LATE

STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
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HONOLULU, HAWAII 96814
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February 4, 2016

The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services
and
The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce, Consumer Protection, and Health
Twenty-Eighth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Senator Chun Oakland, Senator Baker, and Members of the Committees:

SUBJECT: SB 2395 – Relating to Telehealth

The State Council on Developmental Disabilities **SUPPORTS SB 2395.** The purpose of this bill is to enhance access to care via telehealth by removing the barriers that prevent health care providers and patients from realizing the full benefits of telehealth.

The DD Council is responsible for the development and implementation of a Five-Year State Plan. Our current State Plan (FY 2012-2016) includes an Objective, "Address all medical gaps in services, as indicated within the Individualized Service Plan by September 30, 2016." We have learned that individuals with developmental disabilities experience gaps in medical services due to several factors, such as available and willing health care providers to provide services to this population, living in rural areas, and accessible means (transportation) to get to medical appointments. An activity to address the objective is to pursue statewide telemedicine opportunities.

SB 2395 represents a comprehensive approach to telehealth in providing individuals with live consultation for health care, including but not limited to, primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under Chapter 453, advanced practice registered nurses licensed under Chapter 457, psychologists licensed under Chapter 465, and dentists licensed under Chapter 448. Furthermore, this bill would assist in the delivery of enhanced statewide health care services, increase access to services, and provide timely information to patients and health care providers.

Thank you for the opportunity to offer our **support of SB 2395.**

Sincerely,

Waynette K.Y. Cabral, MSW
Executive Administrator

Josephine C. Woll
Chair

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TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016

ON THE FOLLOWING MEASURE:
S.B. NO. 2395, RELATING TO TELEHEALTH.

BEFORE THE:
SENATE COMMITTEES ON HUMAN SERVICES AND ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Thursday, February 4, 2016 **TIME:** 1:15 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Lili A. Young, Deputy Attorney General

Chairs Chun Oakland and Baker and Members of the Committees:

The Department of the Attorney General has concerns about this measure and provides the following comments. The purpose of this bill, in part, is to require the State's Medicaid managed care and fee-for-service programs to cover services provided through telehealth.

The U.S. Centers for Medicare and Medicaid (CMS) oversees the states' administration of the federal Medicaid program. The CMS recently filed final rules on January 27, 2016, amending 42 Code of Federal Regulations (CFR) part 440 relating to Medicaid home health services. These rules involve the use of telehealth services and set forth requirements for payment of services and medical equipment specific to home health services. While the final rule is effective on July 1, 2016, CMS is allowing states and providers an additional 1-2 years to become compliant so that the final rule is implemented appropriately. Hawaii's deadline for compliance is July 1, 2017.

Section 2 of this bill amends chapter 346, Hawaii Revised Statutes, by adding a new section to address Medicaid coverage for telehealth services. The new subsection (a) at page 3, lines 9-14, requires that the Medicaid program "shall not deny coverage" for telehealth services if the service would have been covered through an in-person consultation between the patient and the health care provider. This broad mandate might be inconsistent with the final federal rules that have more specific requirements for coverage of home health services that may involve the use of telehealth services that are different from requirements for an in-person consultation.

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The new subsection (b) on page 3, lines 15-21, and page 4, lines 1-3, addresses restrictions on reimbursement for services provided through telehealth unless certain requirements are met. However, on page 4, lines 8-13, the bill provides:

> (c) There shall be no geographic restrictions or requirements for telehealth coverage or reimbursement under this section.
>
> (d) There shall be no restrictions on originating site requirements for telehealth coverage or reimbursement under this section.

As worded, the bill may conflict with CMS' final rule, which sets forth payment restrictions and requirements for home health services that may utilize telehealth services.

To address these concerns, we suggest insertion of a new subsection (e) into the new statutory section on page 4, line 14, as follows, with the existing subsection (e) redesignated as subsection (f):

> (e) Notwithstanding any other law to the contrary, the provisions of this section shall comply with the applicable federal requirements related to utilization, coverage, and payment for telehealth services.

The effective dates of this bill and CMS' final rule should be the same. We suggest that section 14 of the measure, on page 39, line 6, be changed to read as follows:

> SECTION 14. This Act, upon its approval, shall take effect on July 1, 2016.

The Department urges the Committees to pass this bill only if these concerns are addressed. We are available to provide any further suggestions to achieve the purpose of this bill.

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DentaQuest

DATE: Thursday, February 04, 2016
TIME: 1:15pm
PLACE: Conference Room 016
State Capitol
415 South Beretania Street

Re: SB No. 2395 An Act Relating to Telehealth

DentaQuest appreciates the opportunity to provide written testimony on Senate Bill No. 2395 ("SB 2395"), which requires reimbursement parity for telehealth-delivered services in the Medicaid managed care and fee-for-service programs. DentaQuest strongly supports this legislation and its goal to improve access to care for the Medicaid population.

