

Testimony of the Hawaii Medical Board

**Before the
House Committee on Consumer Protection & Commerce
Friday, February 12, 2021
2:00 p.m.
Via Videoconference**

**On the following measure:
H.B. 473, H.D. 1, RELATING TO TELEHEALTH**

Chair Johanson and Members of the Committee:

My name is Ahlani Quiogue, and I am the Executive Officer of the Hawaii Medical (Board). The Board supports this bill.

The purpose of this bill is to authorize the establishment of a physician-patient relationship via a telehealth interaction, if the physician is licensed to practice medicine in the State.

The Board supports this bill because it recognizes that telehealth is: (1) essential to patient care and access to care, both during and outside of a pandemic, to diagnose, treat, and monitor illness; and (2) a safe mechanism to provide care.

Lastly, the Board appreciates the efforts of the Healthcare Association of Hawaii to clarify the language in Hawaii Revised Statutes section 453-1.3, so that it is clear that a physician-patient relationship may be established via telehealth by a physician licensed to practice medicine in Hawaii.

Thank you for the opportunity to testify on this bill.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Consumer Protection & Commerce
Friday, February 12, 2021 at 2:00 p.m.

By

Jerris Hedges, MD, Dean
Lee Ellen Buenconsejo-Lum, MD, FAAFP
Associate Dean for Academic Affairs & DIO
John A. Burns School of Medicine
University of Hawai'i at Mānoa

HB 473 HD1 – RELATING TO TELEHEALTH

Chair Johanson, Vice Chair Kitagawa, and members of the Committee:

Thank you for this opportunity to testify in **strong support** of HB 473 HD1, which authorizes the establishment of a physician-patient relationship via a telehealth interaction when the physician is licensed to practice medicine in the state.

This bill amends language in HRS §453-1.3 to clarify that a physician-patient relationship may be established via telehealth, provided that the physician has a license to practice medicine in the State of Hawai'i. During the onset of the Coronavirus Pandemic, it was found that this language needed to be clarified in order to align with other statutory telehealth provisions that already allow for the establishment of a physician-patient relationship via a telehealth interaction; thus, it was addressed in the Governor's emergency proclamation and temporary waivers. This bill is needed to codify the changes permanently in law and align with other existing HRS allowances.

The COVID-19 pandemic has resulted in an increase use of telehealth services. However, the existing state law relating to the practice of telehealth is ambiguous regarding whether a patient can use telehealth to establish a relationship with a physician. The provision for establishing a physician-patient relationship via telehealth is a common practice and significantly aids in expanding access to health care services especially for patients and families who live in rural areas and/or are otherwise unable to receive the care they need.

Since 1999, the use and expansion of telehealth services and technology in Hawaii has been recognized as a way to increase access and reduce delays to health care, particularly in rural areas of the. 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 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. These determinants of health, as well as social- or cultural-isolation can often

impede seeking care or follow-up after a doctor's appointment or hospitalization. Being able to provide telehealth services at community health centers or in the home has tremendous potential for improving the health of patients, their families, as well as providing cost-savings to the entire health system by avoiding emergency department or hospitalization costs.

With the increase in the demand for and use of telehealth to diagnose, treat, and monitor illness, this measure greatly improves the understanding of the doctor-patient relationship when telehealth is utilized.

Thank you for this opportunity to testify in strong support of HB 473 HD1.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON HOUSE BILL 473, HOUSE DRAFT 1
RELATING TO TELEHEALTH.

By
Max N. Otani, Director

House Committee on Consumer Protection and Commerce
Representative Aaron Ling Johanson, Chair
Representative Lisa Kitagawa, Vice Chair

Friday, February 12, 2021; 2:00 p.m.
Via Videoconference

Chair Johanson, Vice Chair Kitagawa, and Members of the Committee:

The Department of Public Safety (PSD) offers comments on House Bill (HB) 473, House Draft (HD) 1, which proposes to authorize the establishment of a physician-patient relationship via a telehealth interaction, if the physician is licensed to practice medicine in the State. The Department understands the benefits of telehealth and supports increasing its use. Furthermore, the Department is also interested in reducing the ambiguity over the use of telehealth as described at the beginning of HB 473, HD 1.

