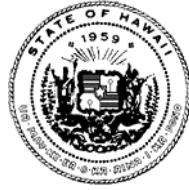


JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA



RYAN I. YAMANE  
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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  
Office of the Director  
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TRISTA SPEER  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'OKELE

February 3, 2025

TO: The Honorable Senator San Buenaventura, Chair  
Senate Committee on Health and Human Services

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 1281 – RELATING TO TELEHEALTH**

**Hearing: Wednesday, February 5, 2025, 1:00 p.m.**  
Conference Room 225 & Videoconference, State Capitol

**DEPARTMENT'S POSITION:** The Department of Human Services (DHS) provides comments with concerns about this bill. Please note that our comments pertain to Section 1 only, which applies to DHS.

**PURPOSE:** 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. Repeals the sunset date of Act 107, Session Laws of Hawai'i 2023.

The bill's purpose is to conform state laws with federal Medicare telehealth regulations. However, the proposed amendments do not align with Medicare's telehealth rules; instead, the bill implements Medicare changes that became effective on January 1 and codifies telehealth exceptions and flexibilities that are set to expire on March 31, 2025.

The effect of the proposed amendments are 1) to expand to all clinical services the potential use of interactive communication technology using two-way, real-time, audio-only communication technology (e.g., telephone calls) under specific conditions; 2) that the audio-

only calls are to be treated as the clinical equivalent of in-person, face-to-face clinic visit, and 3) reimbursement parity for audio-only services to in-person face-to-face calls.

DHS recommends thoughtful adoption of amendments to the telehealth law given the many uncertainties of rapidly changing Medicare telehealth laws, the lack of clear clinical data supporting the expansion of audio-only communication technology (e.g., telephone calls) for all services beyond what is covered today (mental health and substance use treatment), and the differing perspectives on financial parity for all telehealth modalities. For these reasons, DHS has concerns regarding the proposed significant changes to the telehealth law.

For the Medicaid QUEST Integration program, current Hawaii law only allows and reimburses at financial parity for audio-only for mental health and substance use disorder services. Also, when using the audio-only modality, the service must meet Medicare's telehealth general rules codified in Title 42 Code of Federal Regulations (CFR) section 410.78, which includes definitions and general rules.

Medicare has updated its definition of interactive communications in CFR 410.78 (a). However, it has not made changes to the general rules that include types of services that could be provided via telehealth modalities when being provided in the patient's home (CFR 410.78 (b)), other than continued some flexibilities from the COVID-19 pandemic. These flexibilities are set to expire March 31, 2025. Thus, changes to the Hawaii statute to conform with Medicare telehealth laws that are set to expire would be premature at this time.

Medicare regulations allow telehealth at the originating site (the location of the patient receiving the service) in a broad range of clinical settings but limit the kinds of health care services that can be provided in the home to only mental health services, substance use disorder services and end-stage renal dialysis (CFR 410.78 (b) (3) (x) (xii) and (xiv) emphasis added):

- (3) The services are furnished to a beneficiary at an originating site, which is one of the following:

.....

- (x) The **home of an individual** (only for purposes of the home dialysis ESRD-related clinical assessment in section 1881(b)(3)(B) of the Act).

.....

(xii) The **home of an individual** (only for purposes of treatment of a substance use disorder or a co-occurring mental health disorder, furnished on or after July 1, 2019, to an individual with a substance use disorder diagnosis.

.....  
(xiv) The **home of a beneficiary** for the purposes of diagnosis, evaluation, and/or treatment of a mental health disorder for services that are furnished during the period beginning on the first day after the end of the emergency period as defined in our regulation at § 400.200 and ending on December 31, 2024, except as otherwise provided in this paragraph.

Starting April 1, 2025, the Medicare flexibilities on originating sites, the kinds of services that can be provided, and expanded audio-only modalities will end. Thus, although the Medicare definition of interactive communications has been changed to delete reference to limiting audio-only services to mental/behavioral health services, the flexibilities that expanded access to allow telehealth to be provided for a broad range of medical services in a patient's home are due to expire.

Additionally, regarding paying for telehealth services at financial parity, it is notable that Medicare does not pay parity to all providers for services provided via telehealth; there are special payment terms for Federally Qualified Health Centers (FQHC). Specifically, FQHCs are not reimbursed for services provided via telehealth using the prospective payment system (PPS); instead, they are reimbursed at the regular Medicare Physician Fee Schedule per the Social Security Act (SSA) section 1834(m)(8)(B).

### **Social Security Act, Section 1834(m)(8)(B)**

#### **Special payment rule**

##### **i. In general**

The Secretary shall develop and implement payment methods that apply under this subsection to a Federally qualified health center or rural health clinic that serves as a distant site that furnishes a telehealth service to an eligible telehealth individual during the periods for which subparagraph (A) applies. Such payment methods shall be based on payment rates that are similar to the national average payment rates for comparable telehealth services under the physician fee schedule under section 1395w-4 of this title. Notwithstanding any other provision of law, the Secretary may implement such payment methods through program instruction or otherwise.

##### **ii. Exclusion from FQHC PPS calculation and RHC air calculation**

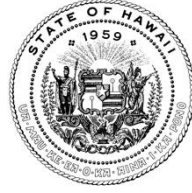
Costs associated with telehealth services shall not be used to determine the amount of payment for Federally qualified health center services under the prospective payment system under subsection (o) or for rural health clinic services under the methodology for all-inclusive rates (established by the Secretary) under section 13951(a)(3) of this title.

On the other hand, Medicaid reimburses FQHCs using prospective payment rates (PPS) rates. As background, a PPS rate pays the same amount for each eligible encounter regardless of the service. For example, currently, several FQHC's PPS rate is about \$400 per encounter. The FQHCs are reimbursed that \$400 rate whether an individual receives multiple different services for an hour in the clinic setting, or they receive a 15-minute audio-only call. Med-QUEST (MQD) pays PPS rates for care provided via all telehealth modalities, unlike Medicare. However, as noted above, audio-only is limited to only behavioral health services. MQD requests that if audio-only modality is allowed for clinical services and not limited to the current mental health and substance use treatment services, that financial parity not be mandated for all audio-only telehealth services for all providers.

