



STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

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Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Consumer Protection & Commerce
Tuesday, February 11, 2025
2:00 p.m.
State Capitol, Conference Room 329 & via Videoconference

On the following measure:
H.B. 557, H.D. 1, RELATING TO TELEHEALTH

Chair Matayoshi and Members of the Committee:

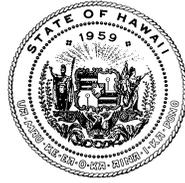
My name is Jerry Bump, and I am the Acting Insurance Commissioner for the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to (1) amend the definition of "interactive telecommunications system" for purposes of reimbursement for services provided through telehealth; (2) require health care providers to append a modifier to any claim for telehealth services using two-way, real-time, audio-only communications technology; (3) require the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services, and (4) repeal the sunset date of Act 107, SLH 2023.

The Insurance Division supports efforts to improve access to health care services. Regarding the bill's requirement that the Insurance Commissioner prepare and submit to the Legislature a report that contains "a summary of the telehealth claims

reimbursed during the preceding year,” the Insurance Division will need the explicit authority to collect telehealth claims reimbursement data from the health insurers and would require resources and staffing to carry out its intent to collect and summarize telehealth services claims data (Page 21, lines 12-18) in an annual report.

Thank you for the opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
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**Testimony COMMENTING on HB557 HD1
RELATING TO TELEHEALTH.**

REP. SCOT Z. MATAYOSHI, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: February 11, 2025

Room Number: 329

1 **Department Testimony: Department Testimony:** The Department of Health (DOH) offers
2 comments urging caution given uncertainties with federal health care policy and an alternative to
3 assure continuity of telehealth access in Hawaii.

4 Just prior to the pandemic, Hawaii enacted several laws aiming to make telehealth a community
5 standard of providing health care, becoming a leader in telehealth policy. Telehealth became
6 essential as the health care system and patients adjusted to the new realities, and as a
7 consequence, the US Centers for Medicare and Medicaid Services (CMS) authorized, among
8 other changes, reimbursement for audio-only telehealth services.

9 The current uncertainties regarding federal health care policy, however, should give us pause.
10 However, to assure continuity of access to audio-only telehealth, DOH proposes amending Act
11 107, Session Laws of Hawaii 2023, to extend the sunset date to December 31, 2025. If there is
12 community agreement at that time, HB557 HD1 may be revisited in the 2026 legislative session.

13 In addition, numerous innovative telehealth initiatives in Hawai`i are successfully improving
14 access to care in various settings, including libraries, community centers, homeless shelters,
15 churches, and through street medicine, etc. Extending Act 107 will provide the flexibility to
16 continue these programs beyond December 31, 2025, while we wait for federal policies to be
17 clarified.

1 Thank you for the opportunity to provide testimony.

2 **Offered Amendments:**

3 SECTION 1. Act 107, Session Laws of Hawaii 2023, is
4 amended by amending 8 to read as follows:

5 "SECTION 8. This Act shall take effect upon its approval;
6 provided that on December 31, [~~2025,~~ 2026, this Act shall be
7 repealed and sections 346-59.1, 431:10A-116.3, 432:1-601.5,
8 432D-23.5, and 453-1.3, Hawaii Revised Statutes, shall be
9 reenacted in the form in which they read on the day prior to the
10 effective date of this Act."

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



RYAN I. YAMANE
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
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P. O. Box 339
Honolulu, Hawaii 96809-0339

TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

February 10, 2025

TO: The Honorable Representative Scot Z. Matayoshi, Chair
House Committee on Consumer Protection & Commerce

FROM: Ryan I. Yamane, Director

SUBJECT: **HB 557 HD1 – RELATING TO TELEHEALTH.**

Hearing: February 11, 2025, Time 2:00 p.m.
Conference Room 329 & via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the amendments made by the House Committee on Health. DHS provides comments that pertain to Section 1 only, which applies to DHS.

PURPOSE: Amends the definition of "interactive telecommunications system" for purposes of reimbursement for services provided through telehealth. Requires health care providers to append a modifier to any claim for telehealth services using two-way, real-time, audio-only communications technology. Requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services.

Repeals the sunset date of Act 107, SLH 2023. (HD1)

DHS appreciates the amendments made by the House Committee on Health:

- (1) Clarifying the definition of "interactive telecommunications system" by:
 - (A) Restricting the provision of two-way, real-time, audio-only communication technology between a patient and distant site health care provider for services furnished for the purposes of diagnosis, evaluation, or treatment of a mental health disorder; and

- (B) Requiring health care providers to append a modifier designated by the Centers for Medicaid and Medicare Services to any claim for two-way, real-time audio-only communications technology to verify that the requirements for audio-only telehealth services have been met;
- (2) Removing the requirement that the Insurance Commissioner include the total number of claims for audio-only telehealth services not related to mental health from the required annual report to the Legislature; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

DHS is supportive of the clarifying definition of interactive communication system pertaining to two-way audio-only telehealth:

“Interactive telecommunications system” may also include two-way, real-time, audio-only communications technology for services furnished for the purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in the patient’s home if the distant site health care provider is technically capable of using an interactive telecommunications system but the patient is not capable of, or does not consent to, the use of video technology.”

These changes align with the updates to the telehealth law in recent years. DHS can also support financial parity for audio-only telehealth services, provided the guardrails on the use of audio-only.

Thank you for the opportunity to provide comments on this measure.



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
House Committee on Consumer Protection & Commerce
Tuesday, February 11, 2025 at 2:00 p.m.

By

T. Samuel Shomaker, Dean
John A. Burns School of Medicine

And

Michael Bruno, Provost
University of Hawai'i at Mānoa

HB 557 HD1 – RELATING TO TELEHEALTH

Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

Thank you for the opportunity to provide **comments** on HB 557 HD1 which updates the laws on telehealth services to conform with federal Medicare regulations specifically regarding audio-only interactive telecommunication services for behavioral mental health. The bill also requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services.

We acknowledge the intent of this measure to support communities most affected by healthcare disparities. However, the current uncertainty surrounding Federal government policies and Centers for Medicare and Medicaid Services (CMS) regulations suggests that HB 557 HD1 may not be timely. Additionally, we have been working with partners to gain more clarity on this issue, and rather than proceeding with HB 557, HD1, we propose extending Act 107, SLH 2023, which is currently scheduled to sunset on December 31, 2025, through December 31, 2026. Doing so would give Hawai'i time to adjust to new federal policies that may be implemented and/or clarified. Numerous telehealth initiatives in Hawai'i are successfully improving access to care in various settings, including libraries, community centers, homeless shelters, churches, and through street medicine, to name a few. Extending Act 107, SLH 2023, will provide the flexibility to continue these programs beyond December 31, 2025 in light of the uncertainty at the Federal level.

Since 1999, the use and expansion of telehealth services and technology in Hawai'i have been recognized as a way to increase access and reduce delays to health care, particularly in rural areas of the state. Many of the highest-risk patients reside in Medically Underserved Areas (MUA), are part of Medically Underserved Populations (MUP), or reside in federally-designated health professional shortage areas. Telehealth communication in any media form, including via telephonic communication, benefits

many in these communities. Elderly, as well as medically- and socially-complex patients often face transportation barriers and difficulty navigating our collective system of health care. Patients with behavioral health issues are especially vulnerable and frequently require immediate attention. The inability of behavioral health and other patients to access the internet or to navigate complicated video platforms presents an even greater barrier to much-needed healthcare.

However, as currently drafted, the bill introduces a new restriction that would prohibit the use of telehealth to establish care. This would be a significant step backward in Hawai'i's telehealth policy, creating unnecessary barriers to care for those in rural or remote areas of the State or who face limited access to transportation.

One of the realities for Hawai'i is that many of those most in need of telephonic care (limited means to travel, poor or absent internet coverage or bandwidth, residence remote from care providers, infirm with limited cognition or digital literacy, immune compromise in the age of COVID, etc.) suffer the most from a lack of provider reimbursement for telephonic coverage. We believe a telehealth environment in Hawai'i that allows patients the ability to access behavioral as well as other health services remotely would provide greater access to healthcare.

Thank you for the opportunity to provide testimony on this bill.



**STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY**
DEPARTMENT OF HEALTH - KA 'OIHANA OLAKINO

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'AINA O KA MOKU'AINA 'O HAWAII

KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

JOHN C. (JACK) LEWIN, M.D.
ADMINISTRATOR

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January 24, 2025

To: House Committee on Consumer Protection and Commerce
Representative Scot Matayoshi, Chair;
Representative Cory Chun, Vice Chair; and
Honorable Members

From: John C (Jack) Lewin MD, Administrator, SHPDA

Re: **HB 557 HD1 --RELATING TO TELEHEALTH**

Position: SUPPORT

Testimony:

SHPDA supports this bill and urges its passage.

The State's rural and underprivileged communities are often cut off from receiving essential health care services through telehealth because they lack the broadband coverage necessary to access this care. While SHPDA recognizes that video-equipped telehealth visits are superior to audio-only, the use of standard telephone contact in telehealth during the COVID-19 pandemic demonstrated the effectiveness of this tool as a mode of essential health care delivery, particularly for residents living in rural, isolated, or underprivileged communities, and particularly for behavioral health care where video-equipped telehealth are unavailable. Further, the existing Medicare flexibility for expanded audio-only modalities is set to expire on March 31, 2025. While Medicare guidelines do allow for the use of audio-only modalities for all services, these guidelines must be considered in parallel with the telehealth coverage provisions of section 1834(m) of the Social Security Act, which limits the kinds of health care services that can be provided in the home to mental health services, substance use disorder services, and end-stage renal dialysis (ESRD).

Audio-only telehealth services should be maintained and compensated for the purposes of behavioral health diagnosis, evaluation, or treatment of a mental health disorder, and for ESRD care when video-telehealth is unavailable or unreasonable.

SHPDA defers to DHS/Med-Quest for amendment details they may have regarding the Medicaid program rules and regulations.

---Jack Lewin MD, SHPDA Administrator, and Sr. Advisor to Governor Green on Health Care



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The State Legislature
The House Committee on Consumer Protection and Commerce
Tuesday, February 11, 2025
Conference Room 329
2:00 p.m.

TO: The Honorable Scot Matayoshi, Chair
FROM: Keali'i Lopez, AARP State Director
RE: Support for H.B. 557, HD1 Relating to Telehealth

Aloha Chair Matayoshi, and Members of the Committee:

My name is Keali'i Lopez, and I am the State Director for AARP Hawai'i. AARP is a nonpartisan, social mission organization that advocates for individuals age 50 and older. We have a membership of nearly 38 million nationwide and nearly 135,000 in Hawaii. We advocate at the state and federal level for the issues that matter most to older adults and their families, including telehealth. **AARP supports H.B 557 HD 1** which updates the State's laws on telehealth services and repeals the sunset date of Act 107, Session Laws of Hawaii 2023.

AARP recognizes telehealth as a vital tool for accessing healthcare and aiding family caregivers. Many members, especially those aged 50-59, use mobile devices to manage their health. Telehealth, including family-involved virtual visits, improves access to care, reduces transportation barriers, and enhances outcomes. We also advocate for the continued use of audio-only communications, particularly beneficial for kupuna in rural areas and those uncomfortable with technology. Key benefits include:

- **Improved Access:** Audio-only communications help residents in rural areas connect with healthcare providers from home, saving time and reducing travel stress.
- **Ease of Use:** Phone calls are familiar and accessible, avoiding the frustration of video conferencing for non-tech-savvy kupuna.
- **Cost-Effective:** Audio-only communications require minimal infrastructure, making them viable for resource-limited settings and patients without high-speed internet.

Audio-only communication should continue to be recognized as a practical, accessible, and cost-effective solution to improve healthcare access for kupuna and be a reimbursable service. Thank you very much for the opportunity to testify in support.



HB557 HD1 Telehealth
COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Scot Z. Matayoshi, Chair

Rep. Cory M. Chun, Vice Chair

Wednesday, Feb 5, 2025: 1:00: Room 225 Videoconference

Hawaii Substance Abuse Coalition Supports HB557 HD1:

ALOHA CHAIR, VICE CHAIR, AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies and recovery-oriented services.

We support changes to Hawaii's law to match Medicare standards to address the full spectrum telehealth needs.

The use of "two-way, real-time audio-only communication technology" is Medicare's description of telephone calls specific to the treatment of a mental health disorder. Further, we would note that Medicare only allows telehealth under certain additional conditions.

Telehealth

Telehealth is not meant to totally replace face to face for those who have more chronic conditions, but it certainly allows us to treat more people who are in need of services that otherwise would not have access to services, especially for rural areas. **U.S. Congress has stated that preliminary evaluations have demonstrated that telehealth and when needed telephonic practices does save money and improve care:**

- Especially for the elderly and behavioral health,
- For checkups for both specialty care and primary care.
- In certain cases, it's a more efficient use of time for care givers and patients.

Telephone services are an integral part of Medicaid and Medicare and with this legislation it can be for commercial plans too, subject to financing and authorizations.



People with chronic conditions need follow-up care to prevent ongoing ER and hospital care, but if they have limited access to care, then Telehealth is crucial and if not available, then telephonic care becomes essential.

We appreciate the opportunity to provide testimony and are available for further

Tuesday, February 11, 2025, 2025
Conference Room 329 & Videoconference

House Committee on Consumer Protection & Commerce

To: Representative Scott Matayoshi, Chair
Representative Cory Chun, Vice Chair

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

Re: **Comments On HB 557, HD1
Relating To Telehealth**

My name is Michael Robinson, and I am the Vice President of Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

HPH writes to provide COMMENTS on HB 557, HD1 which updates the laws on telehealth services to conform with federal Medicare regulations and requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services. We agree with and support the amendments recommended by the Healthcare Association of Hawai'i which would foster greater access to health care especially for individuals living in rural or remote areas of the state.

Since 1999, the use and expansion of telehealth services and technology in Hawaii has been recognized as a strategy to increase patient access to healthcare by overcoming the geographic challenges across our state. Many of Hawaii's geographically access challenged patients reside in Medically Underserved Areas (MUA), are part of Medically Underserved Populations (MUP), or reside in federally designated health professional shortage areas. Elderly, as well as medically and socially complex patients often face transportation barriers, limited broadband access and personal difficulty navigating the technological requirements of accessing traditional video telehealth care services. In these instances, telephonic communication becomes a viable alternative for many in these communities to overcome barriers enabling them to access healthcare remotely.

HPH supports a provider reimbursement system that also incorporates reimbursement for telephonic services. **However, as currently drafted, the bill introduces a new restriction that would prohibit the use of telehealth to establish care.** This would be

a significant step backward in Hawaii's telehealth policy, creating unnecessary barriers to care for those in rural areas or who face limited access to transportation. At HPH we have experienced challenges with our patients accessing acute care services (limited means to travel, poor or absent internet coverage, residence remote from care providers, infirm with limited mobility, immune compromise in the age of COVID, etc.) across our system. As a related example, within HPH charges for telephonic services represent 12-15% of total charges for remote physician to patient acute care service charges indicating a need for telephonic services as an alternative care modality. In the absence of telephonic services being provided or available, these at-risk individuals would have had to resort to travel from their residence to clinics and emergency departments at great personal expense or choose to do without care guidance altogether. Therefore, we foster a telehealth environment in Hawaii that allows both patients today the ability to access behavioral as well as other health services remotely without unnecessarily foreclosing future opportunities to develop alternative reimbursement structures for other remote access modalities to flourish.

Thank you for the opportunity to testify.



HB557 HD1 Telehealth

COMMITTEE ON Consumer Protection & Commerce
Rep. Scot Z. Matayoshi, Chair
Rep. Cory M. Chun, Vice Chair
Tuesday, Feb 11, 2025: 2:00pm: Room 329 Videoconference

Hina Mauka Supports HB557HD1.

*ALOHA CHAIR, VICE CHAIR, AND DISTINGUISHED COMMITTEE MEMBERS.
My name is Brian Baker. I am the Chief Operating Officer for Hina Mauka, a
mental health and substance use disorder treatment and prevention agency for
thousands of adults and adolescents on Oahu and Kauai, including recovery-
oriented services and housing transitional living programs.*

Telehealth can not and should not totally replace face-to-face treatment for mental health and substance use disorder services. However, given the lack of access to treatment for mental health and substance use disorders, it is a vital component that must be protected.