The measure proposes to authorize a physician who is licensed to practice medicine in Hawaii to establish a physician-patient relationship via a telehealth interaction. Once the physician-patient relationship is established, a patient or physician licensed in the State would be able to use telehealth, "... **for any purpose**, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law."

The Department respectfully requests that the Legislature address the use of telehealth for "any purpose" to further reduce the ambiguity over the use of telehealth. Currently, Chapter 329, Hawaii Revised Statutes (HRS), the Uniform Controlled Substances Act contains two very important community

safeguards that do not permit the use of telehealth. First, Section 329-41(8)(b) requires an in-person, face-to-face history and physical examination be completed before any controlled substances may be administered, prescribed, or dispensed. Second, Chapter 329-41 (8) requires that a practitioner be physically present in the State of Hawaii when a controlled substances prescription is issued. Both of these laws were created to address the problem of unscrupulous prescribers who operate “pill-mills,” or “dial-a doc” operations, to ensure that controlled substances in Hawaii are administered, prescribed, and dispensed for legitimate medical purposes.

To reduce ambiguity in the use of telehealth, especially in the realm of administering, prescribing, or dispensing a controlled substance, the Department recommends that Section 453-1.3 (f) on Page 2 of HB 473, HD 1, Lines 18-20 be amended as follows:

“...a patient or physician licensed in this State may use telehealth for any allowable purpose, including consultation with a medical provider...”

By limiting the use of telehealth to any “allowable” purpose under State law, ambiguity over using telehealth, especially for controlled substances, can be reduced and avoided.

Thank you for the opportunity to present this testimony.



February 12, 2021 at 2:00 pm
Via Videoconference

House Committee on Consumer Protection and Commerce

To: Chair Aaron Ling Johanson
Vice Chair Lisa Kitagawa

From: Paige Heckathorn Choy
Director of Government Affairs
Healthcare Association of Hawaii

Re: **Testimony in Support**
HB 473 HD 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 healthcare 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 20,000 people statewide.

Thank you for the opportunity to provide testimony in strong **support** of this bill. This bill makes a change to HRS §453-1.3 to clarify that telehealth can be used to establish a physician-patient relationship if the physician is licensed to practice in Hawaii by changing the relevant section of law from a negative statement to a positive one to provide needed clarity and align §453-1.3 with other telehealth allowance throughout HRS.

The pandemic has caused a major shift in how patients receive care by both necessity and preference. Even now, many patients are hesitant to make in-person visits and residents of rural areas may have more limited options on how to access care. Ensuring that a legitimate relationship can be established via telehealth is an important flexibility that has enabled providers to better use telehealth to diagnose, treat, and monitor illnesses that might have otherwise gone unaddressed due to pandemic-related and other barriers. We believe that this simple change to clarify this statute will increase access to care as we continue to fight through this pandemic and beyond.

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

Testimony of
Jonathan Ching
Government Relations Manager

Before:
House Committee on Consumer Protection & Commerce
The Honorable Aaron Ling Johanson, Chair
The Honorable Lisa Kitagawa, Vice Chair

February 12, 2021
2:00 p.m.
Via Videoconference

Re: HB 473, HD1 Relating to the Telehealth

Chair Johanson, Vice Chair Kitagawa, and committee members, thank you for this opportunity to provide testimony on HB 473, HD1 which authorizes the establishment of a physician-patient relationship via a telehealth interaction, if the physician is licensed to practice medicine in the State.

Kaiser Permanente Hawai'i STRONGLY SUPPORTS HB 473, HD1.

