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Testimony of the Department of Commerce and Consumer Affairs

**Before the
Senate Committee on Commerce and Consumer Protection
Thursday, February 20, 2025
9:30 a.m.
State Capitol, Conference Room 229 & via Videoconference**

**On the following measure:
S.B. 1281, S.D. 1, RELATING TO TELEHEALTH**

WRITTEN TESTIMONY ONLY

Chair Keohokalole and Members of the Committee:

My name is Jerry Bump, and I am the Acting Insurance Commissioner for the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department appreciates the intent and offers comments on this bill.

The purpose of this bill is to (1) update the State's laws on telehealth services to conform with federal Medicare regulations; (2) require the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services; and (3) repeal the sunset date of Act 107, Session Laws of Hawai'i 2023.

The Insurance Division supports efforts to improve access to health care services. Regarding the bill's requirement that the Insurance Commissioner prepare and submit to the Legislature a report that contains "a summary of the telehealth claims reimbursed during the preceding year," the Insurance Division will need the explicit

authority to collect telehealth claims reimbursement data from the health insurers and would require resources and staffing to carry out its intent to collect and summarize telehealth claims data (Page 20, line 20 to Page 21, lines 1-9) in an annual report.

Thank you for the opportunity to testify.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

S.B. NO. 1281, S.D. 1, RELATING TO TELEHEALTH.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Thursday, February 20, 2025 **TIME:** 9:30 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Andrew I. Kim,
Deputy Attorney General, at 808-586-1180)

Chair Keohokalole and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill updates the State's laws on telehealth services, requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services, and repeals the sunset date of Act 107, Session Laws of Hawaii 2023.

We recommend adding a new section after section 9 to protect the bill against potential contractual impairment issues. The requirements under this bill may affect existing contractual obligations between parties on reimbursement for services provided through telehealth, potentially conflicting with the Contract Clause of the United States Constitution (U.S. Const. art. I, § 10, cl. 1). To mitigate any possible issues, we recommend inserting the following wording after page 21, line 20:

SECTION 10. This Act shall not be applied so as to impair any contract existing as of the effective date of this Act in a manner violative of either the Constitution of the State of Hawaii or Article I, Section 10, of the United States Constitution.

The current sections 10 and 11 should then be renumbered accordingly. Thank you for the opportunity to provide comments.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



RYAN I. YAMANE
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
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TRISTA SPEER
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

February 17, 2025

TO: The Honorable Senator Jarrett Keohokalole, Chair
Senate Committee on Commerce and Consumer Protection

FROM: Ryan I. Yamane, Director

SUBJECT: **SB 1281 SD1 – RELATING TO TELEHEALTH.**

Hearing: Thursday, February 20, 2025, Time 9:30 a.m.
Conference Room 229 & Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) provides comments with concerns about this bill. Please note that our comments pertain to Section 1 only, which applies to DHS.

PURPOSE: Updates the State's laws on telehealth services to conform with federal Medicare regulations. Requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services. Repeals the sunset date of Act 107, Session Laws of Hawai'i 2023. Effective 12/31/2050. (SD1).

The Senate Committee on Health and Human Services amended the bill by:

- (1) Removing language in the definition of "interactive telecommunications system" that would have allowed a patient to not consent to the use of video technology and instead utilize two-way, real-time, audio-only communication technology for any telehealth service;
- (2) Inserting an effective date of December 31, 2050, to encourage further discussion; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and consistency.

DHS fully supports telehealth to expand access to care. This also includes supporting two-way, real-time, audio-only telehealth under specific conditions. However, DHS does not support financial parity for all audio-only telehealth services, which the proposed amendments in this bill would do. DHS would support an extension of the current telehealth law given the uncertainty regarding Medicare telehealth laws and rules, as well as the ongoing discussions regarding telehealth.

The proposed amendments purport to align with Medicare's telehealth rules. However, the bill would codify temporary Medicare changes that became effective on January 1 and telehealth exceptions and flexibilities that are set to expire on March 31, 2025. Also, the effect of the proposed amendments would be 1) to expand to the use of audio-only calls to all clinical services, 2) consider audio-only to be the clinical equivalent of an in-person, face-to-face visit, and 3) reimbursement parity for audio-only services to in-person face-to-face visits.

DHS recommends thoughtful adoption of amendments to the telehealth law given the many uncertainties of rapidly changing Medicare telehealth laws, the lack of clear clinical data supporting the expansion of audio-only communication technology (e.g., telephone calls) for all services beyond what is covered today (e.g., mental health and substance use treatment), and the differing perspectives on financial parity for all telehealth modalities. For these reasons, DHS has concerns regarding the proposed significant changes to the telehealth law.

For the Medicaid QUEST Integration program, current Hawaii law only allows and reimburses at financial parity for audio-only for specific services - mental health and substance use disorder services. Also, when using the audio-only modality, the service must meet Medicare's telehealth general rules codified in Title 42 Code of Federal Regulations (CFR) section 410.78, which includes definitions and general rules.

For further consideration in aligning with the Medicare rules, notably, the Medicare rules must be taken in their totality, and context. Medicare has updated its definition of interactive communications in CFR 410.78 (a). However, it has not made changes to the general rules that include types of services that could be provided via telehealth modalities when being provided in the patient's home (CFR 410.78 (b)), other than continuing some flexibilities from the COVID-19 pandemic. These flexibilities are set to expire March 31,

2025. Thus, changes to the Hawaii law to conform with Medicare telehealth laws that are set to expire would be premature at this time.

Medicare regulations allow telehealth at the originating site (the location of the patient receiving the service) in a broad range of clinical settings but limit the kinds of health care services that can be provided in the home to only mental health services, substance use disorder services and end-stage renal dialysis (CFR 410.78 (b) (3) (x) (xii) and (xiv) bold emphasis added):

(3) The services are furnished to a beneficiary at an originating site, which is one of the following:

.....

(x) The **home of an individual** (only for purposes of the home dialysis ESRD-related clinical assessment in section 1881(b)(3)(B) of the Act).

.....

(xii) The **home of an individual** (only for purposes of treatment of a substance use disorder or a co-occurring mental health disorder, furnished on or after July 1, 2019, to an individual with a substance use disorder diagnosis.

.....

(xiv) The **home of a beneficiary** for the purposes of diagnosis, evaluation, and/or treatment of a mental health disorder for services that are furnished during the period beginning on the first day after the end of the emergency period as defined in our regulation at § 400.200 and ending on December 31, 2024, except as otherwise provided in this paragraph.

Starting April 1, 2025, the Medicare flexibilities on originating sites, the kinds of services that can be provided, and expanded audio-only modalities will end. Thus, although the Medicare definition of interactive communications has been changed to delete reference to limiting audio-only services to mental/behavioral health services, the flexibilities that expanded access to allow telehealth to be provided for a broad range of medical services in a patient's home are due to expire.

Additionally, regarding paying for telehealth services at financial parity, it is notable that Medicare does not pay parity to all providers for services provided via telehealth; there are special payment terms for Federally Qualified Health Centers (FQHC). Specifically, FQHCs are not reimbursed for services provided via telehealth using the prospective payment system (PPS); instead, they are reimbursed at the regular Medicare Physician Fee Schedule per the Social Security Act (SSA) section 1834(m)(8)(B).

Social Security Act, Section 1834(m)(8)(B)

Special payment rule

i. In general

The Secretary shall develop and implement payment methods that apply under this subsection to a Federally qualified health center or rural health clinic that serves as a distant site that furnishes a telehealth service to an eligible telehealth individual during the periods for which subparagraph (A) applies. Such payment methods shall be based on payment rates that are similar to the national average payment rates for comparable telehealth services under the physician fee schedule under section 1395w-4 of this title. Notwithstanding any other provision of law, the Secretary may implement such payment methods through program instruction or otherwise.

ii. Exclusion from FQHC PPS calculation and RHC air calculation

Costs associated with telehealth services shall not be used to determine the amount of payment for Federally qualified health center services under the prospective payment system under subsection (o) or for rural health clinic services under the methodology for all-inclusive rates (established by the Secretary) under section 1395l(a)(3) of this title.