Finally, as further background, Hawaii's telehealth laws applicable to Medicaid are less restrictive than Medicare in the types of services allowed, and with no geographic or originating site restrictions. As long as the health care services are clinically appropriate using a telehealth modality and that the healthcare service can be provided in a location assuring the appropriate privacy and safety of the individual, audio-visual telehealth visits are allowed.

Of note, however, when Hawaii's telehealth laws, including section 346-59.1, HRS, were amended in recent years, the agreement among the various impacted parties at that time was to limit audio-only telehealth modality to mental health and substance use disorder services, which is similar to Medicare. As noted above, if the audio-only modality were to be broadened to all health services despite Medicare's limitations and expiring flexibilities on audio-only modalities, MQD would not support full financial parity for audio-only modality given Medicare's laws and the lack of data regarding clinical outcomes and costs.

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



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NADINE Y. ANDO  
DIRECTOR | KA LUNA HO'OKELE

DEAN I. HAZAMA  
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Health and Human Services  
Wednesday, February 5, 2025  
1:00 p.m.  
State Capitol, Conference Room 225 & via Videoconference**

**On the following measure:  
S.B. 1281, RELATING TO TELEHEALTH**

Chair San Buenaventura 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 appreciates the intent and offers comments on this bill.

The purpose of this bill is to (1) update the State's laws on telehealth services to conform with federal Medicare regulations; (2) require the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services; and (3) repeal the sunset date of Act 107, Session Laws of Hawai'i 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 claims data in an annual report.

Thank you for the opportunity to testify.



**TESTIMONY IN SUPPORT TO SENATE BILL 1281**  
**RELATING TO TELEHEALTH**

Senate Committee on Health & Human Services  
Hawai'i State Capitol

February 5, 2025

1:00PM

Room 225

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Aloha e Chair San Buenaventura, Vice Chair Aquino, and Members of the Senate Committee on Health & Human Services:

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB 1281 which updates the State's laws on telehealth services to conform with federal Medicare regulations and would like to provide the following comments.

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.

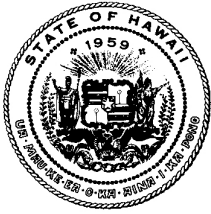
OHA supports telehealth as a critical tool to improve healthcare access for Native Hawaiians and underserved communities throughout the state. Hawai'i's unique geography—spanning across multiple islands—presents significant challenges in accessing healthcare services, particularly for rural and remote 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.

Senate Bill 1281 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 SB1281**, as it will provide significant benefits to Native Hawaiians and other underserved populations in our state. Mahalo nui for the opportunity to testify.





## DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Rm. 118 • Honolulu, Hawai'i 96813  
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • (808) 204-2466 (VP)

February 5, 2025

TESTIMONY TO THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Senate Bill 1281 – Relating to Telehealth

The Disability and Communication Access Board (DCAB) supports Senate Bill 1281 – Relating to Telehealth. This bill would update 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. Repeals the sunset date of Act 107, Session Laws of Hawai'i 2023.

DCAB believes that aligning state requirements with federal law, including allowing audio only services, is essential for ensuring equal access to vital resources. By permitting audio only participation, individuals without access to the latest technology or those who rely on traditional communication methods would have greater opportunities to connect with and benefit from these services. This change would help remove unnecessary barriers and ensure that all individuals, regardless of their technological capabilities, can fully access available services.

Thank you for considering our position.

Respectfully submitted,

KIRBY L. SHAW  
Executive Director



To: The Honorable Joy A. San Buenaventura, Chair  
The Honorable Henry J.C. Aquino, Vice Chair  
Senate Committee on Health and Human Services

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

Hearing: Wednesday, February 5, 2025, 1:00PM, Conference Room 225

RE: **SB1281 Relating to Telehealth**

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AlohaCare appreciates the opportunity to provide testimony in **support of SB1281**. This measure 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.

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, consistent with the framework provided under the Medicare program. 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 on the bill's impact to 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 SB1281**.

# Hawai'i Mental Health Coalition

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

February 5, 2025

Senator Joy San Buenaventura, Chair  
Senator Henry Aquino, Vice Chair  
Members of the Committee on  
Health and Human Services

Re: Support for SB 1281, Relating to Telehealth

Aloha!

The Hawai'i Mental Health Coalition strongly supports SB 1281, 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.

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. Without this policy, many of our most vulnerable residents would face an insurmountable gap in services, leading to increased suffering and strain on an already overburdened healthcare system.

We respectfully urge this committee to pass SB 1281 to protect and sustain access to essential mental health care for all of Hawai'i's communities.

Mahalo for your time and consideration.



## THE QUEEN'S HEALTH SYSTEMS

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To: The Honorable Joy San Buenaventura, Chair  
The Honorable Henry Aquino, Vice Chair  
Members, Senate Committee on Health & Human Services

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

Date: February 5, 2025

Re: Support for SB1281: Relating to Telehealth

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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 testimony in support of HB557, 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.

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.*



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**The State Legislature**  
**The Senate Committee on Health and Human Services**  
**Wednesday, February 5, 2025**  
**Conference Room 225**  
**1:00 p.m.**

TO: The Honorable Joy San Buenaventura, Chair  
FROM: Keali'i Lopez, AARP State Director  
RE: Support for S.B. 1281 Relating to Telehealth

Aloha Chair San Buenaventura 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 S.B. 1281** 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.