DentaQuest had the honor of serving the children of Hawaii as a subcontractor for the Medicaid QUEST dental program between 2012 and 2015. We continue to build partnerships with the Hawaii health and advocacy community by working with Hawaii nonprofits like Helping Hands Hawaii and Aloha Medical Mission. Like DentaQuest, these organizations work to improve health outcomes and to build stronger communities.

DentaQuest is the second largest dental benefits company and the largest Medicaid and CHIP dental benefits administrator in the country. Nationwide, we work with seven state agencies, partner with 100 health plans, and offer plans on ten health insurance exchanges to provide dental benefits to more than 24 million beneficiaries. Along with the DentaQuest Foundation, DentaQuest Institute, and DentaQuest Care Group, our organization is committed to improving the oral health of all.

As SB 2395 notes, the use of telehealth can help reduce access to care challenges, particularly in health care provider shortage areas. The use of telehealth allows providers to treat patients in settings that are more convenient and comfortable for the patient. By bringing care to the patient, telehealth helps facilitate a more patient-centered approach to delivering the right services at the right time to improve health outcomes. According to the American Telemedicine Association, early results from a number of telehealth studies show that quality of care is not compromised when services are delivered in non-traditional settings and cost savings can be found for providers, patients, and payers .

While, telehealth legislation has passed in many states, adoption is still low due to a wide variety of regulatory and implementation barriers. For successful telehealth adoption, legislation should address Medicaid reimbursement parity, as private payers will follow public programs. To encourage a variety of potential solutions, legislation should account for different types of telehealth, including, but not limited to, live video and store-and-forward technologies. Rules related to geographic, originating site or provider-type limitations should be reviewed carefully to ensure they support adoption.

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Fortunately, SB 2395 addresses these barriers to adoption and if passed, would ensure that the Medicaid program optimizes telehealth's potential. DentaQuest is pleased that the legislation acknowledges the value in including a wide range of providers, including dentists, dental technicians, and dental hygienists. Oral health is a critical component of overall health and as delivery and reimbursement models continue to evolve, it is important that telehealth models support improved access to dental services.

Early teledentistry initiatives have already shown tremendous promise. The Pacific Center for Special Care studied the new Virtual Dental Home Demonstration in California to find that systemic costs had declined and 35% of children were less fearful of seeing a dental provider because they were in more comfortable, community settings.

Increasing access to care via telehealth holds the promise of addressing certain oral health access challenges facing Hawaii. Based on 2014 HEDIS measures, Hawaii came in 33rd for the percentage of Medicaid-eligible children receiving preventive dental care. The state's Department of Health noted that in 2012, only 52 percent of low-income individuals saw a dentist compared to 82 percent for higher-income individuals.

The Hawaii State Department of Health's 2015 report, *Hawaii Oral Health Key Findings,* showed that if a child's family is beneath the federal poverty level (FPL), they are twice as likely to have had a dental problem in the past six months compared to children in families four times above the FPL. Low-income adults in Hawaii (<$15,000) are also more likely to have permanent tooth loss compared to high-income adults (>$75,000)—51 percent vs. 32 percent.

By improving the oral health experience for these at-risk populations, telehealth legislation can increase the number of patients receiving preventive services, decrease costs due to inefficiencies, reduce disparities, and improve overall health.

DentaQuest supports SB 2395 and encourages its passage. If there are any questions, we are always available as a resource.

Sincerely,

Lawless Barrientos
Director, Government Relations

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THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Suzanne Chun Oakland, Chair, Committee on Human Services
The Honorable Gil Riviere, Vice Chair, Committee on Human Services
Members, Committee on Human Services

The Honorable Rosalyn H. Baker, Chair, Committee on Commerce, Consumer Protection, and Health
The Honorable Michelle N. Kidani, Vice Chair, Committee on Commerce, Consumer Protection, and Health
Members, Committee on Commerce, Consumer Protection, and Health

From: Paula Yoshioka, Senior Vice President, The Queen's Health Systems
Date: February 3, 2016
Hrg: Joint Senate Committee on Human Services and Senate Committee on Commerce, Consumer Protection, and Health Hearing; Thursday, February 4, 2016 at 1:15pm in Room 016

Re: **Strong support and comments for SB 2395, Relating to Telehealth**

My name is Paula Yoshioka and I am a Senior Vice President at The Queen's Health Systems (QHS). I would like to express my **strong support** for SB2395, Relating to Telehealth.

At Queen's we recognize the importance of expanding access to care through telecommunication technologies. Queen's now operates statewide with a four hospital system: The Queen's Medical Center – Punchbowl, The Queen's Medical Center – West O'ahu, Molokai General Hospital, and North Hawai'i Community Hospital. It is our desire to expand health care access beyond O'ahu where our trauma and tertiary/quaternary services are located at QMC Punchbowl. We appreciate the introduction of this bill which will create greater health care access for rural O'ahu and the neighbor islands.

We concur with the testimony submitted by Matthew Koenig, MD the Director of Telehealth for The Queen's Health Systems. We would like to make the following comments for the sake of clarification and amendment in order to strengthen the bill.

