



THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Jarrett Keohokalole, Chair
The Honorable Rosalyn Baker, Vice Chair
Members, Senate Committee on Health

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

Date: February 2, 2022

Re: Comments on SB 2152 – Relating to Health

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.

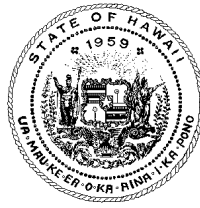
Queen's appreciates the opportunity to provide comments on SB 2152, which would authorize state-licensed and credentialed physicians, advanced practice registered nurses, and physician assistants, who are not physically in Hawai'i, to issue prescriptions for certain controlled substances under a limited circumstance and authorizes pharmacies to dispense such prescriptions. Queen's appreciates the intent of this measure and supports efforts to expand its applications, however, we would like to raise a potential issue with whether the proposed language conflicts with federal Ryan-Haight Act provisions which requires an in-person visit prior to prescribing a controlled substance and/or whether the proposed changes would conflict with federal law following the current public health emergency.

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.

Thank you for allowing Queen's to provide comments on SB 2152.

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.

DAVID Y. IGE
GOVERNOR



MAX N. OTANI
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Tommy Johnson
Deputy Director
Corrections

Jordan Lowe
Deputy Director
Law Enforcement

LATE

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

No. _____

TESTIMONY ON SENATE BILL 2152
RELATING TO HEALTH.

By

Max N. Otani, Director

Senate Committee on Health
Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

Wednesday, February 2, 2022; 1:00 p.m.
Via Videoconference

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

The Department of Public Safety (PSD) **strongly opposes** Senate Bill (SB) 2152, which proposes to authorize state-licensed and credentialed physicians, advanced practice registered nurses, and physician assistants, who are not physically in the State, to issue prescriptions for certain controlled substances under a limited circumstance and to authorize pharmacies to dispense such prescriptions. The Department has several reasons for its opposition.

First, PSD opposes SB 2152 because allowing the prescribing of controlled substances when the prescriber is not physically in the State threatens to erode the requirement of having a bona fide physician-patient relationship, as required under the Hawaii Uniform Controlled Substances Act. Under section 329-1, a bona fide relationship includes a face-to face, physical medical examination of the patient. The requirement of having a bona fide relationship with the patient was placed into law around ten years ago. A bona fide relationship is the cornerstone of all controlled substances prescribing, in which,

prescribers prescribe controlled substances for a legitimate medical purpose and also prescribe within the scope of their practice. Prior to enactment of this law, PSD investigated many situations where prescribers operated pill-mills, both in Hawaii and in the Mainland. Those types of pill-mill investigations prior to the bona fide relationship requirement were particularly difficult. With the enactment of the bona fide relationship requirement and an additional prohibition against out of state prescribing of controlled substances into Hawaii, these pill-mills have nearly all gone away. If out of state prescribing of controlled substances were to be allowed under SB 2152, then the strong defense provided by the face to face, bona fide relationship that we now have, and the prohibition against out of state prescribing would be diminished and the specter of pill-mills returning to Hawaii would grow. The Legislature and many community stakeholders have taken great actions to limit the growth of the opioid epidemic in Hawaii. The potential erosion of the bona fide relationship requirement and the out of state prescribing prohibition increases the threat of pill-mills potentially returning and may also lessen the positive work that has already been done.

Second, and most importantly, if SB 2152 were to pass and allow controlled substances prescriptions to be issued from out of state, there would be significant problems for law enforcement. If a controlled substances prescriber were out of state and violated the law, PSD would not be able to investigate or take enforcement actions to stop them. This is because those offenders would be outside the geographical law enforcement jurisdiction of the State of Hawaii. If, for example, an out of state prescriber was in California, but violated a Hawaii law, this proposal raises serious doubts as to what actions could be taken by PSD and other authorities, if at all. As well, if SB 2152 were to be passed into law, then allowing out of state prescribing of controlled substances would create two disparate communities. The first community of prescribers who work and prescribe within the bounds of the State and who would be subject to the full force and effect of the State's criminal laws, and the second community of

prescribers who may be out of state, and who may commit the same acts as those in State, but not be subject to any of Hawaii's criminal laws.

