

ACT 139

S.B. NO. 1246

A Bill for an Act Relating to Telehealth.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that telehealth adoption in Hawaii is increasing. The report of findings from the 2017 Hawaii Physician Workforce Assessment Project estimates that approximately fifteen per cent of providers report a telehealth experience, which is an increase from 2014 of less than five per cent. This rate increase coincides with the enactment of Act 159, Session Laws of Hawaii 2014, and Act 226, Session Laws of Hawaii 2016, both of which increased telehealth adoption such as reimbursement parity with face-to-face visits and malpractice coverage reform.

However, despite this favorable policy environment, telehealth utilization remains frustratingly low. A continuum of issues across multiple sectors must be addressed, such as incentives for provider adoption, patient comfort with new technology, health care workforce training, technology and telecommunications infrastructure, and administrative simplification between health systems.

The purpose of this Act is to establish resources to achieve Hawaii's goal of establishing telehealth as a community standard for health care access.

SECTION 2. Definitions. As used in this Act, unless the context requires otherwise:

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

SECTION 3. State telehealth policy, roles, and responsibilities. (a) It shall be the policy of the State to promote telehealth to deliver health care from a distance as an effective way of overcoming certain barriers to accessing care, particularly for communities located in rural and remote areas.

(b) The department of health is authorized to lead statewide efforts to ensure consumer choice, reduce disparities in access to care, enhance health care provider availability, and improve quality of care through telehealth.

SECTION 4. State strategic telehealth advisory council. (a) There is established within the department of health for administrative purposes the state strategic telehealth advisory council. The advisory council shall advise the governor in the development and implementation of a comprehensive plan to establish telehealth as high quality, cost-effective, and reliable means of health care access.

(b) The membership of the state strategic telehealth advisory council shall be appointed by the governor without regard to section 26-34, Hawaii Revised Statutes. The director of health or a designee shall serve as an ex officio nonvoting member of the advisory council.

(c) In establishing the advisory council, the governor shall appoint at least:

- (1) Two members of organizations that represent health care facilities, one of whom shall be a representative of a hospital;
- (2) Two members of organizations that represent health insurers, one of whom shall be a representative of an organization that primarily serves medicaid beneficiaries;
- (3) One member of an organization that represents broadband infrastructure or telecommunications services;
- (4) One member from the office of the governor;
- (5) Two members of long-term care service providers, one of whom shall be a representative of a nursing home and one of whom shall be a representative of a home health agency or community-based health services program;
- (6) Two health care practitioners, each of whom practices primarily in a rural county; and
- (7) One member of an organization that represents mental health service providers;

provided that there shall be at least one state strategic telehealth advisory council member from each county in the State. The advisory council shall select a chairperson from among its members.

The members shall serve without compensation but shall be reimbursed for actual expenses, including travel expenses, that are necessary for the performance of their duties.

(d) The number of members necessary to constitute a quorum to do business shall consist of a majority of all members who have accepted the nomination to the advisory council. When a quorum is in attendance, the concurrence of a majority of the members in attendance shall make any action of the council valid.

(e) Two or more members of the council, but less than the number of members which would constitute a quorum for the council, may discuss between themselves matters relating to official business of the council to enable them to faithfully perform their duties to the council and the organizations they represent, as long as no commitment to vote is made or sought. Such discussions shall be a permitted interaction under section 92-2.5, Hawaii Revised Statutes.

(f) The state strategic telehealth advisory council shall be dissolved on July 1, 2022.

SECTION 5. State telehealth and health care access coordinator. (a)

There is established a full-time state telehealth and health care access coordinator to support the state strategic telehealth advisory council. The state telehealth and health care access coordinator shall facilitate the establishment of infrastructure and policies across all agencies of the State and private sector to promote the expansion of telehealth in the State, including:

- (1) Providing administrative support to the state strategic telehealth advisory council;
- (2) Coordinating with the department of commerce and consumer affairs on issues relating to professional and vocational licensing and insurance regulation as related to telehealth;
- (3) Coordinating with the department of commerce and consumer affairs and department of business, economic development, and tourism on broadband connectivity;
- (4) Coordinating with the department of education, department of public safety, department of human services, Hawaii employer-union health benefits trust fund, and other state agencies that finance or provide health care services to promote the use of telehealth;
- (5) Coordinating with the University of Hawaii and other agencies on telehealth research to ensure quality, cost-effectiveness, and efficacy;
- (6) Coordinating with the department of labor and industrial relations, University of Hawaii, department of education, and other agencies to encourage a telehealth-capable workforce;
- (7) Coordinating with the office of enterprise technology services on matters related to cybersecurity; and
- (8) Coordinating with the private sector to ensure alignment and consistency with state goals.

(b) The state telehealth and health care access coordinator shall be selected by the director of health.

SECTION 6. Telehealth administrative simplification working group.

The department of health shall establish and convene a telehealth administrative simplification working group to research and make recommendations to reduce administrative barriers to telehealth, which may include health care system credentialing, privileging, and other processes that contribute to delays and inefficiencies for health care providers delivering care to patients. The telehealth

administrative simplification working group shall be exempt from part I of chapter 92, Hawaii Revised Statutes.

The telehealth administrative simplification working group shall submit a report of its findings and recommendations, including any proposed legislation, to the legislature no later than twenty days before the convening of the regular session of 2020.

SECTION 7. There is appropriated out of the general revenues of the State of Hawaii the sum of \$110,000 or so much thereof as may be necessary for fiscal year 2019-2020 and the same sum or so much thereof as may be necessary for fiscal year 2020-2021 for the establishment of one full-time equivalent (1.0 FTE) permanent state telehealth and health care access coordinator position within the department of health.

The sums appropriated shall be expended by the department of health for the purposes of this Act.

SECTION 8. This Act shall take effect on July 1, 2019.

(Approved June 25, 2019.)