Kaiser Permanente Hawai'i is Hawai'i's largest integrated health system that provides care and coverage for approximately 260,000 members. Each day, more than 4,400 dedicated employees and more than 600 Hawai'i Permanente Medical Group physicians and providers come to work at Kaiser Permanente Hawai'i to care for our members at our 20 medical facilities, including Moanalua Medical Center, providing high-quality care for our members and delivering on our commitment to improve the health of the 1.4 million people living in the communities we serve.

Kaiser Permanente Hawai'i supports HB 473, HD1 because it clarifies that telehealth can be used to establish a physician-patient relationship if the physician is licensed to practice in Hawai'i.

Since the COVID-19 pandemic began in 2020, the use of telehealth in Hawai'i has dramatically increased as telehealth has been critical to limit the risk of person-to-person transmission while helping to avoid overwhelming our healthcare facilities. At Kaiser Permanente Hawai'i, we have seen a dramatic increase in the use of telehealth visits between 2019 and 2020. In 2019, we had approximately 1,000 of our outpatient visits by video. In stark contrast, in 2020, we had approximately 67,000 video visits. We expect this number to continue to increase in 2021.

HB 473, HD1 will enable us to establish provider-patient relationships between specialists on Oahu and the mainland and neighbor island members – increasing access without incurring the

inconvenience and expense of travel, especially for those specialties with significant provider shortages.

We ask the committee to PASS HB 473, HD1. Mahalo for the opportunity to testify on this important measure.



HB473 HD1 Physician Can Use Telehealth

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE:

- Rep Aaron Johanson, Chair; Rep. Lisa Kitagawa, Vice Chair
- Friday, Feb. 12, 2021: 2:00 am: Videoconference

Hawaii Substance Abuse Coalition Supports HB473 HD1:

GOOD MORNING 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 of over 30 substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

HSAC is in full support that a physician can use Telehealth, especially during a pandemic, without first having a face to face interview.

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

Friday, February 12, 2021 at 2:00 PM
Via Video Conference

House Committee on Consumer Protection & Commerce

To: Representative Aaron Johanson, Chair
Representative Lisa Kitagawa, Vice Chair

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

Re: **Testimony in Support of HB 473, HD1
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.

I write in support of HB 473, HD1 which authorizes the establishment of a physician-patient relationship via a telehealth interaction when the physician is licensed to practice medicine in the state.

Since 1999, the use and expansion of telehealth services and technology in Hawaii has been recognized as a way to increase access and reduce delays to health care, particularly in rural areas of the. 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 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. These determinants of health, as well as social- or cultural-isolation can often impede seeking care or follow-up after a doctor's appointment or hospitalization. Being able to provide telehealth services at community health centers or in the home has tremendous potential for improving the health of patients, their families, as well as providing cost-savings to the entire health system by avoiding emergency department or hospitalization costs.

The COVID-19 pandemic has resulted in an increase use of telehealth services. However, the existing state law relating to the practice of telehealth is ambiguous regarding whether a patient can use telehealth to establish a relationship with

a physician. This could result in delayed access to care in many instances where access to care could be prudently and appropriately initiated through telehealth.

With the increase in the demand for and use of telehealth to diagnose, treat, and monitor illness, this measure greatly improves the understanding of the doctor-patient relationship when telehealth is utilized.

Thank you for the opportunity to testify.



HAWAII MEDICAL ASSOCIATION

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HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

Rep. Aaron Ling Johanson, Chair

Rep. Lisa Kitagawa, Vice Chair

Date: February 12, 2021

Time: 2:00 p.m.

Place: Videoconference

From: Hawaii Medical Association

Elizabeth A Ignacio, MD, Chair, HMA Legislative Committee

Linda Rosehill, Legislative Affairs

Re: HB 473 HD1- Relating to Telehealth

Position: SUPPORT, WITH COMMENTS

The COVID-19 pandemic of the last year has created a substantial expansion of telehealth within physician practices. According to the American Medical Association, the use of telehealth between physicians and their patients increased an estimated 5,000% over pre-COVID levels, and Hawaii is no exception. It has been established that telehealth can provide safe, effective care when used under proper circumstances, and has been a popular modality among many patients.

