



**STATE OF HAWAII**  
STATE COUNCIL  
ON DEVELOPMENTAL DISABILITIES  
919 ALA MOANA BOULEVARD, ROOM 113  
HONOLULU, HAWAII 96814  
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543  
March 11, 2016

The Honorable Della Au Belatti, Chair  
House Committee on Health  
and  
The Honorable Dee Morikawa, Chair  
House Committee on Human Services  
Twenty-Eighth Legislature  
State Capitol  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Representative Morikawa, Representative Belatti, and Members of the Committees

**SUBJECT: SB 2395 SD1 – Relating to Telehealth**

The State Council on Developmental Disabilities (DD) **SUPPORTS SB 2395 SD1**. The purpose of this bill is to enhance access to care via telehealth by removing the barriers that prevent health care providers and patients from realizing the full benefits of telehealth.

The DD Council is responsible for the development and implementation of a Five-Year State Plan. Our current State Plan (FY 2012-2016) includes an Objective, “Address all medical gaps in services, as indicated within the Individualized Service Plan by September 30, 2016.” We have learned that individuals with DD experience gaps in medical services due to several factors, such as available and willing health care providers to provide services to this population, living in rural areas, and accessible means (transportation) to get to medical appointments. An activity to address the objective is to pursue statewide telemedicine opportunities.

SB 2395 SD1 represents a comprehensive approach to telehealth in providing individuals with live consultation for health care, including but not limited to, primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under Chapter 453, advanced practice registered nurses licensed under Chapter 457, psychologists licensed under Chapter 465, and dentists licensed under Chapter 448. Furthermore, this bill would assist in the delivery of enhanced statewide health care services, increase access to services, and provide timely information to patients and health care providers.

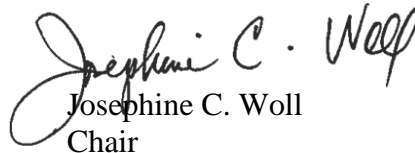
The Honorable Della Au Belatti  
The Honorable Dee Morikawa  
Page 2  
March 11, 2016

Thank you for the opportunity to offer our **support of SB 2395 SD1.**

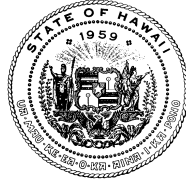
Sincerely,



Waynette K.Y. Cabral, MSW  
Executive Administrator



Josephine C. Woll  
Chair



STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P. O. Box 3378  
Honolulu, HI 96801-3378  
doh.testimony@doh.hawaii.gov

**WRITTEN  
TESTIMONY  
ONLY**

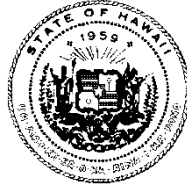
**Testimony in SUPPORT of SB2395 SD1  
RELATING TO TELEHEALTH**

REPRESENTATIVE DELLA BELATTI, CHAIR  
HOUSE COMMITTEE ON HEALTH

Hearing Date: March 11, 2016  
Time: 9:00 AM

Room Number: 329

- 1 **Fiscal Implications:** None for department.
- 2 **Department Testimony:** The Department of Health (DOH) supports policies assuring greater access to
- 3 telehealth services for Medicaid, privately insured, and uninsured populations, but defers to the
- 4 Department of Human Services (DHS) and Department of Commerce and Consumer Affairs on the
- 5 financial and operational aspects.
- 6
- 7 Thank you for the opportunity to testify in support of this measure.
- 8 **Offered Amendments:** N/A.



STATE OF HAWAII  
**DEPARTMENT OF HUMAN SERVICES**

P. O. Box 339  
Honolulu, Hawaii 96809-0339

March 10, 2016

TO: The Honorable Della Au Belatti, Chair  
House Committee on Health

The Honorable Dee Morikawa, Chair  
House Committee on Human Services

FROM: Rachael Wong, DrPH, Director

SUBJECT: **SB 2395 SD 1- RELATING TO TELEHEALTH**

Hearing: Friday, March 11, 2016, 10:30 a.m.  
Conference Room 329, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) appreciates the opportunity to testify on this bill and provides comments.

**PURPOSE:** The purpose of this bill is to require the Medicaid managed care and fee-for-service programs to cover services provided through telehealth. Specifies telehealth services 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 reimbursement for services provided through telehealth shall be the same as via face-to-face contact. Requires written disclosure of coverages and benefits associated with telehealth services. Ensures telehealth encompasses store and forward technologies, remote monitoring, live consultation, and mobile health. Ensures telehealth is covered when originating in a patients home and other non-medical environments. Clarifies requirements for physicians and out-of-state physicians to establish a physician-patient relationship via telehealth. Ensures reimbursement requirements for

telehealth services apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes. Makes other conforming amendments related to telehealth.

The Department supports telehealth, which is a cost effective alternative to the more traditional face-to-face way of providing medical care and provides greater access to healthcare. The Centers for Medicare and Medicaid Services (CMS) does allow for reimbursement for telehealth services, and the Hawai'i Medicaid program currently covers limited services.

This bill requires the Med-QUEST Division to move forward with efforts to increase the availability of telehealth services to managed care and fee-for-service recipients. To implement the provisions in this bill, the Department requires additional time and flexibility. Currently, we are actively engaged with Medicaid managed care plans and other interested stakeholders in redesigning our telehealth services. However, while CMS encourages States to cover telehealth services, we need to work closely with CMS to remain compliant with the federal requirements regarding utilization, covered services, and reimbursement methodology. To ensure compliance with CMS requirements, we suggest the following language be inserted as a new subsection (f) in Section 2, with existing subsection (f) re-designated as subsection (g):

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

Implementation of this bill will also require the submission of a State Plan Amendment (SPA). The SPA process can be lengthy and approval is necessary in order for the State to be able to receive federal matching funds for services.