**Testimony to the Senate Committee on Health and Human Services  
Wednesday, February 5, 2025; 1:00 p.m.  
State Capitol, Conference Room 225  
Via Videoconference**

**RE: SENATE BILL NO. 1281, RELATING TO TELEHEALTH.**

Chair San Buenaventura, Vice Chair Aquino, 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 **STRONGLY SUPPORTS** Senate Bill No. 1281, 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 conform Hawaii's Insurance Code with the Medicare Physician Fee Schedule (Medicare Fee Schedule) to ensure that private insurers provide reimbursement for telehealth services offered through two-way, real-time, audio-only communications. More specifically, this bill would:

- (1) Change the definition of "interactive telecommunications system" from citation to the Medicare Fee Schedule to language found in that law as it was amended on December 9, 2024. This provision would ensure that the definition for this term under Act 107, Session Laws of Hawaii 2023 (Act 107) would not automatically change if an amendment is approved for the Medicare Fee Schedule by the Centers for Medicare and Medicaid Services (CMS). Subsequent amendments to Hawaii Law would only occur through the enactment of a new law by the Hawaii State Legislature;
- (2) Eliminate concessions offered by both the Mental Health Hui (a group representing the Hawaii Primary Care Association, the Hawaii Psychological Association, the National Association of Social Workers, the Hawaii Substance Abuse Coalition, AARP, the American

Cancer Society Cancer Action Center, the Hawaii Parkinsons' Association, the Epilepsy Foundation of Hawaii, and the Alzheimer's Association, among other organizations) and HMSA that led to the agreement that was codified as Act 107. The Mental Health Hui agreed to an 80% cap on reimbursement for audio-only mental health telehealth services. HMSA agreed to allowing audio-only mental health telehealth services be reimbursable so long as the visit prior to the first audio-only mental health service was conducted by an audio-visual telehealth visit instead of an in-person visit that was required by Medicare; and

- (3) Require the Insurance Commissioner to submit in its annual report data on reimbursements claimed pursuant to Act 107.

This bill would also eliminate the sunset date of December 31, 2025 in Act 107 and make Act 107 permanent.

In our testimony on the measure that later became Act 107, we wrote:

*"We believe this issue is fundamentally one of equity for the patients who are covered by private insurance with those who are covered by Medicare and Medicaid. As we stated last year, what is good for Medicare should be good for private insurance. To that end, we firmly assert that private insurers cannot justify why benefits that are required under Medicare and Medicaid should not likewise be required for private insurance." [See, HPCA Testimony to the House Committee on Consumer Protection on House Bill No. 0907, dated February 16, 2023, p. 2.]*

The Legislature apparently agreed. In defining the term of "interactive telecommunications requirement", Act 107 reads:

*"Interactive telecommunication system" has the same meaning as the term is defined in title 42 Code of Federal Regulations section 410.78(a)."*

This was done to ensure that if the reimbursability of telehealth services under Medicare was ever expanded by CMS, that those amendments would automatically be applied to Hawaii's private insurers under Act 107.

**Testimony on Senate Bill No. 1281**  
**Wednesday, February 5, 2025; 1:00 p.m.**  
**Page 3**

On December 9, 2024, CMS published amendments to the Medicare Fee Schedule. [See, Federal Register, Vol 89, No. 236, Monday, December 9, 2024 at 98557.] These amendments were approved and went into effect on January 1, 2025.

Among other things, CMS found that the successive statutory extensions of the telehealth flexibilities (i.e., audio-only mental health telehealth) implemented in response to the public health emergency for COVID-19 made it *"appropriate to allow interactive audio-only telecommunications technology when any telehealth service is furnished to a beneficiary in their home (when the patient's home is a permissible originating site) and when the distance site physician or practitioner 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."* [See, Federal Register, supra, at 97761.]

CMS further found that *"[w]hile practitioners should always use their clinical judgment as to whether the use of interactive audio-only technology is sufficient to furnish a Medicare telehealth service, we recognize that there is a variable broadband access in patients' homes, and that even when technologically feasible, patients simply may not always wish to engage with their practitioner in their home using audio and video. . ."* [See, Id.]

CMS added, *"[t]he purpose of our proposal was to recognize that, while real-time interactive audio-visual remains the generally applicable standard, including for distant site practitioners who wish to furnish these services, there are special considerations for patients when a Medicare telehealth service is delivered in their home. For example, a patient may not have sufficient [or any] access to broadband to support the use of real time video technology, may not have the technical proficiency or support in place to use video technology, or may have privacy concerns about using video technology for Medicare telehealth services in their home."* [See, Federal Register, supra, at 97762.]

Accordingly, CMS amended the definition of "interactive telecommunications system" by deleting language that restricted audio-only telehealth services to mental health services and applied this term to all telehealth services that are provided at the patient's home and that the same services provided in person are reimbursable.

Because the term in Act 107 is defined **BY CITATION** to the definition of that term in the Medicare Fee Schedule, the HPCA contends that all telehealth services (not just behavioral health services) provided through audio-only telecommunications to a patient's home is reimbursable under private insurance as of January 1, 2025, the date that the Medicare Fee Schedule Final Rule took effect.



**Testimony on Senate Bill No. 1281**  
**Wednesday, February 5, 2025; 1:00 p.m.**  
**Page 4**

While this occurred, the HPCA, in conjunction with and on behalf of the Mental Health Hui, have had a series of meetings with HMSA to discuss this issue. These meetings have been cordial and productive. In that vein, I would like to publicly thank HMSA for their graciousness and openness to working on this with us. I believe we all agree that a prolonged battle over this issue hurts everyone, especially the most vulnerable and most isolated populations throughout the State.

Because these changes to the law occurred so recently, the health care providers, community groups, and the general public do not appear to be aware of these developments. That is why we think HMSA and the other private insurers have not received claims for reimbursement for non-mental health audio-only services provided after January 1, 2025. It is also unclear how Hawaii's Medicaid Administrator and Insurance Commission would interpret the change to the definition of "interactive telecommunications systems" in the Medicare Fee Schedule to Act 107. Accordingly, on January 14, 2025, Robert Hirokawa, HPCA's Chief Executive Officer, sent a letter to both Judy Mohr Peterson, Med-QUEST Administrator and Gordon I. Ito, Insurance Commissioner requesting agency determinations on the date when reimbursement for non-mental health, audio-only, telehealth services should begin in light of the December 9, 2024 amendments to the Medicare Fee Schedule and its applicability to Act 107. [**See**, Letter, attached.] Hirokawa requested a written response by January 31, 2025. Med-QUEST's response is also attached. [**See**, Response, attached.] The Insurance Commissioner did not respond.

