



GOV. MSG. NO. 1328

EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

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:

SB2395 SD1 HD2 CD1

RELATING TO TELEHEALTH
ACT 226 (16)

Sincerely,

A handwritten signature in black ink that reads "David Y. Ige".

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:

1 SECTION 1. The legislature finds that telehealth has
2 allowed states to implement innovative health policy reforms
3 that achieve significant cost savings and improve health
4 outcomes. There are many opportunities for improving health
5 care access in Hawaii through the use of telehealth, especially
6 in areas of the State faced with a shortage of health care
7 providers.

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

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

- 15 (1) Requiring the State's medicaid managed care and fee-
16 for-service programs to cover services provided
17 through telehealth;



- 1 (2) Specifying that any telehealth services provided shall
- 2 be consistent with all federal and state privacy,
- 3 security, and confidentiality laws;
- 4 (3) Specifying medical professional liability insurance
- 5 policy requirements with regard to telehealth
- 6 coverage;
- 7 (4) Clarifying that reimbursement for services provided
- 8 through telehealth shall be equivalent to
- 9 reimbursement for the same services provided via face-
- 10 to-face contact between a health care provider and a
- 11 patient;
- 12 (5) Requiring written disclosure of coverages and benefits
- 13 associated with telehealth services;
- 14 (6) Ensuring that telehealth encompasses store and forward
- 15 technologies, remote monitoring, live consultation,
- 16 and mobile health;
- 17 (7) Ensuring that telehealth is covered when originating
- 18 in a patient's home and other non-medical
- 19 environments;



1 (8) Clarifying requirements for physicians and out-of-
2 state physicians to establish a physician-patient
3 relationship via telehealth;

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

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

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

12 "§346- Coverage for telehealth. (a) The State's
13 medicaid managed care and fee-for-service programs shall not
14 deny coverage for any service provided through telehealth that
15 would be covered if the service were provided through in-person
16 consultation between a patient and a health care provider.

17 (b) Reimbursement for services provided through telehealth
18 shall be equivalent to reimbursement for the same services
19 provided via face-to-face contact between a health care provider
20 and a patient. Nothing in this section shall require a health
21 care provider to be physically present with the patient at an



1 originating site unless a health care provider at the distant
2 site deems it necessary.

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

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

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

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

16 (g) For the purposes of this section:

17 "Distant site" means the location of the health care
18 provider delivering services through telehealth at the time the
19 services are provided.

20 "Health care provider" means a provider of services, as
21 defined in title 42 United States Code section 1395x(u), a



1 provider of medical and other health services, as defined in
 2 title 42 United States Code section 1395x(s), other
 3 practitioners licensed by the State and working within their
 4 scope of practice, and any other person or organization who
 5 furnishes, bills, or is paid for health care in the normal
 6 course of business, including but not limited to primary care
 7 providers, mental health providers, oral health providers,
 8 physicians and osteopathic physicians licensed under chapter
 9 453, advanced practice registered nurses licensed under chapter
 10 457, psychologists licensed under chapter 465, and dentists
 11 licensed under chapter 448.

12 "Originating site" means the location where the patient is
 13 located, whether accompanied or not by a health care provider,
 14 at the time services are provided by a health care provider
 15 through telehealth, including but not limited to a health care
 16 provider's office, hospital, critical access hospital, rural
 17 health clinic, federally qualified health center, a patient's
 18 home, and other non-medical environments such as school-based
 19 health centers, university-based health centers, or the work
 20 location of a patient.



1 "Telehealth" means the use of telecommunications services,
2 as defined in section 269-1, to encompass four modalities:
3 store and forward technologies, remote monitoring, live
4 consultation, and mobile health; and which shall include but not
5 be limited to real-time video conferencing-based communication,
6 secure interactive and non-interactive web-based communication,
7 and secure asynchronous information exchange, to transmit
8 patient medical information, including diagnostic-quality
9 digital images and laboratory results for medical interpretation
10 and diagnosis, for the purpose of delivering enhanced health
11 care services and information while a patient is at an
12 originating site and the health care provider is at a distant
13 site. Standard telephone contacts, facsimile transmissions, or
14 e-mail text, in combination or by itself, does not constitute a
15 telehealth service for the purposes of this section."