Thank you for the opportunity to testify on this measure.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 09, 2016 10:30 AM  
**To:** HLTtestimony  
**Cc:** laurie.field@ppvnh.org  
**Subject:** \*Submitted testimony for SB2395 on Mar 11, 2016 10:30AM\*

**SB2395**

Submitted on: 3/9/2016

Testimony for HLT/HUS on Mar 11, 2016 10:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Laurie Field	Planned Parenthood Votes Northwest and Hawaii	Support	No

**Comments:**

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



An Independent Licensee of the Blue Cross and Blue Shield Association

March 11, 2016

The Honorable Della Au Belatti, Chair  
House Committee on Health  
The Honorable Dee Morikawa, Chair  
House Committee on Human Services

Re: SB 2395, SD1 – Relating to Telehealth

Dear Chair Au Belatti, Chair Morikawa, and Members of the Committees:

The Hawaii Medical Association (HMSA) appreciates the opportunity to testify on SB 2395, SD1, which would extend the use of telehealth as a means of providing health services, and to ensure telehealth may be appropriately used under the QUEST program.

The MedQUEST Division has been looking to accomplish much of what this Bill is intended to do, and HMSA has been working with MedQUEST in this endeavor. HMSA supports SB 2395, SD1, and we offer a comment.

Telehealth is a proven, effective and efficient way to facilitate timely access to quality health care, improve health outcomes, reduce the incidence of avoidable urgent and emergent care, and even-out distribution of health care providers.

HMSA is committed to seeing telehealth become an integral part of our healthcare system. Beginning in 2009, HMSA's Online Care was the first in the nation real time web-based telehealth service providing patients with 24/7 access to providers via the personal computer or telephone. Online Care deploys web-based videoconferencing, real time chat, and telephone to streamline the interaction for all residents of the state of Hawaii (members and nonmembers) with providers. Over 320 physicians from multiple specialties are enrolled to offer telehealth care, providing real time access for individuals with acute health care issues, in addition to managing their established patients with chronic disease, such as diabetes, depression, and dyslipidemia

In order to successfully offer our telehealth program to QUEST Integration members, we are working with the MedQUEST Division to consider changes to the Hawaii Medicaid Program, including:

- Allowing telehealth services to be provided throughout Hawaii without limit to geographic requirements as defined by CMS;
- Not limiting the setting where telehealth services are provided for both patient and health care provider. (Addressing Originating Site requirement as defined by CMS);
- Not requiring that an in-person contact occurs between a health care provider and patient before the delivery of a service via telehealth;
- Not limiting the Current Procedural Terminology (CPT) codes covered under telehealth as defined by CMS;



An Independent Licensee of the Blue Cross and Blue Shield Association

- Broadening the definition of telecommunication to include emerging technologies such as mobile applications accessible via smart phones or tablets; and
- Propose statutory provisions to address current prohibitive Hawaii Administrative Rules.

While our commitment to telehealth is absolute, we want to ensure that this measure does not negatively impact payment transformation efforts. As is promoted by the Affordable Care Act, plans have all been implementing various forms of pay for quality initiatives to help drive efficiency into the healthcare system. HMSA's payment transformation effort envisions a model under which providers may use and be reimbursed for telehealth to augment member care. We want to ensure that this measure does not impede that effort.

Thank you for allowing us to testify on SB 2395, SD1. HMSA looks forward to having a premier telehealth system for the people of Hawaii.

Sincerely,

Jennifer Diesman  
Vice President, Government Relations



**SB 2395, SD1, Relating to Telehealth  
House Committee on Health  
House Committee on Human Services  
Hearing—March 11, 2016 at 10:30 AM**

**Dear Chairwoman Belatti and Chairwoman Morikawa:**

My name is Matthew Koenig, MD and I am a stroke neurologist and Director of Telehealth for The Queen's Health Systems (QHS). I would like to provide **strong support for SB 2395, SD1.**

I am a telemedicine provider and the clinical lead for a stroke telemedicine project that links stroke experts at The Queen's Medical Center with seven other hospitals in the state, including Wahiawa General Hospital, Molokai General Hospital, Kona Community Hospital, Maui Memorial Medical Center, and Hilo Medical Center. Using telecommunications technologies, we are able to rapidly evaluate and treat stroke patients at hospitals that currently lack consistent on-site coverage by a stroke neurologist. This allows patients in smaller communities to be treated according to current standards of care by a stroke expert without having to transfer to a Primary Stroke Center. Last year, one-quarter of the stroke patients treated with life-saving "clot buster" medications in the state of Hawaii were treated by telehealth. The emerging use of telehealth for stroke treatment has benefitted patients by reduced death and disability. To date, it has also saved the Hawaii healthcare system approximately \$3.4 million in costs associated with reduced disability and shorter hospital length of stay, not counting the cost savings from reduced need for inter-island transfer.

As successful as the telestroke project has been, it is currently dependent on grant funding from the State of Hawaii through the Department of Health Neurotrauma Special Fund. We initially received \$480,000 in grant funding in 2011 and, this year, we applied for an additional \$450,000 in funding. Without this funding, the project would need to be terminated. Although we created a self-sustaining business model to continue the project after public funding concluded, this business model is dependent on reimbursement for telehealth services from Medicaid and private medical insurers in the state. To date, we have received no reimbursement for professional services on more than half of the stroke patients we treated using telehealth technologies. For the claims that were reimbursed, we were paid 20-50% less than we would have been paid if the same services were delivered in-person.

