
A BILL FOR AN ACT

RELATING TO TELEHEALTH.

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

1 SECTION 1. The legislature finds that the coronavirus
2 disease 2019 (COVID-19) pandemic has significantly changed how
3 people interact with one another in a safe manner. Broadband
4 access has played a crucial role in allowing people to continue
5 social interactions and other necessary services. The
6 legislature notes that having access to broadband is paramount
7 during the COVID-19 pandemic as it allows students to learn from
8 their homes, families to see one another, and patients to see
9 their healthcare providers, all from a safe distance.

10 The legislature further finds that to address the lack of
11 in-person gatherings and meetings in the healthcare industry,
12 telehealth has been gaining popularity as it allows healthcare
13 providers to diagnose and possibly treat patients without
14 putting anyone at risk from face-to-face meetings. However, the
15 legislature recognizes that not everyone in the State has equal
16 access to the necessary resources to allow for telehealth
17 services. Broadband access in the State has created issues for



1 many, especially those located in rural areas of the State.
2 Equal broadband access requires the State and private sector to
3 work together to provide the necessary resources to ensure equal
4 broadband access for telehealth purposes. However, there
5 certain obstacles preventing the private sector from assisting
6 the State.

7 The legislature also finds that while there are companies
8 willing to gift necessary resources, such as wi-fi routers or
9 broadband support, to help the State provide telehealth access
10 throughout all the islands, these companies are limited to what
11 can be gifted due to the State's procurement laws. Therefore,
12 if the State makes it explicit that a gift does not constitute a
13 procurement contract if the gift is necessary for telehealth
14 purposes, then private companies will be able to help expand
15 access to telehealth services across the State.

16 The purpose of this Act is to:

- 17 (1) Exempt telehealth-related gifts from procurement
18 requirements;
- 19 (2) Codify the authorization of advanced practice
20 registered nurses to use telehealth to assist a
21 patient, including those advanced practice registered



1 nurses who are not licensed in the State, under
 2 certain conditions; and
 3 (3) Make permanent certain telehealth-related exemptions
 4 for licensed health professions issued by recent
 5 gubernatorial proclamations.

6 SECTION 2. Chapter 103D, Hawaii Revised Statutes, is
 7 amended by adding a new section to part III to be appropriately
 8 designated and to read as follows:

9 **"§103D- Gifts to the State for telehealth purposes;**

10 **exemption.** A gift to the State shall not be deemed to
 11 constitute a procurement contract and shall not require a
 12 procurement contract to be accepted by the State as a gift;
 13 provided that:

- 14 (1) The gift is necessary for the State to provide
 15 telehealth services to members of the public; and
- 16 (2) The agency accepting the gift shall promptly report
 17 the gift to the state procurement office.

18 For purposes of this section, "gift" means a donation of
 19 material, labor, equipment, or other appropriate subject of
 20 donation."



1 SECTION 3. Chapter 103F, Hawaii Revised Statutes, is
2 amended by adding a new section to part IV to be appropriately
3 designated and to read as follows:

4 "§103F- Gifts to the State for telehealth purposes;

5 exemption. A gift to the State shall not be deemed to
6 constitute a contract for health and human services and shall
7 not require a contract for health and human services to be
8 accepted by the State as a gift; provided that:

9 (1) The gift is necessary for the State to provide
10 telehealth services to members of the public; and

11 (2) The agency accepting the gift shall promptly report
12 the gift to the state procurement office.

13 For purposes of this section, "gift" means a donation of
14 services, labor, or other appropriate subject of donation."

15 SECTION 4. Chapter 457, Hawaii Revised Statutes, is
16 amended by adding a new section to be appropriately designated
17 and to read as follows:

18 "§457- Practice of telehealth. (a) Nothing in this
19 section shall preclude any advanced practice registered nurse
20 acting within the scope of the advanced practice registered



1 nurse's license to practice from practicing telehealth as
2 defined in this section.

3 (b) Telehealth services shall include a documented patient
4 evaluation, including history and a discussion of physical
5 symptoms adequate to establish a diagnosis and to identify
6 underlying conditions or contraindications to the treatment
7 recommended or provided.

8 (c) Treatment recommendations made via telehealth,
9 including issuing a prescription via electronic means, shall be
10 held to the same standards of appropriate practice as those in
11 traditional advanced practice registered nurse-patient settings
12 that do not include a face-to-face visit, but in which
13 prescribing is appropriate, including on-call telephone
14 encounters and encounters for which a follow-up visit is
15 arranged. Issuing a prescription based solely on an online
16 questionnaire is not treatment for the purpose of this section
17 and does not constitute an acceptable standard of care.

18 (d) All medical reports resulting from telehealth services
19 are part of a patient's health record and shall be made
20 available to the patient. Patient medical records shall be



1 maintained in compliance with all applicable state and federal
2 requirements including privacy requirements.

3 (e) An advanced practice registered nurse may use
4 telehealth to establish an advanced practice registered nurse-
5 patient relationship with a patient in this State without a
6 license to practice medicine in Hawaii; provided that the
7 advanced practice registered nurse complies with subsection (f).

8 (f) An advanced practice registered nurse may use
9 telehealth to assist a patient for any purpose, including
10 consultation with a medical provider licensed in another state,
11 authorized by this chapter, or as otherwise provided by law;
12 provided that the advanced practice registered nurse:

13 (1) Has:

14 (A) An active license in the State pursuant to this
15 chapter;

16 (B) Been previously licensed in the State pursuant to
17 this chapter or prior applicable chapter;
18 provided that the license of the advanced
19 practice registered nurse was never revoked or
20 suspended; or



1 (C) An active license in another state; provided that
2 the advanced practice registered nurse complies
3 with the applicable law of the state that granted
4 the license; or

5 (2) Otherwise complies with the requirements of this
6 section.

7 (g) Reimbursement for behavioral health services provided
8 through telehealth shall be equivalent to reimbursement for the
9 same services provided via face-to-face contact between a health
10 care provider and a patient.