On the other hand, Medicaid does reimburse FQHCs using prospective payment rates (PPS) rates. As background, a PPS rate pays the same amount for each eligible encounter regardless of the service. For example, currently, several FQHC's PPS rate is about \$400 per encounter. The FQHCs are reimbursed that \$400 rate whether an individual receives multiple different services for an hour in the clinic setting, or they receive a 15-minute audio-only call.

Med-QUEST (MQD) pays PPS rates for care provided via all telehealth modalities, unlike Medicare. However, as noted above, audio-only is limited to only behavioral health services. MQD requests that if audio-only modality is allowed for clinical services and not limited to the current mental health and substance use treatment services, that financial parity not be mandated for all audio-only telehealth services for all providers.

Finally, as further background, Hawaii's telehealth laws applicable to Medicaid are less restrictive than Medicare in the types of services allowed, and with no geographic or originating site restrictions. As long as the health care services are clinically appropriate using a telehealth modality and that the healthcare service can be provided in a location assuring the appropriate privacy and safety of the individual, audio-visual telehealth visits are allowed.

Of note, however, when Hawaii's telehealth laws, including section 346-59.1, HRS, were amended in recent years, the agreement among the various impacted parties at that time was to limit audio-only telehealth modality to mental health and substance use disorder services, which is similar to Medicare. As noted above, if the audio-only modality were to be broadened

February 17, 2025

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to all health services despite Medicare's limitations and expiring flexibilities on audio-only modalities, MQD would not support full financial parity for audio-only modality given Medicare's laws and the lack of data regarding clinical outcomes and costs.

Thank you for the opportunity to offer comments on this measure.



UNIVERSITY OF HAWAII SYSTEM

‘ŌNAEHANA KULANUI O HAWAII

Legislative Testimony

Hō'ike Mana'o I Mua O Ka 'Aha'ōlelo

Testimony Presented Before the
Senate Committee on Commerce and Consumer Protection
Thursday, February 20, 2025 at 9:30 a.m.

By

T. Samuel Shomaker, Dean
John A. Burns School of Medicine

And

Michael Bruno, Provost
University of Hawai'i at Mānoa

SB 1281 SD1 – RELATING TO TELEHEALTH

Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

Thank you for the opportunity to provide **comments** on SB 1281 SD1 which updates the laws on telehealth services to conform with federal Medicare regulations specifically regarding audio-only interactive telecommunication services for behavioral mental health. The bill also requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services.

We acknowledge the intent of this measure to support communities most affected by healthcare disparities. However, the current uncertainty surrounding Federal government policies and Centers for Medicare and Medicaid Services (CMS) regulations suggests that SB 1281 SD1 may not be timely. Additionally, we have been working with partners to gain more clarity on this issue, and rather than proceeding with, SB 1281 SD1 we propose extending Act 107, SLH 2023, which is currently scheduled to sunset on December 31, 2025, through December 31, 2026. Doing so would give Hawai'i time to adjust to new federal policies that may be implemented and/or clarified. Numerous telehealth initiatives in Hawai'i are successfully improving access to care in various settings, including libraries, community centers, homeless shelters, churches, and through street medicine, to name a few. Extending Act 107 will provide the flexibility to continue these programs beyond December 31, 2025 in light of the uncertainty at the Federal level.

Since 1999, the use and expansion of telehealth services and technology in Hawaii have been recognized as a way to increase access and reduce delays to health care, particularly in rural areas of the state. Many of the highest-risk patients reside in Medically Underserved Areas (MUA), are part of Medically Underserved Populations (MUP), or reside in federally-designated health professional shortage areas. Telehealth communication in any media form, including via telephonic communication, benefits many in these communities. Elderly, as well as medically- and socially-complex patients often face transportation barriers and difficulty navigating our collective system

of health care. Patients with behavioral health issues are especially vulnerable and frequently require immediate attention. The inability of behavioral health and other patients to access the internet or to navigate complicated video platforms presents an even greater barrier to much-needed health care.

However, as currently drafted, the bill introduces a new restriction that would prohibit the use of telehealth to establish care. This would be a significant step backward in Hawaii's telehealth policy, creating unnecessary barriers to care for those in rural or remote areas of the State or who face limited access to transportation.

One of the realities for Hawai'i is that many of those most in need of telephonic care (limited means to travel, poor or absent internet coverage or bandwidth, residence remote from care providers, infirm with limited cognition or digital literacy, immune compromise in the age of COVID, etc.) suffer the most from a lack of provider reimbursement for telephonic coverage. We believe a telehealth environment in Hawai'i that allows patients the ability to access behavioral as well as other health services remotely would provide greater access to healthcare.

Thank you for the opportunity to provide testimony on this bill.



February 20, 2025 at 9:30 am
Conference Room 229

Senate Committee on Commerce and Consumer Protection

To: Chair Jarrett Keohokalole
Vice Chair Carol Fukunaga

From: Paige Heckathorn Choy
AVP, Government Affairs
Healthcare Association of Hawaii

Re: **Submitting Comments**
SB 1281 SD 1, Relating to Telehealth

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 30,000 people statewide.

Thank you for the opportunity to provide **comments** on this measure. The Association supports expanding telehealth access, which is critical to improving healthcare accessibility across our state. Telehealth has been a proven and effective tool for expanding healthcare access, and many states have recognized the importance of maintaining flexible telehealth options, particularly for underserved populations. *However, rather than advancing new legislation at this time, we believe the best approach would be to extend the current policy for one more year.*

There are significant changes happening at the federal level regarding telehealth, and having additional time to understand how Congress and the administration plan to address these issues would provide valuable clarity. This extra time would allow Hawaii to make informed, long-term policy decisions that align with federal developments and ensure the best possible access to telehealth for our residents.

Thank you for the opportunity to comment on this measure and for the legislature's continued commitment to expanding telehealth access in the state.



SB1281 SD1 Telehealth
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Thursday, Feb 20, 2025: 9:30: Room 229 Videoconference

Hawaii Substance Abuse Coalition Supports SB1281 SD1:

ALOHA CHAIR, VICE CHAIR, AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies and recovery-oriented services.

We support changes to Hawaii's law to match Medicare standards to address the full spectrum telehealth needs.

The use of "two-way, real-time audio-only communication technology" is Medicare's description of telephone calls specific to the treatment of a mental health disorder. Further, we would note that Medicare only allows telehealth under certain additional conditions.

Telehealth

Telehealth is not meant to totally replace face to face for those who have more chronic conditions, but it certainly allows us to treat more people who need services that otherwise would not have access to services, especially for rural areas.

U.S. Congress has stated that preliminary evaluations have demonstrated that telehealth and when needed telephonic practices does save money and improve care:

- Especially for the elderly and behavioral health,
- For checkups for both specialty care and primary care.
- In certain cases, it's more efficient use of time for care givers and patients.

Telephone services are an integral part of Medicaid and Medicare and with this legislation it can be for commercial plans too, subject to financing and authorization.



People with chronic conditions need follow-up care to prevent ongoing ER and hospital care, but if they have limited access to care, then Telehealth is crucial and if not available, then telephonic care becomes essential.

We appreciate the opportunity to provide testimony and are available for further



American Cancer Society
Cancer Action Network
2370 Nuʻuanu Avenue
Honolulu, HI 96817
808.460.6109

Senate Committee on Commerce & Consumer Protection
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

Hearing Date: Thursday, February 20, 2025

ACS CAN SUPPORTS SB 1281 SD1 – RELATING TO TELEHEALTH.

Cynthia Au, Government Relations Director – Hawaii Guam
American Cancer Society Cancer Action Network

Thank you for the opportunity to **SUPPORT the Intent** SB 1281 HD1 – RELATING TO TELEHEALTH.

The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, non-partisan advocacy affiliate of the American Cancer Society advocates for public policies that reduce death and suffering from cancer. ACS CAN works with federal, state, and local government bodies to support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

ACS CAN recognizes that telehealth increases access to quality cancer care among populations that are underserved (e.g., residents of rural communities, individuals with limited income, patients with low health literacy, and people of color). It is especially important for access to healthcare services in rural areas or areas on the neighbor islands with limited broadband access. Audio only telehealth can also improve health outcomes.

