

JAN 20 2023

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# A BILL FOR AN ACT

RELATING TO TELEPHONIC SERVICES.

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

1           SECTION 1. Section 346-59.1, Hawaii Revised Statutes, is  
2 amended as follows:

3           1. By amending its title to read:

4           " [f] §346-59.1 [f] Coverage for telehealth."

5           2. By amending subsection (b) to read:

6           "(b) Reimbursement for services provided through  
7 telehealth, including by way of an interactive  
8 telecommunications system, shall be equivalent to reimbursement  
9 for the same services provided via face-to-face contact between  
10 a health care provider and a patient. Nothing in this section  
11 shall require a health care provider to be physically present  
12 with the patient at an originating site unless a health care  
13 provider at the distant site deems it necessary."

14           3. By amending subsection (g) to read:

15           "(g) For the purposes of this section:



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

4 "Health care provider" means a provider of services, as  
5 defined in title 42 United States Code section 1395x(u), a  
6 provider of medical and other health services, as defined in  
7 title 42 United States Code section 1395x(s), other  
8 practitioners licensed by the State and working within their  
9 scope of practice, and any other person or organization who  
10 furnishes, bills, or is paid for health care in the normal  
11 course of business, including but not limited to primary care  
12 providers, mental health providers, oral health providers,  
13 physicians and osteopathic physicians licensed under chapter  
14 453, advanced practice registered nurses licensed under chapter  
15 457, psychologists licensed under chapter 465, and dentists  
16 licensed under chapter 448.

17 "Interactive telecommunications system" means multimedia  
18 communications equipment that includes, at a minimum, audio and  
19 video equipment permitting two-way, real-time interactive  
20 communication between the patient and distant site physician or  
21 practitioner; provided that, for services furnished for purposes



1 of diagnosis, evaluation, or treatment of a mental health  
2 disorder to a patient in their home, interactive  
3 telecommunications may include two-way, real-time audio-only  
4 communication technology if the distant site physician or  
5 practitioner is technically able to use an interactive  
6 telecommunications system but the patient is not capable of, or  
7 does not consent to, the use of video technology; and provided  
8 further that the term shall have the same meaning as the term is  
9 defined in title 42, Code of Federal Regulations section 410.78,  
10 as amended.

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, critical access hospital, rural  
16 health clinic, federally qualified health center, a patient's  
17 home, and other non-medical environments such as school-based  
18 health centers, university-based health centers, or the work  
19 location of a patient.

20 "Telehealth" means the use of telecommunications services,  
21 as defined in section 269-1, to encompass four modalities:



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

15 SECTION 2. Section 431:10A-116.3, Hawaii Revised Statutes,  
 16 is amended as follows:

17 1. By amending subsections (b) and (c) to read:

18 "(b) No policy of accident and health or sickness  
 19 insurance [~~plan~~] that is issued, amended, or renewed shall  
 20 require face-to-face contact between a health care provider and  
 21 a patient as a prerequisite for payment for services



1 appropriately provided through telehealth in accordance with  
2 generally accepted health care practices and standards  
3 prevailing in the applicable professional community at the time  
4 the services were provided. The coverage required in this  
5 section may be subject to all terms and conditions of the [plan]  
6 policy agreed upon among the [~~enrollee or subscriber,~~] the  
7 insured, the insurer, and the health care provider.

8 (c) Reimbursement for services provided through  
9 telehealth, including by way of an interactive  
10 telecommunications system, shall be equivalent to reimbursement  
11 for the same services provided via face-to-face contact between  
12 a health care provider and a patient. Nothing in this section  
13 shall require a health care provider to be physically present  
14 with the patient at an originating site unless a health care  
15 provider at the distant site deems it necessary."

