

JAN 22 2016

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 requirements for an established patient-provider relationship or
11 a face-to-face examination, limitations on patient setting, and
12 restrictions on applicable technology, act as barriers that
13 prevent health care providers and patients from realizing the
14 full benefits of telehealth.

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



- 1 (1) Requiring the State's medicaid managed care and fee-
2 for-service programs to cover services provided
3 through telehealth;
- 4 (2) Specifying medical professional liability insurance
5 policy requirements with regard to telehealth
6 coverage;
- 7 (3) Clarifying requirements for establishing provider-
8 patient relationships for telehealth for purposes of
9 reimbursement;
- 10 (4) Specifying reimbursement requirements for distant site
11 and originating site providers;
- 12 (5) Requiring written disclosure of coverages and benefits
13 associated with telehealth services;
- 14 (6) Ensuring telehealth encompasses store and forward
15 technologies, remote monitoring, live consultation,
16 and mobile health;
- 17 (7) Ensuring telehealth is covered when originating in a
18 patient's home and other non-medical environments;
- 19 (8) Clarifying requirements for physicians and out-of-
20 state physicians to establish a physician-patient
21 relationship via telehealth;



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

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

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

9 "§346- Coverage for telehealth. (a) The State's
10 medicaid managed care and fee-for-service programs shall not
11 deny coverage for services provided through telehealth; provided
12 that the service would be covered if the service were provided
13 through in-person consultation between a patient and a health
14 care provider.

15 (b) Reimbursement for services provided through telehealth
16 shall be equivalent to reimbursement for the same services
17 provided via face-to-face contact between a health care provider
18 and a patient. There shall be no reimbursement for a telehealth
19 consultation between health care providers unless a health care
20 provider-patient relationship exists between the patient and one
21 of the health care providers involved in the telehealth



1 interaction; provided that the health care provider-patient
2 relationship prerequisite shall not apply to telehealth
3 consultations for emergency department services. Nothing in
4 this section shall require a health care provider to be
5 physically present with the patient at an originating site
6 unless a health care provider at the distant site deems it
7 necessary.

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

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

14 (e) For the purposes of this section:

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

18 "Health care provider" means a provider of services, as
19 defined in 42 U.S.C. 1395x(u), a provider of medical and other
20 health services, as defined in 42 U.S.C. 1395x(s), and any other
21 person or organization who furnishes, bills, or is paid for



1 health care in the normal course of business, including but not
2 limited to primary care providers, mental health providers, oral
3 health providers, physicians and osteopathic physicians licensed
4 under chapter 453, advanced practice registered nurses licensed
5 under chapter 457, psychologists licensed under chapter 465, and
6 dentists licensed under chapter 448.

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

13 "§671- Professional liability insurance; coverage for
14 telehealth (a) Every insurer providing professional liability
15 insurance for a health care provider shall ensure that every
16 policy that is issued, amended, or renewed in this State on or
17 after the effective date of this Act shall provide malpractice
18 coverage for telehealth that shall be equivalent to coverage for
19 the same services provided via face-to-face contact between a
20 health care provider and a patient.



1 (b) No insurer providing professional liability insurance
2 policies shall require face-to-face contact between a health
3 care provider and a patient as a prerequisite for coverage of
4 services appropriately provided through telehealth in accordance
5 with generally accepted health care practices and standards
6 prevailing in the applicable professional community at the time
7 the services were provided. The coverage required in this
8 section may be subject to all terms and conditions of the policy
9 agreed upon among the health care provider and the insurer.

10 (c) For purposes of this section:

11 "Distant site" means the location of the health care
12 provider delivering services through telehealth at the time the
13 services are provided.

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, critical access hospital, rural
19 health clinic, federally qualified health center, a patient's
20 home, and other non-medical environments such as school-based



1 health centers, university-based health centers, or the work
2 location of a patient.

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

18 SECTION 4. Section 209E-2, Hawaii Revised Statutes, is
19 amended by amending the definition of "medical and health care
20 services" to read as follows:



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

4 SECTION 5. Section 431:10A-116.3, Hawaii Revised Statutes,
5 is amended to read as follows:

6 "§431:10A-116.3 Coverage for telehealth. (a) It is the
7 intent of the legislature to recognize the application of
8 telehealth as a reimbursable service by which an individual
9 shall receive medical services from a health care provider
10 without face-to-face contact with the provider.