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

19 "§457- Telehealth; privacy, security, and
20 confidentiality. Services relating to the practice of nursing
21 provided by telehealth pursuant to this chapter shall be



1 consistent with all federal and state privacy, security, and
2 confidentiality laws."

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

6 "§671- Professional liability insurance; coverage for
7 telehealth. (a) Every insurer providing professional liability
8 insurance for a health care provider shall ensure that every
9 policy that is issued, amended, or renewed in this State on or
10 after the effective date of Act , Session Laws of Hawaii
11 2016, shall provide malpractice coverage for telehealth that
12 shall be equivalent to coverage for the same services provided
13 via face-to-face contact between a health care provider and a
14 patient.

15 (b) No insurer providing professional liability insurance
16 policies shall require face-to-face contact between a health
17 care provider and a patient as a prerequisite for coverage of
18 services appropriately provided through telehealth in accordance
19 with generally accepted health care practices and standards
20 prevailing in the applicable professional community at the time
21 the services were provided. The coverage required in this



1 section may be subject to all terms and conditions of the policy
2 agreed upon between the health care provider and the insurer.

3 (c) For purposes of this section:

4 "Distant site" means the location of the health care
5 provider delivering services through telehealth at the time the
6 services are provided.

7 "Originating site" means the location where the patient is
8 located, whether accompanied or not by a health care provider,
9 at the time services are provided by a health care provider
10 through telehealth, including but not limited to a health care
11 provider's office, hospital, critical access hospital, rural
12 health clinic, federally qualified health center, a patient's
13 home, and other non-medical environments such as school-based
14 health centers, university-based health centers, or the work
15 location of a patient.

16 "Telehealth" means the use of telecommunications services,
17 as defined in section 269-1, to encompass four modalities:
18 store and forward technologies, remote monitoring, live
19 consultation, and mobile health; and which shall include but not
20 be limited to real-time video conferencing-based communication,
21 secure interactive and non-interactive web-based communication,



1 and secure asynchronous information exchange, to transmit
 2 patient medical information, including diagnostic-quality
 3 digital images and laboratory results for medical interpretation
 4 and diagnosis, for the purpose of delivering enhanced health
 5 care services and information while a patient is at an
 6 originating site and the health care provider is at a distant
 7 site. Standard telephone contacts, facsimile transmissions, or
 8 e-mail text, in combination or by itself, does not constitute a
 9 telehealth service for the purposes of this section."

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

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

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

18 "§431:10A-116.3 Coverage for telehealth. (a) It is the
 19 intent of the legislature to recognize the application of
 20 telehealth as a reimbursable service by which an individual



1 shall receive medical services from a health care provider
2 without face-to-face contact with the health care provider.

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

13 (c) Reimbursement for services provided through telehealth
14 shall be equivalent to reimbursement for the same services
15 provided via face-to-face contact between a health care provider
16 and a patient. ~~[There shall be no reimbursement for a
17 telehealth consultation between health care providers unless a
18 health care provider patient relationship exists between the
19 patient and one of the health care providers involved in the
20 telehealth interaction and the patient is accompanied by a
21 treating health care provider at the time telehealth services~~



1 ~~are provided by the consulting health care provider, provided~~
2 ~~that when behavioral health services are provided, a second~~
3 ~~health care provider shall not be required to accompany the~~
4 ~~patient.~~

5 ~~For the purposes of this section, "health care provider"~~
6 ~~means a provider of services, as defined in 42 U.S.C. 1395x(u),~~
7 ~~a provider of medical and other health services, as defined in~~
8 ~~42 U.S.C. 1395x(s), and any other person or organization who~~
9 ~~furnishes, bills, or is paid for health care in the normal~~
10 ~~course of business, including but not limited to primary care~~
11 ~~providers, mental health providers, oral health providers,~~
12 ~~physicians and osteopathic physicians licensed under chapter~~
13 ~~453, advanced practice registered nurses licensed under chapter~~
14 ~~457, psychologists licensed under chapter 465, and dentists~~
15 ~~licensed under chapter 448.] Nothing in this section shall~~
16 ~~require a health care provider to be physically present with the~~
17 ~~patient at an originating site unless a health care provider at~~
18 ~~the distant site deems it necessary.~~

