

JAN 28 2009

A BILL FOR AN ACT

RELATING TO HEALTH.

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

1 SECTION 1. Since 1999, the legislature has supported the
2 use and expansion of telehealth services and technology in
3 Hawaii. In the past, telehealth services were primarily
4 facility-based without a consumer driven component. With
5 internet-based technology revolutionizing the way consumers
6 acquire goods and services today, it was only a matter of time
7 before this type of technology was applied to health care.
8 Hawaii is poised to become the first state in the nation to
9 provide statewide consumer access to local physicians via the
10 Internet and telephone. Individuals will be able to interact
11 with local physicians in a real time, secure, and private online
12 environment.

13 Supporting this expanded use of technology for telemedicine
14 services will increase access to health care for rural residents
15 on the neighbor islands and Oahu. People living in Hawaii's
16 rural areas often find it more difficult to access specialty
17 physician care. The use of new and improved telemedicine



1 technologies to deliver effective and prompt health care will
2 provide a method for residents to immediately consult with a
3 specialist.

4 Difficulty in accessing health care due to the inability to
5 visit a specialist because of work or family obligations often
6 forces individuals to delay appropriate health care. These
7 delays may ultimately lead to worsened health outcomes which
8 could have been avoided. New telemedicine technology will
9 provide additional options to access care through the ability to
10 engage in a discussion with a local physician live via the
11 Internet or telephone twenty-four hours a day, seven days a
12 week.

13 Expansion of telemedicine services may also assist in
14 containing rising health care costs. The availability of
15 immediate access to physicians may prevent inappropriate and
16 expensive trips to the emergency room. Those without health
17 care coverage who access non-emergent care in the emergency room
18 would now be able to visit a physician online. As consumers
19 become more comfortable receiving care through this technology,
20 hospitals could see a decrease not only in inappropriate
21 emergency room usage, but also a decrease in the amount of
22 uncompensated care they provide to the community.



1 In addition, since rural areas locally and across the
2 nation find it increasingly difficult to attract and retain
3 physicians, particularly specialists, expansion of telemedicine
4 services may attract physicians to practice in these areas.
5 Telemedicine will provide physicians with greater flexibility
6 and freedom within their practices wherever they are physically
7 located in Hawaii. The resulting lifestyle improvement without
8 having to sacrifice income could prove to be an attractive
9 incentive for physicians to practice in rural areas.

10 Despite the legislature's clear and consistent support of
11 expanded and continued use of telemedicine as a resource to
12 improve access to health care services throughout the State,
13 questions have recently been raised by the Hawaii medical board
14 about the appropriate use of this technology to establish the
15 physician-patient relationship. Therefore, the purpose of this
16 Act is to reinforce the legislature's support of online care
17 services through telemedicine by:

- 18 (1) Clarifying that telemedicine is in a physician's scope
19 of practice and is authorized in Hawaii when practiced
20 by a licensed physician providing services to
21 patients; and



(2) Further clarifying the current laws regarding telehealth to ensure compliance with changes made to the law regulating the practice of medicine.

SECTION 2. Chapter 453, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§453- Practice of telemedicine. (a) Nothing in this section shall preclude any physician, within the scope of the physician's license to practice, from practicing telemedicine as defined in this section.

(b) For the purposes of this section, "telemedicine" means the use of telecommunications services, including real-time video or web conferencing communication, or secure interactive or non-interactive web-based communication, for the purposes of establishing a physician-patient relationship, or evaluating or treating a patient.

(c) Telemedicine services shall include a documented patient evaluation, including history and a discussion of physical symptoms adequate to establish a diagnosis and identify underlying conditions or contra-indications to the treatment recommended or provided.



1 (d) Treatment recommendations made via telemedicine,
2 including issuing a prescription via electronic means, shall be
3 held to the same standards of appropriate practice as those in
4 traditional physician-patient settings. Issuing a prescription
5 based solely on an online questionnaire is not treatment for the
6 purposes of this section and does not constitute an acceptable
7 standard of care. For the purposes of prescribing a controlled
8 substance, a physician-patient relationship shall be established
9 pursuant to chapter 329.

10 (e) All medical reports resulting from telemedicine
11 services are part of a patient's health record and shall be made
12 available to the patient. Patient medical records shall be
13 maintained in compliance with all applicable state and federal
14 requirements including privacy requirements.

15 (f) A physician shall not practice telemedicine in this
16 State without a license to practice medicine in Hawaii."

17 SECTION 3. Section 431:10A-116.3, Hawaii Revised Statutes,
18 is amended by amending subsection (d) to read as follows:

19 "(d) Notwithstanding chapter 453 or rules adopted thereto,
20 [In] in the event that a health care provider-patient
21 relationship does not exist between the patient and the health
22 care provider to be involved in a telehealth interaction between



1 the patient and the health care provider, a telehealth mechanism
2 may be used to establish a health care provider-patient
3 relationship."

4 SECTION 4. Section 432:1-601.5, Hawaii Revised Statutes,
5 is amended by amending subsection (d) to read as follows:

6 "(d) Notwithstanding chapter 453 or rules adopted thereto,
7 ~~[In]~~ in the event that a health care provider-patient
8 relationship does not exist between the patient and the health
9 care provider to be involved in a telehealth interaction between
10 the patient and health care provider, a telehealth mechanism may
11 be used to establish a health care provider-patient
12 relationship."

13 SECTION 5. Section 432D-23.5, Hawaii Revised Statutes, is
14 amended by amending subsection (d) to read as follows:

15 "(d) Notwithstanding chapter 453 or rules adopted thereto,
16 ~~[In]~~ in the event that a health care provider-patient
17 relationship does not exist between the patient and the health
18 care provider involved in a telehealth interaction between the
19 patient and the health care provider, a telehealth mechanism may
20 be used to establish a health care provider-patient
21 relationship."



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

3 SECTION 7. This Act shall take effect upon its approval.

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Report Title:

Telehealth; Medicine and Surgery; Expansion of Services

Description:

Makes amendments to clarify the support and expansion of new technology in the use of telemedicine; clarifies that telehealth is within the scope of a physician's practice.