At this point, the HPCA views Senate Bill No. 1281 as reflective of where the law stands as it pertains to Act 107. It should also be noted that while this bill deletes the concessions made by the Mental Health Hui and HMSA in 2023, the most recent amendments to the Medicare Fee Schedule do not include an 80% cap nor any in-person or audio-visual telehealth visits prior to the first audio-only session so additional amendments would appear to be warranted if the Legislature should reaffirm its intent to have the Insurance Code conform to Medicare.

For these reasons, the HPCA wishes to thank the introducer for introducing this measure and the Chair of this Committee for hearing this measure. Discussions between HPCA, the Mental Health Hui and HMSA continue and it is my hope that a compromise can be found before Adjournment Sine Die.

**Accordingly, for purposes of facilitating continued discussions, the HPCA respectfully urges your favorable consideration of this measure.**

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



January 14, 2025

Judy Mohr Peterson, Ph.D.  
Administrator, Med-QUEST Division  
Hawaii State Department of Human Services  
P.O. Box 339  
Honolulu, Hawaii 96809

Gordon I. Ito  
Insurance Commissioner, Insurance Division  
Hawaii State Department of Commerce and Consumer Affairs  
P.O. Box 541  
Honolulu, Hawaii 96809

**RE: AGENCY DETERMINATION FOR REIMBURSEMENT OF NON-MENTAL HEALTH,  
AUDIO-ONLY, TELEHEALTH SERVICES**

Dear Administrator Peterson and Commissioner Ito:

This requests your determination on the date when reimbursement for non-mental health, audio-only, telehealth services should begin pursuant to Act 107, Session Laws of Hawaii 2023.

By way of background, the Hawaii State Legislature enacted House Bill No. 907, Senate Draft 2, which was enacted as Act 107, Session Laws of Hawaii 2023 (Act 107). Among other things, this law temporarily allowed for the reimbursement for services provided through an interactive communications system and two-way, real-time, audio-only communications for telehealth purposes consistent with the 2023 Medicare Physician Fee Schedule.

**Letter to Administrator Judy Mohr Peterson and Commissioner Gordon I. Ito**  
**January 14, 2025**  
**Page 2**

Specifically, Act 107 established identical language in the statutes applicable to Medicaid (Chapter 346, Hawaii Revised Statutes (HRS)), Accident and Sickness Contracts (Article 10A of Chapter 431, HRS), Mutual Benefit Societies (Chapter 432, HRS), Health Maintenance Organizations (Chapter 432D, HRS), and Medicine and Surgery (Chapter 453, HRS).

For all of these statutes, the term, "Interactive telecommunications system" was established:

*"'Interactive telecommunications system' has the same meaning as the term is defined in title 42 Code of Federal Regulations section 410.78(a)."*

When Act 107 was enacted, Title 42 Code of Federal Regulations Section 410.78(a) read in pertinent part:

*"Interactive telecommunications system means, except as otherwise provided in this paragraph, 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. **For services furnished for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in their home, interactive telecommunications may include two-way, real time audio-only communication technology if the distant site physician or practitioner is technically capable to use 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. A modifier designed by CMS must be appended to the claim for services described in this paragraph to verify that these conditions have been met.**" (See, 42 CFR §410.78(a)(3). Emphasis added.)*

By incorporating the language from Section 410.78(a) into the definition of "interactive telecommunications system" **by citation**, the audio-only telehealth services requiring reimbursement under Hawaii Law was limited to conform to what was authorized under the Medicare Fee Schedule, at that time -- namely *"services furnished for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in their home"*.

On December 9, 2024, the Centers for Medicare and Medicaid Services (CMS) issued its Final Rule for the Medicare Physician Fee Schedule. Among other things, CMS amended the definition of "Interactive Telecommunications System" to read:

*"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 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.** . . ." (See, Federal Register, Vol. 89, No. 236, Monday, December 9, 2024, at 98557. Emphasis added.)*

With this amendment, the audio-only services requiring reimbursement was expanded to include *"any telehealth service furnished to a patient in their home. . ."* The Final Rule took effect on January 1, 2025. (See, Id., at 97710.)

On December 18, 2024, Administrator Peterson issued Memorandum No. QI-2338A (Addendum to QI-2338), FFS 23-22A (Addendum to FFS 23-22), CCS-2311A (Addendum to CCS-2331) to QUEST Integration (QI) Health Plans, Health Plans Medicaid Fee-For-Service (FFS) Providers, Community Care Services (CCS), Federally Qualified Health Centers (FQHC), and Rural Health Centers (RHC). In it, Dr. Peterson wrote:

*"Med-QUEST Division (MQD) continues to support the medically appropriate use of interactive telecommunications systems using two-way, real-time audio-only communications technology (audio-only) to increase access to healthcare and*

**Letter to Administrator Judy Mohr Peterson and Commissioner Gordon I. Ito**  
**January 14, 2025**  
**Page 4**

*promote continuity of care. Therefore, MQD will continue to reimburse select healthcare services delivered through audio-only communications technology. The following guidance is in effect until December 31, 2025, which aligns with the amended Hawaii Revised Statute 346-59, as amended by 2023 Hawaii legislative session Act 107 (HB 907). . . " (See, Memo No. QI-2338A, supra, at page 14.)*

The memo continued by citing the specific provisions applicable -- namely Section 346-59.1, Hawaii Revised Statutes, and Title 42 Code of Federal Regulations Section 410.78. However, the passage in the memorandum referring to Title 42 Code of Federal Regulations Section 410.78 (i.e., the definition of "interactive telecommunication system" in the Medicare Fee Schedule) was what was previously in effect before the amendment to the Medicare Fee Schedule was approved on December 9, 2024, and took effect on January 1, 2025.