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



1 (c) Reimbursement for services provided through telehealth
2 shall be equivalent to reimbursement for the same services
3 provided via face-to-face contact between a health care provider
4 and a patient. There shall be no reimbursement for a telehealth
5 consultation between health care providers unless a health care
6 provider-patient relationship exists between the patient and one
7 of the health care providers involved in the telehealth
8 interaction [~~and the patient is accompanied by a treating health~~
9 ~~care provider at the time telehealth services are provided by~~
10 ~~the consulting health care provider; provided that when~~
11 ~~behavioral health services are provided, a second health care~~
12 ~~provider shall not be required to accompany the patient.~~

13 ~~For the purposes of this section, "health care provider"~~
14 ~~means a provider of services, as defined in 42 U.S.C. 1395x(u),~~
15 ~~a provider of medical and other health services, as defined in~~
16 ~~42 U.S.C. 1395x(s), and any other person or organization who~~
17 ~~furnishes, bills, or is paid for health care in the normal~~
18 ~~course of business, including but not limited to primary care~~
19 ~~providers, mental health providers, oral health providers,~~
20 ~~physicians and osteopathic physicians licensed under chapter~~
21 ~~453, advanced practice registered nurses licensed under chapter~~



1 ~~457, psychologists licensed under chapter 465, and dentists~~
2 ~~licensed under chapter 448.]~~; provided that the health care
3 provider-patient relationship prerequisite shall not apply to
4 telehealth consultations for emergency department services.

5 Nothing in this section shall require a health care provider to
6 be physically present with the patient at an originating site
7 unless a health care provider at the distant site deems it
8 necessary.

9 (d) The combined amount of reimbursement that an accident
10 and health or sickness insurance plan allows for the
11 compensation to the distant site health care provider and the
12 originating site health care provider shall not be less than the
13 total amount permitted for reimbursement for the same services
14 provided via face-to-face contact between a health care provider
15 and a patient.

16 ~~[(d)]~~ (e) Notwithstanding chapter 453 or rules adopted
17 pursuant thereto, in the event that a health care provider-
18 patient relationship does not exist between the patient and the
19 health care provider to be involved in a telehealth interaction
20 between the patient and the health care provider, a telehealth



1 mechanism may be used to establish a health care provider-
2 patient relationship.

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

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

14 "Distant site" means the location of the health care
15 provider delivering services through telehealth at the time the
16 services are provided.

17 "Health care provider" means a provider of services, as
18 defined in 42 U.S.C. 1395x(u), a provider of medical and other
19 health services, as defined in 42 U.S.C. 1395x(s), and any other
20 person or organization who furnishes, bills, or is paid for
21 health care in the normal course of business, including but not



1 limited to primary care providers, mental health providers, oral
2 health providers, physicians and osteopathic physicians licensed
3 under chapter 453, advanced practice registered nurses licensed
4 under chapter 457, psychologists licensed under chapter 465, and
5 dentists licensed under chapter 448.

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

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



1 quality digital images and laboratory results for medical
2 interpretation and diagnosis, for the purpose of delivering
3 enhanced health care services and information [~~to parties~~
4 ~~separated by distance.~~] while a patient is at an originating
5 site and the health care provider is at a distant site.

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

9 SECTION 6. Section 432:1-601.5, Hawaii Revised Statutes,
10 is amended to read as follows:

11 "§432:1-601.5 Coverage for telehealth. (a) It is the
12 intent of the legislature to recognize the application of
13 telehealth as a reimbursable service by which an individual
14 shall receive medical services from a health care provider
15 without face-to-face contact with the provider.

16 (b) No mutual benefit society plan that is issued,
17 amended, or renewed shall require face-to-face contact between a
18 health care provider and a patient as a prerequisite for payment
19 for services appropriately provided through telehealth in
20 accordance with generally accepted health care practices and
21 standards prevailing in the applicable professional community at



1 the time the services were provided. The coverage required in
2 this section may be subject to all terms and conditions of the
3 plan agreed upon among the enrollee or subscriber, the mutual
4 benefit society, and the provider.