1. On Page 3, line 15, "Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact...". The intention of this section is good, but the problem is that the actual billing codes used for telemedicine encounters are different from the billing codes used for in-person encounters for the same indication and the reimbursement amount for these codes is not equivalent. The language should be changed to specify that, regardless of the billing code, the amount of reimbursement (dollar amount and relative value unit (RVU)) should be equivalent. This language should be clarified throughout the bill, including the Medicaid and private insurance sections.

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2. Also on Page 3, line 18, "There shall be no reimbursement for a telehealth consultation between two healthcare providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction; provided that the health care provider-patient relationship prerequisite shall not apply to telehealth consultations for emergency department services." We recommend deleting this language throughout the bill. The language implies that a "curbside" consultation done by video teleconferencing between a primary care physician (who has an established patient-provider relationship) and a specialist (who does not know the patient) can be reimbursed even though the patient is not present. This does not meet current standards of clinical practice and in-person "curbside" consultations (in which the patient is not present) are not currently reimbursed by insurers. For "store-and-forward" and teleradiology services, other sections of the bill include reimbursement rules that have greater clarity.

3. On Page 21, line 14, "The combined amount of reimbursement that a health maintenance organization plan allows for the compensation to the distant site health care provider and the originating site health care provider shall not be less than the total amount permitted for reimbursement for the same services provided via face-to-face contact..." The language implies that a single reimbursement amount could be split between two healthcare providers, one at the originating site and one at the distant site. The language should be clarified to specify that both providers are reimbursed the full amount they would have received for seeing the patient in-person. Alternatively, this section could be deleted because other parts of the bill specify that telehealth reimbursement needs to be equivalent to in-person reimbursement for the same services.

4. On Page 22, line 1, " Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health care provider involved in the telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship." On Page 26, line 4, "For the purpose of prescribing a controlled substance, a physician-patient relationship shall be established pursuant to chapter 329". The language should be clarified to specify whether an initial telehealth encounter is or is not adequate to establish a provider-patient relationship in order to prescribe controlled substances during that encounter. This issue requires careful consideration to limit the potential for telehealth to be abused for the purposes of prescribing controlled substances such as opioid narcotic pain medications and medical marijuana.

We ask for your support in strengthening access to health care in Hawai'i by voting favorably on this measure. Thank you for your time and consideration of this important matter.

LATE

DAVID Y. IGE
GOVERNOR OF HAWAII

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAII
DEPARTMENT OF HEALTH
P. O. Box 3378
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Testimony in SUPPORT of SB2886
RELATING TO AGE OF CONSENT FOR ADOLESCENT MENTAL HEALTH SERVICES

SENATOR ROSALYN BAKER, CHAIR
SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

SENATOR GILBERT KEITH-AGARAN, CHAIR
SENATE COMMITTEE ON JUDICIARY AND LABOR
Hearing Date: February 4, 2016 Room Number: 016

Fiscal Implications: None to State of Hawaii, though private providers may experience a negligible impact.

Department Testimony: The Department of Health (DOH) strongly supports this bill, which is part of Governor Ige's Administrative Package.

The State of Hawaii has already recognized that requiring parental consent for minors to receive substance abuse treatment and family planning services poses a barrier to health care. Similarly, minors may often find desired mental health services inaccessible due to the discomfort and in rare circumstances, the opposition, resulting from required parental consent.

SB2886 allows for the access of mental health services to consenting minors. It does not out-right exclude parental involvement. If, in the treating provider's clinical opinion, parental involvement would not be detrimental to care, the clinician must work with the youth to appropriately include the parent in treatment. This bill does not compel any private or public provider to afford such a service, but simply allows for the provision of the service should both parties agree, thereby no mandated cost is associated with this bill. It is reasonable to believe that more accessible mental health services would improve emotional wellbeing, increase earlier intervention and decrease serious negative outcomes such as addiction and suicide.

Offered Amendments: None

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Testimony to

COMMITTEE ON HUMAN SERVICES

COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

Thursday, February 04, 2016 @ 1:15pm

Regarding Senate Bill 2886 - RELATING TO AGE OF CONSENT FOR ADOLESCENT MENTAL HEALTH SERVICES.

To reduce barriers in accessing mental health care for adolescents by lowering the age of consent to receive treatment from 18 years old to 12 years old.

I am writing to support SB2886. I am a practicing child and adolescent psychiatrist, currently working on Maui for the State Department of Health Child and Adolescent Mental Health Division. I am not submitting testimony on behalf of the Division, however I wish to express support for SB2886 as a physician and psychiatrist.

This bill if approved would remove a major barrier to children and adolescents to receiving mental health care, especially in cases of severe family losses, chaotic home environments or out of home placement. I have found many clients aged 12 and over to be very capable of understanding informed consent and participating in treatment and therapy.

The language of this bill, while including "mental health treatment" and psychiatrists as providers, it does not specifically mention medication as a part of mental health treatment. As such, while one may be able to argue that it's implied, I would not personally use this bill as a stand-alone legal foundation for prescribing medication to minors without parental consent.

Thank you for the opportunity to testify regarding SB2886.

Sincerely,

Adam Coles, MD

CAMHD

Maui Family Guidance Center