A particular benefit of telehealth emerged during the coronavirus pandemic - cancer patients vulnerable to COVID-19 could conduct a video or audio visit with their providers from the safety of their home without risking additional exposure to the virus. The pandemic has demonstrated the importance of adaptable policies around telehealth that allow patients to reap the optimal benefits of telehealth.

ACS CAN, through the Survivor Views program, asked a cohort of cancer patients and survivors about their experience with and interest in telehealth. Overwhelming majorities of cancer patients and survivors who have had telehealth visits believed their issues and questions were well-addressed. 55% of respondents had a phone visit and 43% had a video visit with a telehealth provider about an issue related to their cancer care that otherwise would have been an in-person office visit (not a prescription refill or appointment booking). In both cases, 94% said their issues and questions were addressed well.ⁱ

Thank you again for the opportunity to provide testimony to SUPPORT of the intent to continue the conversation. Should you have any questions, please do not hesitate to contact Government Relations Director Cynthia Au at 808.460.6109, or Cynthia.Au@Cancer.org.

ⁱSurvivor Views: Telehealth and Clinical Trials. ACS CAN. Oct. 2021.
https://www.fightcancer.org/sites/default/files/national_documents/survivorviews-telehealth-trials.pdf



**Testimony to the Senate Committee on Commerce and Consumer Protection
Thursday, February 20, 2025; 9:30 a.m.
State Capitol, Conference Room 229
Via Videoconference**

RE: SENATE BILL NO. 1281, SENATE DRAFT 1, RELATING TO TELEHEALTH.

Chair San Buenaventura, Vice Chair Aquino, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS THE INTENT** of Senate Bill No. 1281, Senate Draft 1, RELATING TO TELEHEALTH.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

I. Overview of Bill

The purpose of this bill is to conform the treatment of audio-only, two-way interactive modes of communication for telehealth under private health insurance with Medicare.

This measure was introduced at HPCA's request and was intended to promote a comprehensive and thorough examination of Act 107, Session Laws of Hawaii 2023 (Act 107), in light of the changes made to federal law by the Centers for Medicare and Medicaid Services (CMS) in December 2024. This is necessary because Act 107 is scheduled to sunset on December 31, 2025.

More specifically, this bill would:

- (1) Change the definition of "interactive telecommunications system" from citation to the Medicare Fee Schedule to language found in that law as it was amended on December 9, 2024. This provision would ensure that the definition for this term under Act 107 would not automatically change if an amendment is approved for the Medicare Fee Schedule by CMS. Subsequent amendments to Hawaii Law would only occur through the enactment of a new law by the Hawaii State Legislature;
- (2) Eliminate concessions offered by both the Mental Health Hui (a group representing the Hawaii Primary Care Association, the Hawaii Psychological Association, the National Association of Social Workers, the Hawaii Substance Abuse Coalition, AARP, the American Cancer Society Cancer Action Center, the Hawaii Parkinson's Association, the Epilepsy Foundation of Hawaii, and the Alzheimer's Association, among other organizations) and HMSA that led to the agreement that was codified as Act 107:
 - (A) The Mental Health Hui agreed to an 80% cap on reimbursement for audio-only mental health telehealth services.
 - (B) HMSA agreed to allowing audio-only mental health telehealth services be reimbursable so long as the visit prior to the first audio-only mental health service was conducted by an audio-visual telehealth visit instead of an in-person visit that was required by Medicare; and
- (3) Require the Insurance Commissioner to submit in its annual report data on reimbursements claimed pursuant to Act 107.

II. Patient-Designation of Audio-Only Services at Home

The Senate Committee on Health and Human Services amended the bill by eliminating language from the definition of "interactive telecommunications system" that authorizes reimbursement for audio-only services at the designation of the patient.

CMS found that the successive statutory extensions of the telehealth flexibilities implemented in response to the public health emergency for COVID-19 made it *"appropriate to allow interactive audio-only telecommunication technology when any telehealth service is furnished to a beneficiary in their home (when the patient's home is a permissible originating site) and when the distant site physician or practitioner is technically capable of using any interactive telecommunication system **but the patient is not capable of, or does not consent to the use of video technology.**"* [See, Federal Register, Vol 89, No. 236, Monday, December 9, 2024, at 97761, emphasis added.]

CMS further found that *"[w]hile practitioners should always use their clinical judgment as to whether the use of interactive audio-only technology is sufficient to furnish a Medicare telehealth service, we recognize that there is variable broadband access in patients' homes, and that **even when technologically feasible, patients simply may not always wish to engage with their practitioner in their home using interactive audio and video.**"* [See, Id. Emphasis added.]

CMS added, *"[t]he purpose of our proposal was to recognize that, while real-time interactive audio-visual remains the generally applicable standard, including for distant site practitioners who wish to furnish these services, there are special considerations for patients when a Medicare telehealth service is delivered in their home. For example, **a patient may not have sufficient [or any] access to broadband to support the use of real time video technology, may not have the technical proficiency or support in place to use video technology, or may have privacy concerns about using video technology for Medicare telehealth services in their home.**"* [See, Federal Register, supra, at 97762. Emphasis added.]

Elimination of this language as proposed in the Senate Draft 1 would restrict reimbursement for audio-only telehealth services under private insurance that would be available for services provided to similarly situated patients under Medicare. This outcome would seemingly be counter to the underlying purpose of Act 107 and this bill -- to facilitate the equal treatment of audio-only modes of telecommunication for telehealth under Medicare and private insurance in Hawaii.

III. Uncertainties in Federal and State Law

As noted in our testimony to the Senate Committee on Health and Human Services on Senate Bill No. 1281 dated February 3, 2025, and the House Committee on Consumer Protection and Commerce on House Bill No. 0557, House Draft 1, dated February 5, 2025, the Insurance Commissioner has not indicated how the Department of Commerce and Consumer Affairs interprets the current language of Act 107 in light of the December 9, 2024, Medicare Physician Fee Schedule Final Rule that took effect on January 1, 2025.

Based on a black letter reading of the statute, it would appear that private insurers in Hawaii are required to reimburse for non-mental health audio-only telehealth services that are provided at the patient's home. Arguably, an entitlement was created, but at this point, it is unclear whether the State acknowledges this or whether it will enforce the law.

A provider would need to provide a non-mental health audio-only telehealth services and seek reimbursement from a private insurer. If the insurer denies the claim, the provider would need to appeal that decision administratively first. If the Insurance Commissioner upholds the insurer's denial of the claim, then it would be a matter to be determined by the Courts. This would take time to develop and in the process, providers would be denied reimbursement, and providers would stop providing those services to patients.

In the meanwhile, due to the change in administration at the federal level, there are concerns that many of the policies that have been developed by CMS regarding telehealth flexibilities may be restricted or undone. Because of this, there are concerns that any substantive change to Act 107 might further complicate the legal treatment of audio-only telecommunications modes in Medicare, Medicaid, and private insurance.

Be that as it may, the HPCA continues to assert that the underlying policy that Act 107 established is sound -- that the treatment of audio-only telecommunications modes should be the same for public and private insurance. What is good for Medicare should also be good for private insurance.

If your Committee is concerned that an amendment to Act 107 may negatively impact a benefit that has accrued to insureds or create the bifurcated treatment of the law between public and private insurance, it may be prudent to extend Act 107 without any substantive amendments to its provisions. However, given the time it will take for administrative processes to be exhausted as well as for the Insurance Commissioner to adopt rules concerning these new benefits, the HPCA recommends that the law be extended at least until **December 31, 2027.**

For purposes of facilitating continued discussions, the HPCA respectfully urges your favorable consideration of this measure.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.

Thursday, February 20, 2025; 9:30 am
Conference Room 229 & Videoconference

Senate Committee on Commerce and Consumer Protection

To: Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair

From: Michael Robinson
Vice President, Government Relations & Community Affairs

**Re: Testimony in Support of SB 1281, SD1
Relating To Telehealth**

My name is Michael Robinson, and I am the Vice President of Government Relations & Community Affairs at Hawai'i Pacific Health. Hawai'i Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapi'olani, Pali Momi, Straub and Wilcox and over 70 locations statewide with a mission of creating a healthier Hawai'i.