As illustrated by the telestroke project, there are several significant barriers to telehealth in Hawaii that have contributed to poor adoption and utilization, especially by health care providers. The major barriers include:

- No reimbursement for telehealth services for Medicaid patients located outside of federally-designated Healthcare Professional Shortage Areas (HPSAs). This means that Medicaid provides no coverage for telehealth services for stroke patients who are seen at

*The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*

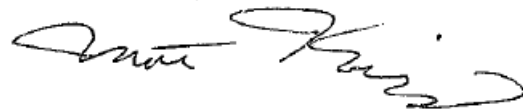
The Queen's Medical Center West Oahu, Maui Memorial Medical Center, and Hilo Medical Center, among others.

- Physicians who have malpractice insurance coverage from two of the top three medical malpractice insurance companies in Hawaii are told that their malpractice insurance does not cover telehealth. This leaves Hawaii physicians who want to use telecommunications technologies to expand access to patients in our rural communities without malpractice coverage. Physicians then have to choose whether to pay for additional malpractice insurance coverage from another company or risk being sued without coverage. This problem severely limits the number of physicians using telehealth.
- Poor reimbursement for telehealth services from private insurers based on payment for telehealth billing codes that are less than the same services provided in-person.
- Restrictions on the patient's environment at the time of the telehealth encounter that require the patient to be within specific clinical settings and to have another healthcare provider physically present during the encounter. This precludes payment for telehealth services in the patient's home or other non-clinical environments like schools and businesses.

This legislation will provide a tremendous benefit to our families in Hawaii by removing all of the artificial barriers to telehealth listed above.

I ask for your support in strengthening access to health care in Hawaii by voting favorably on this measure. Thank you for your time and consideration of this important matter.

Sincerely,



Matthew A. Koenig, MD  
Director of Telehealth  
The Queen's Health Systems

*The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.*



## THE QUEEN'S HEALTH SYSTEMS

---

To: The Honorable Della Au Belatti, Chair, Committee on Health  
The Honorable Richard P. Creagan, Vice Chair, Committee on Health  
Members, Committee on Health

The Honorable Dee Morikawa, Chair, Committee on Human Services  
The Honorable Bertrand Kobayashi, Vice Chair, Committee on Human Services  
Members, Committee on Human Services

From:   
Paula Yoshioka, Senior Vice President, The Queen's Health Systems

Date: March 9, 2016

Hrg: House Committee on Health & Committee on Human Services Joint Hearing; Friday,  
March 11, 2016 at 10:30am in Room 329

Re: **Support for SB 2395, SD1, Relating to Telehealth**

---

My name is Paula Yoshioka and I am a Senior Vice President at The Queen's Health Systems (Queen's). I would like to express my **strong support** for SB2395, SD1, Relating to Telehealth.

At Queen's we recognize the importance of expanding access to care through telecommunication technologies. Queen's now operates statewide with a four hospital system: The Queen's Medical Center – Punchbowl, The Queen's Medical Center – West O'ahu, Molokai General Hospital, and North Hawai'i Community Hospital. It is our desire to expand health care access beyond O'ahu where our trauma and tertiary/quaternary services are located at QMC Punchbowl. We appreciate the introduction of this bill which will create greater health care access for rural O'ahu and the neighbor islands.

We concur with the testimony submitted by Matthew Koenig, MD the Director of Telehealth for The Queen's Health Systems. We ask for your support in strengthening access to health care in Hawai'i by voting favorably on this measure.

Thank you for your time and consideration of this important matter.

**March 11, 2016 at 10:30 AM  
Conference Room 329**

**House Committee on Health**

To: Representative Della Au Belatti, Chair  
Representative Richard Creagan, Vice Chair

**House Committee on Human Services**

To: Representative Dee Morikawa, Chair  
Representative Bertrand Kobayashi, Vice Chair

From: Michael Robinson  
Vice President – Government Relations & Community Affairs

**Re: Testimony in Support – SB 2395, SD1**

---

My name is Michael Robinson, Vice President, Government Relations and Community Affairs at Hawai'i Pacific Health (HPH). Hawai'i Pacific Health is a not-for-profit health care system, and the state's largest health care provider and non-governmental employer. Hawai'i Pacific Health is committed to providing the highest quality medical care and service to the people of Hawai'i and the Pacific Region through its four hospitals, more than 50 outpatient clinics and service sites, and over 1,600 affiliated physicians. Hawai'i Pacific Health's hospitals are Kapi'olani Medical Center for Women & Children, Pali Momi Medical Center, Straub Clinic & Hospital and Wilcox Memorial Hospital.

HPH is writing in **support** of SB 2395, SD1 which establishes a number of requirements for the delivery of telehealth services. The delivery of health care services has undergone significant technological advancements in recent years. Telehealth and telemedicine are innovative and highly effective means of providing health care services to a greater number of people. Telehealth brings health care services to our rural communities as well as underserved areas. With our shortage of physicians statewide, telehealth is an important tool in the delivery of services. This bill removes some of the barriers affecting telehealth services and thus enables more people to benefit from such services.

Thank you for the opportunity to provide testimony.



March 11, 2016

The Honorable Della Au Belatti, Chair  
The Honorable Richard Creagan, Vice Chair  
House Committee on Health

The Honorable Dee Morikawa, Chair  
The Honorable Bertrand Kobayashi, Vice Chair  
House Committee on Human Services

**Re: SB 2395, SD1 – Relating to Telehealth**

Dear Chair Belatti, Chair Morikawa, and Members of the Committee:

The Hawai'i Association of Health Plans (HAHP) respectfully submits testimony in strong support of SB 2395, SD1, which requires Medicaid managed care and fee-for service programs to cover services provided through telehealth.

