

ACT 107

H.B. NO. 907

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 has served as a lifeline of access to essential health care services for residents with adequate broadband coverage. However, many residents that live in rural and underprivileged communities are often cut off from receiving essential health care through telehealth because they lack the broadband coverage necessary to access this care. As a result, many of these residents will put off receiving care until the point of requiring emergency room admission, which in turn adds strain to a system already experiencing resource and staffing shortages.

The legislature further finds that the use of standard telephone contact in telehealth during the coronavirus disease 2019 pandemic demonstrated the effectiveness of this tool as a mode of essential health care delivery, especially for residents living in rural, isolated, and underprivileged communities. For kupuna and others who may have limited digital literacy, the ability to use a landline telephone to receive care was a lifeline resource during the pandemic.

The purpose of this Act is to temporarily allow for the reimbursement for services provided through an interactive telecommunication system and two-way, real-time audio-only communications for telehealth purposes, consistent with the 2023 Medicare Physician Fee Schedule, and impose certain reimbursement limits and conditions for private insurers.

SECTION 2. Section 346-59.1, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (b) to read:

“(b) Reimbursement for services provided through telehealth via an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via ~~[face-to-face]~~ in-person contact between a health care provider and a patient~~[-];~~ provided that reimbursement for the diagnosis, evaluation, or treatment of a mental health disorder delivered through an interactive telecommunications system using two-way, real-time audio-only communication technology shall meet the requirements of title 42 Code of Federal Regulations section 410.78. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.”

2. By amending subsection (g) to read:

“(g) For the purposes of this section:

“Distant site” means the location of the health care provider delivering services through telehealth at the time the services are provided.

“Health care provider” means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider’s office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient’s home, and other ~~[non-medical]~~ nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“Telehealth” means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to 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]~~ Except as provided through an interactive telecommunications system, standard telephone contacts, facsimile transmissions, or e-mail text, in combination or ~~[by itself, does]~~ alone, do not constitute [a] telehealth [service for the purposes of this section.] services.”

SECTION 3. Section 431:10A-116.3, Hawaii Revised Statutes, is amended to read as follows:

1. By amending subsections (a) through (c) to read:

“(a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without ~~[face-to-face]~~ in-person contact with the health care provider.

(b) No accident and health or sickness insurance plan that is issued, amended, or renewed shall require ~~[face-to-face]~~ in-person contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the insurer, and the health care provider.

(c) Reimbursement for services provided through telehealth via an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via ~~[face-to-face]~~ in-person contact between a health care provider and a patient~~[-];~~ provided that reimbursement for two-way, real-time audio-only communication technology for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in the patient’s home shall be equivalent to eighty per cent of the reimbursement for the same services provided via in-person contact between a health care provider and a patient. To be reimbursed for telehealth via an interactive telecommunications system using two-way, real-time audio-only communication technology in accordance with this subsection, the health care provider shall first conduct an in-person visit or a telehealth visit that is not audio only, within six months prior to the initial audio-only visit, or within twelve months prior to any subsequent audio-only visit. The telehealth visit required prior to the initial or subsequent audio-only visit in this subsection shall not be provided using audio-only communication. Nothing in this section shall require a

health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.”

2. By amending subsection (g) to read:

“(g) For the purposes of this section:

“Distant site” means the location of the health care provider delivering services through telehealth at the time the services are provided.

“Health care provider” means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider’s office, hospital, health care facility, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“Telehealth” means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to 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] Except as provided through an interactive telecommunications system, standard~~ telephone contacts, facsimile transmissions, or e-mail text, in combination or ~~[by itself, does]~~ alone, do not constitute ~~[a] telehealth [service for the purposes of this chapter.] services.~~”

SECTION 4. Section 432:1-601.5, Hawaii Revised Statutes, is amended to read as follows:

1. By amending subsections (a) through (c) to read:

“(a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without ~~[face-to-face]~~ in-person contact with the health care provider.

(b) No mutual benefit society plan that is issued, amended, or renewed shall require ~~[face-to-face]~~ in-person contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the mutual benefit society, and the health care provider.