For these important reasons, PSD strongly opposes SB 2152.

Thank you for the opportunity to provide this testimony.



HO'OLA LAHUI HAWAI'I
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Phone: 808.240.0100 Fax: 808.246.9551

January 31, 2021

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair
Senator Rosalyn H. Baker, Vice Chair

Testimony in Support of SB 2152
Relating to Health

Wednesday, February 2, 2022 1:00PM via Videoconference.

Ho'ola Lahui Hawaii the only Federally Qualified Health Center and Native Hawaiian Health Care System on Kauai is strongly **SUPPORTING** this bill to permit those who are licensed and credentialed in Hawaii to prescribe while not being physically present in the state. Providers who are eligible to prescribe will be required to have a Hawaii DEA and NED number and be affiliated with an existing health care facility. Prescriptions will be limited to controlled substances on schedules 3-5 and the provider would NOT be eligible to prescribe opioids.

HLH has a contract with an out of state psychiatric provider who can see patients but cannot prescribe scheduled drugs for anxiety and other mood disorders. This legislation would permit such prescriptions under certain conditions. Current statutes require the provider be physically present in the state of Hawaii. Given today's telehealth environment it is important that all providers licensed in Hawaii be given the same ability to prescribe need medications for those with psychological challenges whether currently in the state or on the continental United States.

We strongly support the passage of this bill so that complete psychiatric care is available through telemedicine.

Respectfully,

David Peters
Chief Executive Officer

SB-2152

Submitted on: 1/31/2022 12:21:37 PM

Testimony for HTH on 2/2/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kapono Chong-Hanssen	Testifying for Ho`ola Lahui Hawai`i / Kaua`i Community Health Center	Support	No

Comments:

As the medical director for Ho`ola Lahui Hawai`i, the only Federally Qualified Health Center and Native Hawaiian Health Care System on Kaua`i, I support this bill. Current legislation prevents providers who reside out of the state of Hawai`i from prescribing controlled substances even if they are licensed and credentialed within the state of Hawai`i. With the expansion of telehealth, this scenario is becoming more commonplace, particularly for psychiatric care given the shortage of psychiatric providers on neighbor islands. By preventing these providers from prescribing controlled substances, the duties of refilling controlled substances is shifted to providers in Hawai`i, usually primary care providers like myself.

For example, our community health center has contracted with a psychiatric nurse practitioner from out of state to help address access and care needs often required for these patients to access benefits from the department of human services. Out of concern for our patients, our primary care providers agreed to coordinate all of the controlled substance medication refills on behalf of this provider, usually stimulants and benzodiazepenes, that are commonly part of psychiatric care. We have now been carrying this extra duty for over a year and a half now hoping that legislation will change the rule so providers from out of state can utilize the full scope of medications to practice as independently as we do.

Another example where the status quo is problematic is when one of our providers goes on vacation and we need to arrange coverage. It is common for health care entities to employ locum tenens physicians from out of state, but they are also prevented from prescribing controlled substances. Once again, this responsibility is shifted to one of our primary care providers who resides in Hawai`i, because the covering locum tenens providers from out of state are prevented from practicing the full scope of their care.

While we understand the need to regulate improper prescribing of controlled substances within the state of Hawai`i, particularly opiates, the legislative status quo is crippling to the expansion of telehealth, particularly psychiatric care, and places unnecessary responsibility on already overburdened Hawai`i primary care providers. Please consider passing this bill.

`o au iho no me ka ha`aha`a,

Damien Kaponu Chong-Hanssen, MD

Medical Director - Ho'ōla Lāhui Hawai'i/Kaua'i Community Health Center

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Waimea, HI 96796

808-240-0140



January 30, 2022

The Honorable Jarrett Keohokalole, Chair
The Honorable Rosalyn H. Baker, Vice Chair
Senate Committee on Health

Re: SB 2152 – Relating to Health

Dear Chair Keohokalole, Vice Chair Baker, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 2152, which authorizes state-licensed and credentialed physicians, advanced practice registered nurses, and physician assistants, who are not physically in the State, to issue prescriptions for certain controlled substances under a limited circumstance. Authorizes pharmacies to dispense such prescriptions.