19 (d) Notwithstanding chapter 453 or rules adopted pursuant
20 thereto, in the event that a health care provider-patient
21 relationship does not exist between the patient and the health



1 care provider to be involved in a telehealth interaction between
2 the patient and the health care provider, a telehealth mechanism
3 may be used to establish a health care provider-patient
4 relationship.

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

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

17 [~~e~~] (g) For the purposes of this section[
18 "telehealth"]:

19 "Distant site" means the location of the health care
20 provider delivering services through telehealth at the time the
21 services are provided.



1 "Health care provider" means a provider of services, as
2 defined in title 42 United States Code section 1395x(u), a
3 provider of medical and other health services, as defined in
4 title 42 United States Code section 1395x(s), other
5 practitioners licensed by the State and working within their
6 scope of practice, and any other person or organization who
7 furnishes, bills, or is paid for health care in the normal
8 course of business, including but not limited to primary care
9 providers, mental health providers, oral health providers,
10 physicians and osteopathic physicians licensed under chapter
11 453, advanced practice registered nurses licensed under chapter
12 457, psychologists licensed under chapter 465, and dentists
13 licensed under chapter 448.

14 "Originating site" means the location where the patient is
15 located, whether accompanied or not by a health care provider,
16 at the time services are provided by a health care provider
17 through telehealth, including but not limited to a health care
18 provider's office, hospital, health care facility, a patient's
19 home, and other non-medical environments such as school-based
20 health centers, university-based health centers, or the work
21 location of a patient.



1 "Telehealth" means the use of telecommunications services,
2 as defined in section 269-1, [~~including~~] to encompass four
3 modalities: store and forward technologies, remote monitoring,
4 live consultation, and mobile health; and which shall include
5 but not be limited to real-time video conferencing-based
6 communication, secure interactive and non-interactive web-based
7 communication, and secure asynchronous information exchange, to
8 transmit patient medical information, including diagnostic-
9 quality digital images and laboratory results for medical
10 interpretation and diagnosis, for the purpose of delivering
11 enhanced health care services and information [~~to parties~~
12 separated by distance.] while a patient is at an originating
13 site and the health care provider is at a distant site.
14 Standard telephone contacts, facsimile transmissions, or e-mail
15 text, in combination or by itself, does not constitute a
16 telehealth service for the purposes of this chapter."

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

19 "§432:1-601.5 Coverage for telehealth. (a) It is the
20 intent of the legislature to recognize the application of
21 telehealth as a reimbursable service by which an individual



1 shall receive medical services from a health care provider
2 without face-to-face contact with the health care provider.

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

13 (c) Reimbursement for services provided through telehealth
14 shall be equivalent to reimbursement for the same services
15 provided via face-to-face contact between a health care provider
16 and a patient. ~~[There shall be no reimbursement for a
17 telehealth consultation between health care providers unless a
18 health care provider patient relationship exists between the
19 patient and one of the health care providers involved in the
20 telehealth interaction and the patient is accompanied by a
21 treating health care provider at the time telehealth services~~



1 ~~are provided by the consulting health care provider; provided~~
2 ~~that when behavioral health services are provided, a second~~
3 ~~health care provider shall not be required to accompany the~~
4 ~~patient.~~

5 ~~For the purposes of this section, "health care provider"~~
6 ~~means a provider of services, as defined in 42 U.S.C. 1395x(u),~~
7 ~~a provider of medical or other health services, as defined in 42~~
8 ~~U.S.C. 1395x(s), and any other person or organization who~~
9 ~~furnishes, bills, or is paid for health care in the normal~~
10 ~~course of business, including but not limited to primary care~~
11 ~~providers, mental health providers, oral health providers,~~
12 ~~physicians and osteopathic physicians licensed under chapter~~
13 ~~453, advanced practice registered nurses licensed under chapter~~
14 ~~457, psychologists licensed under chapter 465, and dentists~~
15 ~~licensed under chapter 448.] Nothing in this section shall~~
16 ~~require a health care provider to be physically present with the~~
17 ~~patient at an originating site unless a health care provider at~~
18 ~~the distant site deems it necessary.~~