While more studies will be done as time goes on, about the effectiveness and efficiency of telehealth, both with and without a video component, there is clearly sufficient evidence that supports the need to keep this valuable tool available. In order to do this, reimbursement rates from all payers must be in parity to face-to-face visits, therefore, Hina Mauka supports HB557HD1.

We appreciate the opportunity to provide testimony and are available for further questions.



**Testimony to the House Committee on Consumer Protection and Commerce
Tuesday, February 11, 2025; 2:00 p.m.
State Capitol, Conference Room 329
Via Videoconference**

RE: HOUSE BILL NO. 0557, HOUSE DRAFT 1, RELATING TO TELEHEALTH.

Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS THE INTENT** of House Bill No. 0557, House Draft 1, RELATING TO TELEHEALTH.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

This bill, as received by your Committee, would restrict reimbursement under private insurance for telehealth services provided via audio-only "interactive telecommunications systems" to mental health services only. As amended, this bill does not conform the treatment of "interactive telecommunication systems" to how that term is defined under 42 Code of Federal Regulations Section 410.78(a), as Act 107, Session Laws of Hawaii 2023 (Act 107), currently requires.

For your review, attached please find excerpts from the Federal Register dated December 9, 2024. Page 98557 provides the text of the definition of "interactive telecommunications system" in the Medicare Fee Schedule Final Rule. Page 97716 states "*These regulations are effective on January 1, 2025.*"

Act 107 was enacted to create a level playing field between public and private insurance when it comes to the treatment of "interactive telecommunications systems" under Hawaii law. As noted in our testimony in 2023 and further referenced in our testimony to the House Committee on Health dated January 29, 2025, the HPCA asserts that ". . . what is good for Medicare should be good for private insurance. . ."

Testimony on House Bill No. 0557, House Draft 1
Tuesday, February 11, 2025; 2:00 p.m.
Page 2

The Legislature seemed to have agreed with this by enacting Act 107 with the definition of "interactive telecommunication system" to have the same meaning as the term is defined under 42 Code of Federal Regulations Section 410.78(a). This was done to ensure that if the Center for Medicare and Medicaid Services (CMS) should amend the definition of the term, it would automatically apply to private insurance in Hawaii under Act 107.

On December 9, 2024, CMS amended the definition of "interactive telecommunications system" as follows:

". . . Interactive telecommunications system means, . . . multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner. Interactive telecommunications system may also include two-way, real-time audio only communication technology for any telehealth service furnished to a patient in their home if the distant site physician or practitioner is technically capable of, or does not consent to, the use of video technology. The following modifiers must be appended to a claim for telehealth services furnished using two-way, real-time audio-only communication technology to verify that the conditions set forth in the prior sentence. . ."

Because this new definition in the Medicare Physician Fee Schedule Final Rule took effect on January 1, 2025, arguably, this definition also went into effect under Act 107 on January 1, 2025.

Accordingly, the HPCA requested both the Medicaid Administrator and the Insurance Commissioner to determine how the change to this term under the Medicare Physician Fee Schedule applies to Act 107. A response was only provided by the Medicaid Administrator.

As further emphasized in their testimony on this measure, the Director of Human Services noted that because of funding issues, the Medicare Physician Fee Schedule, as it existed on December 31, 2024, would be extended to March 31, 2025, in accordance with the Continuing Resolution approved by Congress and signed by the President to keep the federal government operational until another funding measure can be approved. He then noted that various statutes restrict the types of services that are authorized for provision at a patient's home.

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Tuesday, February 11, 2025; 2:00 p.m.
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While everything he testified to is true, some is not material to this bill. Under the new definition of "interactive telecommunications system", only the following audio-only services are eligible for reimbursement:

- (1) Any telehealth service furnished to a patient in their home;
- (2) If the distant site physician or practitioner is technically capable of using an interactive telecommunications system; and
- (3) The patient is not capable of, or does not consent to, the use of video technology. [Emphasis added.]

The Committee on Health notes in House Standing Committee Report No. 0034 that:

". . . Your Committee recognizes the concerns raised in testimony that while Medicare guidelines do allow for the use of audio-only modalities for all services, these guidelines must be considered in parallel with the telehealth coverage provisions of section 1834(m) of the Social Security Act, which limits the kinds of health care services that can be provided in the home to mental health services, substance use disorder services, and end-stage renal dialysis. . ."

The HPCA asserts that the Hawaii State Legislature does not have the authority to mandate nor restrict the types of services that are specified under Medicare. Further, because Medicaid is administered in partnership between the federal and state governments, the benefits provided under Medicaid must be in accordance with the State Medicaid Plan and approved by CMS.

The issue to be decided under this bill is not the types of services that are authorized for reimbursement at a patient's home, **but merely the types of services that are already authorized to be provided at a patient's home that may be provided by audio-only telecommunications modalities.**

It was CMS that expanded the definition of "interactive telecommunications system" under the Medicare Physician Fee Schedule Final Rule published on December 9, 2024, that went into effect on January 1, 2025. And it would be CMS, in conjunction with the State, that must approve the benefits provided under Medicaid in Hawaii.

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Tuesday, February 11, 2025; 2:00 p.m.
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The question that needs to be asked is this -- What will the Insurance Commissioner do if HMSA denies reimbursement for a service that would be reimbursable if provided in person at the patient's home but was provided via the telephone. So far, the Insurance Commissioner has not responded to HPCA's request for clarification. In their testimony on this measure, the Insurance Commissioner has remained silent.

It would appear that this has not happened yet because providers and the general public are not aware of the change made by CMS to "interactive telecommunications system". However that could change depending on the effectiveness of various advocacy organizations, the media, and word of mouth should there be a concerted effort to get the word out.

The Insurance Commissioner is not in an enviable situation. If the Insurance Commissioner determines that the new definition applies to Act 107 effective January 1, 2025, in all likelihood, this decision will be appealed by private insurers in the courts. If the Insurance Commissioner determines that it does not, the Insurance Commissioner will have to justify this position in direct contravention to black letter law. And in all likelihood, the providers denied reimbursement, perhaps a class action of providers, would appeal the decision in the courts.

It is for this reason why I ended my oral remarks before the House Committee on Health with the following statement:

". . . If Act 107 sunsets on December 31, 2025, everyone loses. . .
Also, if the Legislature passes out a bill that gets tied up in the courts,
everyone loses. . ."

If this bill, as received by your Committee, is approved on Final Reading, it will create even more confusion and greatly increase the likelihood for litigation.

As presently written, everyone will lose.

It is for this reason that the HPCA SUPPORTS THE INTENT of this bill as it currently is drafted to the extent that it facilitates continued discussion on this very important issue.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.

Attachments

applicable requirements. In cases where a beneficiary does not have access to two-way audio-video communications technology, periodic assessments can be furnished using audio-only telephone calls if all other applicable requirements are met.

(x) Coordinated care and/or referral services, provided by an OTP to link a beneficiary with community resources to address unmet health-related social needs or the need and interest for harm reduction interventions and recovery support services that significantly limit the ability to diagnose or treat a patient's opioid use disorder.

(xi) Patient navigational services and/or peer recovery support services, when provided directly by an OTP or through referral, in order to assist patients with an OUD in navigating the health system and accessing supportive services, and/or to provide support in meeting patient-driven OUD treatment and recovery goals.

(d) * * *

(G) Coordinated care and/or referral services described in paragraph (x) of the definition of opioid use disorder treatment service in paragraph (b) of this section, an adjustment will be made when each additional 30 minutes of these services are furnished.

(H) Patient navigational services and/or peer recovery support services described in paragraph (xi) of the definition of opioid use disorder treatment service in paragraph (b) of this section, an adjustment will be made when each additional 30 minutes of these services are furnished.

(ii) The payment amounts for the non-drug component of the bundled payment for an episode of care, the adjustments for counseling or therapy, intake activities, periodic assessments, OTP intensive outpatient services, coordinated care and/or referral services, patient navigational services and/or peer recovery support services, and the non-drug component of the adjustment for take-home supplies of opioid antagonist medications will be geographically adjusted using the Geographic Adjustment Factor described in § 414.26 of this subchapter. For purposes of this adjustment, OUD treatment services that are furnished via an OTP mobile unit will be treated as if they were furnished at the physical location of the OTP registered with the Drug Enforcement Administration (DEA) and certified by SAMHSA.