Telehealth is an important tool for our state's overall healthcare system because it creates greater access for patients to receive care in a timely and effective way. As Hawaii deals with a provider shortage (particularly in rural communities), telehealth is an instrument to ensure that patients can quickly receive care and providers can efficiently serve a greater number of patients.

Telehealth will create new and innovative ways to offset some of our unique geographical challenges to deliver health services across the state. We strongly urge the passage of this measure.

Thank you for allowing HAHP to testify in support of SB 2395, SD1.

Sincerely,

Wendy Morriarty, RN, MPH  
Chair, HAHP Public Policy Committee

Cc: HAHP Board Members



David W. Heywood  
Hawai'i Health Plan CEO  
1132 Bishop Street, Suite 400  
Honolulu, Hawaii 96813

March 11, 2016

The Honorable Della Au Belatti, Chair  
The Honorable Richard Creagan, Vice Chair  
House Committee on Health

The Honorable Dee Morikawa, Chair  
The Honorable Bertrand Kobayashi, Vice Chair  
House Committee on Human Services

**Re: SB 2395, SD1 – Relating to Telehealth – Testimony in SUPPORT**

Dear Chair Belatti, Vice Chair Creagan, and Members of the Committee:

UnitedHealthcare Community Plan of Hawai'i respectively submits testimony in strong support of SB 2395, SD1. This legislation will require Medicaid managed care and fee-for service programs to cover services provided through telehealth.

UnitedHealthcare is a strong advocate of the use of telehealth to enhance the overall healthcare delivery system. Telehealth can create greater access for patients to receive diagnosis, services and care in a timely and effective way. As a health plan serving members and working with providers on all islands, we recognize the need for greater use of telehealth to support and augment the current and future healthcare delivery system.

Telehealth will not only improve access and build "bridges" to remote areas of our state, but it will also help facilitate new and innovative care delivery models. We urge passage of this bill for an effective and better performing health care system in Hawai'i.

Thank you for allowing UnitedHealthcare to testify in support of SB 2395, SD1.

Sincerely,

A handwritten signature in cursive script, appearing to read 'David Heywood', written in black ink.

David W. Heywood  
Health Plan CEO

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 09, 2016 6:41 PM  
**To:** HLTtestimony  
**Cc:** wailua@aya.yale.edu  
**Subject:** \*Submitted testimony for SB2395 on Mar 11, 2016 10:30AM\*

**SB2395**

Submitted on: 3/9/2016

Testimony for HLT/HUS on Mar 11, 2016 10:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Wailua Brandman	Hawaii Assoc. of Professional Nurses	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)



**March 11, 2016 at 10:30 AM**  
**Conference Room 329**

**House Committee on Health**  
**House Committee on Human Services**

To: Chair Della Au Belatti  
Vice Chair Richard P. Creagan

Chair Dee Morikawa  
Vice Chair Bertrand Kobayashi

From: George Greene  
President and CEO  
Healthcare Association of Hawaii

**Re: Testimony in Support**  
**SB 2395 SD 1, Relating to Telehealth**

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 180 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

We would like to thank the committees for the opportunity to **support** SB 2395 SD 1. This legislation would promote telehealth by eliminating geographic and originating site limitations, instituting reimbursement parity in the Medicaid program and clarifying the relationship requirements between patients and providers, among other things.

Telehealth is used extensively throughout the country and can be particularly effective in states like Hawaii where many segments of the population face challenges in accessing quality health care due to geography. We supported the telehealth parity bill in 2014 because it expanded access to health care services, especially in rural or underserved areas. We are supportive of this legislation because it will help to ensure that the opportunities and benefits of telehealth are provided equally and widely.

We support efforts to improve the quality and accessibility for patients all throughout the state and this bill would help to reach that goal. We would respectfully request that your committee view this bill favorably. Thank you for the opportunity to testify in support of this important matter.



# SB2395 SD1

Regarding SB 2395 SD1  
Relating to telehealth.

Honorable Representatives and Committee Members:

HAPA supports this bill, but recommends amendments as listed below.

The current version of the bill does not include physician assistants (PAs) in the definition of providers who can provide and be reimbursed for telehealth services. Advanced practice registered nurses are included and PAs should be included as well.

HAPA feels that in general, whenever there are proposed legislative changes to include nurse practitioners (NPs/APRNs) in language defining “health care provider” language should also include PAs who are an integral part of the health care team in improving access to care and providing primary medical care to patients in Hawaii.

Medicare defines non physician providers as follows:

Non-Physician Practitioners (NPPS) fall into 2 broad categories: Physician Assistants (PAs) and Advanced Practice Nurses (APNs or ARNP’s). “APRNs “ in Hawaii.

The ACA (Affordable Care Act) recognizes PAs as an essential part of the solution to the primary care shortage by formally acknowledging them as one of the three primary care health providers, along with NPs and doctors.

Medical home accreditors recognize PAs. Standards from NCQA (National Committee for Quality Assurance), JCAHO (The Joint Commission on the Accreditation of Health Care Organizations), and URAC (Utilization Review Accreditation Commission) recognize PAs as primary care providers and as qualified to lead patient care teams.

HMSA PCMH program guide notes the following.

The following basic requirements apply to PCPs who are interested in contracting to start a PCMH:

1. Providers are one of the following:

- A general practice, internal medicine, family medicine, or pediatric physician. (Other specialties may also be eligible, subject to HMSA’s program requirements.)
- An advanced practice registered nurse (APRN) licensed in a discipline to provide primary care.
- A physician assistant under the supervision of a PCMH-eligible physician.