11 (h) For the purposes of this section "state", when not
12 referring to the State of Hawaii, means any other state of the
13 United States or the District of Columbia.

14 SECTION 5. Section 329-41, Hawaii Revised Statutes, is
15 amended by amending subsection (a) to read as follows:

16 "(a) It is unlawful for any person:

17 (1) Who is subject to part III to distribute, administer,
18 prescribe, or dispense a controlled substance in
19 violation of section 329-38 or rules authorized under
20 section 329-31; however, a licensed manufacturer or
21 wholesaler may sell or dispense a controlled substance



1 to a master of a transpacific ship or a person in
2 charge of a transpacific aircraft upon which no
3 physician is regularly employed, for the actual
4 medical needs of persons on board such ship or
5 aircraft when not in port; provided schedule I or II
6 controlled substances shall be sold to the master of
7 such ship or person in charge of such aircraft only in
8 accordance with the provisions set forth in 21 Code of
9 Federal Regulations, sections 1301, 1305, and 1307,
10 adopted pursuant to Title 21, United States Code,
11 section 821;

12 (2) Who is a registrant to manufacture a controlled
13 substance not authorized by the registrant's
14 registration or to distribute or dispense a controlled
15 substance not authorized by the registrant's
16 registration to another registrant or another
17 authorized person;

18 (3) To refuse or fail to make available, keep, or furnish
19 any record, notification, order form, prescription,
20 statement, invoice, or information in patient charts



- 1 relating to the administration, dispensing, or
2 prescribing of controlled substances;
- 3 (4) To refuse any lawful entry into any premises for any
4 inspection authorized by this chapter;
- 5 (5) Knowingly to keep or maintain any store, shop,
6 warehouse, dwelling, building, vehicle, boat,
7 aircraft, or other structure or place for the purpose
8 of using these substances or which is used for keeping
9 or selling them in violation of this chapter or
10 chapter 712, part IV;
- 11 (6) Who is a practitioner or pharmacist to dispense a
12 controlled substance to any individual not known to
13 the practitioner or pharmacist, except under the
14 following circumstances:
- 15 (A) When dispensing a controlled substance directly
16 to an individual, the practitioner or pharmacist
17 shall first obtain and document, in a log book or
18 an electronic database, the full name,
19 identification number, identification type, and
20 signature, whether by actual signature or by
21 electronic signature capture device, of the



1 individual obtaining the controlled substance.

2 If the individual does not have any form of
3 proper identification, the pharmacist shall
4 verify the validity of the prescription and
5 identity of the patient with the prescriber, or
6 their authorized agent, before dispensing the
7 controlled substance; and

8 (B) For mail order prescriptions, the practitioner or
9 pharmacist shall not be subject to
10 subparagraph (A); provided that all other
11 requirements of chapter 329 shall apply and that
12 the practitioner or pharmacist, as part of the
13 initial registration process of an individual in
14 a mail order prescription drug plan and prior to
15 the controlled substance being dispensed, shall
16 obtain all identification information, including
17 the full name, identification number,
18 identification type, signature, and a photocopy
19 of a form of proper identification of the
20 individual obtaining the controlled substance.



1 The practitioner or pharmacist shall also comply
2 with other requirements set forth by rule.

3 For the purpose of this section, "proper
4 identification" means government-issued identification
5 containing the photograph, printed name,
6 identification number, and signature of the individual
7 obtaining the controlled substance;

8 (7) Who is a practitioner to predate or pre-sign
9 prescriptions to facilitate the obtaining or attempted
10 obtaining of controlled substances; or

11 (8) Who is a practitioner to facilitate the issuance or
12 distribution of a written prescription or to issue an
13 oral prescription for a controlled substance when not
14 physically in the State[-]; provided that this
15 prohibition shall not apply if the person is a
16 physician practicing telehealth as provided in
17 section 453-1.3 or an advanced practice registered
18 nurse practicing telehealth pursuant to chapter 457
19 and otherwise complies with this chapter."

20 SECTION 6. Section 329-126, Hawaii Revised Statutes, is
21 amended by amending subsection (b) to read as follows:



1 "(b) For purposes of this section, a bona fide
2 physician-patient relationship may be established via
3 telehealth, as defined in section [~~453-1.3(j),~~] 453-1.3(i), and
4 a bona fide advanced practice registered nurse-patient
5 relationship may be established via telehealth, as defined in
6 section 457-2; provided that treatment recommendations that
7 include certifying a patient for the medical use of cannabis via
8 telehealth shall be allowed only after an initial in-person
9 consultation between the certifying physician or advanced
10 practice registered nurse and the patient."

11 SECTION 7. Section 346-59.1, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (b) to read:

14 "(b) Reimbursement for services provided through
15 telehealth, but not through standard phone contacts, shall be
16 equivalent to reimbursement for the same services provided via
17 face-to-face contact between a health care provider and a
18 patient. Nothing in this section shall require a health care
19 provider to be physically present with the patient at an
20 originating site unless a health care provider at the distant
21 site deems it necessary."



1 2. By amending subsection (g) to read:

2 "(g) For the purposes of this section:

3 "Distant site" means the location of the health care
4 provider delivering services through telehealth at the time the
5 services are provided.

6 "Health care provider" means a provider of services, as
7 defined in title 42 United States Code section 1395x(u), a
8 provider of medical and other health services, as defined in
9 title 42 United States Code section 1395x(s), other
10 practitioners licensed by the State and working within their
11 scope of practice, and any other person or organization who
12 furnishes, bills, or is paid for health care in the normal
13 course of business, including but not limited to primary care
14 providers, mental health providers, oral health providers,
15 physicians and osteopathic physicians licensed under
16 chapter 453, advanced practice registered nurses licensed under
17 chapter 457, psychologists licensed under chapter 465, and
18 dentists licensed under chapter 448.