19 (d) Notwithstanding chapter 453 or rules adopted pursuant
20 thereto, in the event that a health care provider-patient
21 relationship does not exist between the patient and the health



1 care provider to be involved in a telehealth interaction between
2 the patient and health care provider, a telehealth mechanism may
3 be used to establish a health care provider-patient
4 relationship.

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

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

17 [~~e~~] (g) For the purposes of this section[~~r~~
18 "~~telehealth~~"]:

19 "Health care provider" means a provider of services, as
20 defined in title 42 United States Code section 1395x(u), a
21 provider of medical and other health services, as defined in



1 title 42 United States Code section 1395x(s), other
2 practitioners licensed by the State and working within their
3 scope of practice, and any other person or organization who
4 furnishes, bills, or is paid for health care in the normal
5 course of business, including but not limited to primary care
6 providers, mental health providers, oral health providers,
7 physicians and osteopathic physicians licensed under chapter
8 453, advanced practice registered nurses licensed under chapter
9 457, psychologists licensed under chapter 465, and dentists
10 licensed under chapter 448.

11 "Originating site" means the location where the patient is
12 located, whether accompanied or not by a health care provider,
13 at the time services are provided by a health care provider
14 through telehealth, including but not limited to a health care
15 provider's office, hospital, health care facility, a patient's
16 home, and other non-medical environments such as school-based
17 health centers, university-based health centers, or the work
18 location of a patient.

19 "Telehealth" means the use of telecommunications services,
20 as defined in section 269-1, [including] to encompass four
21 modalities: store and forward technologies, remote monitoring,



1 live consultation, and mobile health; and which shall include
2 but not be limited to real-time video conferencing-based
3 communication, secure interactive and non-interactive web-based
4 communication, and secure asynchronous information exchange, to
5 transmit patient medical information, including diagnostic-
6 quality digital images and laboratory results for medical
7 interpretation and diagnosis, for the purpose of delivering
8 enhanced health care services and information [~~to parties~~
9 ~~separated by distance.~~] while a patient is at an originating
10 site and the health care provider is at a distant site.
11 Standard telephone contacts, facsimile transmissions, or e-mail
12 text, in combination or by itself, does not constitute a
13 telehealth service for the purposes of this chapter."

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

16 "§432D-23.5 Coverage for telehealth. (a) It is the
17 intent of the legislature to recognize the application of
18 telehealth as a reimbursable service by which an individual
19 shall receive medical services from a health care provider
20 without face-to-face contact with the health care provider.



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

12 (c) Reimbursement for services provided through telehealth
13 shall be equivalent to reimbursement for the same services
14 provided via face-to-face contact between a health care provider
15 and a patient. ~~[There shall be no reimbursement for a~~
16 ~~telehealth consultation between health care providers unless an~~
17 ~~existing health care provider-patient relationship exists~~
18 ~~between the patient and one of the health care providers~~
19 ~~involved in the telehealth interaction and the patient is~~
20 ~~accompanied by a treating health care provider at the time~~
21 ~~telehealth services are provided by the consulting health care~~



1 ~~provider, provided that when behavioral health services are~~
2 ~~provided, a second health care provider shall not be required to~~
3 ~~accompany the patient.~~

4 ~~For the purposes of this section, "health care provider"~~
5 ~~means a provider of services, as defined in 42 U.S.C. 1395x(u),~~
6 ~~a provider of medical or other health services, as defined in 42~~
7 ~~U.S.C. 1395x(s), and any other person or organization who~~
8 ~~furnishes, bills, or is paid for health care in the normal~~
9 ~~course of business, including but not limited to primary care~~
10 ~~providers, mental health providers, oral health providers,~~
11 ~~physicians and osteopathic physicians licensed under chapter~~
12 ~~453, advanced practice registered nurses licensed under chapter~~
13 ~~457, psychologists licensed under chapter 465, and dentists~~
14 ~~licensed under chapter 448.] Nothing in this section shall~~
15 ~~require a health care provider to be physically present with the~~
16 ~~patient at an originating site unless a health care provider at~~
17 ~~the distant site deems it necessary.~~