(iii) The payment amounts for the non-drug component of the bundled

payment for an episode of care, the adjustments for counseling or therapy, intake activities, periodic assessments, OTP intensive outpatient services, coordinated care and/or referral services, patient navigational services and/or peer recovery support services, and the non-drug component of the adjustment for take-home supplies of opioid antagonist medications will be updated annually using the Medicare Economic Index described in § 405.504(d) of this subchapter.

■ 19. Section 410.78 is amended by revising paragraph (a)(3) read as follows:

§ 410.78 Telehealth services.

(3) *Interactive telecommunications system* means, except as otherwise provided in this paragraph (a)(3), multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner. Interactive telecommunications system may also include two-way, real-time audio-only communication technology for any telehealth service furnished to a patient in their home if the distant site physician or practitioner is technically capable of using an interactive telecommunications system as defined in the previous sentence, but the patient is not capable of, or does not consent to, the use of video technology. The following modifiers must be appended to a claim for telehealth services furnished using two-way, real-time audio-only communication technology to verify that the conditions set forth in the prior sentence have been met:

- (i) Current Procedural Terminology (CPT) modifier "93"; and
- (ii) For rural health clinics (RHCs) and federally qualified health centers (FQHCs), Medicare modifier "FQ".

■ 20. Section 410.79 is amended by—

- a. In paragraph (b):
 - i. Removing the definition of "Combination delivery";
 - ii. Adding the definitions of "Combination with an online component," "In-person with a distance learning component," and "Online" in alphabetical order;
 - iii. Removing the definition of "Online delivery"; and
 - iv. Revising the definition of "Set of MDPP services"; and
- b. Revising paragraphs (d)(1) introductory text, (e)(3)(iii)(C), (e)(3)(iv)(F)(3), and (e)(3)(v)(F)(2).

The additions and revisions read as follows:

§ 410.79 Medicare Diabetes Prevention Program expanded model: Conditions of coverage.

(b) * * *

Combination with an online component refers to sessions that are delivered as a combination of online (non-live) with in-person or distance learning.

In-person with a distance learning component refers to DPP sessions that are delivered in person by trained Coaches where participants have the option of attending sessions via MDPP distance learning.

Online means sessions that are delivered 100 percent through the internet via phone, tablet, or laptop in an asynchronous (non-live) classroom where participants are experiencing the content on their own time without a live (including non-artificial intelligence (AI)) Coach teaching the content. These sessions must be furnished in a manner consistent with the DPRP Standards for online sessions. Live Coach interaction must be offered to each participant during weeks when the participant has engaged with content. Emails and text messages can count toward the requirement for live Coach interaction if there is bi-directional communication between the Coach and participant. Chat bots and AI forums do not count as live Coach interaction.

Set of MDPP services means the series of MDPP sessions, composed of core sessions and core maintenance sessions, and subject to paragraph (c)(3) of this section offered over the course of the MDPP services period.

(1) An MDPP supplier may offer a make-up session to an MDPP beneficiary who missed a regularly scheduled session. MDPP make-up sessions may only use in-person or distance learning delivery. If an MDPP supplier offers one or more make-up sessions to an MDPP beneficiary, each such session must be furnished in accordance with the following requirements:

(e) * * *

(C) Self-reported weight measurements from the at-home digital scale of the MDPP beneficiary. Self-reported weights must be obtained during live, synchronous online video technology, such as video chatting or

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 401, 405, 410, 411, 414, 423, 424, 425, 427, 428, and 491

[CMS-1807-F and CMS-4201-F5]

RIN 0938-AV33 and 0938-AU96

Medicare and Medicaid Programs; CY 2025 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Prescription Drug Inflation Rebate Program; and Medicare Overpayments

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule addresses: changes to the physician fee schedule (PFS); other changes to Medicare Part B payment policies to ensure that payment systems are updated to reflect changes in medical practice, relative value of services, and changes in the statute; codification of establishment of new policies for, the Medicare Prescription Drug Inflation Rebate Program under the Inflation Reduction Act of 2022; updates to the Medicare Diabetes Prevention Program expanded model; payment for dental services inextricably linked to specific covered medical services; updates to drugs and biological products paid under Part B including immunosuppressive drugs and clotting factors; Medicare Shared Savings Program requirements; updates to the Quality Payment Program; Medicare coverage of opioid use disorder services furnished by opioid treatment programs; updates to policies for Rural Health Clinics and Federally Qualified Health Centers; electronic prescribing for controlled substances for a covered Part D drug under a prescription drug plan or a Medicare Advantage Prescription Drug (MA-PD) plan under the Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities Act (SUPPORT Act); update to the Ambulance Fee Schedule regulations; codification of the Inflation Reduction Act and Consolidated Appropriations Act, 2023 provisions; updates to Clinical Laboratory Fee Schedule regulations; updates to the diabetes payment structure and PHE flexibilities; expansion of colorectal

cancer screening and Hepatitis B vaccine coverage and payment; establishing payment for drugs covered as additional preventive services; Medicare Parts A and B Overpayment Provisions of the Affordable Care Act and Medicare Parts C and D Overpayment Provisions of the Affordable Care Act.

DATES: These regulations are effective on January 1, 2025.

FOR FURTHER INFORMATION CONTACT: *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for any issues not identified below. Please indicate the specific issue in the subject line of the email.

Michael Soracoe, (410) 786-6312, Morgan Kitzmiller, (410) 786-1623, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to practice expense, work RVUs, conversion factor, and PFS specialty-specific impacts.

Hannah Ahn, (814) 769-0143, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to potentially misvalued services under the PFS.

Mikayla Murphy, (667) 414-0093, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to direct supervision using two-way audio/video communication technology, telehealth, and other services involving communications technology.

Tamika Brock, (312) 886-7904, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to teaching physician billing for services involving residents in teaching settings.

Sarah Leipnik, (410) 786-3933, Mikayla Murphy, (667) 414-0093, Regina Walker-Wren, (410) 786-9160, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to payment for caregiver training services and addressing health-related social needs (community health integration, principal illness navigation, and social determinants of health risk assessment).

Erick Carrera, (410) 786-8949, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to office/outpatient evaluation and management visit inherent complexity add-on.

Sarah Irie, (410) 786-1348, Emily Parris (667) 414-0418, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to payment for advanced primary care management service.

Sarah Leipnik, (410) 786-3933, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to global surgery payment accuracy.

Pamela West, (410) 786-2302, for issues related to supervision of

outpatient therapy services in private practices, certification of therapy plans of care, and KX modifier threshold.

Lindsey Baldwin, (410) 786-1694, Regina Walker-Wren, (410) 786-9160, Erick Carrera, (410) 786-8949, Mikayla Murphy, (667) 414-0093, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to advancing access to behavioral health services.

Michelle Cruse, (443) 478-6390, Erick Carrera, (410) 786-8949, Zehra Hussain, (214) 767-4463, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to dental services inextricably linked to other covered medical services.

Zehra Hussain, (214) 767-4463, or *MedicarePhysicianFeeSchedule@cms.hhs.gov*, for issues related to payment of skin substitutes.

Laura Kennedy, (410) 786-3377, Adam Brooks, (202) 205-0671, Rachel Radzyner, (410) 786-8215, Rebecca Ray, (667) 414-0879, and Jae Ryu, (667) 414-0765 for issues related to Drugs and Biological Products Paid Under Medicare Part B.

MedicarePhysicianFeeSchedule@cms.hhs.gov, for issues related to complex drug administration.

Glenn McGuirk, (410) 786-5723, or *CLFS_Inquiries@cms.hhs.gov* for issues related to Clinical Laboratory Fee Schedule.

Lisa Parker, (410) 786-4949, or *FQHC-PPS@cms.hhs.gov*, for issues related to FQHC payments.

Heidi Oumarou, (410) 786-7942, for issues related to the FQHC market basket.

Michele Franklin, (410) 786-9226, or *RHC@cms.hhs.gov*, for issues related to RHC payments.

Kianna Banks (410) 786-3498 and Cara Meyer (667) 290-9856, for issues related to RHCs and FQHCs and Conditions for Certification or Coverage.

Colleen Barbero (667) 290-8794, for issues related to Medicare Diabetes Prevention Program.

Ariana Pitcher, (667) 290-8840, or *OTP_Medicare@cms.hhs.gov*, for issues related to Medicare coverage of opioid use disorder treatment services furnished by opioid treatment programs.