HPH writes in SUPPORT of SB 1281, SD1 which updates the laws on telehealth services to conform with federal Medicare regulations and requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services.

Since 1999, the use and expansion of telehealth services and technology in Hawaii has been recognized as a strategy to increase patient access to healthcare by overcoming the geographic challenges across our state. Many of Hawaii's geographically access challenged patients reside in Medically Underserved Areas (MUA), are part of Medically Underserved Populations (MUP), or reside in federally designated health professional shortage areas. Elderly, as well as medically- and socially complex patients often face transportation barriers, limited broadband access and personal difficulty navigating the technological requirements of accessing traditional video telehealth care services. In these instances, telephonic communication becomes a viable alternative for many in these communities to overcome barriers enabling them to access healthcare remotely.

HPH supports a provider reimbursement system that also incorporates reimbursement for telephonic services. We have experienced challenges with our patients accessing acute care services (limited means to travel, poor or absent internet coverage, residence remote from care providers, infirm with limited mobility, immune compromise in the age of COVID, etc.) across our system. As a related example, within HPH charges for

telephonic services represent 12-15% of total charges for remote physician to patient acute care service charges indicating a need for telephonic services as an alternative care modality. In the absence of telephonic services being provided or available, these at-risk individuals would have had to resort to travel from their residence to clinics and emergency departments at great personal expense or choose to do without care guidance altogether. Therefore, we foster a telehealth environment in Hawaii that allows both patients today the ability to access behavioral as well as other health services remotely without unnecessarily foreclosing future opportunities to develop alternative reimbursement structures for other remote access modalities to flourish.

Thank you for the opportunity to testify.

SB-1281-SD-1

Submitted on: 2/16/2025 4:26:59 PM

Testimony for CPN on 2/20/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Ruth Love	Individual	Support	Written Testimony Only

Comments:

Telehealth via phone and audiovisual means has truly enhanced patient care especially for patients with transportation, mobility, pain and oxygenation difficulties.

Thank you

Mrs Ruth Love



ALOHACARE

To: The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
Senate Committee on Commerce & Consumer Protection

From: Paula Arcena, External Affairs Vice President
Mike Nguyen, Public Policy Manager
Sarielyn Curtis, External Affairs Specialist

Hearing: Thursday, February 20, 2025, 9:30 AM, Conference Room 229

RE: **SB1281 SD1 Relating to Telehealth**

AlohaCare appreciates the opportunity to provide testimony in **support of SB1281 SD1**. This measure updates the State's laws on telehealth services to conform with federal Medicare regulations, requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services, and repeals the sunset date of Act 107, Session Laws of Hawai'i 2023.

Founded in 1994 by Hawai'i's community health centers, AlohaCare is a community-rooted, non-profit health plan serving over 70,000 Medicaid and dual-eligible health plan members on all islands. Approximately 37 percent of our members are keiki. We are Hawai'i's only health plan exclusively dedicated to serving Medicaid and Medicaid-Medicare dually-eligible beneficiaries. Our mission is to serve individuals and communities in the true spirit of aloha by ensuring and advocating for access to quality, whole-person care for all.

AlohaCare is committed to improving access to care. This measure provides another way for our members and residents across our State to access healthcare services more easily, consistent with the framework provided under the Medicare program. We understand the value of audio-only telehealth services especially for patients who may not have internet or broadband access, may not have the technical proficiency or support to use video technology, or may have privacy concerns about using video technology.

We understand this bill's impact is fairly broad, so we wish to focus our support on the bill's impact to the Medicaid-eligible population. This measure will increase access to healthcare services for our members and Hawai'i residents broadly, especially for kupuna and those living in underserved rural, remote, and urban areas.

Mahalo for this opportunity to testify in **support of SB1281 SD1**.



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facebook.com/AARPHawaii

The State Legislature
The Senate Committee on Commerce and Consumer Protection
Thursday, February 20, 2025
Conference Room 229
9:30 p.m.

TO: The Honorable Jarrett Keohokalole, Chair
FROM: Keali'i Lopez, AARP State Director
RE: S.B. 1281, SD1 Relating to Telehealth

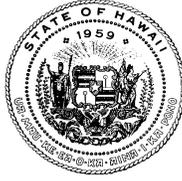
Aloha Chair Keohokalole and Members of the Committee:

My name is Keali'i Lopez, and I am the State Director for AARP Hawai'i. AARP is a nonpartisan, social mission organization that advocates for individuals age 50 and older. We have a membership of nearly 38 million nationwide and nearly 135,000 in Hawaii. We advocate at the state and federal level for the issues that matter most to older adults and their families, including telehealth. **AARP supports the intent of S.B. 1281, SD1** which updates the State's laws on telehealth services and repeals the sunset date of Act 107, Session Laws of Hawaii 2023.

AARP recognizes telehealth as a vital tool for accessing healthcare and aiding family caregivers. Many members, especially those aged 50-59, use mobile devices to manage their health. Telehealth, including family-involved virtual visits, improves access to care, reduces transportation barriers, and enhances outcomes. We also advocate for the continued use of audio-only communications, particularly beneficial for kupuna in rural areas and those uncomfortable with technology. Key benefits include:

- **Improved Access:** Audio-only communications help residents in rural areas connect with healthcare providers from home, saving time and reducing travel stress.
- **Ease of Use:** Phone calls are familiar and accessible, avoiding the frustration of video conferencing for non-tech-savvy kupuna.
- **Cost-Effective:** Audio-only communications require minimal infrastructure, making them viable for resource-limited settings and patients without high-speed internet.

Audio-only communication should continue to be recognized as a practical, accessible, and cost-effective solution to improve healthcare access for kupuna **and be a reimbursable service**. Thank you very much for the opportunity to testify.



STATE OF HAWAII
DEPARTMENT OF HEALTH
KA 'OIHANA OLAKINO
P. O. Box 3378
Honolulu, HI 96801-3378
doh.testimony@doh.hawaii.gov

Testimony COMMENTING on SB1281 SD1
RELATING TO TELEHEALTH

SENATOR JARRETT KEOHOKALOLE, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing Date/Time: February 20, 2025; 9:30 AM

Room Number: 229

1 **Department Testimony:** The Department of Health (DOH) offers comments urging caution
2 given uncertainties with federal health care policy and an alternative to assure continuity of
3 telehealth access in Hawaii.

4 Just prior to the pandemic, Hawaii enacted several laws aiming to make telehealth a
5 community standard of providing health care, becoming a leader in telehealth policy.
6 Telehealth became essential as the health care system and patients adjusted to the new
7 realities, and as a consequence, the US Centers for Medicare and Medicaid Services (CMS)
8 authorized, among other changes, reimbursement for audio-only telehealth services.

9 The current uncertainties regarding federal health care policy, however, should give us pause.
10 However, to assure continuity of access to audio-only telehealth, DOH proposes amending Act
11 107, Session Laws of Hawaii 2023, to extend the sunset date to December 31, 2026. If there is
12 community agreement at that time, SB1281 SD1 may be revisited in the 2026 legislative
13 session.

14 In addition, numerous innovative telehealth initiatives in Hawai'i are successfully improving
15 access to care in various settings, including libraries, community centers, homeless shelters,

1 churches, and through street medicine, etc. Extending Act 107 will provide the flexibility to
2 continue these programs beyond December 31, 2025, while we wait for federal policies to be
3 clarified.

4 Thank you for the opportunity to provide testimony.

5 **Offered Amendments:**

6 SECTION 1. Act 107, Session Laws of Hawaii 2023, is
7 amended by amending 8 to read as follows:

8 "SECTION 8. This Act shall take effect upon its approval;
9 provided that on December 31, [~~2025~~] 2026, this Act shall be
10 repealed and sections 346-59.1, 431:10A-116.3, 432:1-601.5,
11 432D-23.5, and 453-1.3, Hawaii Revised Statutes, shall be
12 reenacted in the form in which they read on the day prior to the
13 effective date of this Act."



**STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY**
DEPARTMENT OF HEALTH - KA 'OIHANA OLAKINO

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII

KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

JOHN C. (JACK) LEWIN, M.D.
ADMINISTRATOR

February 18, 2025

LATE

To: Committee on Commerce and Consumer Protection
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair, and
Honorable Members

From: Jack Lewin MD, Administrator, SHPDA, and Sr. Advisor to Governor
Josh Green MD on Healthcare Innovation

Re: SB 1281, SD1 -- RELATING TO TELEHEALTH

Position: SUPPORT

Testimony:

SHPDA supports this bill and urges its passage.

The State's rural and underprivileged communities are often cut off from receiving essential health care services through telehealth because they lack the broadband coverage necessary to access this care. While SHPDA recognizes that video-equipped telehealth visits are superior to audio-only, the use of standard telephone contact in telehealth during the COVID-19 pandemic demonstrated the effectiveness of this tool as a mode of essential health care delivery, particularly for residents living in rural, isolated, or underprivileged communities, and particularly for behavioral health care where video-equipped telehealth are unavailable. Further, the existing Medicare flexibility for expanded audio-only modalities is set to expire on March 31, 2025. While Medicare guidelines do allow for the use of audio-only modalities for all services, these guidelines must be considered in parallel with the telehealth coverage provisions of section 1834(m) of the Social Security Act, which limits the kinds of health care services that can be provided in the home to mental health services, substance use disorder services, and end-stage renal dialysis (ESRD). (continued)

Audio-only telehealth services should be maintained and compensated for the purposes of behavioral health diagnosis, evaluation, or treatment of a mental health disorder, and for ESRD care when video-telehealth is unavailable or unreasonable.

SHPDA believes the amendments made in the SD1 version of this bill improve it and clarify it.

SHPDA defers to DHS/Med-Quest for amendment details they may have regarding the Medicaid program rules and regulations.

Mahalo for the opportunity to testify.

LATE



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Rm. 118 • Honolulu, Hawai'i 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129 • (808) 204-2466 (VP)

February 5, 2025

TESTIMONY TO THE SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

Senate Bill 1281 – Relating to Telehealth

The Disability and Communication Access Board (DCAB) supports Senate Bill 1281 – Relating to Telehealth. This bill would update the State's laws on telehealth services to conform with federal Medicare regulations. Requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services. Repeals the sunset date of Act 107, Session Laws of Hawai'i 2023.

DCAB believes that aligning state requirements with federal law, including allowing audio only services, is essential for ensuring equal access to vital resources. By permitting audio only participation, individuals without access to the latest technology or those who rely on traditional communication methods would have greater opportunities to connect with and benefit from these services. This change would help remove unnecessary barriers and ensure that all individuals, regardless of their technological capabilities, can fully access available services.

Thank you for considering our position.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Kirby L. Shaw".

KIRBY L. SHAW
Executive Director



**TESTIMONY IN SUPPORT TO SENATE BILL 1281 SD 1
RELATING TO TELEHEALTH**

Senate Committee on Commerce and Consumer Protection
Hawai'i State Capitol

February 20, 2025

9:30AM

Room 229

Aloha e Chair Keohokalole, Vice Chair Fukunaga, and Members of the Senate Committee on Commerce and Consumer Protection:

The Office of Hawaiian Affairs (OHA) **SUPPORTS** SB 1281 SD 1 which updates the State's laws on telehealth services to conform with federal Medicare regulations. OHA appreciates measures such as these that are ultimately aimed at ensuring continuum of care for Hawai'i residents in rural communities. OHA's comments are provided to ensure that Native Hawaiians as OHA beneficiaries receive the medical attention and care that is needed, as many of OHA's beneficiaries reside in rural, underserved communities.

OHA supports telehealth as a critical tool to improve healthcare access for Native Hawaiians and underserved communities throughout the state. Hawai'i's unique geography—spanning across multiple islands—presents significant challenges in accessing healthcare services, particularly for rural and remote communities. Telehealth offers a practical solution by enabling individuals to connect with healthcare providers from their homes or local community centers, reducing the need for long-distance travel and mitigating transportation barriers. This is particularly important for Native Hawaiians who often live in rural areas, where healthcare services can be limited.

In addition, telehealth has the potential to address disparities in healthcare access and outcomes. Native Hawaiians experience health inequities in many areas, including chronic disease management, mental health, and maternal health. Telehealth can offer greater flexibility for individuals to receive timely care, enhance provider-patient communication, and promote preventive care—ultimately improving health outcomes for Native Hawaiians and other vulnerable populations.

Senate Bill 1281 provides a timely and necessary framework to enhance and expand telehealth services in Hawai'i. By extending and solidifying telehealth coverage and reimbursement, this bill will ensure that Hawai'i's most vulnerable communities have

equitable access to essential healthcare services. Additionally, the bill's emphasis on integrating telehealth into the state's healthcare infrastructure will help reduce disparities in care and build a more resilient, accessible healthcare system for all.

The Office of Hawaiian Affairs appreciates recent amendments which removed language in the definition of "interactive telecommunications system" that would have allowed a patient to not consent to the use of video technology and instead utilize two way, real-time, audio-only communication for any telehealth service, inserted an effective date of December 31, 2050, to encourage further discussion, and made technical, nonsubstantive changes for the purposes of clarity and consistency. For these reasons, OHA urges this committee to **PASS SB1281 SD 1**. Mahalo nui for the opportunity to testify.

February 18, 2025

LATE

Testimony to the Senate Commerce and Consumer Protection
Senate Bill 1281, Senate Draft 1, Relating to Telehealth
Thursday, February 20, 2025 at 9:30 am
State Capitol, Conference Room 229/Videoconference

Aloha Chair Keohokalole, Vice Chair Fukunaka, and Members of the Committee
Commerce and Consumer Protection:

The American Diabetes Association (ADA) is the nation's leading voluntary health organization fighting to end the diabetes epidemic and help people living with diabetes thrive. The ADA supports Senate Bill 1281 SD1, Relating to Telehealth.

Diabetes is an epidemic in the US. According to the Centers for Disease Control and Prevention (CDC), over 38 million Americans have diabetes and face its devastating consequences.¹ What's true nationwide is also true in Hawai'i. Approximately 108,600 adults in Hawaii, or 9.5% of the adult population, have been diagnosed with diabetes. Every year, an estimated 6,700 adults in Hawai'i are newly diagnosed with diabetes and every diagnosis carries the potential for serious and potentially life-threatening complications, including kidney failure, blindness and limb amputation. Diabetes was the eighth leading cause of death in the United States in 2022.²

The mission of the American Diabetes Association (ADA) is to prevent and cure diabetes and to improve the lives of all people affected by diabetes. For 80 years, the ADA has been driving discovery and research to treat, manage and prevent diabetes while working relentlessly for a cure, all while advocating for policies to improve health care access, coverage, and affordability; support healthy diets; and address the barriers that can stand in the way of good health.

Senate Bill 1281 SD1 would align the state's laws on telehealth services with federal Medicare regulations, ensuring that audio-only, two-way interactive communication remains a viable option for telehealth services. Telehealth services, including audio-only visits, have become a crucial lifeline for many people with diabetes, especially for those who face barriers such as lack of

¹ National Diabetes Statistics Report (2024) Centers for Disease Control and Prevention.
<https://www.cdc.gov/diabetes/php/dataresearch/2-FASTSTATS>

² FASTSTATS - leading causes of death (2024) Centers for Disease Control and Prevention.
<https://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm>

broadband access, limited transportation, or mobility challenges. The continuation of these services ensures that individuals with diabetes receive timely medical consultations, medication management, and ongoing support from healthcare providers without unnecessary delays or disruptions.

The ADA is committed to advancing health equity, and SB 1281 SD1 is an important step in reducing disparities in healthcare access across Hawai'i. Without equitable access to telehealth, many individuals—particularly those in rural and underserved communities—may experience worsened health outcomes due to missed appointments or delayed care. Access to consistent, high-quality healthcare is essential for diabetes management, and telehealth has proven to be a vital tool in bridging healthcare gaps—particularly in rural and underserved communities where in-person visits may be difficult to access.

Mahalo nui for the opportunity to testify and urge your **support** of Senate Bill 1281 SD1.