18 (d) Notwithstanding chapter 453 or rules adopted pursuant
19 thereto, in the event that a health care provider-patient
20 relationship does not exist between the patient and the health
21 care provider involved in a telehealth interaction between the



1 patient and the health care provider, a telehealth mechanism may
2 be used to establish a health care provider-patient
3 relationship.

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

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

16 ~~[(e)]~~ (g) For the purposes of this section⁷
17 ~~“telehealth”~~]:

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



1 "Health care provider" means a provider of services, as
2 defined in title 42 United States Code section 1395x(u), a
3 provider of medical and other health services, as defined in
4 title 42 United States Code section 1395x(s), other
5 practitioners licensed by the State and working within their
6 scope of practice, and any other person or organization who
7 furnishes, bills, or is paid for health care in the normal
8 course of business, including but not limited to primary care
9 providers, mental health providers, oral health providers,
10 physicians and osteopathic physicians licensed under chapter
11 453, advanced practice registered nurses licensed under chapter
12 457, psychologists licensed under chapter 465, and dentists
13 licensed under chapter 448.

14 "Originating site" means the location where the patient is
15 located, whether accompanied or not by a health care provider,
16 at the time services are provided by a health care provider
17 through telehealth, including but not limited to a health care
18 provider's office, hospital, health care facility, a patient's
19 home, and other non-medical environments such as school-based
20 health centers, university-based health centers, or the work
21 location of a patient.



1 "Telehealth" means the use of telecommunications services,
2 as defined in section 269-1, [~~including~~] to encompass four
3 modalities: store and forward technologies, remote monitoring,
4 live consultation, and mobile health; and which shall include
5 but not be limited to real-time video conferencing-based
6 communication, secure interactive and non-interactive web-based
7 communication, and secure asynchronous information exchange, to
8 transmit patient medical information, including diagnostic-
9 quality digital images and laboratory results for medical
10 interpretation and diagnosis, for the purpose of delivering
11 enhanced health care services and information [~~to parties~~
12 ~~separated by distance.~~] while a patient is at an originating
13 site and the health care provider is at a distant site.
14 Standard telephone contacts, facsimile transmissions, or e-mail
15 text, in combination or by itself, does not constitute a
16 telehealth service for the purposes of this chapter."

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

19 "§453-1.3 Practice of telehealth. (a) Subject to section
20 453-2(b), nothing in this section shall preclude any physician



1 acting within the scope of the physician's license to practice
2 from practicing telehealth as defined in this section.

3 ~~[(b) For the purposes of this section, "telehealth" means~~
4 ~~the use of telecommunications as that term is defined in section~~
5 ~~269-1, including but not limited to real time video~~
6 ~~conferencing based communication, secure interactive and non-~~
7 ~~interactive web based communication, and secure asynchronous~~
8 ~~information exchange, to transmit patient medical information,~~
9 ~~including diagnostic quality digital images and laboratory~~
10 ~~results for medical interpretation and diagnosis, for the~~
11 ~~purposes of delivering enhanced health care services and~~
12 ~~information to parties separated by distance, establishing a~~
13 ~~physician patient relationship, evaluating a patient, or~~
14 ~~treating a patient.~~

15 ~~(e)]~~ (b) Telehealth 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 contraindications to the
19 treatment recommended or provided.

20 ~~[(d)]~~ (c) Treatment recommendations made via telehealth,
21 including issuing a prescription via electronic means, shall be



1 held to the same standards of appropriate practice as those in
2 traditional physician-patient settings that do not include a
3 face-to-face visit but in which prescribing is appropriate,
4 including on-call telephone encounters and encounters for which
5 a follow-up visit is arranged. Issuing a prescription based
6 solely on an online questionnaire is not treatment for the
7 purposes of this section and does not constitute an acceptable
8 standard of care. For the purposes of prescribing [~~a controlled~~
9 ~~substance,~~] opiates or medical marijuana, a physician-patient
10 relationship shall only be established [~~pursuant to chapter~~
11 ~~329.~~] after an in-person consultation between the prescribing
12 physician and the patient.