Sabrina Ahmed, (410) 786-7499, or *SharedSavingsProgram@cms.hhs.gov*, for issues related to the Medicare Shared Savings Program (Shared Savings Program) Quality performance standard and quality reporting requirements.

Janae James, (410) 786-0801, or *SharedSavingsProgram@cms.hhs.gov*, for issues related to Shared Savings Program beneficiary assignment and benchmarking methodology.



American Cancer Society
Cancer Action Network
2370 Nuʻuanu Avenue
Honolulu, Hi 96817
808.460.6109

House Committee on Consumer Protection & Commerce
Representative Scot Matayoshi, Chair
Representative Cory Chun, Vice Chair

Hearing Date: Tuesday, February 11, 2025

ACS CAN SUPPORTS HB 557 HD1 – RELATING TO TELEHEALTH.

Cynthia Au, Government Relations Director – Hawaii Guam
American Cancer Society Cancer Action Network

Thank you for the opportunity to **SUPPORT the Intent** HB 557 HD1 – RELATING TO TELEHEALTH.

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, non-partisan advocacy affiliate of the American Cancer Society advocates for public policies that reduce death and suffering from cancer. ACS CAN works with federal, state, and local government bodies to support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

ACS CAN recognizes that telehealth increases access to quality cancer care among populations that are underserved (e.g., residents of rural communities, individuals with limited income, patients with low health literacy, and people of color). It is especially important for access to healthcare services in rural areas or areas on the neighbor islands with limited broadband access. Audio only telehealth can also improve health outcomes.

A particular benefit of telehealth emerged during the coronavirus pandemic - cancer patients vulnerable to COVID-19 could conduct a video or audio visit with their providers from the safety of their home without risking additional exposure to the virus. The pandemic has demonstrated the importance of adaptable policies around telehealth that allow patients to reap the optimal benefits of telehealth.

ACS CAN, through the Survivor Views program, asked a cohort of cancer patients and survivors about their experience with and interest in telehealth. Overwhelming majorities of cancer patients and survivors who have had telehealth visits believed their issues and questions were well-addressed. 55% of respondents had a phone visit and 43% had a video visit with a telehealth provider about an issue related to their cancer care that otherwise would have been an in-person office visit (not a prescription refill or appointment booking). In both cases, 94% said their issues and questions were addressed well.ⁱ

Thank you again for the opportunity to provide testimony to SUPPORT of the intent to continue the conversation. Should you have any questions, please do not hesitate to contact Government Relations Director Cynthia Au at 808.460.6109, or Cynthia.Au@Cancer.org.

ⁱSurvivor Views: Telehealth and Clinical Trials. ACS CAN. Oct. 2021.
https://www.fightcancer.org/sites/default/files/national_documents/survivorviews-telehealth-trials.pdf



TESTIMONY IN SUPPORT TO HOUSE BILL 557
RELATING TO TELEHEALTH

House Committee on Consumer Protection & Commerce
Hawai'i State Capitol

February 11, 2025

2:00PM

Room 329

Aloha e Chair Matayoshi, Vice Chair Chun, and Members of the House Committee on Consumer Protection and Commerce:

The Office of Hawaiian Affairs (OHA) **SUPPORTS HB 557** which updates the State's laws on telehealth services to conform with federal Medicare regulations, requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services, and repeals the sunset date of Act 107, Session Laws of Hawai'i 2023. OHA appreciates measures such as these that are ultimately aimed at ensuring continuum of care for Hawai'i residents in rural communities. OHA's comments are provided to ensure that Native Hawaiians as OHA beneficiaries receive the medical attention and care that is needed, as many of OHA's beneficiaries reside in rural, underserved communities.

OHA supports telehealth as a critical tool to improve healthcare access for Native Hawaiians and underserved communities throughout the state. Hawai'i's unique geography—spanning across multiple islands—presents significant challenges in accessing healthcare services, particularly for rural and remote communities. Telehealth offers a practical solution by enabling individuals to connect with healthcare providers from their homes or local community centers, reducing the need for long-distance travel and mitigating transportation barriers. This is particularly important for Native Hawaiians who often live in rural areas, where healthcare services can be limited.

In addition, telehealth has the potential to address disparities in healthcare access and outcomes. Native Hawaiians experience health inequities in many areas, including chronic disease management, mental health, and maternal health. Telehealth can offer greater flexibility for individuals to receive timely care, enhance provider-patient communication, and promote preventive care—ultimately improving health outcomes for Native Hawaiians and other vulnerable populations.

House Bill 557 provides a timely and necessary framework to enhance and expand telehealth services in Hawai'i. By extending and solidifying telehealth coverage and reimbursement, this bill will ensure that Hawai'i's most vulnerable communities have equitable access to essential healthcare services. Additionally, the bill's emphasis on integrating telehealth into the state's healthcare infrastructure will help reduce disparities in care and build a more resilient, accessible healthcare system for all.

The Office of Hawaiian Affairs urges this committee to **PASS HB 557**, as it will provide significant benefits to Native Hawaiians and other underserved populations in our state. Mahalo nui for the opportunity to testify.



February 11, 2025 at 2:00 pm
Conference Room 329

House Committee on Consumer Protection and Commerce

To: Chair Scot Z. Matayoshi
Vice Chair Cory M. Chun

From: Hilton Raethel
President and CEO
Healthcare Association of Hawaii

Re: **Submitting Comments**
HB 557 HD 1, Relating to Telehealth

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 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 30,000 people statewide.

Thank you for the opportunity to provide **comments** on this measure. The Association supports expanding telehealth access, which is critical to improving healthcare accessibility across our state. Telehealth has been a proven and effective tool for expanding healthcare access, and many states have recognized the importance of maintaining flexible telehealth options, particularly for underserved populations. *However, rather than advancing new legislation at this time, we believe the best approach would be to extend the current policy for one more year.*

There are significant changes happening at the federal level regarding telehealth, and having additional time to understand how Congress and the administration plan to address these issues would provide valuable clarity. This extra time would allow Hawaii to make informed, long-term policy decisions that align with federal developments and ensure the best possible access to telehealth for our residents.

Thank you for the opportunity to comment on this measure and for the legislature's continued commitment to expanding telehealth access in the state.

Hawai'i Mental Health Coalition

Hawai'i Psychological Association | National Association of Social Workers
Hawaiian Islands Association for Marriage and Family Therapy | Hawai'i Counselors Association

February 11, 2025

Representative Scot Matayoshi, Chair
Representative Cory Chun, Vice Chair
Members of the House Committee on
Consumer Protection & Commerce

Re: Support for HB 557, HD1 Relating to Telehealth

Aloha!

The Hawai'i Mental Health Hui strongly supports HB 557 HD1, relating to telehealth. On behalf of our member organizations which include psychologists, social workers, counselors, and marriage and family therapists dedicated to serving the mental health needs of Hawai'i's residents, we strongly support this measure which ensures continued insurance reimbursement for mental health services delivered via audio-only telehealth.

Please note that we request and strongly support further amendments to clarify that this measure:

- Pertains to behavioral health telehealth services
- Allows for audio-only telehealth to initiate and maintain behavioral health telehealth services

We understand that the law as it exists today allows for 80 percent reimbursement. While we firmly believe in the goal of achieving 100 percent reimbursement for behavioral health telehealth services, our priority is to ensure that this measure be enacted so that the Act 107 (2023) does not sunset. The level of reimbursement should not prevent an important priority bill from passing this session.

Hawai'i faces a severe shortage of mental health providers, a crisis that is especially acute in our rural and neighbor island communities. Geographic isolation, transportation barriers, and the lack of local specialists often prevent residents from receiving the care they need. Audio-only telehealth has been a vital solution, allowing individuals to access mental health services despite technological, economic, or logistical limitations. For many of our clients—kupuna, Native Hawaiian and Pacific Islander communities, those with disabilities, and individuals with limited digital literacy—video-based telehealth is simply not an option. Reliable broadband access remains inconsistent across our islands, leaving too many residents without the ability to engage in video appointments. Audio-only telehealth ensures that these individuals are not left behind.

The ongoing reimbursement for audio-only mental health services is essential to maintaining equitable access to care, reducing health disparities, and preventing crises that result in unnecessary emergency room visits or hospitalizations. We respectfully urge this committee to pass HB 557, HD1 to protect and sustain access to essential mental health care for all of Hawai'i's communities.

Mahalo for your time and consideration.