5 (c) Reimbursement for services provided through telehealth
6 shall be equivalent to reimbursement for the same services
7 provided via face-to-face contact between a health care provider
8 and a patient. There shall be no reimbursement for a telehealth
9 consultation between health care providers unless a health care
10 provider-patient relationship exists between the patient and one
11 of the health care providers involved in the telehealth
12 interaction [~~and the patient is accompanied by a treating health~~
13 ~~care provider at the time telehealth services are provided by~~
14 ~~the consulting health care provider; provided that when~~
15 ~~behavioral health services are provided, a second health care~~
16 ~~provider shall not be required to accompany the patient.~~

17 ~~For the purposes of this section, "health care provider"~~
18 ~~means a provider of services, as defined in 42 U.S.C. 1395x(u),~~
19 ~~a provider of medical or other health services, as defined in 42~~
20 ~~U.S.C. 1395x(s), and any other person or organization who~~
21 ~~furnishes, bills, or is paid for health care in the normal~~



1 ~~course of business, including but not limited to primary care~~
2 ~~providers, mental health providers, oral health providers,~~
3 ~~physicians and osteopathic physicians licensed under chapter~~
4 ~~453, advanced practice registered nurses licensed under chapter~~
5 ~~457, psychologists licensed under chapter 465, and dentists~~
6 ~~licensed under chapter 448.]; provided that the health care~~
7 ~~provider-patient relationship prerequisite shall not apply to~~
8 ~~telehealth consultations for emergency department services.~~
9 Nothing in this section shall require a health care provider to
10 be physically present with the patient at an originating site
11 unless a health care provider at the distant site deems it
12 necessary.

13 (d) The combined amount of reimbursement that a mutual
14 benefit society plan allows for the compensation to the distant
15 site health care provider and the originating site health care
16 provider shall not be less than the total amount permitted for
17 reimbursement for the same services provided via face-to-face
18 contact between a health care provider and a patient.

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



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

5 (f) 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 [~~e~~] (g) For the purposes of this section[~~7~~
15 "telehealth"]:

16 "Health care provider" means a provider of services, as
17 defined in 42 U.S.C. 1395x(u), a provider of medical and other
18 health services, as defined in 42 U.S.C. 1395x(s), and any other
19 person or organization who furnishes, bills, or is paid for
20 health care in the normal course of business, including but not
21 limited to primary care providers, mental health providers, oral



1 health providers, physicians and osteopathic physicians licensed
2 under chapter 453, advanced practice registered nurses licensed
3 under chapter 457, psychologists licensed under chapter 465, and
4 dentists licensed under chapter 448.

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

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



1 interpretation and diagnosis, for the purpose of delivering
2 enhanced health care services and information [~~to parties~~
3 ~~separated by distance.~~] while a patient is at an originating
4 site and the health care provider is at a distant site.

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

8 SECTION 7. Section 432D-23.5, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "§432D-23.5 Coverage for telehealth. (a) It is the
11 intent of the legislature to recognize the application of
12 telehealth as a reimbursable service by which an individual
13 shall receive medical services from a health care provider
14 without face-to-face contact with the provider.

15 (b) No health maintenance organization plan that is
16 issued, amended, or renewed shall require face-to-face contact
17 between a health care provider and a patient as a prerequisite
18 for payment for services appropriately provided through
19 telehealth in accordance with generally accepted health care
20 practices and standards prevailing in the applicable
21 professional community at the time the services were provided.



1 The coverage required in this section may be subject to all
2 terms and conditions of the plan agreed upon among the enrollee
3 or subscriber, the health maintenance organization, and the
4 provider.

5 (c) Reimbursement for services provided through telehealth
6 shall be equivalent to reimbursement for the same services
7 provided via face-to-face contact between a health care provider
8 and a patient. There shall be no reimbursement for a telehealth
9 consultation between health care providers unless an existing
10 health care provider-patient relationship exists between the
11 patient and one of the health care providers involved in the
12 telehealth interaction [~~and the patient is accompanied by a~~
13 ~~treating health care provider at the time telehealth services~~
14 ~~are provided by the consulting health care provider; provided~~
15 ~~that when behavioral health services are provided, a second~~
16 ~~health care provider shall not be required to accompany the~~
17 ~~patient.~~

18 ~~For the purposes of this section, "health care provider"~~
19 ~~means a provider of services, as defined in 42 U.S.C. 1395x(u),~~
20 ~~a provider of medical or other health services, as defined in 42~~
21 ~~U.S.C. 1395x(s), and any other person or organization who~~



1 ~~furnishes, bills, or is paid for health care in the normal~~
2 ~~course of business, including but not limited to primary care~~
3 ~~providers, mental health providers, oral health providers,~~
4 ~~physicians and osteopathic physicians licensed under chapter~~
5 ~~453, advanced practice registered nurses licensed under chapter~~
6 ~~457, psychologists licensed under chapter 465, and dentists~~
7 ~~licensed under chapter 448.]; provided that the health care~~
8 ~~provider-patient relationship prerequisite shall not apply to~~
9 ~~telehealth consultations for emergency department services.~~
10 Nothing in this section shall require a health care provider to
11 be physically present with the patient at an originating site
12 unless a health care provider at the distant site deems it
13 necessary.