HAPA supports passage of SB 2395 SD1, but urges HLT/HUS to pass the bill with amendments which include PAs in the definition of “health care provider”

We have included proposed amendments as follows:  
Amendments are bolded, capitalized, and underlined.

Thank you for the opportunity to testify and for your consideration of these amendments.

Fielding Mercer, PA-C  
Legislative Liaison  
Director at Large  
Hawaii Academy of Physician Assistants

---

---

# A BILL FOR AN ACT

RELATING TO TELEHEALTH.

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

SECTION 1. The legislature finds that telehealth has allowed states to implement innovative health policy reforms that achieve significant cost savings and improve health outcomes. There are many opportunities for improving health care access in Hawaii through the use of telehealth, especially in areas of the State faced with a shortage of health care providers.

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

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

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

- (2) Specifying that any telehealth services provided shall be consistent with all federal and state privacy, security, and confidentiality laws;
- (3) Specifying medical professional liability insurance policy requirements with regard to telehealth coverage;
- (4) Clarifying 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;
- (5) Requiring written disclosure of coverages and benefits associated with telehealth services;
- (6) Ensuring telehealth encompasses store and forward technologies, remote monitoring, live consultation, and mobile health;
- (7) Ensuring telehealth is covered when originating in a patient's home and other non-medical environments;
- (8) Clarifying requirements for physicians and out-of-state physicians to establish a physician-patient relationship via telehealth;
- (9) Ensuring reimbursement requirements for telehealth services apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes; and
- (10) Making other conforming amendments related to telehealth for clarity.

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

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

(b) 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. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

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

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

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

(f) For the purposes of this section:

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

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians, **PHYSICIAN ASSISTANTS**, and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

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

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

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

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

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

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

(b) No insurer providing professional liability insurance policies shall require face-to-face contact between a health care

provider and a patient as a prerequisite for coverage of services  
appropriately provided through telehealth in accordance with generally  
accepted health care practices and standards prevailing in the  
applicable professional community at the time the services were  
provided. The coverage required in this section may be subject to all  
terms and conditions of the policy agreed upon between the health care  
provider and the insurer.

(c) For purposes of this section:

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

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

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



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

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

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

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

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

(b) No accident and health or sickness insurance plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were

provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the insurer, and the health care provider.

(c) 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.

~~[There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.]~~

~~For the purposes of this section, "health care provider" means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical and other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.]~~ Nothing in this section shall require a health care provider to be physically present with the patient at an

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

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

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

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

~~[(e)]~~ (g) For the purposes of this section[, "telehealth"]:  
"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code

section 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians, **PHYSICIAN ASSISTANTS**, and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

"Telehealth" means the use of telecommunications services, as defined in section 269-1, [~~including~~] to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information [~~to parties separated by distance.~~] while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts,

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

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

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

(b) No mutual benefit society plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the mutual benefit society, and the health care provider.

(c) 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.

~~[There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction and the patient is~~

~~accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.~~

~~For the purposes of this section, "health care provider" means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical or other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.] Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.~~

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

(e) All insurers shall provide current and prospective enrollees or subscribers with written disclosure of coverages and benefits associated with telehealth services, including information on

copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to the issuance of a policy, contract, plan, or agreement, and upon request after the policy, contract, plan, or agreement has been issued.

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

~~[(e)]~~ (g) For the purposes of this section[, "telehealth"]:  
"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians, **PHYSICIAN ASSISTANTS**, and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

"Telehealth" means the use of telecommunications services, as defined in section 269-1, ~~[including]~~ to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information ~~[to parties separated by distance.]~~ while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter."

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

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

(b) No health maintenance organization plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with



generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the health maintenance organization, and the health care provider.

(c) 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.

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

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

~~licensed under chapter 448.]~~ Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

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

(e) All health maintenance organizations shall provide current and prospective insureds with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to enrollment in a policy, contract, plan, or agreement and upon request after enrollment in the policy, contract, plan, or agreement.

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

~~[(e)]~~ (g) For the purposes of this section[, "telehealth"]:  
"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians, **PHYSICIAN ASSISTANTS**, and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

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

enhanced health care services and information [~~to parties separated by distance.~~] while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter."

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

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

~~[(b) For the purposes of this section, "telehealth" means the use of telecommunications as that term is defined in section 269-1, including but not limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purposes of delivering enhanced health care services and information to parties separated by distance, establishing a physician-patient relationship, evaluating a patient, or treating a patient.~~

~~(e)]~~ (b) Telehealth services shall include a documented patient evaluation, including history and a discussion of physical symptoms adequate to establish a diagnosis and to identify underlying

conditions or contraindications to the treatment recommended or provided.

~~[(d)]~~ (c) Treatment recommendations made via telehealth, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include a face-to-face visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing ~~[a controlled substance,]~~ opiates or medical marijuana, a physician-patient relationship shall only be established ~~[pursuant to chapter 329.]~~ after an in-person consultation between the prescribing physician and the patient.

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

~~[(f)]~~ (e) A physician shall not use telehealth to establish a physician-patient relationship with a patient in this State without a license to practice medicine in Hawaii. An out-of-state physician shall not use telehealth to establish a physician-patient relationship with a patient in this State unless the out-of-state physician has an unrestricted license to practice medicine in the out-of-state

physician's state of residence and a board certification in the specialty or subspecialty in which the out-of-state physician practices.

(f) A physician-patient relationship may be established via telehealth if the patient is referred to the telehealth provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient information to the telehealth provider. Once a provider-patient relationship is established, a patient or physician licensed in this State may use telehealth for any purpose, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law.

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

~~[(g)]~~ (h) Reimbursement for behavioral health 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.