Hawaii Medical Association

1360 South Beretania Street, Suite 200 • Honolulu, Hawaii 96814
Phone: 808.536.7702 • Fax: 808.528.2376 • hawaiimedicalassociation.org

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Representative Scot Z Matayoshi, Chair

Representative Cory M Chun, Vice Chair

Date: February 11, 2025

From: Hawaii Medical Association (HMA)

Jerald Garcia MD - Chair, HMA Public Policy Committee

Re: HB 557 HD1 RELATING TO TELEHEALTH - Telehealth; Interactive Telecommunications systems; Insurance Reimbursement

Position: Comments

This measure would amend the definition of "interactive telecommunications system" for purposes of reimbursement for services provided through telehealth, require health care providers to append a modifier to any claim for telehealth services using two-way, real-time, audio-only communications technology, require the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services. Repeals the sunset date of Act 107, SLH 2023.

Hawaii physicians frequently use telemedicine technologies to better serve our patients. While video telehealth appointments have offered an important alternative for patients, audio-only visits provide a dependable lifeline for our rural and underserved communities to access healthcare. Patients who are elderly, on Medicaid, non-English speaking and/or have limited internet access are more likely to use audio-only services than video visits. These patients may have limited understanding and/or access to broadband internet services or devices, be unwilling to consent to video visits or prefer audio only interactions, and their access is limited by restrictions on audio-only telehealth services.

HMA supports the repeal of the sunset of Act 107 SLH 2023, in order to maintain patient access to telehealth care, particularly for behavioral health services in our rural and underserved communities. We also support the overall intent of this measure.

HMA is concerned, however, that the pre-requirement for a first in-person visit before telemedicine can begin, may unintentionally create barriers and restrict access for behavioral health services, especially for Hawaii rural and underserved communities where the physician shortages remain critically low.

2025 Hawaii Medical Association Officers

Elizabeth Ann Ignacio, MD, President • Nadine Tenn-Salle, MD, President Elect • Angela Pratt, MD, Immediate Past President
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2025 Hawaii Medical Association Public Policy Coordination Team

Jerald Garcia MD, Chair
Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director

HMA encourages further review and thoughtful discussion on the proposed revisions of Hawaii state telehealth laws and alignment with CMS changes in 2025.

Thank you for allowing Hawaii Medical Association to testify with comments on this measure.

REFERENCES AND QUICK LINKS

Yu J, Civelek Y, Casalino LP, Jung HY, Zhang M, Pierre R, Khullar D. Audio-Only Telehealth Use Among Traditional Medicare Beneficiaries. JAMA Health Forum. 2024 May 3;5(5):e240442. doi: 10.1001/jamahealthforum.2024.0442. PMID: 38728023; PMCID: PMC11087829.

Chen, J., Li, K.Y., Andino, J. et al. Predictors of Audio-Only Versus Video Telehealth Visits During the COVID-19 Pandemic. J GEN INTERN MED(2021). <https://doi.org/10.1007/s11606-021-07172-y>

Volk J et al. States' Actions to Expand Telemedicine Access During COVID-19 and Future Policy Considerations. The Commonwealth Fund. Commonwealthfund.org. June 23 2021.

O'Reilly KB. Amid pandemic, CMS should level field for phone E/M visits. [Ama-assn.org. Apr 20, 2020.](https://www.ama-assn.org/practice-management/telehealth/ama-assn-advocates-remote-care) Acc Feb 1 2025.

American Medical Association. ["Accelerating and Enhancing Behavioral Health Integration Through Digitally Enabled Care: Opportunities and Challenges."](https://www.ama-assn.org/practice-management/telehealth/ama-assn-advocates-remote-care) Aug 31 2022. Acc Feb 1 2025.

Malâtre-Lansac A, et al. Factors influencing physician practices' adoption of behavioral health integration in the United States: A qualitative study. Ann Intern Med. Jul 21, 2020;173(2):92–99. doi: 10.7326/M20-0132. Epub Jun 2, 2020. PMID: 32479169.

American Psychiatric Association. [Telepsychiatry Toolkit: The Evidence Base.](https://www.psychiatry.org/patients-families/telepsychiatry-toolkit) Acc Feb 1 2025.

American Psychiatric Association. [Learn About the Collaborative Care Model](https://www.psychiatry.org/patients-families/telepsychiatry-toolkit) (n.d.). Acc Feb 1 2025.

Roberts ET, Mehrotra A. Assessment of Disparities in Digital Access Among Medicare Beneficiaries and Implications for Telemedicine. JAMA Intern Med. 2020 Oct 1;180(10):1386-1389.

Kruis R, Brown EA, Johnson J, Simpson KN, McElligott J, Harvey J. Patient Perceptions of Audio-Only Versus Video Telehealth Visits: A Qualitative Study Among Patients in an Academic Medical Center Setting. Telemed Rep. 2024 Apr 3;5(1):89-98.

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February 11, 2025

The Honorable Scot Z. Matayoshi, Chair
The Honorable Cory M. Chun, Vice Chair
House Committee on Consumer Protection & Commerce

Re: HB557 HD1 - RELATING TO TELEHEALTH

Dear Chair Matayoshi, Vice Chair Chun, and members of the committee;

Hawaii Medical Service Association (HMSA) respectfully opposes HB557 HD1, which amends the definition of "interactive telecommunications system" for purposes of reimbursement for services provided through telehealth, requires health care providers to append a modifier to any claim for telehealth services using two-way, real-time, audio-only communications technology, requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services, & repeals the sunset date of Act 107, SLH 2023.

HMSA fully supports the efforts of legislators and this committee to make behavioral healthcare more readily available, especially on the Neighbor Islands and in rural areas where it is difficult for residents to obtain in-person services. We appreciate the House Committee on Health's amendments to refocus HB557 to align with the original intent of Act 107. We still feel strongly that two specific aspects of the current HB557 HD1 should be addressed.

Maintaining Accessibility: Hawaii's unique geography makes it difficult for behavioral health providers and patients to connect with each other in person. This is one of the main reasons why the original legislation included the option of using audio-visual telehealth as an option for the initial visit and annual follow ups required to deliver audio-only visits. Eliminating this option could create multiple barriers for behavioral health providers and patients, who may not have the capability to conduct in-person visits.

Reimbursement Rates: HMSA recognizes audio-only telehealth as an important means of access to care for members lacking technological access or digital literacy. However, audio-only telehealth is generally not considered an equal substitute to audio/video telehealth or face-to-face service, with inherent limitations and lower delivery cost. Therefore, we do not believe that there is justification to raise reimbursement for audio-only services to equal that of in-person or video-based telehealth visits, especially because equal reimbursement rates would significantly increase health care costs, eventually resulting in higher premiums for businesses and/or higher copays for individuals.

1. [https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-410/subpart-B/section-410.78#p-410.78\(a\)\(3\)](https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-410/subpart-B/section-410.78#p-410.78(a)(3))
2. [https://www.ssa.gov/OP_Home/ssact/title18/1834.htm#:~:text=\(m\)%20Payment,of%20such%20paragraph](https://www.ssa.gov/OP_Home/ssact/title18/1834.htm#:~:text=(m)%20Payment,of%20such%20paragraph)



An Independent Licensee of the Blue Cross and Blue Shield Association

The field of telemedicine is continuously evolving and as the flexibilities and waivers introduced during the Public Health Emergency (PHE) come to an end, the healthcare community must continue to work together to find ways to expand access without sacrificing quality. HMSA considers Act 107 to be a prime example of that effort – as it shows a willingness for compromise amongst the various stakeholders in order to find a common ground to best serve our residents. Despite the questions that still remain about the quality and efficacy of audio-only health care, and a lack of research on the topic, we support CMS’ opinion that mental health services are different from most other services on the Medicare telehealth services list in that many of the services primarily involve verbal conversation.

In working with the stakeholders, we believe that the following amendments would accomplish the intent and make permanent ACT 107, 2023:

1. Reinstating language allowing a patient to initiate audio-only treatment by first having an in-person or audio-visual telehealth visit in or audio-visual telehealth visit to ensure access found in:
 - a. Section 3-1(c), page 6, lines 12-21
 - b. Section 4-1(c), page 10, line 14 – page 11, line 2
 - c. Section 5-1(c), page 14, line 14 - page 15, line 2
 - d. Section 6-1(c), page 18, line 18- page 19, line 3

2. Reinstating the 80% reimbursement rate that was agreed upon between the stakeholders in 2023 found in:
 - a. Section 3-1(c), page 6, lines 3 -8
 - b. Section 4-1(c), page 10, lines 5-10
 - c. Section 5-1(c), page 14, line 5-10
 - d. Section 6-1(c), page 18, line 9-14 - page 19, line 2

As we continue to work with the stakeholders in the mental health community, we want to find a path forward that would allow for this important access issue to continue. We are happy to provide the committee with a proposed draft that incorporates the requested amendments. Thank you for the opportunity to testify on this measure.