Mālama pono,



WE FIGHT
to end diabetes.

Naomi Manuel, MPH
Executive Director, Hawai'i

Hawai'i Standard Time
Phone: +1 (808) 764-3348
NManuel@diabetes.org

¹ National Diabetes Statistics Report (2024) Centers for Disease Control and Prevention.
<https://www.cdc.gov/diabetes/php/dataresearch/2-FASTSTATS>

² FASTSTATS - leading causes of death (2024) Centers for Disease Control and Prevention.
<https://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm>

LATE



Hawaii Medical Association

1360 South Beretania Street, Suite 200 • Honolulu, Hawaii 96814
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SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Jarrett Keohokalole, Chair

Senator Carol Fukunaga, Vice Chair

Date: Feb 20, 2025

From: Hawaii Medical Association (HMA)

Jerald Garcia MD - Chair, HMA Public Policy Committee

Re: SB 1281 SD1 RELATING TO TELEHEALTH - Telehealth; Audio-Only; Medicare; Insurance Reimbursement; Sunset Repeal

Position: Comments

This measure would update the State's laws on telehealth services to conform with federal Medicare regulations, require the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services, and repeal the sunset date of Act 107, Session Laws of Hawai'i 2023.

Hawaii physicians frequently use telemedicine technologies to better serve our patients. While video telehealth appointments have offered an important alternative for patients, audio-only visits provide a dependable lifeline for our rural and underserved communities to access healthcare. Patients who are elderly, on Medicaid, non-English speaking and/or have limited internet access are more likely to use audio-only services than video visits. These patients may have limited understanding and/or access to broadband internet services or devices, be unwilling to consent to video visits or prefer audio only interactions, and their access is limited by restrictions on audio-only telehealth services.

HMA supports the repeal of the sunset of Act 107 SLH 2023, in order to maintain patient access to telehealth care, particularly for behavioral health services in our rural and underserved communities. We also support the overall intent of this measure.

HMA is concerned, however, that the pre-requirement for in-person visit before telemedicine can begin, may unintentionally create barriers and restrict access for behavioral health services, especially for Hawaii rural and underserved communities where the physician shortages remain critically low. HMA encourages further review and thoughtful discussion on the proposed revisions of Hawaii state telehealth laws and alignment with CMS changes in 2025.

Thank you for allowing Hawaii Medical Association to testify with comments on this measure.

2025 Hawaii Medical Association Officers

Elizabeth Ann Ignacio, MD, President • Nadine Tenn-Salle, MD, President Elect • Angela Pratt, MD, Immediate Past President
Jerris Hedges, MD, Treasurer • Thomas Kosasa, MD, Secretary • Marc Alexander, Executive Director

2025 Hawaii Medical Association Public Policy Coordination Team

Jerald Garcia MD, Chair
Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director

REFERENCES AND QUICK LINKS

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2025 Hawaii Medical Association Officers

Elizabeth Ann Ignacio, MD, President • Nadine Tenn-Salle, MD, President Elect • Angela Pratt, MD, Immediate Past President
Jerris Hedges, MD, Treasurer • Thomas Kosasa, MD, Secretary • Marc Alexander, Executive Director

2025 Hawaii Medical Association Public Policy Coordination Team

Jerald Garcia MD, Chair
Linda Rosehill, JD, Government Relations • Marc Alexander, Executive Director

February 20, 2025

To: Chair Keohokalole, Vice Chair Fukunaga, and Members of the Senate Committee on Commerce and Consumer Protection (CPN)

From: Hawaii Association of Health Plans Public Policy Committee

Date/Location: February 20, 2025; 9:30 am/Conference Room 229 & Videoconference

Re: Testimony with comments on SB 1281 SD1 – Relating to Telehealth

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to share our comments and concerns regarding SB 1281 SD1. HAHP is a statewide partnership that unifies Hawaii's health plans to improve the health of Hawaii's communities together. A majority of Hawaii residents receive their health coverage through a plan associated with one of our organizations.

HAHP strongly supports efforts to make behavioral healthcare more accessible, especially on the Neighbor Islands and in rural areas where broadband access and behavioral health care providers are lacking. However, we would like to offer comments to highlight some of our concerns over the bill's current form:

1. **Expansion of Audio-Only Care:** This bill proposes to expand the type of care that can be delivered via audio-only beyond behavioral health. Currently, there are no comprehensive studies demonstrating that the quality of care and outcomes of services delivered through audio-only are equivalent to those of in-person or telehealth visits. This lack of evidence raises significant concerns about patient safety and the effectiveness of care.
2. **Reimbursement Concerns:** We believe that reimbursement for audio-only services should not be equivalent to that for in-person or telehealth visits. Audio-only services do not require the same level of effort, resources, or overhead as in-person or video-based telehealth visits. Equating reimbursement rates could lead to inefficiencies and misallocation of healthcare resources.
3. **Guardrail Changes:** The proposed changes to the guardrails in this bill would eliminate the option of using a telehealth visit instead of an in-person visit. This is particularly problematic for many behavioral health providers and patients, who may not have the capability to conduct in-person visits. Maintaining the flexibility to use telehealth is essential for ensuring continuous and accessible care for these populations.



In conclusion, while we support modifying the definition of interactive telecommunications system and eliminating Act 107's sunset date to reflect the collaborative agreement between legislators, HAHP organizations, and Hawaii health care providers when it was signed into law in 2023, the amendments proposed in this bill pose significant risks and challenges that must be addressed. We look forward to continuing discussion on this measure should it move forward.

Thank you for the opportunity to testify on SB 1281 SD1.

Sincerely,

HAHP Public Policy Committee
cc: HAHP Board Members

February 20, 2025

The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
Senate Committee on Commerce and Consumer Protection

Re: SB 1281 SD1– RELATING TO TELEHEALTH

Dear Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee:

Hawaii Medical Service Association (HMSA) respectfully opposes SB1281 SD1, which updates the State’s laws on telehealth services to conform with federal Medicare regulations, requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services, and repeals the sunset date of Act 107, Session Laws of Hawaii 2023.

HMSA fully supports the efforts of legislators and this committee to make behavioral healthcare more readily available, especially on the Neighbor Islands and in rural areas where it is difficult for residents to obtain in-person services. However, we believe that the current proposed legislation strays from the original intent of Act 107. The efforts to align with Medicare are incomplete, the proposed increase in reimbursement rates are unjustified, and the changes to the current guardrails would make it more difficult, in our opinion, for behavioral health providers and their patients to access care.

Medicare Alignment: The current language of the bill is attempting to allow audio-only for any telehealth service and justifying this as a way to better align with Medicare. While the Code of Federal Regulations¹ definition of interactive telecommunication system was updated to expand audio-only communication technology for any telehealth service, this federal definition must be observed together with Section 1834(m) of the Social Security Act², which states that the only covered telehealth services allowed in the home are for services for the diagnosis, evaluation, or treatment of mental health or substance use disorder, and for monthly ESRD-related clinical assessments. As such, HMSA believes that an expansion of audio-only telehealth as written in this bill is taken out of context and fails to conform with the intent of federal Medicare regulations.

Reimbursement Rates: HMSA recognizes audio-only telehealth as an important means of access to care for members lacking technological access or digital literacy. However, audio-only telehealth is generally not considered an equal substitute to audio/video telehealth or face-to-face service, with inherent limitations and lower delivery cost. Therefore, we do not believe that there is justification to raise reimbursement for audio-only services to equal that of in-person or video-based telehealth visits, especially because equal reimbursement rates would significantly increase health care costs, eventually resulting in higher premiums for businesses and/or higher copays for individuals.

1. [https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-410/subpart-B/section-410.78#p-410.78\(a\)\(3\)](https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-B/part-410/subpart-B/section-410.78#p-410.78(a)(3))
2. [https://www.ssa.gov/OP_Home/ssact/title18/1834.htm#:~:text=\(m\)%20Payment,of%20such%20paragraph](https://www.ssa.gov/OP_Home/ssact/title18/1834.htm#:~:text=(m)%20Payment,of%20such%20paragraph)

Maintaining Accessibility: Hawaii’s unique geography makes it difficult for behavioral health providers and patients to connect with each other in person. This is one of the main reasons why the original legislation included the option of using audio-visual telehealth as an option for the initial visit and annual follow ups required to deliver audio-only visits. Eliminating this option could create multiple barriers for behavioral health providers and patients, who may not have the capability to conduct in-person visits.