In addition, on December 20, 2024, the United States Congress approved the American Relief Act of 2025 (ARA), a funding measure that was intended to prevent the shutdown of the federal government. On Sunday, December 22, 2024, this measure is signed into law.

Page 104, lines 3 through 7, of the ARA states the following language:

*"(c) ALLOWING FOR THE FURNISHING OF AUDIO-ONLY TELEHEALTH SERVICES -- Section 1834(m)(9) of the Social Security Act (42 U.S.C. 1395m(m)(9)) is amended by striking "ending on December 31, 2024" and inserting "ending on March 31, 2025."*

Upon our review of this legislation, it is unclear to us whether the enactment of this language would affect the Medicare Physician Fee Schedule Final Rule that was approved on December 9, 2024, and how both would impact Act 107.

Accordingly, the Hawaii Primary Care Association respectfully requests determinations by both MedQUEST and the Insurance Division on the following questions:

- (1) Because the definition of "interactive telecommunications system" refers to the definition of that same term in 42 CFR §410.78(a) by citation, would the amendments to that term that were approved by CMS on December 9, 2024, materially change the definition of that term under Act 107?

**Letter to Administrator Judy Mohr Peterson and Commissioner Gordon I. Ito**  
**January 14, 2025**  
**Page 5**

- (2) If "yes" to question (1), under the terms of the December 9, 2024 amendment, would these changes to the definition of "interactive telecommunications system" go into effect on January 1, 2025?
- (3) Does the enactment of the American Relief Act of 2025 invalidate the change to the definition of "interactive telecommunications system" specified in the December 9, 2024 Medicare Fee Schedule Final Rule that is scheduled to take effect on January 1, 2025, delay implementation of the amendment until April 1, 2025, or have no bearing on the December 9, 2024 Medicare Fee Schedule Final Rule?

Without guidance from MedQUEST for Medicaid, and the Insurance Division for private insurance, it is unclear whether FQHCs would be able to receive reimbursement for non-mental health, audio-only, telehealth services in compliance with the Medicare Fee Schedule Final Rule and Act 107.

Your determination will have a direct impact on legislation pending consideration during the 2025 Hawaii State Legislature. **Accordingly, I respectfully request a response from you in writing by end of business on Friday, January 31, 2025.**

Thank you for your assistance. Should you have any questions, please do not hesitate to contact me at (808) 791-7830.

Very Truly Yours,



ROBERT HIROKAWA  
Chief Executive Officer  
Hawaii Primary Care Association

c: HPCA Board of Directors  
Hawaii State Director of Human Services  
Hawaii State Director of Commerce and Consumer Affairs  
Jennifer Diesman, Hawaii Medical Service Association

**JOSH GREEN, M.D.**  
GOVERNOR  
KE KIA'ĀINA



**RYAN I. YAMANE**  
DIRECTOR  
KA LUNA HO'ŌKELE

**JOSEPH CAMPOS II**  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'ŌKELE

**STATE OF HAWAII**  
KA MOKU'ĀINA O HAWAI'I  
**DEPARTMENT OF HUMAN SERVICES**  
KA 'OIHANA MĀLAMA LAWELAWE KANAKA  
Med-QUEST Division  
Administration  
P. O. Box 700190  
Kapolei, Hawaii 96709-0190

**TRISTA SPEER**  
DEPUTY DIRECTOR  
KA HOPE LUNA HO'ŌKELE

January 31, 2025

Sent via email to: [eabe@hawaiiipca.net](mailto:eabe@hawaiiipca.net) and [hpcboardofdirectors@hawaiiipca.net](mailto:hpcboardofdirectors@hawaiiipca.net)

Mr. Robert Hirokawa  
Chief Executive Officer, Hawaii Primary Care Association  
P.O. Box 29550  
Honolulu, Hawaii 96820

Dear Mr. Hirokawa:

Re: Agency Determination for Reimbursement of Non-Mental Health, Audio-Only, Telehealth Services

The State of Hawai'i Med-QUEST Division (MQD) acknowledges receipt of your letter dated January 14, 2025, regarding your inquiry on specific interpretations regarding recent Federal Law changes and the impact to current Hawai'i State Law. We have summarized the questions and written the responses on behalf of the Department of Human Services, MQD below.

**HPCA'S Questions are as follows:**

*Accordingly, the Hawaii Primary Care Association respectfully requests determinations by both Med-QUEST and the Insurance Division on the following questions:*

- (1) Because the definition of "interactive telecommunications system" refers to the definition of that same term in 42 CFR §410.78(a) by citation, would the amendments to that term that were approved by CMS on December 9, 2024, materially change the definition of that term under Act 107?*

MQD Response: No. The update to the Medicare Law does not apply to HRS §346-59.1.

Mr. Robert Hirokawa

January 31, 2025

Page 2

*(2) If "yes" to question (1), under the terms of the December 9, 2024 amendment, would these changes to the definition of "interactive telecommunications system" go into effect on January 1, 2025?*

MQD Response: Not Applicable.

*(3) Does the enactment of the American Relief Act of 2025 invalidate the change to the definition of "interactive telecommunications system" specified in the December 9, 2024 Medicare Fee Schedule Final Rule that is scheduled to take effect on January 1, 2025, delay implementation of the amendment until April 1, 2025, or have no bearing on the December 9, 2024 Medicare Fee Schedule Final Rule?*

MQD Response: We recommend that HPCA consult with their own compliance officers and legal team on how the American Relief Act of 2025 affects the Medicare Regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Judy Mohr Peterson". The signature is written in a cursive, flowing style.