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

18 [~~(f)~~] (e) A physician shall not use telehealth to
19 establish a physician-patient relationship with a patient in
20 this State without a license to practice medicine in Hawaii.



1 (f) A physician-patient relationship may be established
2 via telehealth if the patient is referred to the telehealth
3 provider by another health care provider who has conducted an
4 in-person consultation and has provided all pertinent patient
5 information to the telehealth provider. Once a provider-patient
6 relationship is established, a patient or physician licensed in
7 this State may use telehealth for any purpose, including
8 consultation with a medical provider licensed in another state,
9 authorized by this section or as otherwise provided by law.

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

13 [~~g~~] (h) Reimbursement for behavioral health services
14 provided through telehealth shall be equivalent to reimbursement
15 for the same services provided via face-to-face contact between
16 a health care provider and a patient.

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

20 (j) For the purposes of this section:



1 "Distant site" means the location of the physician
2 delivering services through telehealth at the time the services
3 are provided.

4 "Originating site" means the location where the patient is
5 located, whether accompanied or not by a health care provider,
6 at the time services are provided by a physician through
7 telehealth, including but not limited to a physician's office,
8 hospital, health care facility, a patient's home, and other non-
9 medical environments such as school-based health centers,
10 university-based health centers, or the work location of a
11 patient.

12 "Telehealth" means the use of telecommunications as that
13 term is defined in section 269-1, to encompass four modalities:
14 store and forward technologies, remote monitoring, live
15 consultation, and mobile health; and which shall include but not
16 be limited to real-time video conferencing-based communication,
17 secure interactive and non-interactive web-based communication,
18 and secure asynchronous information exchange, to transmit
19 patient medical information, including diagnostic-quality
20 digital images and laboratory results for medical interpretation
21 and diagnosis, for the purposes of: delivering enhanced health



1 care services and information while a patient is at an
2 originating site and the physician is at a distant site;
3 establishing a physician-patient relationship; evaluating a
4 patient; or treating a patient."

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

7 "(b) Nothing herein shall:

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

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

14 (3) Apply to any commissioned medical officer in the
15 United States armed forces or public health service
16 engaged in the discharge of one's official duty,
17 including a commissioned medical officer employed by
18 the United States Department of Defense, while
19 providing direct telehealth support or services to
20 neighbor island beneficiaries within a Hawaii National
21 Guard armory on the island of Kauai, Hawaii, Molokai,



1 or Maui; provided that the commissioned medical
2 officer employed by the United States Department of
3 Defense is credentialed by Tripler Army Medical
4 Center;

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

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

20 (B) The licensed physician or osteopathic physician
21 of this State retains control and remains



1 responsible for the provision of care for the
2 patient who is located in this State; and
3 (C) The laws and rules relating to contagious
4 diseases are not violated;

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



1 practice of medicine when performed by the certified
2 person or physician assistant;

3 (6) Prohibit automated external defibrillation by:

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

9 (B) Any person acting in accordance with section
10 663-1.5(e); or

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

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

20 "Originating site" means the location where the
21 patient is located, whether accompanied or not by a



1 health care provider, at the time services are
2 provided by a radiologist through telehealth,
3 including but not limited to a radiologist's or health
4 care provider's office, hospital, health care
5 facility, a patient's home, and other non-medical
6 environments such as school-based health centers,
7 university-based health centers, or the work location
8 of a patient.