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

(j) For the purposes of this section:

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

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

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

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

"(b) Nothing herein shall:

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

church without pretending a knowledge of medicine or surgery;

- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one's official duty, including a commissioned medical officer employed by the United States Department of Defense, while providing direct telehealth support or services to neighbor island beneficiaries within a Hawaii National Guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the commissioned medical officer employed by the United States Department of Defense is credentialed by Tripler Army Medical Center;
- (4) Apply to any practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, electronic, telephonic, fiber-optic, or other telehealth consultation with a licensed physician, PHYSICIAN ASSISTANT, or osteopathic physician of this State, if the physician, PHYSICIAN ASSISTANT, or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician, PHYSICIAN ASSISTANT or osteopathic physician resides; provided that:
  - (A) The physician, PHYSICIAN ASSISTANT, or osteopathic physician from another state shall not open an



office, or appoint a place to meet patients in this State, or receive calls within the limits of the State for the provision of care for a patient who is located in this State;

(B) The licensed physician, **PHYSICIAN ASSISTANT**, or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and

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

(5) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician or osteopathic physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician or osteopathic physician. Any physician or osteopathic physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or a physician assistant, shall

retain full professional and personal responsibility for any act that constitutes the practice of medicine when performed by the certified person or physician assistant;

(6) Prohibit automated external defibrillation by:

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

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

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

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

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a radiologist through telehealth, including but not limited to a radiologist's or health care provider's office,

hospital, health care facility, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

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

"Telehealth" means the use of telecommunications, as that term is defined in section 269-1, ~~[including]~~ to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information ~~[to parties separated by distance.]~~ while a patient is at an originating site and the radiologist is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph."

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

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

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

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

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

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

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

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

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

and confidentiality laws. For the purposes of this paragraph:

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

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

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

"Telehealth" means the use of telecommunications, as that term is defined in section 269-1, [~~including~~] to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital

images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information [~~to parties separated by distance.~~] while a patient is at an originating site and the radiologist is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph."

SECTION 13. Notwithstanding any other law to the contrary, the reimbursement for telehealth services required under sections 6, 7, and 8 of this Act shall apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes, issued, renewed, modified, altered, or amended on or after the effective date of this Act.

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

SECTION 15. This Act shall take effect on July 1, 2050.

**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. Ensures 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. Ensures reimbursement requirements for telehealth services apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes. Makes other conforming amendments related to telehealth. Effective 7/1/2050. (SD1)

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





TO: Committees on Health and Human Services  
DATE: March 11, 2016  
TIME: 10:30 a.m.  
PLACE: Conference Room 329  
State Capitol  
415 South Beretania Street

Re: SB No. 2395, SD 1, Relating to Telehealth

DentaQuest appreciates the opportunity to provide written testimony on Senate Bill No. 2395, SD 1 ("SB 2395 SD 1"), which requires reimbursement parity for telehealth-delivered services in the Medicaid managed care and fee-for-service programs. DentaQuest strongly supports this legislation and its goal to improve access to care for the Medicaid population.

DentaQuest had the honor of serving the children of Hawaii as a subcontractor for the Medicaid QUEST dental program between 2012 and 2015. We continue to build partnerships with the Hawaii health and advocacy community by working with Hawaii nonprofits like Helping Hands Hawaii and Aloha Medical Mission. Like DentaQuest, these organizations work to improve health outcomes and to build stronger communities.

DentaQuest is the second largest dental benefits company and the largest Medicaid and CHIP dental benefits administrator in the country. Nationwide, we work with seven state agencies, partner with 100 health plans, and offer plans on ten health insurance exchanges to provide dental benefits to more than 24 million beneficiaries. Along with the DentaQuest Foundation, DentaQuest Institute, and DentaQuest Care Group, our organization is committed to improving the oral health of all.

As SB 2395 SD 1 notes, the use of telehealth can help reduce access to care challenges, particularly in health care provider shortage areas. The use of telehealth allows providers to treat patients in settings that are more convenient and comfortable for the patient. By bringing care to the patient, telehealth helps facilitate a more patient-centered approach to delivering the right services at the right time to improve health outcomes. According to the American Telemedicine Association, early results from a number of telehealth studies show that quality of care is not compromised when services are delivered in non-traditional settings and cost savings can be found for providers, patients, and payers.

While, telehealth legislation has passed in many states, adoption is still low due to a wide variety of regulatory and implementation barriers. For successful telehealth adoption, legislation should address Medicaid reimbursement parity, as private payers will follow public programs. To encourage a variety of potential solutions, legislation should account for different types of telehealth, including, but not limited

to, live video and store-and-forward technologies. Rules related to geographic, originating site or provider-type limitations should be reviewed carefully to ensure they support adoption.

Fortunately, SB 2395 SD 1 addresses these barriers to adoption and if passed, would ensure that the Medicaid program optimizes telehealth's potential. DentaQuest is pleased that the legislation acknowledges the value in including a wide range of providers, including dentists, dental technicians, and dental hygienists. Oral health is a critical component of overall health and as delivery and reimbursement models continue to evolve, it is important that telehealth models support improved access to dental services.

Early teledentistry initiatives have already shown tremendous promise. The Pacific Center for Special Care studied the new Virtual Dental Home Demonstration in California to find that systemic costs had declined and 35% of children were less fearful of seeing a dental provider because they were in more comfortable, community settings.

Increasing access to care via telehealth holds the promise of addressing certain oral health access challenges facing Hawaii. Based on 2014 HEDIS measures, Hawaii came in 33<sup>rd</sup> for the percentage of Medicaid-eligible children receiving preventive dental care. The state's Department of Health noted that in 2012, only 52 percent of low-income individuals saw a dentist compared to 82 percent for higher-income individuals.