Hawaii was a relatively early adopter of telehealth and has had statutory language for well over a decade. The explosion of use offers the opportunity to fine tune current regulation.

The HMA feels strongly that the Hawaii Board of Medicine maintain an avenue of control over all licensed providers under its purview. We believe that caution must be taken in allowing exemptions to Hawaii licensure when caring for Hawaii's residents. As such, we would ask for additional discussion prior to the creation of any state licensure exemptions, and limitations as to when care might be rendered across state lines.

Thank you for allowing the Hawaii Medical Association to testify on this issue.

HMA OFFICERS

President – Michael Champion, MD President-Elect – Angela Pratt, MD Secretary – Thomas Kosasa, MD
Immediate Past President – Jerry Van Meter, MD Treasurer – Elizabeth A. Ignacio, MD



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**The State Legislature
House of Representatives
Committee on Consumer Protection and Commerce
Friday, February 12, 2021
2:00 p.m.**

TO: The Honorable Aaron Johanson, Chair

RE: H.B. 473 HD1 Relating to Telehealth

Aloha Chair Johanson and Members of the Committees:

My name is Keali'i Lopez and I am the State Director for AARP Hawai'i. AARP is a membership organization of people age fifty and over, with nearly 145,000 members in Hawai'i.

AARP Hawai'i supports H.B. 473 HD1 which expands access to care and reduces delays by clarifying that a physician-patient relationship may be established via a telehealth appointment.

The recent pandemic has significantly increase the use of telehealth for patients to connect with their physicians for medical consultation and monitoring. This has improved access especially for the kupuna and many others who are homebound; or reside in rural communities and unable to see their physicians in-person. This bill clarifies Section 453.1.3 in the Hawaii Revised Statutes by amending the subsections (e) and (f) to clearly state that "A physician-patient relationship may be established via a telehealth interaction: provided that the physician has a license to practice medicine in Hawaii."

Thank you very much for the opportunity to support H.B. 473 HD1.

Sincerely,

A handwritten signature in black ink, appearing to read "Keali'i Lopez".

Keali'i Lopez, AARP Hawai'i
State Director



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Aaron Ling Johanson, Chair
The Honorable Lisa Kitagawa, Vice Chair
Members, House Committee on Consumer Protection & Commerce

From: Jacce S. Mikulanec, Manager, Government Relations, The Queen's Health Systems

Date: February 12, 2021

Re: Support for HB473 HD1: 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 1,500 affiliated physicians and providers 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 HB473 HD1, relating to telehealth. This measure addresses the need to eliminate an existing provision under the law (HRS 453-1.3(e)) which prevents physicians from utilizing telehealth modalities to establish a physician-patient relationship. The ability to expand access of medical care via telehealth during the COVID19 pandemic is an important tool in ensuring more members of our community are able to access healthcare safely and responsibly.

Queen's provides a number of telemedicine specialties in areas such as, but not limited to, stroke and neurology, pulmonology, psychiatry, wound care, and critical care. Telehealth programs assist with connecting our four hospitals and allow our health care workers to provide care to patients in their local communities. In particular, Since the start of the COVID-19 pandemic, Queen's has made substantial strides in shifting to telehealth as a modality of quality care for patients. In 2019, Queen's had approximately 1,700 telehealth visits; by comparison in April 2020 we had 13,000 telehealth visits and in September we had 16,000. Furthermore, all of QHS facilities saw increases in the use of telemedicine since the COVID-19 pandemic began with the largest percentage at QHS-Punchbowl.

We concur with the testimony submitted by the Healthcare Association of Hawai'i and thank you for allowing The Queen's Hospital System to testify in support of HB473 HD1.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.