Judy Mohr Peterson, PhD

Med-QUEST Division Administrator





fightcancer.org

American Cancer Society  
Cancer Action Network  
2370 Nu'uuanu Avenue  
Honolulu, HI 96817  
808.460.6109

Committee on Health and Human Services  
Senator Joy San Buenaventura, Chair  
Senator Henry Aquino, Vice Chair

Hearing Date: Wednesday, February 5, 2025

**ACS CAN SUPPORTS SB 1281 – RELATING TO TELEHEALTH.**

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

Thank you for the opportunity to **SUPPORT** SB 1281 – 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.<sup>i</sup>

Thank you again for the opportunity to provide testimony in SUPPORT. 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](mailto:Cynthia.Au@Cancer.org).

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<sup>i</sup>Survivor Views: Telehealth and Clinical Trials. ACS CAN. Oct. 2021.  
[https://www.fightcancer.org/sites/default/files/national\\_documents/survivorviews-telehealth-trials.pdf](https://www.fightcancer.org/sites/default/files/national_documents/survivorviews-telehealth-trials.pdf)

February 5, 2025

**To: Chair San Buenaventura, Vice Chair Aquino, and Members of the Senate Committee on Health and Human Services (HHS)**

From: Hawaii Association of Health Plans Public Policy Committee


Date/Location: February 5, 2025; 1:00 pm/Conference Room 225 & Videoconference

**Re: Testimony with comments on SB 1281 – Relating to Telehealth**

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to share our comments and concerns regarding SB 1281. 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. **Expansion of Audio-Only Care:** This bill proposes to expand the type of care that can be delivered via audio-only beyond behavioral health. Currently, there are no comprehensive studies demonstrating that the quality of care and outcomes of services delivered through audio-only are equivalent to those of in-person or telehealth visits. This lack of evidence raises significant concerns about patient safety and the effectiveness of care.
2. **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.
3. **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, while we support modifying the definition of interactive telecommunications system and eliminating the sunset date of Act 107 to reflect the collaborative agreement between legislators, HAHP organizations, and Hawaii health care providers when it was signed into law in 2023, the amendments proposed in this bill pose significant risks and challenges that must be addressed.

Thank you for the opportunity to testify on SB 1281.

Sincerely,

HAHP Public Policy Committee  
cc: HAHP Board Members



# UNIVERSITY OF HAWAII SYSTEM

## ‘ŌNAEHANA KULANUI O HAWAII

### Legislative Testimony

#### Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the  
Senate Committee on Health and Human Services  
Wednesday, February 5, 2025 at 1:00 p.m.

By

T. Samuel Shomaker, Dean  
John A. Burns School of Medicine  
University of Hawai'i at Mānoa

And

Michael Bruno, Provost  
University of Hawai'i at Mānoa

### SB 1281 – RELATING TO TELEHEALTH

Chair San Buenaventura, Vice Chair Aquino, and Members of the Committee:

Thank you for the opportunity to testify in **support** of SB 1281 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.

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 health care.

We note that Medicare and Medicaid pay equally for telephonic and telehealth services, recognizing the importance of telephonic services. 42 CFR § 410.78 defines telehealth services provides as follows:

“(3) Interactive telecommunications system means, except as otherwise provided in this paragraph, 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. For

services furnished for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in their home, **interactive telecommunications may include two-way, real-time audio-only communication technology if the distant site physician or practitioner is technically capable to use 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.** A modifier designated by CMS must be appended to the claim for services described in this paragraph to verify that these conditions have been met.” Emphasis added.

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. By conforming Hawai'i's telehealth laws to federal Medicare regulations, this measure is a positive step toward ensuring that Hawai'i's most vulnerable patients are given equal access to the high-quality health care and health services they deserve.

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

Wednesday, February 5, 2025  
Conference Room 225 & Videoconference

**Senate Committee on Health and Human Services**

To: Senator Joy San Buenaventura, Chair  
Henry Aquino, Vice Chair

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

Re: **Testimony in Support of SB 1281  
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 in SUPPORT of SB 1281 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.

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. 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.



## **SB1281 Telehealth**

COMMITTEE ON HEALTH AND HUMAN SERVICES

Sen. Joy A. San Buenaventura, Chair

Sen. Henry J.C. Aquino, Vice Chair

Friday, Feb 5, 2025: 1:00pm: Room 225 Videoconference

### **Hina Mauka Supports SB1281.**

*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 payer must be in parity to face-to-face visits, therefore, Hina Mauka supports SB1281.

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





## Hawaii Medical Association

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

### SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Senator Joy A. San Buenaventura, Chair

Senator Henry J.C. Aquino, Vice Chair

Date: Feb 5, 2025

From: Hawaii Medical Association (HMA)

Jerald Garcia MD - Chair, HMA Public Policy Committee

**Re: SB 1281 RELATING TO TELEHEALTH** - Telehealth; Audio-Only; Medicare; Insurance Reimbursement

**Position: Support**

This measure would update the State's laws on telehealth services to conform with federal Medicare regulations, require the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services, and repeal the sunset date of Act 107, Session Laws of Hawai'i 2023.

Hawaii physicians have rapidly adopted 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 technological capabilities and/or poor internet access are more likely to use audio-only services than video visits. Patients may have limited understanding and/or access to broadband internet services or devices, or they may be unwilling to consent to video visits, and state restrictions limit their access to audio-only telehealth services.

The alignment of Hawaii state laws with federal regulations is timely and necessary to maintain telemedicine for Hawaii patients, particularly for essential behavioral healthcare on the neighbor islands where physician shortages remain critically low.

Hawaii Medical Association (HMA) supports this update to state telehealth laws that will support patient access to care, particularly for rural and underserved communities.

Thank you for allowing Hawaii Medical Association to testify in support of this measure.