The Hawaii State Department of Health's 2015 report, *Hawaii Oral Health Key Findings*, showed that if a child's family is beneath the federal poverty level (FPL), they are twice as likely to have had a dental problem in the past six months compared to children in families four times above the FPL. Low-income adults in Hawaii (<\$15,000) are also more likely to have permanent tooth loss compared to high-income adults (>\$75,000)—51 percent vs. 32 percent.

By improving the oral health experience for these at-risk populations, telehealth legislation can increase the number of patients receiving preventive services, decrease costs due to inefficiencies, reduce disparities, and improve overall health.

DentaQuest supports SB 2395 SD 1 and encourages its passage. If there are any questions, we are always available as a resource.

Sincerely,

Lawless Barrientos  
Director, Government Relations

Testimony of Phyllis Dendle  
Director, Government Relations

Before:  
Committee on Health  
The Honorable Della Au Belatti, Chair  
The Honorable Richard P. Creagan, Vice Chair

Senate Committee on Human Services  
The Honorable Dee Morikawa, Chair  
The Honorable Bertrand Kobayashi, Vice Chair

March 11, 2016  
10:30 am  
Conference Room 329

**SB 2395 SD1            RELATING TO TELEHEALTH**

Chairs Belatti and Morikawa and committee members, thank you for this opportunity to provide testimony on SB 2395 SD1 which seeks to clarify in law the ability of providers to use ever improving technologies of telehealth.

**Kaiser Permanente Hawaii supports this bill.**

As an island state with our watery boundaries that separate us from each other and from the continents we must use any means available to us to bring ourselves together. In health care telehealth is an excellent way to provide care, especially specialty care, to patients even when they cannot be in the physician's office.

We appreciate this bill and hope you will pass it. There is one section that appears to us to create some confusion. Page 26 lines 4-12

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

The first section, which is existing law, requires physicians who use telehealth to establish a physician-patient relationship to be licensed in Hawaii. The second section then adds new language that explains what an out-of-state physician has to do. As written it appears that all physicians who use telehealth regardless of where they are must be licensed in Hawaii. If that is the case, the second part isn't necessary. If that is not the intent then it should be redrafted to include an "or" between the old and new section.

Thank you for your consideration.

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 09, 2016 12:07 PM  
**To:** HLTtestimony  
**Cc:** mamaupin@hotmail.com  
**Subject:** \*Submitted testimony for SB2395 on Mar 11, 2016 10:30AM\*

**SB2395**

Submitted on: 3/9/2016

Testimony for HLT/HUS on Mar 11, 2016 10:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Margaret Maupin	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 09, 2016 6:11 PM  
**To:** HLTtestimony  
**Cc:** joyamarshall0416@gmail.com  
**Subject:** \*Submitted testimony for SB2395 on Mar 11, 2016 10:30AM\*

**SB2395**

Submitted on: 3/9/2016

Testimony for HLT/HUS on Mar 11, 2016 10:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joy Marshall	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

HLTtestimony

---

From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, March 09, 2016 11:49 PM  
To: HLTtestimony  
Cc: mercers@hawaii.rr.com  
Subject: Submitted testimony for SB2395 on Mar 11, 2016 10:30AM  
Attachments: SB2395.docx

**SB2395**

Submitted on: 3/9/2016

Testimony for HLT/HUS on Mar 11, 2016 10:30AM in Conference Room 329

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Fielding Mercer	Individual	Comments Only	No

Comments: Please see the proposed amendments to include physician assistants (PAs) in the language of this bill. Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email [webmaster@capitol.hawaii.gov](mailto:webmaster@capitol.hawaii.gov)

---

---

# A BILL FOR AN ACT

RELATING TO TELEHEALTH.

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

SECTION 1. The legislature finds that telehealth has allowed states to implement innovative health policy reforms that achieve significant cost savings and improve health outcomes. There are many opportunities for improving health care access in Hawaii through the use of telehealth, especially in areas of the State faced with a shortage of health care providers.

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

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

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



- (2) Specifying that any telehealth services provided shall be consistent with all federal and state privacy, security, and confidentiality laws;
- (3) Specifying medical professional liability insurance policy requirements with regard to telehealth coverage;
- (4) Clarifying 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;
- (5) Requiring written disclosure of coverages and benefits associated with telehealth services;
- (6) Ensuring telehealth encompasses store and forward technologies, remote monitoring, live consultation, and mobile health;
- (7) Ensuring telehealth is covered when originating in a patient's home and other non-medical environments;
- (8) Clarifying requirements for physicians and out-of-state physicians to establish a physician-patient relationship via telehealth;
- (9) Ensuring reimbursement requirements for telehealth services apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes; and
- (10) Making other conforming amendments related to telehealth for clarity.

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

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

(b) 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. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

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

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

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

(f) For the purposes of this section:

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

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians, **PHYSICIAN ASSISTANTS**, and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

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

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

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

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

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

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

(b) No insurer providing professional liability insurance policies shall require face-to-face contact between a health care

provider and a patient as a prerequisite for coverage of services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the policy agreed upon between the health care provider and the insurer.

(c) For purposes of this section:

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

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

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

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

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

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

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

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

(b) No accident and health or sickness insurance plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were

provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the insurer, and the health care provider.

(c) 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.

~~[There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.]~~

~~For the purposes of this section, "health care provider" means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical and other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.]~~ Nothing in this section shall require a health care provider to be physically present with the patient at an

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

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

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

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

~~[(e)]~~ (g) For the purposes of this section~~["telehealth"]~~:  
"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code



section 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians, **PHYSICIAN ASSISTANTS**, and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

"Telehealth" means the use of telecommunications services, as defined in section 269-1, [~~including~~] to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information [~~to parties separated by distance.~~] while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts,

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

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

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

(b) No mutual benefit society plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the mutual benefit society, and the health care provider.