16 2. By amending subsection (g) to read:

17 "(g) For the purposes of this section:

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 "Interactive telecommunications system" means multimedia  
15 communications equipment that includes, at a minimum, audio and  
16 video equipment permitting two-way, real-time interactive  
17 communication between the patient and distant site physician or  
18 practitioner; provided that for services furnished for purposes  
19 of diagnosis, evaluation, or treatment of a mental health  
20 disorder to a patient in their home, interactive  
21 telecommunications may include two-way, real-time audio-only



1 communication technology if the distant site physician or  
2 practitioner is technically able to use an interactive  
3 telecommunications system but the patient is not capable of, or  
4 does not consent to, the use of video technology; and provided  
5 further that the term shall have the same meaning as the term is  
6 defined in title 42, Code of Federal Regulations section 410.78,  
7 as amended.

8 "Originating site" means the location where the patient is  
9 located, whether accompanied or not by a health care provider,  
10 at the time services are provided by a health care provider  
11 through telehealth, including but not limited to a health care  
12 provider's office, hospital, health care facility, a patient's  
13 home, and other nonmedical 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] Except as otherwise provided for in this  
8 section, standard telephone contacts, facsimile transmissions,  
9 or e-mail text, in combination or by itself, does not constitute  
10 a telehealth service for the purposes of this chapter."

11 SECTION 3. Section 432:1-601.5, Hawaii Revised Statutes,  
12 is amended as follows:

13 1. By amending subsections (b) and (c) to read:

14 "(b) No ~~[mutual benefit society]~~ hospital or medical  
15 service plan contract that is issued, amended, or renewed shall  
16 require face-to-face contact between a health care provider and  
17 a patient as a prerequisite for payment for services  
18 appropriately provided through telehealth in accordance with  
19 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 plan  
2 contract agreed upon among the [~~enrollee~~] member or subscriber,  
3 the mutual benefit society, and the health care provider.

4 (c) Reimbursement for services provided through  
5 telehealth, including by way of an interactive  
6 telecommunications system, shall be equivalent to reimbursement  
7 for the same services provided via face-to-face contact between  
8 a health care provider and a patient. Nothing in this section  
9 shall require a health care provider to be physically present  
10 with the patient at an originating site unless a health care  
11 provider at the distant site deems it necessary."

12 2. By amending subsection (e) to read:

13 "(e) All [~~insurers~~] mutual benefit societies shall provide  
14 current and prospective [~~enrollees~~] members or subscribers with  
15 written disclosure of coverages and benefits associated with  
16 telehealth services, including information on copayments,  
17 deductibles, or coinsurance requirements under a policy,  
18 contract, plan, or agreement. The information provided shall be  
19 current, understandable, and available prior to the issuance of  
20 a policy, contract, plan, or agreement, and upon request after  
21 the policy, contract, plan, or agreement has been issued."



1           3. By amending subsection (g) to read:

2           "(g) For the purposes of this section:

3           "Health care provider" means a provider of services, as  
4 defined in title 42 United States Code section 1395x(u), a  
5 provider of medical and other health services, as defined in  
6 title 42 United States Code section 1395x(s), other  
7 practitioners licensed by the State and working within their  
8 scope of practice, 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.

16           "Interactive telecommunications system" means multimedia  
17 communications equipment that includes, at a minimum, audio and  
18 video equipment permitting two-way, real-time interactive  
19 communication between the patient and distant site physician or  
20 practitioner; provided that, for services furnished for purposes  
21 of diagnosis, evaluation, or treatment of a mental health



1 disorder to a patient in their home, interactive  
2 telecommunications may include two-way, real-time audio-only  
3 communication technology if the distant site physician or  
4 practitioner is technically able to use an interactive  
5 telecommunications system but the patient is not capable of, or  
6 does not consent to, the use of video technology; and provided  
7 further that the term shall have the same meaning as the term is  
8 defined in title 42, Code of Federal Regulations section 410.78,  
9 as amended.