The field of telemedicine is continuously evolving and as the flexibilities and waivers introduced during the Public Health Emergency (PHE) come to an end, the healthcare community must continue to work together to find ways to expand access without sacrificing quality. HMSA considers Act 107 to be a prime example of that effort – as it shows a willingness for compromise amongst the various stakeholders in order to find a common ground to best serve our residents. Despite the questions that still remain about the quality and efficacy of audio-only health care, and a lack of research on the topic, we support CMS’ opinion that mental health services are different from most other services on the Medicare telehealth services list in that many of the services primarily involve verbal conversation where

With that in mind, we ask the committee to consider the following proposal to allow for continued and permanent access to Audio Only Telehealth for Behavioral Health Services as intended by the legislature in the passing of ACT 107, 2023 by:

1. Inserting the language of HB907 HD2 SD2 (Act 107, 2023) and striking all references in Act 107, 2023 to 42 Code of Federal Regulations section 410.78(a)
2. Clearly defining in sections 2, 3, 4, 5, & 6 of Act 107, 2023, that “Interactive telecommunications system” shall mean:
 - a. *Except as otherwise provided in this paragraph, multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner. For services furnished for purposes of diagnosis, evaluation, or treatment of a mental health disorder to a patient in their home, interactive telecommunications may include two-way, real-time audio-only communication technology if the distant site physician or practitioner is technically capable to use an interactive telecommunications system as defined in the previous sentence, but the patient is not capable of, or does not consent to, the use of video technology. A modifier designated by CMS must be appended to the claim for services described in this paragraph to verify that these conditions have been met.*
3. Removing sunset language found in section 8 of Act 107, 2023 and making effective upon approval.



We feel that this proposal would allow for continued access for those residents who need it most and focuses on the original intent of the legislature. We are happy to provide the committee with a proposed draft that incorporates the requested amendments. Thank you for the opportunity to testify on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dawn Kurisu', is written above the typed name.

Dawn Kurisu
Assistant Vice President
Community and Government Relations



Philippine Medical Association of Hawai'i
94-837 Waipahu Street, Waipahu, HI 96797
P.O.Box 1294, Pearl City, Hawai'i 96782 • Ph: 888-674-7624
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LATE

Rhea Bautista, MD
Executive Director

**BOARD OF GOVERNORS
2025**

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Ian Guerrero, MD
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To: The Honorable Chair Joy A San Buenaventura, the Honorable Vice Chair Henry JC Aquino ,
and the Senate Committee on Health and Human Services

Subject: TESTIMONY IN STRONG SUPPORT OF SB1281

On behalf of the Philippine Medical Association of Hawaii (PMAH), I write in strong support of SB1281, which seeks to enhance access to telehealth services and ensure equitable reimbursement for telehealth visits, including audio-only consultations.

As an organization representing Filipino physicians and healthcare professionals in Hawaii, PMAH recognizes the critical role that telehealth plays in improving healthcare access for our diverse communities. Many of our patients, especially those in rural areas, working-class families, and kupuna, experience challenges in accessing in-person care due to financial, transportation, and technological barriers. Telehealth has been instrumental in addressing these disparities, ensuring that all patients receive timely and quality medical care.

SB1281 is particularly vital in ensuring reimbursement parity for telehealth services, including audio-only visits. Many of our elderly patients and those with limited digital literacy lack access to video technology, making audio-only telehealth a necessary and effective alternative. Without equitable reimbursement for these visits, providers may be discouraged from offering telehealth options, ultimately reducing healthcare access for vulnerable populations.

By aligning Hawaii's telehealth policies with federal Medicare regulations, this bill strengthens the long-term sustainability of telehealth services in our state. It ensures consistency in reimbursement and allows healthcare providers to continue offering virtual care options without financial or regulatory burdens.

Telehealth is not meant to replace in-person care when physical examinations are necessary, but it remains a critical tool for chronic disease management, mental health services, medication management, and follow-up visits. Ensuring that providers can deliver these services without unnecessary restrictions or financial disincentives is a step forward in making healthcare more

inclusive and accessible for all.

For these reasons, on behalf of the Philippine Medical Association of Hawaii, I strongly urge the passage of SB1281. Thank you for the opportunity to provide testimony in support of this important measure.

Mahalo,

Rainier Dennis D. Bautista MD, DABFM, FAAFP

President, Philippine Medical Association of Hawaii

**2025 Hawaii
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Alzheimer's Association

**Testimony to the Senate Committee on Commerce and Consumer
Protection**

Thursday, February 20, 9:30 AM

Hawaii State Capitol, Conference Room 229, and Videoconference

RE: SB 1281 SD1 – RELATING TO TELEHEALTH

Chair Keohokalole and Members of the Committee,

My name is Coby Chock, and I am testifying on behalf of the Alzheimer's Association Hawaii Chapter. We are in **strong support** of SB1281 SD1, which relates to telehealth.

The Alzheimer's Association Hawaii Chapter is dedicated to supporting individuals and families affected by Alzheimer's disease and other dementias. We understand the critical importance of accessible healthcare services, especially for those living in rural and underserved communities. Telehealth has become an essential tool in providing care to these populations, ensuring they receive the medical attention they need without the barriers of distance and mobility.

The number of people living with Alzheimer's disease in Hawaii is 31,200, with 60,000 caregivers providing \$1,907,000,000 in unpaid care. This number is growing. Telehealth services are crucial for these individuals and their caregivers, as they often face significant challenges in accessing in-person healthcare services. The proposed changes in SB1281 SD1 would ensure that telehealth services, including audio-only communications, are reimbursed, providing much-needed support and flexibility for patients and caregivers alike.

Telehealth services allow patients in rural areas to connect with healthcare providers without the need for long and often difficult travel. This is particularly important for those with Alzheimer's disease, who may have mobility issues or require constant supervision. By enabling remote consultations, telehealth ensures that these patients receive timely and consistent care, which can significantly improve their quality of life.

For these reasons, we strongly support SB1281 SD1 and urge your favorable consideration of this measure.

Mahalo for the opportunity to testify in support! If you have questions, please contact me at 808-451-3410 or ckchock@alz.org



Coby Chock
Director of Public Policy and Advocacy
Alzheimer's Association - Hawaii



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SB1281_SD1 Telehealth

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Sen. Jarrett Keohokalole, Chair

Sen. Carol Fukunaga, Vice Chair

Friday, Feb 20, 2025: 9:30am: Room 229 Videoconference

Hina Mauka Supports SB1281_SD1.

ALOHA CHAIR, VICE CHAIR, AND DISTINGUISHED COMMITTEE MEMBERS. My name is Brian Baker. I am the Chief Operating Officer for Hina Mauka, a mental health and substance use disorder treatment and prevention agency for thousands of adults and adolescents on Oahu and Kauai, including recovery-oriented services and housing transitional living programs.

Telehealth can not and should not totally replace face-to-face treatment for mental health and substance use disorder services. However, given the lack of access to treatment for mental health and substance use disorders, it is a vital component that must be protected.

While more studies will be done as time goes on, about the effectiveness and efficiency of telehealth, both with and without a video component, there is clearly sufficient evidence that supports the need to keep this valuable tool available. In order to do this, reimbursement rates from all payer must be in parity to face-to-face visits, therefore, Hina Mauka supports SB1281_SD1.

We appreciate the opportunity to provide testimony and are available for further questions.



To: The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair
Members, Senate Committee on Commerce & Consumer Protection

From: Jacce Mikulanec, Director, Government Relations, The Queen's Health Systems

Date: February 20, 2025

Re: Support for SB1281 SD1: Relating to Telehealth

The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 10,000 affiliated physicians, caregivers, and dedicated medical staff statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide testimony in support of SB1281 SD1, which updates the State's laws on telehealth services to conform with federal Medicare regulations, requires the Insurance Commissioner to report to the Legislature on reimbursements claimed in the previous year for certain telehealth services, and repeals the sunset date of Act 107, Session Laws of Hawai'i 2023.

