

Honolulu, Hawaii

FEB 17 2023

RE: S.B. No. 1038
S.D. 1

Honorable Ronald D. Kouchi
President of the Senate
Thirty-Second State Legislature
Regular Session of 2023
State of Hawaii

Sir:

Your Committee on Health and Human Services, to which was referred S.B. No. 1038 entitled:

"A BILL FOR AN ACT RELATING TO TELEHEALTH,"

begs leave to report as follows:

The purpose and intent of this measure is to:

- (1) Clarify reimbursement for telehealth services via an "interactive telecommunications system";
- (2) Define "interactive telecommunications system"; and
- (3) Clarify that interactive telecommunications may include audio-only communication for services related to diagnosis, evaluation, or treatment of a mental health disorder, under certain circumstances.

Your Committee received testimony in support of this measure from the University of Hawai'i System; Hawaiian Islands Association for Marriage and Family Therapy; Hawai'i Primary Care Association; National Association of Social Workers - Hawai'i; Hawai'i Psychological Association; AARP Hawai'i; Elemental Guidance, LLC; Hawaii Substance Abuse Coalition; Hawaii Medical Association; Hawai'i Parkinson Association; American Cancer Society Cancer Action Network; Hawaii Disability Rights Center; Hawai'i Pacific Health; Alzheimer's Association; Kapolei Chamber of Commerce;



AlohaCare; and twenty-seven individuals. Your Committee received testimony in opposition to this measure from the Hawaii Counseling and Education Center, Inc. Your Committee received comments on this measure from the Department of Human Services, Department of Commerce and Consumer Affairs, and Hawaii Medical Service Association.

Your Committee finds that many residents in underserved and low-income communities where cellular data plans and broadband are inaccessible are unable to utilize telehealth services that require internet connectivity. The Centers for Medicare and Medicaid Services authorizes coverage of audio-only services used in the treatment of mental health and substance abuse, under certain circumstances, allowing federally qualified health centers and rural health clinics to use telehealth to care for patients in patients' homes. This measure authorizes the use of standard telephone contacts for telehealth purposes in certain circumstances to ensure coverage parity across managed care plans and commercial health care plans.

Your Committee notes the concerns raised by Hawaii Medical Service Association that care provided via audio-only interactive telecommunications has not been proven to be as effective as care provided in person or via telehealth. Therefore, reimbursement for audio-only visits should not equal that of face-to-face visits. Further, behavioral health providers obtain valuable insights through face-to-face interactions. Requirements similar to those of the Centers for Medicare and Medicaid Services, which specify periodic in-person visits, are necessary. Additionally, the Centers for Medicare and Medicaid Services' temporary telehealth provisions are scheduled to end on December 31, 2024. A corresponding sunset date to this measure would allow time to study the efficacy and value of audio-only visits for behavioral health. Therefore, should your Committee on Commerce and Consumer Protection choose to deliberate on this measure, your Committee respectfully requests that it considers examining these concerns.

Accordingly, your Committee has amended this measure by:

- (1) Clarifying that the definition of "interactive telecommunications system" is consistent with that used by the Centers for Medicare and Medicaid Services, as the term is defined in title 42 Code of Federal



Regulations section 410.78(a), as amended, relating to telehealth services; and

- (2) Inserting an effective date of December 31, 2050, to encourage further discussion.

As affirmed by the record of votes of the members of your Committee on Health and Human Services that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1038, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1038, S.D. 1, and be referred to your Committee on Commerce and Consumer Protection.

Respectfully submitted on
behalf of the members of the
Committee on Health and Human
Services,



JOY A. SAN BUENAVENTURA, Chair



The Senate
 Thirty-Second Legislature
 State of Hawai'i

Record of Votes
Committee on Health and Human Services
HHS

Bill / Resolution No.:* <i>SB 1038</i>	Committee Referral: <i>HHS, CPN</i>	Date: <i>2/13/23</i>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input type="checkbox"/> Pass, unamended 2312 <input checked="" type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
SAN BUENAVENTURA, Joy A. (C)	✓			
AQUINO, Henry J.C. (VC)	✓			
MORIWAKI, Sharon Y.	✓			
SHIMABUKURO, Maile S.L.				✓
AWA, Brenton	✓			
TOTAL	<i>4</i>			<i>1</i>
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: <i>[Signature]</i>				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes