July 7, 2016

The Honorable Ronald D. Kouchi,  
President  
and Members of the Senate  
Twenty-Eighth State Legislature  
State Capitol, Room 409  
Honolulu, Hawai‘i 96813

The Honorable Joseph M. Souki,  
Speaker and Members of the  
House of Representatives  
Twenty-Eighth State Legislature  
State Capitol, Room 431  
Honolulu, Hawai‘i 96813

Dear President Kouchi, Speaker Souki, and Members of the Legislature:

This is to inform you that on July 7, 2016, the following bill was signed into law:

SB2385 SD1 HD2 CD1 RELATING TO TELEHEALTH ACT 226 (16)

Sincerely,

[Signature]

DAVID Y. IGE  
Governor, State of Hawai‘i
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 allowed states to implement innovative health policy reforms that achieve significant cost savings and improve health outcomes. There are many opportunities for improving health care access in Hawaii through the use of telehealth, especially in areas of the State faced with a shortage of health care providers.

However, the legislature further finds that restrictions on telehealth, such as geographical limitations on service, limitations on patient setting, and restrictions on applicable technology, act as barriers that prevent health care providers and patients from realizing the full benefits of telehealth.

Accordingly, the purpose of this Act is to enhance access to care via telehealth by:

(1) Requiring the State's medicaid managed care and fee-for-service programs to cover services provided through telehealth;
(2) Specifying that any telehealth services provided shall be consistent with all federal and state privacy, security, and confidentiality laws;

(3) Specifying medical professional liability insurance policy requirements with regard to telehealth coverage;

(4) Clarifying that reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient;

(5) Requiring written disclosure of coverages and benefits associated with telehealth services;

(6) Ensuring that telehealth encompasses store and forward technologies, remote monitoring, live consultation, and mobile health;

(7) Ensuring that telehealth is covered when originating in a patient's home and other non-medical environments;
(8) Clarifying requirements for physicians and out-of-state physicians to establish a physician-patient relationship via telehealth;

(9) Ensuring that reimbursement requirements for telehealth services apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes; and

(10) Making other conforming amendments related to telehealth for clarity.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§346- Coverage for telehealth. (a) The State's medicaid managed care and fee-for-service programs shall not deny coverage for any service provided through telehealth that would be covered if the service were provided through in-person consultation between a patient and a health care provider.

(b) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. 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.

(c) There shall be no geographic restrictions or requirements for telehealth coverage or reimbursement under this section.

(d) There shall be no restrictions on originating site requirements for telehealth coverage or reimbursement under this section.

(e) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

(f) Notwithstanding any other law to the contrary, the provisions of this section shall comply with the applicable federal requirements related to utilization, coverage, and reimbursement for telehealth services.

(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.

"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 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 telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this section."

SECTION 3. Chapter 457, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§457- Telehealth; privacy, security, and confidentiality. Services relating to the practice of nursing provided by telehealth pursuant to this chapter shall be
consistent with all federal and state privacy, security, and
confidentiality laws."

SECTION 4. Chapter 671, Hawaii Revised Statutes, is
amended by adding a new section to be appropriately designated
and to read as follows:

"§671- Professional liability insurance; coverage for
telehealth. (a) Every insurer providing professional liability
insurance for a health care provider shall ensure that every
policy that is issued, amended, or renewed in this State on or
after the effective date of Act , Session Laws of Hawaii
2016, shall provide malpractice coverage for telehealth that
shall be equivalent to coverage for the same services provided
via face-to-face contact between a health care provider and a
patient.

(b) No insurer providing professional liability insurance
policies shall require face-to-face contact between a health
care provider and a patient as a prerequisite for coverage of
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 policy
agreed upon between the health care provider and the insurer.

(c) For 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.

"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 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 telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this section."

SECTION 5. Section 209E-2, Hawaii Revised Statutes, is amended by amending the definition of "medical and health care services" to read as follows:

""Medical and health care services" means medical research[7] and clinical trials, [and telehealth] but not routine medical treatment or services."

SECTION 6. Section 431:10A-116.3, Hawaii Revised Statutes, is amended to read as follows:

"§431:10A-116.3 Coverage for telehealth. (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 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 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 shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. [There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction and the patient is accompanied by a treating health care provider at the time telehealth services]
are provided by the consulting health care provider, provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.

For the purposes of this section, "health care provider" means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical and other health services, as defined in 42 U.S.C. 1395x(c), 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.] 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.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health
care provider to be involved in a telehealth interaction between
the patient and the health care provider, a telehealth mechanism
may be used to establish a health care provider-patient
relationship.

(e) All insurers shall provide current and prospective
insureds with written disclosure of coverages and benefits
associated with telehealth services, including information on
copayments, deductibles, or coinsurance requirements under a
policy, contract, plan, or agreement. The information provided
shall be current, understandable, and available prior to the
issuance of a policy, contract, plan, or agreement, and upon
request after the policy, contract, plan, or agreement has been
issued.

(f) Services provided by telehealth pursuant to this
section shall be consistent with all federal and state privacy,
security, and confidentiality laws.

[+] (g) For the purposes of this section:[l]
"telehealth":
"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.

"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 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 services, as defined in section 269-1, [including] 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 [to parties separated by distance.] 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 chapter."

SECTION 7. Section 432:1-601.5, Hawaii Revised Statutes, is amended to read as follows:

"§432:1-601.5 Coverage for telehealth. (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 contact with the health care provider.

(b) No mutual benefit society plan that is issued, amended, or renewed shall require face-to-face 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 shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. [There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction and the patient is accompanied by a treating health care provider at the time telehealth services]
are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.

For the purposes of this section, "health care provider" means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical or other health services, as defined in 42 U.S.C. 1395x(s), 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. 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.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health
care provider to be involved in a telehealth interaction between
the patient and health care provider, a telehealth mechanism may
be used to establish a health care provider-patient
relationship.

(e) All insurers shall provide current and prospective
enrollees or subscribers with written disclosure of coverages
and benefits associated with telehealth services, including
information on copayments, deductibles, or coinsurance
requirements under a policy, contract, plan, or agreement. The
information provided shall be current, understandable, and
available prior to the issuance of a policy, contract, plan, or
agreement, and upon request after the policy, contract, plan, or
agreement has been issued.

(f) Services provided by telehealth pursuant to this
section shall be consistent with all federal and state privacy,
security, and confidentiality laws.

(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.

"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 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 services, as defined in section 269-1, [including] 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 to parties separated by distance 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 chapter."

SECTION 8. Section 432D-23.5, Hawaii Revised Statutes, is amended to read as follows:

"§432D-23.5 Coverage for telehealth. (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 contact with the health care provider.
(b) No health maintenance organization plan that is issued, amended, or renewed shall require face-to-face 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 shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. [There shall be no reimbursement for a telehealth consultation between health care providers unless an existing health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care]
provider, provided that when behavioral health services are
provided, a second health care provider shall not be required to
accompany the patient.

For the purposes of this section, "health care provider"
means a provider of services, as defined in 42 U.S.C. 1395x(u),
a provider of medical or other health services, as defined in 42
U.S.C. 1395x(s), 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. 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.

(d) Notwithstanding chapter 453 or rules adopted pursuant
thereto, in the event that a health care provider-patient
relationship does not exist between the patient and the health
care provider involved in a telehealth interaction between the
patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.

(e) All health maintenance organizations shall provide current and prospective insureds with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to enrollment in a policy, contract, plan, or agreement and upon request after enrollment in the policy, contract, plan, or agreement.

(f) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

[g] For the purposes of this section[7]

"telehealth":

"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.

"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 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 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 telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter."

SECTION 9. Section 453-1.3, Hawaii Revised Statutes, is amended to read as follows:

"§453-1.3 Practice of telehealth. (a) Subject to section 453-2(b), nothing in this section shall preclude any physician
acting within the scope of the physician's license to practice
from practicing telehealth as defined in this section.

[(b)] For the purposes of this section, "telehealth" means
the use of telecommunications as that term is defined in section
269-1, including but not 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 to parties separated by distance, establishing a
physician-patient relationship, evaluating a patient, or
treating a patient.

[(e)] (b) Telehealth services shall include a documented
patient evaluation, including history and a discussion of
physical symptoms adequate to establish a diagnosis and to
identify underlying conditions or contraindications to the
treatment recommended or provided.

[(e)] (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 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 [a controlled substance](opiates or medical marijuana), a physician-patient relationship shall only be established [pursuant to chapter 329-1] after an in-person consultation between the prescribing physician and the patient.

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

(e) A physician shall not use telehealth to establish a physician-patient relationship with a patient in this State without a license to practice medicine in Hawaii.
(f) A physician-patient relationship may be established via telehealth if the patient is referred to the telehealth provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient information to the telehealth provider. Once a provider-patient relationship is established, a patient or physician licensed in this State may use telehealth for any purpose, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law.

(g) The physician-patient relationship prerequisite under this section shall not apply to telehealth consultations for emergency department services.

(h) Reimbursement for behavioral health services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient.

(i) Services provided by telehealth pursuant to this chapter shall be consistent with all federal and state privacy, security, and confidentiality laws.

(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.

"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."

SECTION 10. Section 453-2, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Nothing herein shall:

(1) Apply to so-called Christian Scientists; provided that the Christian Scientists practice the religious tenets of their church without pretending a knowledge of medicine or surgery;

(2) Prohibit service in the case of emergency or the domestic administration of family remedies;

(3) Apply to any commissioned medical officer in the United States armed forces or public health service engaged in the discharge of one's official duty, including a commissioned medical officer employed by the United States Department of Defense, while providing direct telehealth support or services to neighbor island beneficiaries within a Hawaii National Guard armory on the island of Kauai, Hawaii, Molokai,
or Maui; provided that the commissioned medical
officer employed by the United States Department of
Defense is credentialed by Tripler Army Medical
Center;

(4) Apply to any practitioner of medicine and surgery from
another state when in actual consultation, including
in-person, mail, electronic, telephonic, fiber-optic,
or other telehealth consultation with a licensed
physician or osteopathic physician of this State, if
the physician or osteopathic physician from another
state at the time of consultation is licensed to
practice in the state in which the physician or
osteopathic physician resides; provided that:

(A) The physician or osteopathic physician from
another state shall not open an office, or
appoint a place to meet patients in this State,
or receive calls within the limits of the State
for the provision of care for a patient who is
located in this State;

(B) The licensed physician or osteopathic physician
of this State retains control and remains
responsible for the provision of care for the patient who is located in this State; and

(C) The laws and rules relating to contagious diseases are not violated;

(5) Prohibit services rendered by any person certified under part II of this chapter to provide emergency medical services, or any physician assistant, when the services are rendered under the direction and control of a physician or osteopathic physician licensed in this State except for final refraction resulting in a prescription for spectacles, contact lenses, or visual training as performed by an oculist or optometrist duly licensed by the State. The direction and control shall not be construed in every case to require the personal presence of the supervising and controlling physician or osteopathic physician. Any physician or osteopathic physician who employs or directs a person certified under part II of this chapter to provide emergency medical services, or a physician assistant, shall retain full professional and personal responsibility for any act that constitutes the
practice of medicine when performed by the certified
person or physician assistant;

(6) Prohibit automated external defibrillation by:

(A) Any first responder personnel certified by the
department of health to provide automated
external defibrillation when it is rendered under
the medical oversight of a physician or
osteopathic physician licensed in this State; or

(B) Any person acting in accordance with section
663-1.5(e); or

(7) Prohibit a radiologist duly licensed to practice
medicine and provide radiology services in another
state from using telehealth while located in this
State to provide radiology services to a patient who
is located in the state in which the radiologist is
licensed. For the purposes of this paragraph:

"Distant site" means the location of the
radiologist delivering services through telehealth at
the time the services are provided.

"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 radiologist through telehealth, including but not limited to a radiologist's or health care provider'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.

"Radiologist" means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.

"Telehealth" means the use of telecommunications, as that term is defined in section 269-1, [including] 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 [to parties separated by distance.] while
a patient is at an originating site and the
radiologist is at a distant site. Standard telephone
contacts, facsimile transmissions, or e-mail texts, in
combination or by themselves, do not constitute a
telehealth service for the purposes of this
paragraph."

SECTION 11. Section 457-2, Hawaii Revised Statutes, is
amended as follows:

1. By adding two new definitions to be appropriately
inserted and to read:

"Distant site" means the location of the nurse delivering
services through telehealth at the time the services are
provided.

"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 nurse through telehealth,
including but not limited to a nurse's or health care provider'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."

2. By amending the definition of "telehealth" to read:

"Telehealth" means the use of [electronic information and
telecommunication technologies] 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, to support long-distance clinical health care[7]
while a patient is at an originating site and the nurse is at a
distant site, patient and professional health-related education,
public health and health administration, to the extent that it
relates to nursing."
SECTION 12. Section 466J-6, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) Any provision in this chapter to the contrary notwithstanding, a license shall not be required for:

(1) A licensed medical practitioner in radiology;

(2) A licensed practitioner of nuclear medicine;

(3) A licensed physician assistant;

(4) A licensed doctor of dentistry;

(5) A licensed dental technician;

(6) A licensed dental hygienist;

(7) A student in an approved school for radiographers, radiation therapists, or nuclear medicine technologists, or in a school of medicine, podiatry, dentistry, or a chiropractic school; provided that the student is operating x-ray machines under the direct supervision of a licensed radiographer, licensed radiation therapist, licensed nuclear medicine technologist, or a qualified person pursuant to this chapter; and

(8) A radiologist duly licensed to practice medicine and radiology services in another state who uses...
telehealth while located in this State to provide radiology services to a patient who is located in the state in which the radiologist is licensed, provided that services provided by telehealth pursuant to this paragraph shall be consistent with all federal and state privacy, security, and confidentiality laws.

For the purposes of this paragraph:

"Distant site" means the location of the radiologist delivering services through telehealth at the time the services are provided.

"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 radiologist through telehealth, including but not limited to a radiologist's or health care provider'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.
"Radiologist" means a doctor of medicine or a doctor of osteopathy certified in radiology by the American Board of Radiology or the American Board of Osteopathy.

"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 purpose of delivering enhanced health care services and information [to parties separated by distance] while a patient is at an originating site and the radiologist is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail texts, in
combination or by themselves, do not constitute a
telehealth service for the purposes of this
paragraph."

SECTION 13. Notwithstanding any other law to the contrary,
the reimbursement for telehealth services required under
sections 6, 7, and 8 of this Act shall apply to all health
benefits plans under chapter 87A, Hawaii Revised Statutes,
issued, renewed, modified, altered, or amended on or after the
effective date of this Act.

SECTION 14. This Act does not affect rights and duties
that matured, penalties that were incurred, and proceedings that
were begun before its effective date.

SECTION 15. Statutory material to be repealed is bracketed
and stricken. New statutory material is underscored.

SECTION 16. This Act shall take effect on January 1, 2017.

APPROVED this 7 day of JUL, 2016

GOVERNOR OF THE STATE OF HAWAII