#### 2025 Hawaii Medical Association Officers

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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

## REFERENCES AND QUICK LINKS

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### 2025 Hawaii Medical Association Officers

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### 2025 Hawaii Medical Association Public Policy Coordination Team

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Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director



**SB1281 Telehealth**  
**COMMITTEE ON HEALTH AND HUMAN SERVICES**

Senator Joy A. San Buenaventura, Chair

Senator Henry J.C. Aquino, Vice Chair

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

**Hawaii Substance Abuse Coalition Supports SB1281:**

*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

**SB-1281**

Submitted on: 2/4/2025 9:08:07 AM

Testimony for HHS on 2/5/2025 1:00:00 PM

| <b>Submitted By</b> | <b>Organization</b>                                     | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|---|---------------------------|------------------------|
| Arlene Kiyohara     | Testifying for Philippine Medical Association of Hawaii | Support                   | Written Testimony Only |

Comments:

I am Arlene Kiyohara, a member of the Philippine Medical Association of Hawaii and a healthcare professional dedicated to serving Hawaii's diverse communities. I strongly support **SB1281**, which ensures continued coverage for telephone visits.

For many kupuna in our district, the telephone is their only reliable means of communication. They face challenges with technology, lack internet access, and often do not have family members available to assist with virtual appointments. Telephone visits are not just convenient—they are a lifeline.

Without this option, patients experience delayed care, reduced access to medical advice, and worsened health outcomes. SB1281 protects equitable healthcare access for our most vulnerable populations.

Please pass SB1281 to uphold our commitment to accessible, timely, and compassionate care for all.

Thank you for your time and commitment to this important bill,

Arlene Kiyohara, MD



**Philippine Medical Association of Hawai'i**

94-837 Waipahu Street, Waipahu, HI 96797

P.O.Box 1294, Pearl City, Hawai'i 96782 • Ph: 888-674-7624

• Fax: 888-391-7624 pmahinfo@gmail.com • www.pmah-hawaii.org

**Rhea Bautista, MD**

*Executive Director*

**BOARD OF GOVERNORS  
2025**

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To: The Honorable Chair Joy A San Buenaventura, the Honorable Vice Chair Henry JC Aquino ,  
and the Senate Committee on Health and Human Services

Subject: TESTIMONY IN STRONG SUPPORT OF HB1281

On behalf of the Philippine Medical Association of Hawaii (PMAH), I write in strong support of SB1281, which seeks to enhance access to telehealth services and ensure equitable reimbursement for telehealth visits, including audio-only consultations.

As an organization representing Filipino physicians and healthcare professionals in Hawaii, PMAH recognizes the critical role that telehealth plays in improving healthcare access for our diverse communities. Many of our patients, especially those in rural areas, working-class families, and kupuna, experience challenges in accessing in-person care due to financial, transportation, and technological barriers. Telehealth has been instrumental in addressing these disparities, ensuring that all patients receive timely and quality medical care.

SB1281 is particularly vital in ensuring reimbursement parity for telehealth services, including audio-only visits. Many of our elderly patients and those with limited digital literacy lack access to video technology, making audio-only telehealth a necessary and effective alternative. Without equitable reimbursement for these visits, providers may be discouraged from offering telehealth options, ultimately reducing healthcare access for vulnerable populations.

By aligning Hawaii's telehealth policies with federal Medicare regulations, this bill strengthens the long-term sustainability of telehealth services in our state. It ensures consistency in reimbursement and allows healthcare providers to continue offering virtual care options without financial or regulatory burdens.

Telehealth is not meant to replace in-person care when physical examinations are necessary, but it remains a critical tool for chronic disease management, mental health services, medication management, and follow-up visits. Ensuring that providers can deliver these services without unnecessary restrictions or financial disincentives is a step forward in making healthcare more

inclusive and accessible for all.

For these reasons, on behalf of the Philippine Medical Association of Hawaii, I strongly urge the passage of SB1281. Thank you for the opportunity to provide testimony in support of this important measure.

Mahalo,

Rainier Dennis D. Bautista MD, DABFM, FAAFP

President, Philippine Medical Association of Hawaii



February 5, 2025

The Honorable Joy A. San Buenaventura, Chair  
The Honorable Henry J.C. Aquino, Vice Chair  
Senate Committee on Health and Human Services

Re: SB 1281 – RELATING TO TELEHEALTH

Dear Chair San Buenaventura, Vice Chair Aquino, and Members of the Committee:

Hawaii Medical Service Association (HMSA) respectfully opposes SB1281, 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 Hawaii 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. However, we believe that the current proposed legislation strays from the original intent of Act 107. The efforts to align with Medicare are incomplete, the proposed increase in reimbursement rates are unjustified, and the changes to the current guardrails would make it more difficult, in our opinion, for behavioral health providers and their patients to access care.

**Medicare Alignment:** The current language of the bill is attempting to allow audio-only for any telehealth service and justifying this as a way to better align with Medicare. While the Code of Federal Regulations<sup>1</sup> definition of interactive telecommunication system was updated to expand audio-only communication technology for any telehealth service, this federal definition must be observed together with Section 1834(m) of the Social Security Act<sup>2</sup>, which states that the only covered telehealth services allowed in the home are for services for the diagnosis, evaluation, or treatment of mental health or substance use disorder, and for monthly ESRD-related clinical assessments. As such, HMSA believes that an expansion of audio-only telehealth as written in this bill is taken out of context and fails to conform with the intent of federal Medicare regulations.

**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)

**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.

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 where

With that in mind, we ask the committee to consider the following proposal:

1. Striking all references in Act 107, 2023 to 42 Code of Federal Regulations section 410.78(a)
2. Clearly defining in sections 2, 3, 4, 5, & 6 of Act 107, 2023, that “Interactive telecommunications system” shall mean:
  - a. *Except as otherwise provided in this paragraph, 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. For services furnished for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in their home, interactive telecommunications may include two-way, real-time audio-only communication technology if the distant site physician or practitioner is technically capable to use 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. A modifier designated by CMS must be appended to the claim for services described in this paragraph to verify that these conditions have been met.*
3. Removing sunset language found in section 8 of Act 107, 2023 and making effective upon approval.