14 (d) The combined amount of reimbursement that a health
15 maintenance organization plan allows for the compensation to the
16 distant site health care provider and the originating site
17 health care provider shall not be less than the total amount
18 permitted for reimbursement for the same services provided via
19 face-to-face contact between a health care provider and a
20 patient.



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

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

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 42 U.S.C. 1395x(u), a provider of medical and other
3 health services, as defined in 42 U.S.C. 1395x(s), and any other
4 person or organization who furnishes, bills, or is paid for
5 health care in the normal course of business, including but not
6 limited to primary care providers, mental health providers, oral
7 health providers, physicians and osteopathic physicians licensed
8 under chapter 453, advanced practice registered nurses licensed
9 under chapter 457, psychologists licensed under chapter 465, and
10 dentists 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 453-1.3, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "§453-1.3 Practice of telehealth. (a) Subject to section
17 453-2(b), nothing in this section shall preclude any physician
18 acting within the scope of the physician's license to practice
19 from practicing telehealth as defined in this section.

20 [~~(b) For the purposes of this section, "telehealth" means~~
21 ~~the use of telecommunications as that term is defined in section~~



1 ~~269-1, including but not limited to real time video~~
2 ~~conferencing based communication, secure interactive and non-~~
3 ~~interactive web based communication, and secure asynchronous~~
4 ~~information exchange, to transmit patient medical information,~~
5 ~~including diagnostic quality digital images and laboratory~~
6 ~~results for medical interpretation and diagnosis, for the~~
7 ~~purposes of delivering enhanced health care services and~~
8 ~~information to parties separated by distance, establishing a~~
9 ~~physician-patient relationship, evaluating a patient, or~~
10 ~~treating a patient.~~

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

16 ~~[(d)]~~ (c) Treatment recommendations made via telehealth,
17 including issuing a prescription via electronic means, shall be
18 held to the same standards of appropriate practice as those in
19 traditional physician-patient settings that do not include a
20 face-to-face visit but in which prescribing is appropriate,
21 including on-call telephone encounters and encounters for which



1 a follow-up visit is arranged. Issuing a prescription based
2 solely on an online questionnaire is not treatment for the
3 purposes of this section and does not constitute an acceptable
4 standard of care. For the purposes of prescribing a controlled
5 substance, a physician-patient relationship shall be established
6 pursuant to chapter 329.

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

12 ~~[(f)]~~ (e) A physician shall not use telehealth to
13 establish a physician-patient relationship with a patient in
14 this State without a license to practice medicine in Hawaii. An
15 out-of-state physician shall not use telehealth to establish a
16 physician-patient relationship with a patient in this State
17 unless the out-of-state physician has an unrestricted license to
18 practice medicine in the out-of-state physician's state of
19 residence and a board certification in the specialty or
20 subspecialty in which the out-of-state physician practices.



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) For the purposes of this section:

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



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

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



1 establishing a physician-patient relationship; evaluating a
2 patient; or treating a patient."

3 SECTION 9. Section 453-2, Hawaii Revised Statutes, is
4 amended by amending subsection (b) to read as follows:

5 "(b) Nothing herein shall:

- 6 (1) Apply to so-called Christian Scientists; provided that
7 the Christian Scientists practice the religious tenets
8 of their church without pretending a knowledge of
9 medicine or surgery;
- 10 (2) Prohibit service in the case of emergency or the
11 domestic administration of family remedies;
- 12 (3) Apply to any commissioned medical officer in the
13 United States armed forces or public health service
14 engaged in the discharge of one's official duty,
15 including a commissioned medical officer employed by
16 the United States Department of Defense, while
17 providing direct telehealth support or services to
18 neighbor island beneficiaries within a Hawaii National
19 Guard armory on the island of Kauai, Hawaii, Molokai,
20 or Maui; provided that the commissioned medical
21 officer employed by the United States Department of