Queen's provides a number of telemedicine specialties in areas such as, but not limited to, stroke and neurology, psychiatry, wound care, and critical care; approximately 12% of physician-patient acute telehealth services are classified as telephonic. Telehealth modalities assist with connecting our four hospitals statewide and allow our health care professionals to provide care to patients in their local communities who may not have access to critical health care otherwise.

Thank you for the opportunity to testify on this measure.



WAIANAЕ COAST
COMPREHENSIVE
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Tuesday, February 20, 2025 at 9:30 PM
State Capitol, Conference Room 229 & Videoconference

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

To: Chair Jarrett Keohokalole
Vice Chair Carol Fukunaga

From: Michele Chrissy Kuahine
Director of Technology Equity

RE: TESTIMONY IN SUPPORT OF SENATE BILL 1281 SD 1 - RELATING TO
TELEHEALTH

Aloha Chair Keohokalole, Vice Chair Fukunaga, and Members of the Committee,

My name is Michele Chrissy Kuahine, and I am submitting this testimony in my capacity as the Director of Tech Equity at the Waianae Coast Comprehensive Health Center (WCCHC), a Federally Qualified Health Center (FQHC) serving vulnerable populations. WCCHC **supports** Senate Bill 1281 SD1 **with amendments** to ensure that Hawai'i sets its own course for telehealth policy by permanently expanding audio-only telehealth beyond behavioral health and removing unnecessary in-person visit requirements.

Hawai'i has flexibility to build upon Medicare's restrictive policies on telehealth. Under Section 1834(m) of the Social Security Act, Medicare currently limits audio-only telehealth reimbursement only to mental health, substance use disorder, and end-stage renal disease services. However, these restrictions are outdated and do not reflect the realities of healthcare in Hawai'i.

Over the past five years, temporary Medicare waivers have proven the effectiveness of audio-only telehealth beyond mental health, improving healthcare access, reducing disparities, and increasing continuity of care for patients who face barriers to in-person or video-based care (Kleinman & Sanches, 2022). Rather than tying state policy to temporary federal flexibilities, Hawai'i should take a long-term, independent approach that ensures permanent access to audio-only telehealth for all clinically appropriate services.

With limited broadband access in rural areas, a high cost of living, and a physician shortage, many of our patients—especially Native Hawaiians, kūpuna (elders), and individuals with disabilities—depend on audio-only telehealth. At WCCHC:

- **76% of patients are Native Hawaiian, Other Pacific Islander, or Asian** (WCCHC, 2023)
- **71% of patients live at or below the federal poverty level** (WCCHC, 2023)
- **60% rely on Medicaid/QUEST, and 64% depend on public insurance** (WCCHC, 2023)



**WAIANAЕ COAST
COMPREHENSIVE
HEALTH CENTER**

Reverting to Medicare's restrictions would be a step backward. The legislature must recognize that our communities have different needs than those on the mainland and ensure audio-only telehealth remains a permanent and viable option.

SB 1281 SD1 still requires an in-person visit before an audio-only mental health visit, a restriction that will delay or deter essential care for many patients. CMS has waived this requirement through 2026 because it recognizes that in-person mandates create unnecessary hurdles (Kleinman & Sanches, 2022). Hawai'i should follow suit and go further by permanently removing this requirement.

Proposed Amendments to SB 1281 SD1:

- Remove in-person visit requirements for audio-only mental health services; and
- Build upon Hawai'i's telehealth policy from Medicare's Section 1834(m) and set a state-driven standard that prioritizes access for local communities.

SB 1281 SD1 is a step in the right direction, but without these amendments, we risk creating unnecessary barriers to care for thousands of patients in Hawai'i. We urge the Committee to pass SB 1281 SD1 with amendments that protect telehealth equity and ensure that Hawai'i's healthcare policy reflects the needs of its people.

Mahalo for the opportunity to testify.

References

Hawaii State Department of Health. (2021). *Primary care needs assessment data tracker*. <https://health.hawaii.gov/fhsd/files/2021/07/Hawaii-Executive-Summary-PCNA.pdf>.

Kleinman, R. A., & Sanches, M. (2022). Impacts of eliminating audio-only care on disparities in telehealth accessibility. *Journal of General Internal Medicine*, 37(15), 4021–4023. https://pmc.ncbi.nlm.nih.gov/articles/PMC8999992/?utm_source

Waianae Coast Comprehensive Health Center. (2023). *2023 patient profile*. Waianae, HI.

LATE

Hawai'i Mental Health Coalition

Hawai'i Psychological Association | National Association of Social Workers
Hawaiian Islands Association for Marriage and Family Therapy | Hawai'i Counselors Association

February 20, 2025

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Members of the committee on
Commerce & Consumer Protection

Re: Support for SB 1281, SD 1, Relating to Telehealth

Aloha!

The Hawai'i Mental Health Hui strongly supports SB 1281, relating to telehealth. On behalf of our member organizations which include psychologists, social workers, counselors, and marriage and family therapists dedicated to serving the mental health needs of Hawai'i's residents, we strongly support this measure so that there will be continued insurance reimbursement for mental health services delivered telehealth. We advocate for:

- Insurance reimbursement for mental health services delivered via telehealth; we have consistently advocated for 100 percent reimbursement;
- Audio-only telehealth services as video requirements may prevent some Hawaii residents from receiving mental health services; and
- Removal of the sunset date from Act 107 (Session Laws of Hawaii 2023).

Hawai'i faces a severe shortage of mental health providers, a crisis that is especially acute in our rural and neighbor island communities. Geographic isolation, transportation barriers, and the lack of local specialists often prevent residents from receiving the care they need. Audio-only telehealth has been a vital solution, allowing individuals to access mental health services despite technological, economic, or logistical limitations.

For many of our clients—kupuna, Native Hawaiian and Pacific Islander communities, those with disabilities, and individuals with limited digital literacy—video-based telehealth is simply not an option. Reliable broadband access remains inconsistent across our islands, leaving too many residents without the ability to engage in video appointments. Audio-only telehealth ensures that these individuals are not left behind.

The ongoing reimbursement for audio-only mental health services is essential to maintaining equitable access to care, reducing health disparities, and preventing crises that result in unnecessary emergency room visits or hospitalizations. Without this policy, many of our most vulnerable residents would face an insurmountable gap in services, leading to increased suffering and strain on an already overburdened healthcare system. We respectfully urge this committee to pass SB 1281, SD1, to protect and sustain access to essential mental health care for all of Hawai'i's communities.

We wish to serve as a resource for policymakers as this measure advances.

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SB-1281-SD-1

Submitted on: 2/19/2025 12:28:02 PM

Testimony for CPN on 2/20/2025 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Kaohimanu Lydia K Dang Akiona	Individual	Support	Written Testimony Only

Comments:

Aloha esteemed Senators,

My name is Ka`ohimanu Dang Akiona, I am a family physician, mother, member of the Philippine Medical Association of Hawaii and a healthcare professional dedicated to serving Hawaii's diverse communities. I strongly support **SB1281_SD1**, which ensures continued coverage for telephone visits.

For many kupuna in the rural communities I serve, the telephone is their only reliable means of communication. We do not have the broadband or technological parity to ensure everyone has adequate access to audiovisual or other more advanced means of telehealth support. They face challenges with technology, lack internet access, and often do not have family members available to assist with virtual appointments. Telephone visits are not just convenient—they are a lifeline and at times, the only option/access point to engage further with healthcare in the most rural areas of the state.

Without this option, patients experience delayed care, reduced access to medical advice, and worsened health outcomes. SB1281 SD1 protects equitable healthcare access for our most vulnerable populations.

Please pass SB1281 SD1 to uphold our commitment to accessible, timely, and compassionate care for all- especially our kupuna.

Mahalo for your time and consideration of this important aspect of access to healthcare and for allowing me to submit my testimony in support of this bill.

`O au iho no,

Ka`ohimanu Dang Akiona, MD- Physician, Owner, Kohala Coast Urgent Care & Mobile Health, Moloka`i Family & Urgent Care