Sincerely,

Dawn Kurisu
Assistant Vice President
Community and Government Relations



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Scot Z. Matayoshi, Chair
The Honorable Cory M. Chun, Vice Chair
Members, House Committee on Consumer Protection & Commerce

From: Jacce Mikulanec, Director, Government Relations, The Queen's Health System

Date: February 11, 2025

Re: Comments on HB557 HD1 – Relating to Telehealth

The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments on HB557 HD1, which updates the State's laws on telehealth services to conform with federal Medicare regulations, requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services, and repeals the sunset date of Act 107, Session Laws of Hawai'i 2023.

Queen's provides a number of telemedicine specialties in areas such as, but not limited to, stroke and neurology, psychiatry, wound care, and critical care; approximately 12% of physician-patient acute telehealth services are classified as telephonic. Telehealth modalities assist with connecting our four hospitals statewide and allow our health care professionals to provide care to patients in their local communities who may not have access to critical health care otherwise.

While we appreciate the Legislature's desire to conform and update our telehealth statutes to comport with federal guidance, however, we believe it may be more prudent to allow our existing statutes to remain in place and address updates at a later time due to uncertainty on the federal level.

Thank you for the opportunity to testify on this measure.

The mission of The Queen's Health System 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.

February 11, 2025



To: Chair Matayoshi, Vice Chair Chun, and Members of the House Committee on Consumer Protection and Commerce (CPC)

From: Hawaii Association of Health Plans Public Policy Committee

Date/Location: February 11, 2025; 2:00 pm/Conference Room 329 & Videoconference

Re: Testimony with comments on HB 557 HD1 – Relating to Telehealth

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to share our comments and concerns regarding HB 557 HD1. HAHP is a statewide partnership that unifies Hawaii's health plans to improve the health of Hawaii's communities together. A majority of Hawaii residents receive their health coverage through a plan associated with one of our organizations.

HAHP strongly supports efforts to make behavioral healthcare more accessible, especially on the Neighbor Islands and in rural areas where broadband access and behavioral health care providers are lacking. However, we would like to offer comments to highlight some of our concerns over the bill's current form:

1. **Reimbursement Concerns:** We believe that reimbursement for audio-only services should not be equivalent to that for in-person or telehealth visits. Audio-only services do not require the same level of effort, resources, or overhead as in-person or video-based telehealth visits. Equating reimbursement rates could lead to inefficiencies and misallocation of healthcare resources.
2. **Guardrail Changes:** The proposed changes to the guardrails in this bill would eliminate the option of using a telehealth visit instead of an in-person visit. This is particularly problematic for many behavioral health providers and patients, who may not have the capability to conduct in-person visits. Maintaining the flexibility to use telehealth is essential for ensuring continuous and accessible care for these populations.

In conclusion, we appreciate the clarification of the definition of interactive telecommunications system and elimination of the sunset date of Act 107 made by the Health committee to reflect the collaborative agreement to limit the scope of audio-only to behavioral health services when it was signed into law in 2023. We would additionally suggest reverting back to the original language of Act 107 by re-inserting the 80% reimbursement language and the ability for individuals to initiate audio-only connection by first having an audio-visual telehealth visit.

Thank you for the opportunity to testify on HB 557 HD1.

Sincerely,

HAHP Public Policy Committee
cc: HAHP Board Members



To: The Honorable Scot Z. Matayoshi, Chair
The Honorable Cory M. Chun, Vice Chair
House Committee on Consumer Protection and Commerce

From: Paula Arcena, External Affairs Vice President
Mike Nguyen, Public Policy Manager
Sarielyn Curtis, External Affairs Specialist

Hearing: Tuesday, February 11, 2025, 2:00PM, Conference Room 329

RE: **HB557 HD1 Relating to Telehealth**

AlohaCare appreciates the opportunity to provide testimony in **support of HB557 HD1**. This measure amends the definition of "interactive telecommunications system" for purposes of reimbursement for services provided through telehealth; requires health care providers to append a modifier to any claim for telehealth services using two-way, real-time, audio-only communications technology; requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services; and repeals the sunset date of Act 107, SLH 2023.

Founded in 1994 by Hawai'i's community health centers, AlohaCare is a community-rooted, non-profit health plan serving over 70,000 Medicaid and dual-eligible health plan members on all islands. Approximately 37 percent of our members are keiki. We are Hawai'i's only health plan exclusively dedicated to serving Medicaid and Medicaid-Medicare dually-eligible beneficiaries. Our mission is to serve individuals and communities in the true spirit of aloha by ensuring and advocating for access to quality, whole-person care for all.

AlohaCare is committed to improving access to care. This measure provides another way for our members and residents across our State to access healthcare services more easily. We understand the value of audio-only telehealth services especially for patients who may not have internet or broadband access, may not have the technical proficiency or support to use video technology, or may have privacy concerns about using video technology.

We understand this bill's impact is fairly broad, so we wish to focus our support to the bill's impact on the Medicaid-eligible population. This measure will increase access to healthcare services for our members and Hawai'i residents broadly, especially for kupuna and those living in underserved rural, remote, and urban areas.

Mahalo for this opportunity to testify in **support of HB557 HD1**.

2025 Hawaii
Leadership Board

Testimony to the House Committee on Consumer Protection
Tuesday, February 11, 2:00 PM Hawaii State Capitol, Conference
Room 329, and Videoconference

RE: House Bill No. 557 HD1 – RELATING TO TELEHEALTH

Travis Kikuchi, *Chair*
Senior Vice President
Central Pacific Bank

Lori McCarney, *Immediate*
Past Chair Community
Advocate

Tricia Medeiros, *Past Chair*
Chief Operating Officer
The Plaza Assisted Living

Gina Fujikami, *MD*
The Queen's Medical
Center

Kai Ohashi,
Financial Advisor Edward
Jones

Michael Robinson,
Vice President Hawaii Pacific
Health

Kimberly Soares, *Vice*
President Atlas Insurance

Gino Soquena,
Executive Director
Hawaii Building and
Construction Trade Council

Gordon Takaki, *Past*
President Hawaii Island
Chamber of Commerce

Cary Tanaka,
Past President
Island Insurance
Companies

Caroline Witherspoon,
President Becker
Communications

LJ R. Duenas,
Executive Director
Alzheimer's Association

Chair Matayoshi, Vice Chair Chun, and Members of the Committee:

My name is Coby Chock, and I am testifying on behalf of the Alzheimer's Association Hawaii Chapter. We are in **strong support** of HB 557 HD1, which relates to telehealth.

The Alzheimer's Association Hawaii Chapter is dedicated to supporting individuals and families affected by Alzheimer's disease and other dementias. We understand the critical importance of accessible healthcare services, especially for those living in rural and underserved communities. Telehealth has become an essential tool in providing care to these populations, ensuring they receive the medical attention they need without the barriers of distance and mobility.

The number of people living with Alzheimer's disease in Hawaii is 31,200, with 60,000 caregivers providing \$1,907,000,000 in unpaid care. This number is growing. Telehealth services are crucial for these individuals and their caregivers, as they often face significant challenges in accessing in-person healthcare services. The proposed changes in HB 557 would ensure that telehealth services, including audio-only communications, are reimbursed, providing much-needed support and flexibility for patients and caregivers alike.

Telehealth services allow patients in rural areas to connect with healthcare providers without the need for long and often difficult travel. This is particularly important for those with Alzheimer's disease, who may have mobility issues or require constant supervision. By enabling remote consultations, telehealth ensures that these patients receive timely and consistent care, which can significantly improve their quality of life.

For these reasons, we strongly support HB 557 and urge your favorable consideration of this measure.