1 Defense is credentialed by Tripler Army Medical
2 Center;

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

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

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



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

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



- 1 (6) Prohibit automated external defibrillation by:
- 2 (A) Any first responder personnel certified by the
- 3 department of health to provide automated
- 4 external defibrillation when it is rendered under
- 5 the medical oversight of a physician or
- 6 osteopathic physician licensed in this State; or
- 7 (B) Any person acting in accordance with section
- 8 663-1.5(e); or
- 9 (7) Prohibit a radiologist duly licensed to practice
- 10 medicine and provide radiology services in another
- 11 state from using telehealth while located in this
- 12 State to provide radiology services to a patient who
- 13 is located in the state in which the radiologist is
- 14 licensed. For the purposes of this paragraph:
- 15 "Distant site" means the location of the
- 16 radiologist delivering services through telehealth at
- 17 the time the services are provided.
- 18 "Originating site" means the location where the
- 19 patient is located, whether accompanied or not by a
- 20 health care provider, at the time services are
- 21 provided by a radiologist through telehealth,



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

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

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



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

10 SECTION 10. Section 457-2, Hawaii Revised Statutes, is
11 amended as follows:

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

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

17 "Originating site" means the location where the patient is
18 located, whether accompanied or not by a health care provider,
19 at the time services are provided by a nurse through telehealth,
20 including but not limited to a nurse's or health care provider's
21 office, hospital, health care facility, a patient's home, and



1 other non-medical environments such as school-based health
2 centers, university-based health centers, or the work location
3 of a patient."

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

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

20 SECTION 11. Section 466J-6, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:



- 1 "(a) Any provision in this chapter to the contrary
2 notwithstanding, a license shall not be required for:
- 3 (1) A licensed medical practitioner in radiology;
 - 4 (2) A licensed practitioner of nuclear medicine;
 - 5 (3) A licensed physician assistant;
 - 6 (4) A licensed doctor of dentistry;
 - 7 (5) A licensed dental technician;
 - 8 (6) A licensed dental hygienist;
 - 9 (7) A student in an approved school for radiographers,
10 radiation therapists, or nuclear medicine
11 technologists, or in a school of medicine, podiatry,
12 dentistry, or a chiropractic school; provided that the
13 student is operating x-ray machines under the direct
14 supervision of a licensed radiographer, licensed
15 radiation therapist, licensed nuclear medicine
16 technologist, or a qualified person pursuant to this
17 chapter; and
 - 18 (8) A radiologist duly licensed to practice medicine and
19 radiology services in another state who uses
20 telehealth while located in this State to provide
21 radiology services to a patient who is located in the



1 state in which the radiologist is licensed. For the
2 purposes of this paragraph:

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

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

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

20 "Telehealth" means the use of telecommunications,
21 as that term is defined in section 269-1, [~~including~~]



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

19 SECTION 12. Notwithstanding any other law to the contrary,
20 the reimbursement for telehealth services required under
21 sections 5, 6, and 7 of this Act shall apply to all health



S.B. NO. 2395

1 benefits plans under chapter 87A, Hawaii Revised Statutes,
 2 issued, renewed, modified, altered, or amended on or after the
 3 effective date of this Act.

4 SECTION 13. Statutory material to be repealed is bracketed
 5 and stricken. New statutory material is underscored.

6 SECTION 14. This Act shall take effect upon its approval.
 7

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S.B. NO. 2395

Report Title:

Telehealth; Insurance; Medicaid; Covered Services; Liability Insurance; Reimbursement; Disclosure; Requirements; EUTF

Description:

Requires the State's medicaid managed care and fee-for-service programs to cover services provided through telehealth. Specifies medical professional liability insurance policy requirements with regard to telehealth coverage. Clarifies requirements for establishing provider-patient relationships for telehealth for purposes of reimbursement. Specifies reimbursement requirements for distant site and originating site providers. Requires written disclosure of coverages and benefits associated with telehealth services. Ensures telehealth encompasses store and forward technologies, remote monitoring, live consultation, and mobile health. Ensures telehealth is covered when originating in a patient's home and other non-medical environments. Clarifies requirements for physicians and out-of-state physicians to establish a physician-patient relationship via telehealth. Ensures reimbursement requirements for telehealth services apply to all health benefits plans under chapter 87A, Hawaii Revised Statutes. Makes other conforming amendments related to telehealth.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