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

18 "Telehealth" means the use of telecommunications services,  
19 as defined in section 269-1, to encompass four modalities:  
20 store and forward technologies, remote monitoring, live  
21 consultation, and mobile health; and which shall include but not



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

13 SECTION 4. Section 432D-23.5, Hawaii Revised Statutes, is  
14 amended as follows:

15 1. By amending subsections (b) and (c) to read:

16 "(b) No health maintenance organization policy, contract,  
17 plan, or agreement that is issued, amended, or renewed shall  
18 require face-to-face contact between a health care provider and  
19 a patient as a prerequisite for payment for services  
20 appropriately provided through telehealth in accordance with  
21 generally accepted health care practices and standards



1 prevailing in the applicable professional community at the time  
2 the services were provided. The coverage required in this  
3 section may be subject to all terms and conditions of the  
4 policy, contract, plan, or agreement agreed upon among the  
5 enrollee or subscriber, the health maintenance organization, and  
6 the health care provider.

7 (c) Reimbursement for services provided through  
8 telehealth, including by way of an interactive  
9 telecommunications system, shall be equivalent to reimbursement  
10 for the same services provided via face-to-face contact between  
11 a health care provider and a patient. Nothing in this section  
12 shall require a health care provider to be physically present  
13 with the patient at an originating site unless a health care  
14 provider at the distant site deems it necessary."

15 2. By amending subsection (e) to read:

16 "(e) All health maintenance organizations shall provide  
17 current and prospective [~~insureds~~] enrollees or subscribers with  
18 written disclosure of coverages and benefits associated with  
19 telehealth services, including information on copayments,  
20 deductibles, or coinsurance requirements under a policy,  
21 contract, plan, or agreement. The information provided shall be



1 current, understandable, and available prior to enrollment in a  
2 policy, contract, plan, or agreement and upon request after  
3 enrollment in the policy, contract, plan, or agreement."

4 3. By amending subsection (g) to read:

5 "(g) For the purposes of this section:

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

9 "Health care provider" means a provider of services, as  
10 defined in title 42 United States Code section 1395x(u), a  
11 provider of medical and other health services, as defined in  
12 title 42 United States Code section 1395x(s), other  
13 practitioners licensed by the State and working within their  
14 scope of practice, and any other person or organization who  
15 furnishes, bills, or is paid for health care in the normal  
16 course of business, including but not limited to primary care  
17 providers, mental health providers, oral health providers,  
18 physicians and osteopathic physicians licensed under chapter  
19 453, advanced practice registered nurses licensed under chapter  
20 457, psychologists licensed under chapter 465, and dentists  
21 licensed under chapter 448.



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2 communications equipment that includes, at a minimum, audio and  
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6 of diagnosis, evaluation, or treatment of a mental health  
7 disorder to a patient in their home, interactive  
8 telecommunications may include two-way, real-time audio-only  
9 communication technology if the distant site physician or  
10 practitioner is technically able to use an interactive  
11 telecommunications system but the patient is not capable of, or  
12 does not consent to, the use of video technology; and provided  
13 further that the term shall have the same meaning as the term is  
14 defined in title 42, Code of Federal Regulations section 410.78,  
15 as amended.

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



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

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5 store and forward technologies, remote monitoring, live  
6 consultation, and mobile health; and which shall include but not  
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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]~~ Except as otherwise provided for in this  
16 section, standard telephone contacts, facsimile transmissions,  
17 or e-mail text, in combination or by itself, does not constitute  
18 a telehealth service for the purposes of this chapter."

19 SECTION 5. The department of health, department of human  
20 services, and department of commerce and consumer affairs shall



1 adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to  
2 effectuate the purposes of this Act.

3 SECTION 6. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

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

8 SECTION 8. This Act shall take effect on July 1, 2023.

9

INTRODUCED BY:

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# S.B. NO. 684

**Report Title:**

Insurance; Health Insurers; Mutual Benefit Societies; Health Maintenance Organizations; Behavioral Health; Telephonic Services; Telehealth

**Description:**

Conforms existing Medicaid requirements to health insurers, mutual benefit societies, and health maintenance organizations to cover services provided through telehealth, including by way of an interactive telecommunications system. Defines "interactive telecommunications system" to match the 2022 Medicare physician fee schedule final rule.

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

