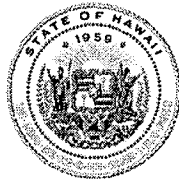


SB2491



LINDA LINGLE
GOVERNOR
JAMES R. AIONA, JR.
LT. GOVERNOR

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LAWRENCE M. REIFURTH
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RONALD BOYER
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TO THE SENATE COMMITTEE ON HEALTH

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, February 3, 2010
3:00 p.m.

TESTIMONY ON SENATE BILL NO. 2491 – RELATING TO TELEMEDICINE.

TO THE HONORABLE DAVID Y. IGE, CHAIR, AND MEMBERS OF THE COMMITTEE:

My name is J.P. Schmidt, State Insurance Commissioner, testifying on behalf of the Department of Commerce and Consumer Affairs (“Department”). The Department limits its testimony to sections 2, 3 and 4 of the bill and offers the following comments.

The purpose of this bill is to clarify telemedicine as the practice of medicine and to require medical malpractice insurers to provide coverage for telemedicine by amending the statutory definitions of: (1) malpractice insurance in paragraph (13) of Hawaii Revised Statutes (“HRS”) § 431:1-209; (2) “medical malpractice insurance” in HRS § 435C-2; (3) “physician or surgeon” in HRS § 435E-1; and (4) “practice of medicine” in HRS § 453-1.

The Department cannot speculate how insurers will respond to or assess the impact of requiring coverage for telemedicine under medical malpractice insurance.

We thank this Committee for the opportunity to present testimony on this matter.

**PRESENTATION OF THE
HAWAII MEDICAL BOARD**

TO THE SENATE COMMITTEE ON HEALTH

TWENTY-FIFTH LEGISLATURE
Regular Session of 2010

Wednesday, February 3, 2010
3:00 p.m.

WRITTEN TESTIMONY ONLY

TESTIMONY ON SENATE BILL NO. 2491, RELATING TO TELEMEDICINE.

TO THE HONORABLE DAVID Y. IGE, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Constance Cabral and I am the Executive Officer of the Hawaii Medical Board ("Board"). The Board has not had the opportunity to review this bill but will be discussing it at the next Board meeting on February 11, 2010. Therefore, it is not able to take a position at this time.

Thank you for the opportunity to provide written comments on S.B. No. 2491.



HAWAII MEDICAL ASSOCIATION

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Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

Wednesday, February 3, 2010, 3:00 p.m., Conference Room 016

To: Senate Committee on Health
Senator David Y. Ige, Chair
Senator Josh Green, M.D., Vice Chair

From: Hawaii Medical Association
Gary A. Okamoto, MD, Legislative Co-Chair
Linda Rasmussen, MD, Legislative Co-Chair
April Donahue, Executive Director
Lauren Zirbel, Government Affairs
Dick Botti, Government Affairs

Re: SB2491 RELATING TO TELEMEDICINE – Suggested Amendment

Chairs & Committee Members:

Hawaii Medical Association respectfully requests an amendment to SB2491 Relating to Telemedicine. We strongly recommend making it optional, not mandatory, for medical malpractice insurers to cover the practice of telemedicine. We suggest changing the following existing language "8431:l-209 General casualty insurance defined.(13):

"provided that, liability insurance covering the professional services of a physician or surgeon shall include coverage for claims or losses relating to the practice of telemedicine meeting the requirements of section 453-1.3"

to the following language:

"provided that, liability insurance covering the professional services of a physician or surgeon may include coverage for claims or losses relating to the practice of telemedicine meeting the requirements of section 453-1.3"

Mandating coverage for a relatively new type of practice for which there is no real standard of care could hinder malpractice carriers in Hawaii. The standard of care as it relates to telemedicine is ambiguous and would be difficult if not impossible to defend, and could result in malpractice carriers leaving Hawaii. This is a serious issue as there are only three companies that provide some type of malpractice coverage to physicians in Hawaii.

Thank you for your consideration and the opportunity to testify.

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HMSA



An Independent Licensee of the Blue Cross and Blue Shield Association

February 3, 2010

The Honorable David Ige, Chair
The Honorable Josh Green M.D., Vice Chair
Senate Committee on Health

Re: SB 2491 – Relating to Telemedicine

Dear Chair Ige, Vice Chair Green and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in support of SB 2491 which would clarify telemedicine as a practice of medicine and require insurers offering medical malpractice insurance coverage also cover telemedicine services.

As you are aware, Hawaii is on the cutting edge of health care technology through initiatives such as HMSA's Online Care and the tremendous efforts currently being undertaken by the Hawaii Health Information Exchange. As health technology advances, the government, both state and federal, will need to examine outdated barriers that restrict true reform from occurring. SB 2491 takes small steps towards ensuring that barriers to care do not exist whether a patient is seeing a provider in their office or via telehealth means.

SB 2491 would require medical malpractice insurance cover a physician regardless of the treating environment in which they are practicing. Accessing care through HMSA's Online Care is just another tool available to physicians to expand access to health care much like email and telephone calls. Current medical malpractice coverage includes these more traditional care settings but some carriers have made the decision to explicitly exclude telehealth services. We believe that this is a disservice to those in the medical community who are interested in exploring new ways of assisting their patients. Although HMSA's Online Care provides medical malpractice coverage for participating providers, it does not extend beyond that use leaving physicians unable to explore other avenues in the telemedicine/telehealth arena.

We would also point out that although use of telehealth is still in its infancy, we believe that as time goes on, other types of providers, such as podiatrists and advanced practice registered nurses, will begin to use it more frequently. It may be worth examining potentially increasing the scope of the measure to include additional provider types that are licensed by the state. Thank you for the opportunity to testify today.

Sincerely,

Jennifer Diesman
Vice President
Government Relations