19 "Originating site" means the location where the patient is
20 located, whether accompanied or not by a health care provider,
21 at the time services are provided by a health care provider



1 through telehealth, including but not limited to a health care
2 provider's office, hospital, critical access hospital, rural
3 health clinic, federally qualified health center, a patient's
4 home, and other non-medical environments such as school-based
5 health centers, university-based health centers, or the work
6 location of a patient.

7 "Telehealth" means the use of telecommunications services,
8 as defined in section 269-1, to encompass four modalities:
9 store and forward technologies, remote monitoring, live
10 consultation, and mobile health; and which shall include but not
11 be limited to real-time video conferencing-based communication,
12 secure interactive and non-interactive web-based communication,
13 and secure asynchronous information exchange, to transmit
14 patient medical information, including diagnostic-quality
15 digital images and laboratory results for medical interpretation
16 and diagnosis, for the purpose of delivering enhanced health
17 care services and information while a patient is at an
18 originating site and the health care provider is at a distant
19 site. [~~Standard telephone contacts,~~] "Telehealth" does not
20 include facsimile transmissions, [~~or~~] e-mail text, [~~in~~] or any
21 combination [~~or by itself, does not constitute a telehealth~~



1 ~~service for the purposes]~~ of [~~this section.~~] facsimile
2 transmissions and e-mail text."

3 SECTION 8. Section 431:10A-116.3, Hawaii Revised Statutes,
4 is amended as follows:

5 1. By amending subsection (c) to read:

6 "(c) Reimbursement for services provided through
7 telehealth, but not through standard phone contact, shall be
8 equivalent to reimbursement for the same services provided via
9 face-to-face contact between a health care provider and a
10 patient. Nothing in this section shall require a health care
11 provider to be physically present with the patient at an
12 originating site unless a health care provider at the distant
13 site deems it necessary."

14 2. By amending subsection (g) to read:

15 "(g) For the purposes of this section:

16 "Distant site" means the location of the health care
17 provider delivering services through telehealth at the time the
18 services are provided.

19 "Health care provider" means a provider of services, as
20 defined in title 42 United States Code section 1395x(u), a
21 provider of medical and other health services, as defined in



1 title 42 United States Code section 1395x(s), other
2 practitioners licensed by the State and working within their
3 scope of practice, and any other person or organization who
4 furnishes, bills, or is paid for health care in the normal
5 course of business, including but not limited to primary care
6 providers, mental health providers, oral health providers,
7 physicians and osteopathic physicians licensed under
8 chapter 453, advanced practice registered nurses licensed under
9 chapter 457, psychologists licensed under chapter 465, and
10 dentists licensed under chapter 448.

11 "Originating site" means the location where the patient is
12 located, whether accompanied or not by a health care provider,
13 at the time services are provided by a health care provider
14 through telehealth, including but not limited to a health care
15 provider's office, hospital, health care facility, a patient's
16 home, and other nonmedical environments such as school-based
17 health centers, university-based health centers, or the work
18 location of a patient.

19 "Telehealth" means the use of telecommunications services,
20 as defined in section 269-1, to encompass four modalities:
21 store and forward technologies, remote monitoring, live



1 consultation, and mobile health; and which shall include but not
2 be limited to real-time video conferencing-based communication,
3 secure interactive and non-interactive web-based communication,
4 and secure asynchronous information exchange, to transmit
5 patient medical information, including diagnostic-quality
6 digital images and laboratory results for medical interpretation
7 and diagnosis, for the purpose of delivering enhanced health
8 care services and information while a patient is at an
9 originating site and the health care provider is at a distant
10 site. [~~Standard telephone contacts,~~] "Telehealth" does not
11 include facsimile transmissions, [~~or~~] e-mail text, [~~in~~] or any
12 combination [~~or by itself, does not constitute a telehealth~~
13 ~~service for the purposes]~~ of [~~this chapter.~~] facsimile
14 transmissions and e-mail text."

15 SECTION 9. Section 432:1-601.5, Hawaii Revised Statutes,
16 is amended as follows:

17 1. By amending subsection (c) to read:

18 "(c) Reimbursement for services provided through
19 telehealth, but not through standard phone contact, shall be
20 equivalent to reimbursement for the same services provided via
21 face-to-face contact between a health care provider and a



1 patient. Nothing in this section shall require a health care
2 provider to be physically present with the patient at an
3 originating site unless a health care provider at the distant
4 site deems it necessary."

5 2. By amending subsection (g) to read:

6 "(g) For the purposes of this section:

7 "Health care provider" means a provider of services, as
8 defined in title 42 United States Code section 1395x(u), a
9 provider of medical and other health services, as defined in
10 title 42 United States Code section 1395x(s), other
11 practitioners licensed by the State and working within their
12 scope of practice, and any other person or organization who
13 furnishes, bills, or is paid for health care in the normal
14 course of business, including but not limited to primary care
15 providers, mental health providers, oral health providers,
16 physicians and osteopathic physicians licensed under
17 chapter 453, advanced practice registered nurses licensed under
18 chapter 457, psychologists licensed under chapter 465, and
19 dentists licensed under chapter 448.

20 "Originating site" means the location where the patient is
21 located, whether accompanied or not by a health care provider,



1 at the time services are provided by a health care provider
2 through telehealth, including but not limited to a health care
3 provider's office, hospital, health care facility, a patient's
4 home, and other nonmedical environments such as school-based
5 health centers, university-based health centers, or the work
6 location of a patient.

7 "Telehealth" means the use of telecommunications services,
8 as defined in section 269-1, to encompass four modalities:
9 store and forward technologies, remote monitoring, live
10 consultation, and mobile health; and which shall include but not
11 be limited to real-time video conferencing-based communication,
12 secure interactive and non-interactive web-based communication,
13 and secure asynchronous information exchange, to transmit
14 patient medical information, including diagnostic-quality
15 digital images and laboratory results for medical interpretation
16 and diagnosis, for the purpose of delivering enhanced health
17 care services and information while a patient is at an
18 originating site and the health care provider is at a distant
19 site. [~~Standard telephone contacts,~~] "Telehealth" does not
20 include facsimile transmissions, [~~or~~] e-mail text, [~~in~~] or any
21 combination [~~or by itself, does not constitute a telehealth~~



1 ~~service for the purposes]~~ of [~~this chapter.~~] facsimile
2 transmissions and e-mail text."