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

13 "Telehealth" means the use of telecommunications,
14 as that term is defined in section 269-1, [~~including~~]
15 to encompass four modalities: store and forward
16 technologies, remote monitoring, live consultation,
17 and mobile health; and which shall include but not be
18 limited to real-time video conferencing-based
19 communication, secure interactive and non-interactive
20 web-based communication, and secure asynchronous
21 information exchange, to transmit patient medical



1 information, including diagnostic-quality digital
2 images and laboratory results for medical
3 interpretation and diagnosis, for the purpose of
4 delivering enhanced health care services and
5 information [~~to parties separated by distance.~~] while
6 a patient is at an originating site and the
7 radiologist is at a distant site. Standard telephone
8 contacts, facsimile transmissions, or e-mail texts, in
9 combination or by themselves, do not constitute a
10 telehealth service for the purposes of this
11 paragraph."

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

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

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

19 "Originating site" means the location where the patient is
20 located, whether accompanied or not by a health care provider,
21 at the time services are provided by a nurse through telehealth,



1 including but not limited to a nurse's or health care provider's
2 office, hospital, health care facility, a patient's home, and
3 other non-medical environments such as school-based health
4 centers, university-based health centers, or the work location
5 of a patient."

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

7 "Telehealth" means the use of [electronic information and
8 telecommunication technologies] telecommunications as that term
9 is defined in section 269-1, to encompass four modalities:
10 store and forward technologies, remote monitoring, live
11 consultation, and mobile health; and which shall include but not
12 be limited to real-time video conferencing-based communication,
13 secure interactive and non-interactive web-based communication,
14 and secure asynchronous information exchange, to transmit
15 patient medical information, including diagnostic-quality
16 digital images and laboratory results for medical interpretation
17 and diagnosis, to support long-distance clinical health care[7]
18 while a patient is at an originating site and the nurse is at a
19 distant site, patient and professional health-related education,
20 public health and health administration, to the extent that it
21 relates to nursing."



1 SECTION 12. Section 466J-6, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

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

- 5 (1) A licensed medical practitioner in radiology;
- 6 (2) A licensed practitioner of nuclear medicine;
- 7 (3) A licensed physician assistant;
- 8 (4) A licensed doctor of dentistry;
- 9 (5) A licensed dental technician;
- 10 (6) A licensed dental hygienist;
- 11 (7) A student in an approved school for radiographers,
12 radiation therapists, or nuclear medicine
13 technologists, or in a school of medicine, podiatry,
14 dentistry, or a chiropractic school; provided that the
15 student is operating x-ray machines under the direct
16 supervision of a licensed radiographer, licensed
17 radiation therapist, licensed nuclear medicine
18 technologist, or a qualified person pursuant to this
19 chapter; and
- 20 (8) A radiologist duly licensed to practice medicine and
21 radiology services in another state who uses



1 telehealth while located in this State to provide
2 radiology services to a patient who is located in the
3 state in which the radiologist is licensed[-];
4 provided that services provided by telehealth pursuant
5 to this paragraph shall be consistent with all federal
6 and state privacy, security, and confidentiality laws.

7 For the purposes of this paragraph:

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

11 "Originating site" means the location where the
12 patient is located, whether accompanied or not by a
13 health care provider, at the time services are
14 provided by a radiologist through telehealth,
15 including but not limited to a radiologist's or health
16 care provider's office, hospital, health care
17 facility, a patient's home, and other non-medical
18 environments such as school-based health centers,
19 university-based health centers, or the work location
20 of a patient.



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

5 "Telehealth" means the use of telecommunications,
6 as that term is defined in section 269-1, [~~including~~]
7 to encompass four modalities: store and forward
8 technologies, remote monitoring, live consultation,
9 and mobile health; and which shall include but not be
10 limited to real-time video conferencing-based
11 communication, secure interactive and non-interactive
12 web-based communication, and secure asynchronous
13 information exchange, to transmit patient medical
14 information, including diagnostic-quality digital
15 images and laboratory results for medical
16 interpretation and diagnosis, for the purpose of
17 delivering enhanced health care services and
18 information [~~to parties separated by distance.~~] while
19 a patient is at an originating site and the
20 radiologist is at a distant site. Standard telephone
21 contacts, facsimile transmissions, or e-mail texts, in



1 combination or by themselves, do not constitute a
2 telehealth service for the purposes of this
3 paragraph."

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

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

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

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

APPROVED this 7 day of JUL, 2016



GOVERNOR OF THE STATE OF HAWAII