(c) 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.

~~[There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction and the patient is~~

~~accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.~~

~~For the purposes of this section, "health care provider" means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical or other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.] Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.~~

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

(e) All insurers shall provide current and prospective enrollees or subscribers with written disclosure of coverages and benefits associated with telehealth services, including information on

copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to the issuance of a policy, contract, plan, or agreement, and upon request after the policy, contract, plan, or agreement has been issued.

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

[~~(e)~~] (g) For the purposes of this section[~~,"telehealth":~~ "Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

"Telehealth" means the use of telecommunications services, as defined in section 269-1, [including] to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information [to parties separated by distance.] while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter."

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

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

(b) No health maintenance organization plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with

generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the health maintenance organization, and the health care provider.

(c) 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.

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

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

licensed under chapter 448.] Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

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

(e) All health maintenance organizations shall provide current and prospective insureds with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to enrollment in a policy, contract, plan, or agreement and upon request after enrollment in the policy, contract, plan, or agreement.

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

~~[(e)]~~ (g) For the purposes of this section[,—"telehealth"]:  
"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians, **PHYSICIAN ASSISTANTS**, and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

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



enhanced health care services and information [~~to parties separated by distance.~~] while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter."

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

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

~~[(b) For the purposes of this section, "telehealth" means the use of telecommunications as that term is defined in section 269-1, including but not limited to real time video conferencing based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic quality digital images and laboratory results for medical interpretation and diagnosis, for the purposes of delivering enhanced health care services and information to parties separated by distance, establishing a physician patient relationship, evaluating a patient, or treating a patient.]~~

~~(e)]~~ (b) Telehealth services shall include a documented patient evaluation, including history and a discussion of physical symptoms adequate to establish a diagnosis and to identify underlying

conditions or contraindications to the treatment recommended or provided.

~~[(d)]~~ (c) Treatment recommendations made via telehealth, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include a face-to-face visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing ~~[a controlled substance,]~~ opiates or medical marijuana, a physician-patient relationship shall only be established ~~[pursuant to chapter 329.]~~ after an in-person consultation between the prescribing physician and the patient.

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

~~[(f)]~~ (e) A physician shall not use telehealth to establish a physician-patient relationship with a patient in this State without a license to practice medicine in Hawaii. An out-of-state physician shall not use telehealth to establish a physician-patient relationship with a patient in this State unless the out-of-state physician has an unrestricted license to practice medicine in the out-of-state

physician's state of residence and a board certification in the specialty or subspecialty in which the out-of-state physician practices.

(f) A physician-patient relationship may be established via telehealth if the patient is referred to the telehealth provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient information to the telehealth provider. Once a provider-patient relationship is established, a patient or physician licensed in this State may use telehealth for any purpose, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law.

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

~~[(g)]~~ (h) Reimbursement for behavioral health 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.

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

(j) For the purposes of this section:

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

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

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

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

"(b) Nothing herein shall:

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

church without pretending a knowledge of medicine or surgery;

- (2) Prohibit service in the case of emergency or the domestic administration of family remedies;
- (3) Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one's official duty, including a commissioned medical officer employed by the United States Department of Defense, while providing direct telehealth support or services to neighbor island beneficiaries within a Hawaii National Guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the commissioned medical officer employed by the United States Department of Defense is credentialed by Tripler Army Medical Center;
- (4) Apply to any practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, electronic, telephonic, fiber-optic, or other telehealth consultation with a licensed physician, PHYSICIAN ASSISTANT, or osteopathic physician of this State, if the physician, PHYSICIAN ASSISTANT, or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician, PHYSICIAN ASSISTANT or osteopathic physician resides; provided that:
  - (A) The physician, PHYSICIAN ASSISTANT, or osteopathic physician from another state shall not open an

office, or appoint a place to meet patients in this State, or receive calls within the limits of the State for the provision of care for a patient who is located in this State;

(B) The licensed physician, PHYSICIAN ASSISTANT, or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and

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

(5) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician or osteopathic physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician or osteopathic physician. Any physician or osteopathic physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or a physician assistant, shall

retain full professional and personal responsibility for any act that constitutes the practice of medicine when performed by the certified person or physician assistant;

(6) Prohibit automated external defibrillation by:

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

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

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

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

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a radiologist through telehealth, including but not limited to a radiologist's or health care provider's office,

hospital, health care facility, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

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

"Telehealth" means the use of telecommunications, as that term is defined in section 269-1, ~~[including]~~ to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information ~~[to parties separated by distance.]~~ while a patient is at an originating site and the radiologist is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph."

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



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

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

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

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

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

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

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

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

and confidentiality laws. For the purposes of this paragraph:

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

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

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

"Telehealth" means the use of telecommunications, as that term is defined in section 269-1, [~~including~~] to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital

images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information [~~to parties separated by distance.~~] while a patient is at an originating site and the radiologist is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph."

SECTION 13. Notwithstanding any other law to the contrary, the reimbursement for telehealth services required under sections 6, 7, and 8 of this Act shall apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes, issued, renewed, modified, altered, or amended on or after the effective date of this Act.

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

SECTION 15. This Act shall take effect on July 1, 2050.

**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. Ensures 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. Ensures reimbursement requirements for telehealth services apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes. Makes other conforming amendments related to telehealth. Effective 7/1/2050. (SD1)

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