3 SECTION 10. Section 432D-23.5, Hawaii Revised Statutes, is
4 amended as follows:

5 1. By amending subsection (c) to read:

6 "(c) Reimbursement for services provided through
7 telehealth, but not through standard phone contact, shall be
8 equivalent to reimbursement for the same services provided via
9 face-to-face contact between a health care provider and a
10 patient. Nothing in this section shall require a health care
11 provider to be physically present with the patient at an
12 originating site unless a health care provider at the distant
13 site deems it necessary."

14 2. By amending subsection (g) to read:

15 "(g) For the purposes of this section:

16 "Distant site" means the location of the health care
17 provider delivering services through telehealth at the time the
18 services are provided.

19 "Health care provider" means a provider of services, as
20 defined in title 42 United States Code section 1395x(u), a
21 provider of medical and other health services, as defined in



1 title 42 United States Code section 1395x(s), other
2 practitioners licensed by the State and working within their
3 scope of practice, and any other person or organization who
4 furnishes, bills, or is paid for health care in the normal
5 course of business, including but not limited to primary care
6 providers, mental health providers, oral health providers,
7 physicians and osteopathic physicians licensed under
8 chapter 453, advanced practice registered nurses licensed under
9 chapter 457, psychologists licensed under chapter 465, and
10 dentists licensed under chapter 448.

11 "Originating site" means the location where the patient is
12 located, whether accompanied or not by a health care provider,
13 at the time services are provided by a health care provider
14 through telehealth, including but not limited to a health care
15 provider's office, hospital, health care facility, a patient's
16 home, and other nonmedical environments such as school-based
17 health centers, university-based health centers, or the work
18 location of a patient.

19 "Telehealth" means the use of telecommunications services,
20 as defined in section 269-1, to encompass four modalities:
21 store and forward technologies, remote monitoring, live



1 consultation, and mobile health; and which shall include but not
2 be limited to real-time video conferencing-based communication,
3 secure interactive and non-interactive web-based communication,
4 and secure asynchronous information exchange, to transmit
5 patient medical information, including diagnostic-quality
6 digital images and laboratory results for medical interpretation
7 and diagnosis, for the purpose of delivering enhanced health
8 care services and information while a patient is at an
9 originating site and the health care provider is at a distant
10 site. [~~Standard telephone contacts,~~] "Telehealth" does not
11 include facsimile transmissions, [or] e-mail text, [in] or any
12 combination [or by itself, does not constitute a telehealth
13 service for the purposes] of [this chapter.] facsimile
14 transmissions and e-mail text."

15 SECTION 11. Section 451J-1, Hawaii Revised Statutes, is
16 amended by adding two new definitions to be appropriately
17 inserted and to read as follows:

18 "State", when not referring to the State of Hawaii, means
19 any other state of the United States or the District of
20 Columbia.



1 "Telehealth" shall have the same meaning as in
2 section 453-1.3."

3 SECTION 12. Section 451J-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§451J-5 Prohibited acts.** (a) Except as specifically
6 provided elsewhere in this chapter, no person shall use the
7 title marriage and family therapist or licensed marriage and
8 family therapist [~~without first having~~] unless the person has
9 secured a license:

- 10 (1) From the department under this chapter[-]; or
- 11 (2) As a marriage and family therapist, or similar
12 license, from another state; provided that if the
13 person has not also secured a license from the
14 department under this chapter, the person shall also
15 comply with section 451J-6(a) (4).

16 (b) The department shall investigate and prosecute any
17 individual using the title of marriage and family therapist or
18 licensed marriage and family therapist [~~without being properly~~
19 ~~licensed as a marriage and family therapist.~~] in violation of
20 this section.



1 (c) Any person who violates this section shall be subject
 2 to a fine of not more than \$1,000 per violation. Each day's
 3 violation shall be deemed a separate offense. Any action taken
 4 to impose or collect the fine imposed under this section shall
 5 be a civil action."

6 SECTION 13. Section 451J-6, Hawaii Revised Statutes, is
 7 amended to read as follows:

8 "**§451J-6 Exemptions.** (a) Licensure shall not be required
 9 of:

10 (1) [A] Any person doing work within the scope of practice
 11 or duties of the person's profession that overlaps
 12 with the practice of marriage and family therapy;
 13 provided the person does not purport to be a marriage
 14 and family therapist or licensed marriage and family
 15 therapist;

16 (2) Any student enrolled in an accredited educational
 17 institution in a recognized program of study leading
 18 toward attainment of a graduate degree in marriage and
 19 family therapy or other professional field; provided
 20 that the student's activities and services are part of
 21 a prescribed course of study supervised by the



1 educational institution and the student is identified
2 by an appropriate title including but not limited to
3 "marriage and family therapy student or trainee",
4 "clinical psychology student or trainee", "clinical
5 social work student or trainee", or any title which
6 clearly indicates training status; [~~or~~]

7 (3) Any individual who uses the title marriage and family
8 therapy intern for the purpose of obtaining clinical
9 experience in accordance with section 451J-7(3) [~~-~~]; or

10 (4) Any person who has secured a license as a marriage and
11 family therapist, or similar license, from another
12 state; provided that:

13 (A) The person's engagement in marriage and family
14 therapy with any patient or client in the State
15 shall be confined to the person's provision of
16 that therapy from that person's state of
17 licensure through telehealth services;

18 (B) The person's patients or clients in the State
19 shall be limited to those patients or clients
20 with whom the person had a pre-existing



1 professional relationship in the person's state
2 of licensure; and

3 (C) The person shall not solicit or establish new
4 professional relationships with clients or
5 patients in the State.