Mahalo for the opportunity to testify in support! If you have questions, please contact me at 808-451-3410 or ckchock@alz.org

Coby Chock
Director of Public Policy and Advocacy
Alzheimer's Association - Hawaii



February 10, 2025

The Honorable Scot Z. Matayoshi
Chair, House Committee on Consumer Protection & Commerce
Hawai'i State Legislature
Hawai'i State Capitol, Room 422
415 South Beretania Street
Honolulu, HI 96813

The Honorable Cory M. Chun
Vice Chair, House Committee on Consumer Protection & Commerce
Hawai'i State Legislature
Hawai'i State Capitol, Room 406
415 South Beretania Street
Honolulu, HI 96813

RE: ATA ACTION COMMENTS ON HB 557

Dear Chair Matayoshi, Vice Chair Chun and members of the House Committee on Consumer Protection & Commerce:

On behalf of ATA Action, I am writing to you to provide our comments on House Bill 557. Our organization believes that while this bill includes positive provisions, we encourage you to consider amendments to preserve access to patient care.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth coverage and fair payment policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

Our organization understands the Legislature's attempts to clarify the definition of "interactive communications system" and to provide certainty in a reimbursement framework aligned with Medicare; however, our organization is concerned that, if passed as currently drafted, this legislation will have the unintended consequence of limiting patient access to audio-only care. Specifically, by removing the option of an audio-visual visit, instead of an in-person visit, within six months prior to the initial audio-only visit or within twelve months prior to any subsequent audio-only visit in order to receive reimbursement, this bill could limit patient choice in care.

Current statute allows for reimbursement of audio-only telehealth care if an in-person appointment or non-audio-only telehealth visit is conducted within six months prior to the initial audio-only visit or within twelve months prior to any subsequent audio-only visit. These amendments would remove the

ATA ACTION

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flexibility to meet this reimbursement requirement through a non-audio-only telehealth appointment. While this may align with Medicare language in statute, it is crucial to note that Congress has extended several Medicare telehealth flexibilities through March 31, 2025, including waiving telebehavioral/mental health patients' requirement for an in-person visit within six months of their initial telehealth visit and annually thereafter and allowing the use of audio-only communications technology for the provision of telehealth services.¹ These flexibilities have been especially beneficial for Medicare patients seeking mental health care with Medicare beneficiaries utilizing telehealth for a larger share of their behavioral health services—43% of beneficiaries for behavioral health services versus 13% of beneficiaries for office visits (E/M visits).²

ATA Action continues to advocate at the federal level for the permanent codification of these telehealth flexibilities to ensure continued access for Medicare patients, including through audio-only telehealth care. While Congress continues to debate the future of these audio-only flexibilities, our organization believes it would be premature to remove this flexibility from Hawaii statute and potentially make Hawaii Medicare and Insurance Code more restrictive than federal code. This change would be especially damaging to patients in rural or underserved communities or those with transportation barriers that may complicate in-person visits.

Finally, while our organization remains concerned with the elimination of this flexibility for audio-only care, our organization is supportive of Section 8 of the bill which removes the sunset of Act 107, Session Laws of Hawaii 2023, ensuring that reimbursement for audio-only care continues in perpetuity. While this represents a very positive step forward for Hawaii telehealth policy, the benefits of removing the sunset would be undermined if new barriers are implemented to audio-only care in Hawaii.

Thank you for the opportunity to comment. Please do not hesitate to let us know how we can be helpful in your efforts to advance common-sense telehealth policy in Hawaii. If you have any questions or would like to discuss further the telehealth industry's perspective, please contact me at kzebley@ataaction.org.

Kind regards,

Kyle Zebley
Executive Director
ATA Action

¹ Jared Augenstein and Jacqueline Marks, Manatt, Manatt Telehealth Policy Tracker: Tracking Ongoing Federal and State Telehealth Policy Changes, January 28, 2025. <https://www.manatt.com/insights/white-papers/2025/manatt-telehealth-policy-tracker-tracking-ongoing-federal-and-state-telehealth-policy-changes>.

² U.S. Department of Health and Human Services Office of Inspector General. (2022). Data brief: Telehealth was critical for providing services to Medicare beneficiaries during the first year of the covid-19 pandemic. Retrieved from <https://oig.hhs.gov/oei/reports/OEI-02-20-00520.pdf>.



WAIANAЕ COAST
COMPREHENSIVE
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LATE

Tuesday, February 11, 2025 at 2:00 PM
State Capitol, Conference Room 329 & Videoconference

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

To: Chair Scot Z. Matayoshi
Vice Chair Cory M. Chun

From: Michele Chrissy Kuahine
Director of Technology Equity

RE: TESTIMONY IN SUPPORT OF HOUSE BILL 557 HD1 - RELATING TO TELEHEALTH

Aloha Chair Matayoshi, Vice Chair Chun, and Members of the Committee,

My name is **Michele Chrissy Kuahine**, and I am submitting this testimony in my capacity as the **Director of Tech Equity** at the Waianae Coast Comprehensive Health Center (WCCHC), a Federally Qualified Health Center (FQHC) serving vulnerable populations. WCCHC **supports HB557 HD1 with amendments** to ensure that **Hawai'i sets its own course for telehealth policy** by permanently expanding **audio-only telehealth beyond behavioral health** and **removing unnecessary in-person visit requirements**.

Hawai'i **has flexibility to build upon Medicare's restrictive policies** on telehealth. Under **Section 1834(m) of the Social Security Act**, Medicare currently limits audio-only telehealth reimbursement **only to mental health, substance use disorder, and end-stage renal disease services**. However, these restrictions are outdated and **do not reflect the realities of healthcare in Hawai'i**.

Over the past five years, **temporary Medicare waivers** have proven the effectiveness of **audio-only telehealth beyond mental health**, improving healthcare access, reducing disparities, and increasing continuity of care for patients who face barriers to in-person or video-based care (Kleinman & Sanches, 2022). Rather than tying state policy to temporary federal flexibilities, Hawai'i should take a **long-term, independent approach** that ensures **permanent access to audio-only telehealth for all clinically appropriate services**.

With **limited broadband access in rural areas, a high cost of living, and a physician shortage**, many of our patients—**especially Native Hawaiians, kūpuna (elders), and individuals with disabilities**—depend on audio-only telehealth. At WCCHC:

- **76% of patients are Native Hawaiian, Other Pacific Islander, or Asian** (WCCHC, 2023)
- **71% of patients live at or below the federal poverty level** (WCCHC, 2023)
- **60% rely on Medicaid/QUEST, and 64% depend on public insurance** (WCCHC, 2023)



**WAIANAЕ COAST
COMPREHENSIVE
HEALTH CENTER**

Reverting to Medicare’s restrictions would be a step backward. The legislature must recognize that **our communities have different needs than those on the mainland and ensure audio-only telehealth remains a permanent and viable option.**

HB557 HD1 **still requires an in-person visit before an audio-only mental health visit**, a restriction that will **delay or deter essential care** for many patients. **CMS has waived this requirement through 2026** because it recognizes that **in-person mandates create unnecessary hurdles** (Kleinman & Sanches, 2022). Hawai’i should follow suit and go further by **permanently removing this requirement.**

Proposed Amendments to HB557 HD1

- Expand **audio-only telehealth coverage beyond behavioral health** to include **primary care and chronic disease management.**
- Remove **in-person visit requirements** for audio-only mental health services.
- Ensure **full reimbursement parity** for audio-only visits, so they are compensated at the same rate as in-person visits.
- **Build upon Hawai’i’s telehealth policy from Medicare’s Section 1834(m)** and set a state-driven standard that prioritizes access for local communities.

HB557 HD1 is a step in the right direction, but **without these amendments, we risk creating unnecessary barriers to care for thousands of patients in Hawai’i.** We urge the Committee to **pass HB557 HD1 with amendments that protect telehealth equity and ensure that Hawai’i’s healthcare policy reflects the needs of its people.**

Mahalo for the opportunity to testify.

References

Hawaii State Department of Health. (2021). *Primary care needs assessment data tracker*. <https://health.hawaii.gov/fhsd/files/2021/07/Hawaii-Executive-Summary-PCNA.pdf>.

Kleinman, R. A., & Sanches, M. (2022). Impacts of eliminating audio-only care on disparities in telehealth accessibility. *Journal of General Internal Medicine*, 37(15), 4021–4023. https://pmc.ncbi.nlm.nih.gov/articles/PMC8999992/?utm_source

Waianae Coast Comprehensive Health Center. (2023). *2023 patient profile*. Waianae, HI.