
A BILL FOR AN ACT

RELATING TO HEALTH.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Since 1999, the legislature has supported the
2 use and expansion of telehealth services and technology in
3 Hawaii. In the past, telehealth services were primarily
4 facility-based without a consumer driven component. With
5 internet-based technology revolutionizing the way consumers
6 acquire goods and services today, it is now possible to apply
7 this technology to health care. Hawaii is poised to become the
8 first state in the nation to provide statewide consumer access
9 to local physicians via the Internet and telephone. Individuals
10 will be able to interact with local physicians in a real time,
11 secure, and private online environment.

12 Supporting this expanded use of technology for telemedicine
13 services will increase access to health care in rural areas of
14 the State. People living in Hawaii's rural areas often find it
15 more difficult to access specialty physician care. The use of
16 new and improved technologies to deliver effective and prompt

1 health care will allow residents to promptly consult with a
2 specialist.

3 Difficulty or inability to visit a specialist often forces
4 individuals to delay appropriate health care. These delays may
5 ultimately lead to worsened health outcomes which could have
6 been avoided. New technology will provide additional options to
7 access care through discussion with a local physician live via
8 the Internet or telephone twenty-four hours a day, seven days a
9 week.

10 Expansion of telemedicine services may also assist in
11 containing rising health care costs. The availability of
12 immediate access to physicians may prevent inappropriate and
13 expensive trips to the emergency room. Those without health
14 care coverage who currently access non-emergent care in the
15 emergency room would be able to visit a physician online. As
16 consumers become more comfortable receiving care through
17 telemedicine, hospitals could see a decrease not only in
18 inappropriate emergency room usage, but also a decrease in
19 uncompensated care.

20 In addition, since rural areas locally and across the
21 nation find it increasingly difficult to attract and retain
22 physicians, particularly specialists, expansion of telemedicine

1 services may attract physicians to practice in these areas.
2 Telemedicine will provide physicians with greater flexibility
3 and freedom within their practices wherever they are physically
4 located in Hawaii. The resulting lifestyle improvement without
5 sacrifice of income may prove to be an attractive incentive for
6 physicians to practice in rural areas.

7 Despite the legislature's clear and consistent support of
8 expanded use of telemedicine to improve access to health care
9 services throughout the State, questions have recently been
10 raised by the Hawaii medical board about the appropriate use of
11 this technology to establish the physician-patient relationship.
12 Therefore, the purpose of this Act is to reinforce the
13 legislature's support of online care services through
14 telemedicine by:

15 (1) Clarifying that telemedicine is within a physician's
16 scope of practice and is authorized in Hawaii when
17 practiced by a licensed physician providing services
18 to patients; and

19 (2) Further clarifying the current laws regarding
20 telehealth to ensure compliance with changes made to
21 the law regulating the practice of medicine.

1 SECTION 2. Chapter 453, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§453- Practice of telemedicine. (a) Nothing in this
5 section shall preclude any physician acting within the scope of
6 the physician's license to practice from practicing telemedicine
7 as defined in this section.

8 (b) For the purposes of this section, "telemedicine" means
9 the use of telecommunications services, including real-time
10 video or web conferencing communication or secure web-based
11 communication to establish a physician-patient relationship, to
12 evaluate a patient, or to treat a patient. "Telehealth" as used
13 in chapters 431, 432, and 432D, includes "telemedicine" as
14 defined in this section.

15 (c) Telemedicine services shall include a documented
16 patient evaluation, including history and a discussion of
17 physical symptoms adequate to establish a diagnosis and to
18 identify underlying conditions or contra-indications to the
19 treatment recommended or provided.

20 (d) Treatment recommendations made via telemedicine,
21 including issuing a prescription via electronic means, shall be
22 held to the same standards of appropriate practice as those in

1 traditional physician-patient settings that do not include a
2 face to face visit but in which prescribing is appropriate,
3 including on-call telephone encounters and encounters for which
4 a follow-up visit is arranged. Issuing a prescription based
5 solely on an online questionnaire is not treatment for the
6 purposes of this section and does not constitute an acceptable
7 standard of care. For the purposes of prescribing a controlled
8 substance, a physician-patient relationship shall be established
9 pursuant to chapter 329.

10 (e) All medical reports resulting from telemedicine
11 services are part of a patient's health record and shall be made
12 available to the patient. Patient medical records shall be
13 maintained in compliance with all applicable state and federal
14 requirements including privacy requirements.

15 (f) A physician shall not use telemedicine to establish a
16 physician-patient relationship with a patient in this State
17 without a license to practice medicine in Hawaii. Once a
18 provider-patient relationship is established, a patient or
19 physician licensed in this State may use telemedicine for any
20 purpose, including consultation with a medical provider licensed
21 in another state, authorized by this section, or as otherwise
22 provided by law."

1 SECTION 3. Section 431:10A-116.3, Hawaii Revised Statutes,
2 is amended by amending subsection (d) to read as follows:

3 "(d) Notwithstanding chapter 453 or rules adopted pursuant
4 thereto, [H] in the event that a health care provider-patient
5 relationship does not exist between the patient and the health
6 care provider to be involved in a telehealth interaction between
7 the patient and the health care provider, a telehealth mechanism
8 may be used to establish a health care provider-patient
9 relationship."

10 SECTION 4. Section 432:1-601.5, Hawaii Revised Statutes,
11 is amended by amending subsection (d) to read as follows:

12 "(d) Notwithstanding chapter 453 or rules adopted pursuant
13 thereto, [H] in the event that a health care provider-patient
14 relationship does not exist between the patient and the health
15 care provider to be involved in a telehealth interaction between
16 the patient and health care provider, a telehealth mechanism may
17 be used to establish a health care provider-patient
18 relationship."

19 SECTION 5. Section 432D-23.5, Hawaii Revised Statutes, is
20 amended by amending subsection (d) to read as follows:

21 "(d) Notwithstanding chapter 453 or rules adopted pursuant
22 thereto, [H] in the event that a health care provider-patient

1 relationship does not exist between the patient and the health
2 care provider involved in a telehealth interaction between the
3 patient and the health care provider, a telehealth mechanism may
4 be used to establish a health care provider-patient
5 relationship."

6 SECTION 6. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect upon its approval.

Report Title:

Telehealth; Medicine and Surgery; Expansion of Services

Description:

Makes amendments to clarify the legislature's support for the expanded use of new technology in telemedicine; clarifies that telehealth is within the scope of a physician's practice; clarifies that a provider-patient relationship may be established through telehealth where the provider is licensed to practice in this State. (SD2)