6 (b) Nothing in this chapter shall be construed to prevent
7 qualified members of other licensed professions as defined by
8 any law, rule, or the department, including [~~but not limited to~~]
9 social workers, psychologists, registered nurses, or physicians,
10 from doing or advertising that they assist or treat individuals,
11 couples, or families consistent with the accepted standards of
12 their respective licensed professions; provided that no person,
13 unless the person is licensed as a marriage and family
14 therapist[~~r~~] by the department or complies with
15 subsection (a) (4), shall use the title of marriage and family
16 therapist or licensed marriage and family therapist."

17 SECTION 14. Section 453-1.3, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§453-1.3 Practice of telehealth.** (a) Subject to
20 section 453-2(b), nothing in this section shall preclude any



1 physician acting within the scope of the physician's license to
2 practice from practicing telehealth as defined in this section.

3 (b) Telehealth services shall include a documented patient
4 evaluation, including history and a discussion of physical
5 symptoms adequate to establish a diagnosis and to identify
6 underlying conditions or contraindications to the treatment
7 recommended or provided.

8 (c) Treatment recommendations made via telehealth,
9 including issuing a prescription via electronic means, shall be
10 held to the same standards of appropriate practice as those in
11 traditional physician-patient settings that do not include a
12 face-to-face visit but in which prescribing is appropriate,
13 including on-call telephone encounters and encounters for which
14 a follow-up visit is arranged. Issuing a prescription based
15 solely on an online questionnaire is not treatment for the
16 purposes of this section and does not constitute an acceptable
17 standard of care. [~~For the purposes of prescribing opiates or
18 certifying a patient for the medical use of cannabis, a
19 physician-patient relationship shall only be established after
20 an in-person consultation between the prescribing physician and
21 the patient.]~~



1 (d) All medical reports resulting from telehealth services
2 are part of a patient's health record and shall be made
3 available to the patient. Patient medical records shall be
4 maintained in compliance with all applicable state and federal
5 requirements including privacy requirements.

6 (e) A physician [~~shall not~~] or osteopathic physician may
7 use telehealth to establish a physician-patient relationship
8 with a patient in this State without a license to practice
9 medicine in Hawaii[-]; provided that the physician or
10 osteopathic physician otherwise complies with subsection (f).

11 (f) A [~~physician-patient relationship may be established~~
12 ~~via telehealth if the patient is referred to the telehealth~~
13 ~~provider by another health care provider who has conducted an~~
14 ~~in-person consultation and has provided all pertinent patient~~
15 ~~information to the telehealth provider. Once a provider-patient~~
16 ~~relationship is established, a patient or] physician [~~licensed~~
17 ~~in this State], osteopathic physician, or physician assistant~~
18 may use telehealth to assist a patient for any purpose,
19 including consultation with a medical provider licensed in
20 another state, authorized by this section or as otherwise~~



1 provided by law~~(-)~~; provided that the physician, osteopathic
2 physician, or physician assistant:

3 (1) Has:

4 (A) An active license in the State pursuant to this
5 chapter;

6 (B) Been previously licensed in the State pursuant to
7 this chapter or prior applicable chapter;
8 provided that the license of the physician,
9 osteopathic physician, or physician assistant was
10 never revoked or suspended; or

11 (C) An active license in another state; provided that
12 that the physician, osteopathic physician, or
13 physician assistant complies with the applicable
14 law of the state that granted the license; and

15 (2) Otherwise complies with the requirements of this
16 section.

17 ~~[(g) The physician-patient relationship prerequisite under~~
18 ~~this section shall not apply to telehealth consultations for~~
19 ~~emergency department services.~~

20 ~~(h)]~~ (g) Reimbursement for behavioral health services
21 provided through telehealth shall be equivalent to reimbursement



1 for the same services provided via face-to-face contact between
2 a health care provider and a patient.

3 ~~(j)~~ (h) Services provided by telehealth pursuant to this
4 chapter shall be consistent with all federal and state privacy,
5 security, and confidentiality laws.

6 ~~(j)~~ (i) For the purposes of this section:

7 "Distant site" means the location of the physician
8 delivering services through telehealth at the time the services
9 are provided.

10 "Originating site" means the location where the patient is
11 located, whether accompanied or not by a health care provider,
12 at the time services are provided by a physician through
13 telehealth, including but not limited to a physician's office,
14 hospital, health care facility, a patient's home, and other
15 non-medical environments such as school-based health centers,
16 university-based health centers, or the work location of a
17 patient.

18 "State", when not referring to the State of Hawaii, means
19 any other state of the United States or the District of
20 Columbia.



1 "Telehealth" means the use of telecommunications as that
2 term is defined in section 269-1, to encompass four modalities:
3 store and forward technologies, remote monitoring, live
4 consultation, and mobile health; and which shall include but not
5 be limited to real-time video conferencing-based communication,
6 secure interactive and non-interactive web-based communication,
7 and secure asynchronous information exchange, to transmit
8 patient medical information, including diagnostic-quality
9 digital images and laboratory results for medical interpretation
10 and diagnosis, for the purposes of: delivering enhanced health
11 care services and information while a patient is at an
12 originating site and the physician is at a distant site;
13 establishing a physician-patient relationship; evaluating a
14 patient; or treating a patient."

15 SECTION 15. Section 453D-1, Hawaii Revised Statutes, is
16 amended by adding two new definitions to be appropriately
17 inserted and to read as follows:

18 "State", when not referring to the State of Hawaii, means
19 any other state of the United States or the District of
20 Columbia.



1 "Telehealth" shall have the same meaning as in
2 section 453-1.3."

3 SECTION 16. Section 453D-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§~~**453D-5**~~§~~ **Prohibited acts.** (a) Except as
6 specifically provided in this chapter, no person shall engage in
7 the practice of mental health counseling or use the title of
8 "licensed mental health counselor" or "mental health counselor"
9 without a valid license ~~[issued]~~:

- 10 (1) Issued by the department under this chapter~~[-]~~; or
- 11 (2) To practice as a mental health counselor, or similar
12 license, issued by another state; provided that if the
13 person has not also secured a license from the
14 department under this chapter, the person shall also
15 comply with section 453D-6(a) (7).