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,

A handwritten signature in black ink, appearing to read 'Dawn Kurisu', is positioned above the typed name.

Dawn Kurisu  
Assistant Vice President  
Community and Government Relations

**SB-1281**

Submitted on: 2/4/2025 8:55:15 AM

Testimony for HHS on 2/5/2025 1:00:00 PM

| <b>Submitted By</b> | <b>Organization</b> | <b>Testifier Position</b> | <b>Testify</b>            |
|---------------------|---------------------|---------------------------|---------------------------|
| Princess Cacpal     | Individual          | Support                   | Written Testimony<br>Only |

Comments:

I am Princess Cacpal, a member of the Philippine Medical Association of Hawai‘i and a healthcare professional dedicated to serving Hawai‘i's diverse communities. I strongly support **SB1281**, which ensures continued coverage for telephone visits.

For many kupuna in our district, the telephone is their only reliable means of communication. They face challenges with technology, lack internet access, and often do not have family members available to assist with virtual appointments. Telephone visits are not just convenient—they are a lifeline.

Without this option, patients experience delayed care, reduced access to medical advice, and worsened health outcomes. SB1281 protects equitable healthcare access for our most vulnerable populations.

Please pass SB1281 to uphold our commitment to accessible, timely, and compassionate care for all.

2025 Hawaii  
Leadership Board

**Testimony to the Senate Committee on Health and Human  
Services, Wednesday, February 5, 1:00 PM Hawaii State Capitol,  
Conference Room 225, and Videoconference**

**RE: Senate Bill No. 1281 – 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 San Buenaventura 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 SB1281, 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 SB1281 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 SB1281 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



**TESTIMONY IN SUPPORT WITH AMENDMENTS OF SB1281  
SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES  
1:00 PM Wednesday, February 5, 2025  
Conference Room 225 & Videoconference  
State Capitol**

Aloha Chair San Buenaventura, Vice Chair Aquino, 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 SB1281 with amendments** to ensure telehealth remains accessible for those who need it most.

Our FQHC provides care to underserved communities, including low-income individuals, kūpuna (elders), Native Hawaiian and Pacific Islander populations, individuals with disabilities, people experiencing homelessness, and those living in rural areas. Many of our patients do not have reliable broadband access, lack digital literacy, or cannot afford smartphones capable of video telehealth. For these patients, audio-only telehealth is not just an option—it is their only access to care.

While the intention of this bill appears to update state law to align with federal Medicare regulations, it also imposes an in-person requirement for audio-only telehealth that is **stricter than Medicare’s current policies**, which could create new obstacles for patients who rely on these services.

The **Centers for Medicare & Medicaid Services (CMS)** has established clear guidelines on the use of **audio-only telehealth for both behavioral and non-behavioral health services**:

- **Non-Behavioral/Mental Health Services:**
  - Medicare allows non-mental health telehealth services to be delivered using audio-only communication platforms through March 31, 2025 (U.S. Department of Health and Human Services, 2024).
  - **Permanently allows audio-only services if the provider is technically capable of video, but the patient is not capable of, or does not consent to, video technology** (U.S. Department of Health and Human Services, 2024).
  - This ensures that primary care and chronic disease management can continue via audio-only telehealth, providing critical access for those facing digital barriers.
  
- **Behavioral/Mental Health Services:**
  - Medicare has waived the in-person visit requirement for behavioral health telehealth until March 31, 2025
  - For Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs), the in-person visit requirement for behavioral health services furnished via audio-only telehealth is waived until January 1, 2026.



**WAIANAЕ COAST  
COMPREHENSIVE  
HEALTH CENTER**

These flexibilities **reflect the federal government's recognition that audio-only telehealth is necessary for behavioral health, primary care, and chronic disease management as well.** SB1281 should reflect these federal flexibilities. However, rather than tying the policy to temporary federal waivers, Hawai'i should take a long-term approach and permanently remove this restriction to ensure continued access to care.

The Agency for Healthcare Research and Quality (AHRQ) has called on Congress to permanently expand the definition of telemedicine to include audio-only services, not just for behavioral health, but for whole-person care, including primary care and chronic disease management. If SB1281 does not include these amendments, our patients—those who are already the most vulnerable—will lose access to critical healthcare. Expanding audio-only telehealth is an issue of health equity. Without it, low-income, rural, and disabled patients will face increased barriers to care, worsening disparities in health outcomes.

**Proposed Amendments to SB1281**

1. Fully remove the in-person visit requirement for audio-only telehealth permanently.
2. Ensure full reimbursement parity for audio-only services, so they are paid at the same rate as in-person visits.
3. Expand audio-only telehealth coverage beyond behavioral health to include all clinically appropriate services, such as primary care and chronic disease management.
4. Allow providers and not regulations to determine when an in-person visit is necessary.

SB1281 is a step in the right direction. but by amending it. this Committee has the opportunity to expand telehealth further. Please support health equity by ensuring that telehealth remains a **lifeline for patients** rather than another hurdle to overcome. **We urge the Committee to please pass SB1281 with amendments.**

Mahalo for the opportunity to testify,

Michele Chrissy Kuahine  
Director of Technology Equity  
Waianae Coast Comprehensive Health Center



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COMPREHENSIVE  
HEALTH CENTER**

## References

Hen, A., Ayub, M. H., Mishuris, R. G., Rodriguez, J. A., Gwynn, K., Lo, M. C., Noronha, C., Henry, T. L., Jones, D., Lee, W. W., Varma, M., Cuevas, E., Onumah, C., Gupta, R., Goodson, J., Lu, A. D., Syed, Q., Suen, L. W., Heiman, E., Salhi, B. A., ... Schmidt, S. (2023). Telehealth policy, practice, and education: A position statement of the Society of General Internal Medicine. *Journal of General Internal Medicine*, 38(11), 2613–2620. <https://doi.org/10.1007/s11606-023-08190-8>

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