benefits plans under chapter 87A, Hawaii Revised Statutes,
2 issued, renewed, modified, altered, or amended on or after the
3 effective date of this Act.

4 SECTION 14. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 15. This Act shall take effect on July 1, 2112.



Report Title:

Telehealth; Insurance; Medicaid; Covered Services; Liability Insurance; Reimbursement; Disclosure; Requirements; EUTF

Description:

Requires the State's medicaid managed care and fee-for-service programs to cover services provided through telehealth. Specifies that any telehealth services provided shall be consistent with all federal and state privacy, security, and confidentiality laws. Specifies medical professional liability insurance policy requirements with regard to telehealth coverage. Clarifies that reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Requires written disclosure of coverages and benefits associated with telehealth services. Requires that telehealth encompasses store and forward technologies, remote monitoring, live consultation, and mobile health. Ensures telehealth is covered when originating in a patient's home and other non-medical environments. Clarifies requirements for physicians and out-of-state physicians to establish a physician-patient relationship via telehealth. Requires that reimbursement requirements for telehealth services apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes. (SB2395 HD1)

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