16 (b) Any person who violates this section shall be subject
17 to a fine of not more than \$1,000 for each separate offense.
18 Each day of each violation shall constitute a separate offense.
19 Any action taken to impose or collect the fine imposed under
20 this section shall be a civil action."



1 SECTION 17. Section 453D-6, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§453D-6 Exemptions.** (a) This chapter shall not apply
4 to:

5 (1) A person doing work within the duties of the person's
6 profession that overlaps with the practice of mental
7 health counseling; provided that no such person shall
8 use a title stating or implying that the person is a
9 "licensed mental health counselor" or "mental health
10 counselor", or describe or refer to the person's
11 services as mental health counseling;

12 (2) Any person who is a duly recognized member of the
13 clergy; provided that the person functions only within
14 the person's capacity as a member of the clergy; and
15 provided further that the person does not represent
16 the person to be a "licensed mental health counselor"
17 or "mental health counselor", or describe or refer to
18 the person's services as mental health counseling;

19 (3) Any student enrolled in an accredited educational
20 institution in a recognized program of study leading
21 towards attainment of a graduate degree in mental



- 1 health counseling or other professional field;
2 provided that the student's activities and services
3 are part of a prescribed course of study supervised by
4 the accredited educational institution and the student
5 is identified by an appropriate title, including but
6 not limited to "mental health counseling student" or
7 "trainee", "clinical psychology student" or "trainee",
8 "social work student" or "trainee", "marriage and
9 family counseling student" or "trainee", or any title
10 that clearly indicates training status;
- 11 (4) Any individual who uses the title of "mental health
12 counselor intern" for the purpose of obtaining
13 clinical experience in accordance with
14 section 453D-7(a) (2);
- 15 (5) Any person employed by a federal, state, or county
16 government agency in a counseling position, but only
17 at those times when the employee is carrying out the
18 duties and responsibilities as a counselor in
19 governmental employment; [~~or~~]
- 20 (6) Any person who is obtaining supervised clinical
21 experience for licensure as a psychologist, social



1 worker, marriage and family therapist, or as another
2 licensed professional; provided that the person's
3 title indicates a trainee or intern status; and
4 provided further that the person does not purport to
5 be a "licensed mental health counselor" or "mental
6 health counselor"[-]; or

7 (7) Any person who has secured a license as a mental
8 health counselor, or similar license, from another
9 state; provided that:

10 (A) The person's engagement in mental health
11 counseling with any patient or client in the
12 State shall be confined to the person's provision
13 of that counseling from that person's state of
14 licensure through telehealth services;

15 (B) The person's patients or clients in the State
16 shall be limited to those patients or clients
17 with whom the person had a pre-existing
18 professional relationship in the person's state
19 of licensure; and



1 (C) The person shall not solicit or establish new
2 professional relationships with clients or
3 patients in the State.

4 (b) Nothing in this chapter shall be construed to prevent
5 qualified members of other licensed professions as defined by
6 any law or rule of the department, including [~~but not limited~~
7 ~~to~~] social workers, registered nurses, psychologists, marriage
8 and family therapists, or physicians, from providing mental
9 health counseling or advertising that they provide mental health
10 counseling to individuals, couples, or families consistent with
11 the accepted standards of their respective licensed professions;
12 provided that no [~~such persons~~] person shall use a title stating
13 or implying that [~~they are~~] the person is a licensed mental
14 health [~~counselors~~] counselor unless the [~~persons are~~] person is
15 licensed by the department pursuant to this chapter[~~-~~] or
16 complies with subsection (a) (7).

17 (c) Nothing in this chapter shall be construed to
18 supersede the regulation of registered rehabilitation
19 specialists from the department of labor and industrial
20 relations. Further, no registered rehabilitation specialist
21 shall use a title stating or implying that the registered



1 rehabilitation specialist is a licensed mental health counselor
2 unless the person is licensed pursuant to this chapter[+] or
3 complies with subsection (a) (7)."

4 SECTION 18. Section 465-1, Hawaii Revised Statutes, is
5 amended by adding two new definitions to be appropriately
6 inserted and to read as follows:

7 "State", when not referring to the State of Hawaii, means
8 any other state of the United States or the District of
9 Columbia.

10 "Telehealth" shall have the same meaning as in
11 section 453-1.3."

12 SECTION 19. Section 465-3, Hawaii Revised Statutes, is
13 amended by amending subsection (a) to read as follows:

14 "(a) This chapter shall not apply to:

- 15 (1) Any person teaching, lecturing, consulting, or
16 engaging in research in psychology insofar as the
17 activities are performed as part of or are dependent
18 upon employment in a college or university; provided
19 that the person shall not engage in the practice of
20 psychology outside the responsibilities of the
21 person's employment;



- 1 (2) Any person who performs any, or any combination of the
2 professional services defined as the practice of
3 psychology under the direction of a licensed
4 psychologist in accordance with rules adopted by the
5 board; provided that the person may use the term
6 "psychological assistant", but shall not identify the
7 person's self as a psychologist or imply that the
8 person is licensed to practice psychology;
- 9 (3) Any person employed by a local, state, or federal
10 government agency in a school psychologist or
11 psychological examiner position, or a position that
12 does not involve diagnostic or treatment services, but
13 only at those times when that person is carrying out
14 the functions of such government employment;
- 15 (4) Any person who is a student of psychology, a
16 psychological intern, or a resident in psychology
17 preparing for the profession of psychology under
18 supervision in a training institution or facility and
19 who is designated by a title as "psychology trainee",
20 "psychology student", "psychology intern", or
21 "psychology resident", that indicates the person's



