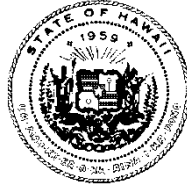


SB2395

Measure Title:	RELATING TO TELEHEALTH.
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 medical professional liability insurance policy requirements with regard to telehealth coverage. Clarifies requirements for establishing provider-patient relationships for telehealth for purposes of reimbursement. Specifies reimbursement requirements for distant site and originating site providers. 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.
Companion:	HB1944
Package:	None
Current Referral:	CPH/HMS, WAM
Introducer(s):	BAKER, GABBARD, KIDANI, RUDERMAN, SHIMABUKURO, TOKUDA, English, Riviere



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

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

February 4, 2016

TO: The Honorable Rosalyn H. Baker Chair
Senate Committee on Commerce, Consumer Protection, and Health

The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services

FROM: Rachael Wong, DrPH, Director

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

Hearing: Thursday, February 4, 2016; 1:15 p.m.
Conference Room 016, 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 medical professional liability insurance policy requirements with regard to telehealth coverage. Clarifies requirements for establishing provider-patient relationships for telehealth for purposes of reimbursement. Specifies reimbursement requirements for distant site and originating site providers. 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.

The DHS supports the concept of telehealth which is viewed as a cost effective alternative to the more traditional face-to-face way of providing medical care. The Centers for Medicare and Medicaid Services (CMS) does allow for reimbursement for telehealth services and the Hawaii Medicaid program does currently cover limited services.

This bill does require the Med-QUEST Division to move forward with efforts to increase the availability of telehealth services to managed care and fee-for-service recipients. The Department does require, however, additional time and flexibility to implement provisions in this bill. While CMS encourages States to cover telehealth services, we need to work closely with CMS regarding the services and reimbursement methodology as it will require the need for 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 match for services.

Thank you for the opportunity to testify on this measure.



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February 4, 2016

The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services
The Honorable Rosalind H. Baker, Chair
Senate Committee on Commerce, Consumer Protection
and Health

Re: SB 2395 – Relating to Telehealth

Dear Chair Chun Oakland, Chair Baker, and Members of the Committees:

The Hawaii Medical Association (HMSA) appreciates the opportunity to testify on SB 2395, 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.

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;



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- 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 have administrative comments to offer on SB 2395. We are continuing to consider this measure, but we already noted the following:

- A provision should be included to ensure the system is HIPAA, HITEC, privacy, PHI confidentiality, and data security compliant.
- To qualify for reimbursement at a rate equivalent to a face-to-face encounter, the telehealth service rendered should be equivalent in terms of complexity to the service rendered in an office/facility environment.
- There also is a need to ensure this legislation 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.

We do have other technical and clarifying amendments that we hope we can work with the Committee to address.

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

Sincerely,

Jennifer Diesman
Vice President, Government Relations.

**PRESENTATION OF THE
HAWAII MEDICAL BOARD**

TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

AND

TO THE SENATE COMMITTEE ON HUMAN SERVICES

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2016

Thursday, February 4, 2016
1:15 p.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL NO. 2395, RELATING TO TELEHEALTH.

TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
TO THE HONORABLE SUZANNE CHUN OAKLAND, CHAIR,
AND MEMBERS OF THE COMMITTEES:

My name is Ahlani Quiogue, and I am the Executive Officer of the Hawaii Medical Board ("Board"). Thank you for the opportunity to provide written testimony on Senate Bill No. 2395, Relating to Telehealth. The Board has not had an opportunity to discuss this measure, but will do so at its next meeting on February 11, 2016. Therefore, the Board is not able to offer comments or a position on this bill at this time.