HMSA understands and values the use of telehealth to increase access to health care in our state. We would however like to provide comments cautioning against unintentionally increasing the prevalence of opioid use in Hawaii. This measure is quite broad in allowing the prescription of controlled substances in Schedules III, IV, and V. Most opioids are classified as Schedule II controlled substances; however, there are some opioids that are Schedules III, IV, and V (e.g. tramadol, codeine, etc.) We believe that physical exams are needed to establish a differential diagnosis for common pain complaints, which are not feasible via telehealth.

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

Sincerely,

Matthew W. Sasaki
Director, Government Relations



Na Pu'uwai
Native Hawaiian Health Care System
604 Maunaloa Hwy, Building C, Kaunakakai, Hawaii 96748
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(808) 560-3653 • Fax (808) 560-3385

January 31, 2022

COMMITTEE ON HEALTH

Senator Jarrett Keohokalole, Chair

Senator Rosalyn H. Baker, Vice Chair

Testimony in Support of SB 2152

Relating to Health

Wednesday, February 2, 2022, 1:00PM via Videoconference.

Na Pu'uwai is one of the five (5) Native Hawaiian Health Care System serving the islands of Moloka'i and Lāna'i. We strongly **SUPPORT** this bill to permit those who are licensed and credentialed in Hawai'i to prescribe while not being physically present in the state. Providers who are eligible to prescribe will be required to have a Hawaii DEA and NED number and be affiliated with an existing health care facility. Prescriptions will be limited to controlled substances on schedules 3-5 and the provider would NOT be eligible to prescribe opioids.

This legislation would permit prescriptions under certain conditions. Our current statutes require the provider be physically present in the state of Hawai'i. However, in today's telehealth environment it is important that all providers licensed in Hawai'i be given the same ability to prescribe medications for those with psychological challenges whether currently in the state or on the continental United States.

We strongly support the passage of this bill so that complete psychiatric care is available through telemedicine.

Respectfully,

Kamahanahokulani Farrar

Kamahanahokulani Farrar
Executive Director



Papa Ola Lokahi
Nana I Ka Pono Na Ma

Papa Ola Lōkahi

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Papa Ola Lokahi

is a non-profit Native Hawaiian organization founded in 1988 for the purpose of improving the health and well-being of Native Hawaiians and other native peoples of the Pacific and continental United States.

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Senate Committee on Health

Senator Jarrett Keohokalole, Chair
Senator Rosalyn Baker, Vice-Chair

Wednesday, February 2, 2022, 1:00PM, Videoconference

RE: SB 2152 – Relating to Health

Position: STRONG SUPPORT

Dear Chair Keohokalole, Vice Chair Baker, and Members of the Committees on Health,

Papa Ola Lokahi stands in **support** of SB 2152 as a means of increasing access to behavioral health providers and ensuring quality of patient care and safety, weighted to providers that are familiar with the unique demographics and social environment of Hawai'i.

The longstanding provider shortage in mental and behavioral health exacerbated by COVID-19 and economic recession has heightened concerns for marginalized communities. Kaiser Family Foundation reported (July 2020) that adult mental health and well-being was negatively impacted in aspects such as difficulty sleeping or eating, increased alcohol consumption or substance use, and worsening chronic conditions.¹ Access to psychiatric care is paramount to sustain community wellness, and outpatient psychiatric services allow individuals to receive preventive and maintenance services, which may lower risk for hospitalization or incarceration. In addition, State action to expand access to psychiatric health services through telehealth can leverage federal infrastructure investments in broadband.²

Neighbor island access to psychiatric care remains a key challenge in providing sufficient care. The Medicaid population has grown by 32% during the pandemic³ and a November 2020 report indicated a state psychiatrist shortage of 22% varied widely when disaggregated by county (Honolulu (13%), Hawai'i (53%), Maui (27%), and Kaua'i (28%)), reflect the particular difficulty for the families and individuals on neighbor islands. These factors, along with increased demand and the limited number of psychiatric providers willing to care for QUEST patients, create a difficult environment for access for rural communities, those with inadequate or inconsistent broadband connectivity, and more.