- 1 training status; provided that the person shall not
2 identify the person's self as a psychologist or imply
3 that the person is licensed to practice psychology;
- 4 (5) Any person who is a member of another profession
5 licensed under the laws of this jurisdiction to render
6 or advertise services, including psychotherapy, within
7 the scope of practice as defined in the statutes or
8 rules regulating the person's professional practice;
9 provided that, notwithstanding section 465-1, the
10 person does not represent the person's self to be a
11 psychologist or does not represent that the person is
12 licensed to practice psychology;
- 13 (6) Any person who is a member of a mental health
14 profession not requiring licensure; provided that the
15 person functions only within the person's professional
16 capacities; and provided further that the person does
17 not represent the person to be a psychologist, or the
18 person's services as psychological;
- 19 (7) Any person who is a duly recognized member of the
20 clergy; provided that the person functions only within
21 the person's capacities as a member of the clergy; and



- 1 provided further that the person does not represent
2 the person to be a psychologist, or the person's
3 services as psychological;
- 4 (8) Any psychologist employed by the United States
5 Department of Defense, while engaged in the discharge
6 of the psychologist's official duty and providing
7 direct telehealth support or services, as defined in
8 section 431:10A-116.3, to neighbor island
9 beneficiaries within a Hawaii National Guard armory on
10 the island of Kauai, Hawaii, Molokai, or Maui;
11 provided that the psychologist employed by the United
12 States Department of Defense is credentialed by
13 Tripler Army Medical Center; [~~or~~]
- 14 (9) Any supervisee of a licensed psychologist as defined
15 in section 465D-7[~~-~~]; or
- 16 (10) Any person who has secured a license as a
17 psychologist, or similar license, from another state;
18 provided that:
- 19 (A) The person's engagement in psychology with any
20 patient or client in the State shall be confined
21 to the person's provision of that psychological



1 treatment from that person's state of licensure
2 through telehealth services;

3 (B) The person's patients or clients in the State
4 shall be limited to those patients or clients
5 with whom the person had a pre-existing
6 professional relationship in the person's state
7 of licensure; and

8 (C) The person shall not solicit or establish new
9 professional relationships with clients or
10 patients in the State."

11 SECTION 20. Section 465-15, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) No person shall:

14 (1) Use in connection with the person's name any
15 designation tending to imply that the person is a
16 licensed psychologist unless the person is duly
17 licensed and authorized:

18 (A) By the director under this chapter; or

19 (B) By another state; provided that if the person is
20 not also licensed and authorized by the director,



- 1 the person shall also comply with
- 2 section 465-3(a)(10);
- 3 (2) Represent oneself as a licensed psychologist during
- 4 the time the person's license issued under this
- 5 chapter or by another state is suspended or revoked;
- 6 (3) Advertise or make a representation, either publicly or
- 7 privately, as being a psychologist, licensed or
- 8 otherwise, or as being able to perform professional
- 9 services described in section 465-1, except as
- 10 otherwise provided in this chapter, without having a
- 11 ~~valid~~ :
- 12 (A) Valid unrevoked license or temporary permit
- 13 issued by the director; or
- 14 (B) Valid unrevoked license issued by another state;
- 15 provided that if the person is not also licensed
- 16 and authorized by the director, the person shall
- 17 also comply with section 465-3(a)(10); or
- 18 (4) Otherwise violate this chapter."

19 SECTION 21. Section 467E-1, Hawaii Revised Statutes, is
 20 amended by adding two new definitions to be appropriately
 21 inserted and to read as follows:



1 "State", when not referring to the State of Hawaii, means
2 any other state of the United States or the District of
3 Columbia.

4 "Telehealth" shall have the same meaning as in
5 section 453-1.3."

6 SECTION 22. Section 467E-5, Hawaii Revised Statutes, is
7 amended to read as follows:

8 **"§467E-5 License required.** [~~No~~] Except as otherwise
9 provided in this chapter, no person shall purport to be a
10 "social worker", "licensed bachelor social worker", "licensed
11 social worker", "licensed clinical social worker", or use the
12 letters "S.W.", "L.B.S.W.", "L.S.W.", or "L.C.S.W." in
13 connection with the person's name, or use any words or symbols
14 indicating or tending to indicate that the person is a social
15 worker, licensed bachelor social worker, licensed social worker,
16 or licensed clinical social worker, or engage in the practice of
17 social work as defined in this chapter without meeting the
18 applicable requirements and holding a license as set forth in
19 this chapter."

20 SECTION 23. Section 467E-6, Hawaii Revised Statutes, is
21 amended to read as follows:



1 **"§467E-6 Exemptions.** Licensure shall not be required of:

2 (1) Any licensed person doing work within the scope of
3 practice or duties of the person's profession that
4 overlaps with the practice of social work; provided
5 the person does not purport to be a social worker;

6 (2) Any person employed by a federal, state, or county
7 government agency in a social worker position, but
8 only at those times when that person is carrying out
9 the duties and responsibilities as a social worker in
10 governmental employment;

11 (3) Any student enrolled in an accredited educational
12 institution in a recognized program of study leading
13 toward attainment of a degree in social work; provided
14 that the student's activities and services are part of
15 a prescribed course of study supervised by the
16 educational institution, and the student is identified
17 by an appropriate title such as "social work student",
18 "social work intern", or any other title which clearly
19 indicates the student's training status;

20 (4) Any person who is a member of a mental health
21 profession not requiring licensure; provided that the



1 person functions only within the person's professional
2 capacities; and provided further that the person does
3 not purport to be a social worker;

4 (5) Any person teaching, lecturing, consulting, or
5 engaging in research in social work insofar as the
6 activities are performed as part of or are dependent
7 upon employment in a college or university; provided
8 that the person shall not engage in the practice of
9 social work outside the responsibilities of the
10 person's employment;

11 (6) Any person who is a duly recognized member of the
12 clergy; provided that the person functions only within
13 the person's capacities as a member of the clergy; and
14 provided further that the person does not purport to
15 be a social worker;