Thank you for the opportunity to provide written testimony on Senate Bill No. 2395.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Commerce, Consumer Protection and Health
and

Senate Committee on Human Services
Thursday, February 4, 2016 at 1:15pm

By

Robert Bley-Vroman, Chancellor

And

Denise Eby Konan, Dean
College of Social Sciences
University of Hawai'i at Mānoa

SB 2395 – RELATING TO TELEHEALTH

Chairs Bakers and Chun Oakland, Vice Chairs Kidani and Riviere and members of the committees:

As the Dean of the University of Hawai'i at Mānoa (UHM) College of Social Sciences (CSS), and on behalf of the University of Hawai'i, we appreciate the opportunity to testify in strong support of S.B. 2395 intended to lift many existing barriers of telehealth in the State of Hawai'i. Dr. Norman Okamura, faculty in the Social Sciences Research Institute CSS, is the Principal Investigator for the UH Pacific Basin Telehealth Resource Center of the UHM.

On January 7, 2016, the UHM Pacific Basin Telehealth Resource Center brought together telehealth stakeholders from across the state for a one-day telehealth workshop. The group acknowledges the tremendous potential of telehealth for improving access to health care service, increasing quality, and lowering health care cost however current restrictions related to reimbursement and malpractice coverage were most pressing concerns that the workshop participants identified as major barriers to the advancement of telehealth in the State.

SB 2395 is very comprehensive in addressing these concerns, specifically: (1) Requires the State's Medicaid managed care and fee-for-service programs to cover services provided through telehealth; (2) Specifies medical professional liability insurance policy requirements with regard to telehealth coverage; (3) Clarifies requirements for establishing provider-patient relationships for telehealth for purposes of reimbursement; (4) Specifies reimbursement requirements for distant site and originating site providers; (5) Requires written disclosure of coverages and benefits associated with telehealth services; (6) Ensures telehealth encompasses store and forward technologies, remote monitoring, live consultation, and mobile health; (7) Ensures telehealth is covered when originating in a patient's home and other non-medical environments; (8) Clarifies requirements for physicians and out-of-state physicians to establish a physician-patient

relationship via telehealth; (9) Ensures reimbursement requirements for telehealth services apply to all health benefits plans under chapter 87A, Hawai'i Revised Statutes; and (10) Makes other conforming amendments related to telehealth.

The University of Hawai'i is in strong support of the bill. These timely changes are needed to further advance telehealth in Hawai'i. The lifting of the current limitations of telehealth, such as geographic restrictions on services, requirements for established provider-patient relationship, and restrictions on the technologies used, will help to expand telehealth throughout Hawai'i and expand access to critical services not currently available to many residents of our State.

The UHM CSS will be pleased to provide further technical expertise on this bill and other matters related to telehealth policy.

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



THE QUEEN'S HEALTH SYSTEMS

**SB 2395, Relating to Telehealth
Senate Committee on Commerce, Consumer Protection, and Health
Hearing—February 4, 2016 at 1:15 PM**

Dear Chairwoman Baker and Members of the Senate Committee on Commerce, Consumer Protection, and Health:

My name is Matthew Koenig, MD and I am a stroke neurologist and Director of Telehealth for The Queen's Health Systems (QHS). First, we would like to thank Chairwoman Baker for her interest and work in drafting this important legislation. We greatly appreciate your commitment to expanding access to care for Hawaii citizens through telecommunications technologies. We would also like to provide our strong **support for SB 2395 with comments.**

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.

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.

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 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. Although the bill is very comprehensive, there are a few items that we believe require clarification and amendment in order to strengthen the bill. These **comments** are listed below.

1. On Page 3, line 15, "Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact...". The intention of this section is good, but the problem is that the actual billing codes used for telemedicine encounters are different from the billing codes used for in-person encounters for the same indication and the reimbursement amount for these codes is not equivalent. The language should be changed to specify that, regardless of the billing code, the amount of reimbursement (dollar amount and relative value unit (RVU)) should be equivalent. This language should be clarified throughout the bill, including the Medicaid and private insurance sections.