February 12, 2021

The Honorable Aaron Ling Johanson
Chair, Hawaii House Committee on Consumer Protection and Commerce
Hawaii State Capitol
415 S. Beretania St., Room 436
Honolulu, HI 96813

The Honorable Lisa Kitagawa
Vice Chair, Hawaii House Committee on Consumer Protection and Commerce
Hawaii State Capitol
415 S. Beretania St., Room 315
Honolulu, HI 96813

RE: ATA COMMENTS ON HOUSE BILL 473 HD 1

Dear Chair Johanson and Vice Chair Kitagawa:

On behalf of the American Telemedicine Association (ATA) and the over 400 organizations we represent, I am writing to express our support for House Bill 473, which clarifies that a patient-practitioner relationship may be established during a telehealth appointment.

The ATA is the only national organization completely focused on advancing telehealth. We are committed to ensuring that everyone has access to safe, affordable, and high-quality care whenever and wherever they need it. This empowers the health care system to provide services to millions more patients every year in an efficacious manner. The ATA represents a broad and inclusive coalition of technology solution providers and payers, as well as partner organizations and alliances, working to advance industry adoption of telehealth, promote responsible policy, advocate for government and market normalization, and provide education and resources to help integrate virtual care into emerging, value-based modalities.

House Bill 473 serves as an important and rational expansion of Hawaii's state telehealth policy. The proposed legislation revises Hawaii's code covering the practice of telehealth, making clear that patients and practitioners are permitted to establish relationships via telehealth encounters. This policy is consistent with the 2014 Federation of State Medical Board's "Model Policy for the Use of Telemedicine Technology in the Practice of Medicine."

Across the United States, patients and consumers are seeking more cost-effective and efficient ways to access the health care they need. More recently, innovative telehealth technologies have enabled practitioners and patients to interact with each other at any place and any time from the comfort and safety of their private residences throughout the COVID-19 pandemic. Using appropriate technologies to eliminate barriers to access to health care is an effective means to expand access to health care, especially for the unserved and underserved.



The ATA applauds the legislature's efforts to expand Hawaiians' access to affordable, quality health care. House Bill 473 takes the important step of permitting practitioners to establish a valid professional relationship with patients through the use of the appropriate telehealth technologies. So long as the patient has consented to the use of telehealth as an acceptable mode of delivering health care services and the patient and practitioner have identified themselves and disclosed the appropriate credentials, a practitioner and patient should not be prevented from establishing a professional relationship through appropriate technologies.

While the ATA supports the substantive changes to Hawaii's telehealth statute posited in the bill, we are concerned by the legislature's decision to delay the effective date of the proposed legislation to July 1, 2050 in HB 473 HD 1. This would prevent Hawaiians from enjoying the full benefits of innovative telehealth technologies for the duration of the COVID-19 pandemic and decades more. The ATA recommends that the legislature adopts the language proposed in the original version of the bill, by which the act would take effect upon approval.

Again, we thank you for your support of telehealth in Hawaii. In the context of the ongoing health crisis, it is essential that Hawaii residents have safe and efficacious access to the health care they need and deserve. We urge you and your colleagues to pass House Bill 473 in the interest of expanding Hawaiians' easy and efficient access to affordable, quality health care. Please do not hesitate to let us know how we can be helpful in your efforts to advance common-sense telehealth policy in Hawaii. If you have any questions or would like to discuss further the telehealth industry's perspective, please contact me at kzebley@americantelemed.org.

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley".

Kyle Zebley
Public Policy Director
American Telemedicine Association

HB-473-HD-1

Submitted on: 2/10/2021 6:32:40 PM

Testimony for CPC on 2/12/2021 2:00:00 PM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|---------------------|---------------------------|---------------------------|
| Ellen Godbey Carson | Individual | Support | No |

Comments:

This bill should be passed. Our laws have a wierd quirk that make it challenging for medical providers to establish a doctor-patient relationship via telehealth. Our laws are outdated and need to reflect our modern reality, technological innovations and the benefits of electornic communications that allow much faster and more inclusive medical services for our community.

Thank you for your consideration

Ellen Godbey Carson