16 (7) Any person who is obtaining supervised clinical
17 experience for licensure as a psychologist, marriage
18 and family therapist, or as another licensed
19 professional; provided that the person's title
20 indicates a trainee status; and provided further that



1 the person does not purport to be a social worker;
2 [and]
3 (8) Any person in the process of obtaining three thousand
4 hours of post masters clinical social work experience
5 under the supervision of a licensed clinical social
6 worker or individual identified in
7 section 467E-7(3) (C) (ii) in order to qualify for a
8 license as a licensed clinical social worker; and
9 provided that the person calls oneself a clinical
10 social work intern and is supervised while performing
11 clinical diagnosis and psychotherapy[-]; and
12 (9) Any person who has secured a license as a social
13 worker, bachelor social worker, or clinical social
14 worker, or similar license, from another state;
15 provided that:
16 (A) The person's engagement in social work with any
17 patient or client in the State shall be confined
18 to the person's provision of that social work
19 from that person's state of licensure through
20 telehealth services;

- 1 (B) The person's patients or clients in the State
- 2 shall be limited to those patients or clients
- 3 with whom the person had a pre-existing
- 4 professional relationship in the person's state
- 5 of licensure; and
- 6 (C) The person shall not solicit or establish new
- 7 professional relationships with clients or
- 8 patients in the State."

9 SECTION 24. Section 467E-13, Hawaii Revised Statutes, is
 10 amended by amending subsection (a) to read as follows:

- 11 "(a) No person shall:
- 12 (1) Use in connection with the person's name any
- 13 designation tending to imply that the person is a
- 14 social worker, licensed bachelor social worker,
- 15 licensed social worker, or licensed clinical social
- 16 worker unless the person is duly licensed and
- 17 authorized:
- 18 (A) By the director under this chapter; or
- 19 (B) By another state; provided that if the person is
- 20 not also licensed and authorized by the director

1 under this chapter, the person shall also comply
2 with section 467E-6(9);

3 (2) Represent oneself as a social worker, licensed
4 bachelor social worker, licensed social worker, or
5 licensed clinical social worker during the time the
6 person's license issued under this chapter or by
7 another state is forfeited, terminated, suspended, or
8 revoked;

9 (3) Perform clinical diagnosis or psychotherapy unless the
10 person is [æ] licensed as a clinical social worker[÷]:

11 (A) By the director under this chapter; or

12 (B) By another state; provided that if the person is
13 not also licensed and authorized by the director
14 under this chapter, the person shall also comply
15 with section 467E-6(9); or

16 (4) Engage in autonomous and independent clinical social
17 work practice without being licensed as a licensed
18 clinical social worker[-]:

19 (A) By the director under this chapter; or

20 (B) By another state; provided that if the person is
21 not also licensed and authorized by the director



1 under this chapter, the person shall also comply
2 with section 467E-6(9)."

3 SECTION 25. Section 471-10, Hawaii Revised Statutes, is
4 amended to read as follows:

5 **"§471-10 Refusal to grant and revocation or suspension of**
6 **license.** (a) In addition to any other actions authorized by
7 law, the board may refuse to grant, renew, reinstate or restore
8 a license for any cause which would be ground for revocation of
9 a license under the law.

10 (b) In addition to any other actions authorized by law,
11 the board may revoke or suspend the license of any veterinarian,
12 fine a licensee, or both, for any cause authorized by law,
13 including but not limited to the following:

14 (1) Professional misconduct, gross negligence, or manifest
15 incapacity;

16 (2) Violation of this chapter or the rules adopted
17 pursuant thereto or any other law which applies to the
18 licensee as a practicing veterinarian;

19 (3) Making any false representations or promises through
20 advertising or otherwise;



- 1 (4) Habitual intemperance in the use of alcoholic
2 beverages or addiction to the use of narcotic or
3 dangerous substances;
- 4 (5) Mental incompetence;
- 5 (6) Any fraudulent, dishonest, or deceitful act in
6 connection with the practice of veterinary medicine;
- 7 (7) Making a false statement on any document submitted or
8 required to be filed by this chapter, including a
9 false certification of compliance with the continuing
10 education requirement;
- 11 (8) Revocation, suspension, or other disciplinary action
12 by another state of a license or certificate for
13 reasons as provided in this section;
- 14 (9) Conviction of or plea of nolo contendere to a penal
15 offense substantially related to the qualifications,
16 functions, or duties of a veterinarian,
17 notwithstanding any statutory provision to the
18 contrary;
- 19 (10) Violation of chapter 329, the uniform controlled
20 substances act, or any rule adopted pursuant thereto;



- 1 (11) Failure to report any disciplinary action taken
2 against the licensee in another jurisdiction within
3 thirty days after the disciplinary action becomes
4 final; or
- 5 (12) Conduct or practice contrary to the recognized
6 principles of medical ethics of the veterinary
7 profession as adopted by the Hawaii Veterinary Medical
8 Association and the American Veterinary Medical
9 Association.

10 (c) The board shall not revoke or suspend the license of
11 any veterinarian or fine any veterinarian solely because the
12 veterinarian engaged in telehealth without a previously existing
13 veterinarian-client-patient relationship or physical examination
14 of the patient.

15 (d) For the purposes of this section:

16 "Telehealth" shall have the same meaning as in
17 section 453-1.3."

18 SECTION 26. This Act does not affect rights and duties
19 that matured, penalties that were incurred, and proceedings that
20 were begun before its effective date.



1 SECTION 27. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.
3 SECTION 28. This Act shall take effect on July 1, 2050.



Report Title:

Telehealth; Procurement; Health; Gifts; Health Professionals;
License

Description:

Exempts telehealth-related gifts from procurement requirements. Codifies the authorization of advanced practice registered nurses to use telehealth to assist a patient, including those advanced practice registered nurses who are not licensed in the State, under certain conditions. Makes permanent certain telehealth-related exemptions for licensed health professions issued by recent gubernatorial proclamation. Effective 7/1/2050. (HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