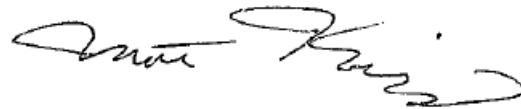
2. Also on Page 3, line 18, "There shall be no reimbursement for a telehealth consultation between two healthcare providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction; provided that the health care provider-patient relationship prerequisite shall not apply to telehealth consultations for emergency department services." We recommend deleting this language throughout the bill. The language implies that a "curbside" consultation done by video teleconferencing between a primary care physician (who has an established patient-provider relationship) and a specialist (who does not know the patient) can be reimbursed even though the patient is not present. This does not meet current standards of clinical practice and in-person "curbside" consultations (in which the patient is not present) are not currently reimbursed by insurers. For "store-and-forward" and teleradiology services, other sections of the bill include reimbursement rules that have greater clarity.

3. On Page 21, line 14, "The combined amount of reimbursement that a health maintenance organization plan allows for the compensation to the distant site health care provider and the originating site health care provider shall not be less than the total amount permitted for reimbursement for the same services provided via face-to-face contact..." The language implies that a single reimbursement amount could be split between two healthcare providers, one at the originating site and one at the distant site. The language should be clarified to specify that both providers are reimbursed the full amount they would have received for seeing the patient in-person. Alternatively, this section could be deleted because other parts of the bill specify that telehealth reimbursement needs to be equivalent to in-person reimbursement for the same services.

4. On Page 22, line 1, " 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 the telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship." On Page 26, line 4, "For the purpose of prescribing a controlled substance, a physician-patient relationship shall be established pursuant to chapter 329". The language should be clarified to specify whether an initial telehealth encounter is or is not adequate to establish a provider-patient relationship in order to prescribe controlled substances during that encounter. This issue requires careful consideration to limit the potential for telehealth to be abused for the purposes of prescribing controlled substances such as opioid narcotic pain medications and medical marijuana.

With these comments, we 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,

A handwritten signature in black ink, appearing to read "Matthew Koenig". The signature is fluid and cursive, with a large initial "M" and "K".

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



February 4, 2016 at 1:15 PM
Room 016

Senate Committee on Human Services
Senate Committee on Commerce, Consumer Protection, and Health

To: Chair Suzanne Chun Oakland
Vice Chair Gil Riviere

Chair Rosalyn H. Baker
Vice Chair Michelle N. Kidani

From: George Greene
President and CEO
Healthcare Association of Hawaii

Re: Testimony in Support
SB 2395, 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 Chair Chun Oakland, Chair Baker, and the Senate Committees on Human Services and Commerce, Consumer Protection, and Health for the opportunity to testify in **support** of SB 2395. 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.

To: Hawaii State Senate Joint Committee on Human Services and Commerce, Consumer Protection & Health
Hearing Date/Time: Thursday, February 4, 2016, 1:15 p.m.
Place: Hawaii State Capitol, Rm. 16
Re: Testimony of Planned Parenthood of Hawaii in support of S.B. 2395, Relating to Telehealth

Dear Chairs Chun Oakland & Baker and Members of the Committees,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in support of S.B. 2395, which clarifies Hawaii’s telehealth laws and will ensure that patients have comprehensive and affordable access to family planning services in the rapidly changing telemedicine environment.

Planned Parenthood is proud to support S.B. 2395 as we believe that access to contraception is important to all men and women in Hawaii, and opportunities to increase access are a critical tool for preventing unintended pregnancies. By clarifying the scope and parameters of Hawaii’s telehealth laws, the legislature will help ensure that men and women can have access to contraceptive services even when they are unable to get to a “bricks and mortar” facility. By extending these services to patients who participate in Hawaii’s Medicaid program, the bill ensures that the benefits of telehealth will extend to the most vulnerable citizens in our state.

Thank you for this opportunity to testify in support of S.B. 2395.

Sincerely,
Laurie Field
Hawaii Legislative Director and Public Affairs Manager