(c) Reimbursement for services provided through telehealth via an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via ~~[face-to-face]~~ in-person contact between a health care provider and a patient~~[-]; provided that reimbursement for two-way, real-time audio-only communication technology for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in the patient's home shall be equivalent to eighty per cent of the reimbursement for the same services provided via in-person contact between a health care provider and a patient. To be reimbursed for telehealth via an interactive telecommunications system using two-way, real-time audio-only communication technology in accordance with this subsection, the health care provider shall first conduct an in-person visit or a telehealth visit that is not audio only, within six months prior to the initial audio-only visit, or within twelve months prior to any subsequent audio-only visit. The telehealth visit required prior to the initial or subsequent audio-only visit in this subsection shall not be provided using audio-only communication. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.~~

2. By amending subsection (g) to read:

“(g) For the purposes of this section:

“Health care provider” means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider’s office, hospital, health care facility, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“Telehealth” means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to 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]~~ Except as provided through an interactive telecommunications system, standard telephone contacts, facsimile transmissions, or e-mail text, in combination or ~~[by itself, does]~~ alone, do not constitute [a] telehealth [service for the purposes of this chapter:] services.”

SECTION 5. Section 432D-23.5, Hawaii Revised Statutes, is amended to read as follows:

1. By amending subsection (a) through (c) to read:

“(a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without ~~[face-to-face]~~ in-person contact with the health care provider.

(b) No health maintenance organization plan that is issued, amended, or renewed shall require ~~[face-to-face]~~ in-person contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the health maintenance organization, and the health care provider.

(c) Reimbursement for services provided through telehealth via an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via ~~[face-to-face]~~ in-person contact between a health care provider and a patient~~[-]; provided that reimbursement for two-way, real-time audio-only communication technology for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in the patient's home shall be equivalent to eighty per cent of the reimbursement for the same services provided via in-person contact between a health care provider and a patient. To be reimbursed for telehealth via an interactive telecommunications system using two-way, real-time audio-only communication technology in accordance with this subsection, the health care provider shall first conduct an in-person visit or a telehealth visit that is not audio only, within six months prior to the initial audio-only visit, or within twelve months prior to any subsequent audio-only visit. The telehealth visit required prior to the initial or subsequent audio-only visit in this subsection shall not be provided using audio-only communication.~~ Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.”

2. By amending subsection (g) to read:

“(g) For the purposes of this section:

“Distant site” means the location of the health care provider delivering services through telehealth at the time the services are provided.

“Health care provider” means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider’s office, hospital, health care facility, a patient’s home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

“Telehealth” means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to 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]~~ Except as provided through an interactive telecommunications system, standard telephone contacts, facsimile transmissions, or e-mail text, in combination or ~~[by itself, does]~~ alone, do not constitute [a] telehealth ~~[service for the purposes of this chapter.] services.~~”

SECTION 6. Section 453-1.3, Hawaii Revised Statutes, is amended to read as follows:

1. By amending subsection (c) to read:

“(c) Treatment recommendations made via telehealth, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include a ~~[face-to-face]~~ in-person visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing opiates or certifying a patient for the medical use of cannabis, a physician-patient relationship shall only be established after an in-person consultation between the prescribing physician and the patient.”

2. By amending subsection (h) to read:

“(h) ~~[Reimbursement]~~ Unless otherwise provided by law, reimbursement for behavioral health services provided through telehealth via an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via ~~[face-to-face]~~ in-person contact between a health care provider and a patient[-]; provided that reimbursement for two-way, real-time audio-only communication technology for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in the patient’s home shall be equivalent to eighty per cent of the reimbursement for the same services provided via in-person contact between a health care provider and a patient. To be reimbursed for telehealth via an interactive telecommunications system using two-way, real-time audio-only communication technology in accordance with this subsection, the health care provider shall first conduct an in-person visit or a telehealth visit that is not audio only, within six months prior to the initial audio-only visit, or within twelve months prior to any subsequent audio-only visit. The telehealth visit required prior to the initial or subsequent audio-only visit in this subsection shall not be provided using audio-only communication.”

3. By amending subsection (j) to read:

“(j) For the purposes of this section:

“Distant site” means the location of the physician delivering services through telehealth at the time the services are provided.

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

“Originating site” means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a physician through telehealth, including but not limited to a physician’s office,

hospital, health care facility, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications as ~~that term is~~ defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to 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 purposes of: delivering enhanced health care services and information while a patient is at an originating site and the physician is at a distant site; establishing a physician-patient relationship; evaluating a patient; or treating a patient. Except as provided through an interactive telecommunications system, standard telephone contacts, facsimile transmissions, or e-mail text, in combination or alone, do not constitute telehealth services."

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

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

(Approved June 22, 2023.)