Given these data, we strongly support this measure, which should increase access to behavioral health providers by contracting providers residing in other states. To ensure quality of services and patient safety, we support the components of the measure that require that out-of-state telehealth providers to hold the same standards for licensure/credentialing through the Narcotics Enforcement Division and Drug Enforcement Agency and work through contract with a local provider (e.g. the Native Hawaiian Health Care Systems). We also support limiting out-of-state prescriptive authority to Schedule 3, Schedule 4, and Schedule 5, so that Schedule 2 substances remain under the direct supervision of a provider residing and practicing within the State.

The wise practices assured by this bill may serve as a sustainable model for behavioral health care delivery for our State moving through the pandemic. It is important that our State continue to examine multiple means to achieve increased access to health services, reduce provider shortages, and reduce health disparities within our communities. Passing this measure will be one step in that direction.

Thank you for the opportunity to testify in **strong support** of this important legislation.

¹ Panchal, N., Kamal, R., Cox, C., & Garfield, R. (2021). The Implications of COVID-19 for Mental Health and Substance Use. Kaiser Family Foundation. <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/>

² The White House. (2021). Fact Sheet: The Bipartisan Infrastructure Deal.

<https://www.whitehouse.gov/briefing-room/statements-releases/2021/11/06/fact-sheet-the-bipartisan-infrastructure-deal/>

³ Pasia, N. (2021). Hawaii Med-QUEST on upcoming eligibility redetermination: "It's our kuleana".

<https://stateofreform.com/news/hawaii/2021/11/hawaii-med-quest-on-eligibility-redetermination-its-our-kuleana/#:~:text=Med%2DQUEST%20enrollments%20have%20increased,tied%20to%20the%20state's%20economy.>

SB-2152

Submitted on: 1/31/2022 10:28:40 AM

Testimony for HTH on 2/2/2022 1:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Alice Luck	Individual	Support	No

Comments:

I support SB 2152. As a resident on Kauai I hear about the severe shortage of mental health professionals we have access to. The pandemic increased the need for mental health services and highlighted this issue. SB 2152 presents a short-term fix to alleviate some of the access need while through telehealth while Hawaii works on shoring up the in-state mental health workforce long-term. It is much less costly and more efficient to give folks access to mental health services outpatient through telehealth than to have them wait for an in-person appointment while their condition worsens, which has an adverse impact on their productivity as a citizen and taxpayer, family stability, and can burden inpatient psychiatric facilities, correctional systems, and law enforcement and other first responders.



January 30, 2021

LATE

The Honorable Jarrett Keohokalole, Chair
The Honorable Rosalyn H. Baker, Vice Chair
Senate Committee on Health

Senate Bill 2152 – Relating to Health

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

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to provide **comments** on SB 2152. HAHP is a statewide partnership of Hawaii’s health plans and affiliated organizations to improve the health of Hawaii’s communities together. The vast majority of Hawaii residents receive their health coverage through a health plan associated with one of our organizations.

HAHP believes that telehealth is an important modality for increasing access to health care in Hawaii, including mental health care and in rural areas where the shortages of healthcare providers is most severe. This measure allows out-of-state physicians, advanced practice nurses, and physician assistants to prescribe controlled substances on Schedules III, IV, and V to people in Hawaii. While most opioids are classified as Schedule II, there are some opioids in Schedules III, IV, and V, such as tramadol and codeine. We believe that physical, in-person exams are necessary to establish a differential diagnosis for common pain complaints and do not believe telehealth is an appropriate modality for this health care issue.

Thank you for allowing us to provide comments on SB 2152.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members

hahp.org | 818 Keeaumoku St., Honolulu, HI 96814 | info@hahp.org

AlohaCare | HMAA | HMSA | Humana | HWMG | Kaiser Permanente | MDX Hawaii | Ohana Health Plan | UHA Health Insurance | UnitedHealthcare