

STAND. COM. REP. NO. 2764

Honolulu, Hawaii

MAR 03 2022

RE: S.B. No. 2073  
S.D. 2

Honorable Ronald D. Kouchi  
President of the Senate  
Thirty-First State Legislature  
Regular Session of 2022  
State of Hawaii

Sir:

Your Committee on Commerce and Consumer Protection, to which was referred S.B. No. 2073, S.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TELEHEALTH,"

begs leave to report as follows:

The purpose and intent of this measure is to allow for standard telephone contacts for telehealth purposes.

Your Committee received testimony in support of this measure from the Department of Health State Council on Mental Health; University of Hawai'i System; AARP Hawai'i; Healthcare Association of Hawaii; Hawaii Substance Abuse Coalition; Hawaii Psychiatric Medical Association; Hawaii Primary Care Association; Waianae Coast Comprehensive Health Center; Hawai'i Pacific Health; Clinical Psychology Services, LLC; American Cancer Society Cancer Action Network; Hawai'i Public Health Institute; Hawaii Medical Association; Hawai'i Family Caregiver Coalition; Hawai'i Psychological Association; National Association of Social Workers, Hawai'i Chapter; Hawaiian Islands Association of Marriage and Family Therapy; and five individuals. Your Committee received testimony in opposition to this measure from Hawaii Medical Service Association. Your Committee received comments on this measure from the Department of Commerce and Consumer Affairs, Department of Human Services, Kaiser Permanente Hawaii, and The Queen's Health Systems.



Your Committee finds that the coronavirus disease 2019 pandemic greatly changed the way primary care is delivered to the most vulnerable populations among the State. Telehealth rapidly expanded as a means to ensure the provision of proper continuing care to patients, perform necessary counseling, and maintain surveillance and therapy. However, not everyone has access to smart phones and broadband service to utilize telehealth as it was intended, especially in underserved areas and rural or remote areas of the State. According to testimony received by your Committee, a certain health care facility on Oahu reported that over forty percent of its patients were not able to maintain a televideo encounter due to poor internet connectivity.

Your Committee notes that, even when face-to-face visual components may be lacking, a telephonic encounter still employs all the powerful aspects of the Electronic Medical Record, provided by a certified and knowledgeable health care provider using the standard visit protocols. Accordingly, a telephonic encounter is much more than a casual conversation, but rather, has the essential components of a normal medical visit, and therefore merits full reimbursement according to the prevailing standards. Behavioral health, in particular, has shown the most benefit from the expansion of telehealth over the past two years, and many of these encounters have been audio-only, standard telephone contacts.

Your Committee further finds that the Centers for Medicare and Medicaid Services (CMS) recently released its 2022 Medicare Physician Fee Schedule Final Rule, which permanently added certain services to the Medicare telehealth services list that were temporarily provided throughout the duration of the federal public health emergency. CMS amended its definition of "interactive telecommunications system" to include audio-only communications technology when used for telehealth services for the diagnosis, evaluation, or treatment of mental health disorders furnished to patients in their homes under certain circumstances. Your Committee finds that this policy should be consistent for health plans across the State and should provide pay parity for telephonic and telehealth services in these circumstances.

Your Committee additionally finds that allowing for the use of standard telephone contacts for telehealth purposes related to certain services is not a new mandate that would trigger an



Auditor's assessment under section 23-51, Hawaii Revised Statutes, but is simply an additional telehealth modality to further support existing coverage requirements, and establishes parity with the services covered under Medicare and Medicaid. However, your Committee finds that inserting a sunset date will provide the opportunity to review any impacts to patient care, including whether there is any increase in services to rural areas, an increase or decrease in provider productivity, or other measurable impacts to the quality of care.

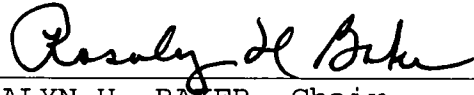
Accordingly, your Committee has amended this measure by:

- (1) Clarifying that reimbursement for services provided through telehealth by way of an interactive telecommunications system shall be equivalent to reimbursement for the same services provided via face-to-face contact;
- (2) Inserting a definition for the term "interactive telecommunications system" to include audio and video equipment; provided that, for services furnished for purposes of diagnosis, evaluation, or treatment of a mental health disorder, interactive telecommunications may include audio-only communication technology in certain circumstances;
- (3) Clarifying that, except as otherwise provided in this measure, standard telephone contacts do not constitute a telehealth service;
- (4) Inserting a repeal date of July 1, 2027; and
- (5) Amending section 1 to reflect its amended purpose.

As affirmed by the record of votes of the members of your Committee on Commerce and Consumer Protection that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2073, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2073, S.D. 2.



Respectfully submitted on  
behalf of the members of the  
Committee on Commerce and  
Consumer Protection,



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ROSALYN H. BAKER, Chair



The Senate  
Thirty-First Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Commerce and Consumer Protection**  
**CPN**

|                         |                     |            |
|-------------------------|---------------------|------------|
| Bill / Resolution No.:* | Committee Referral: | Date:      |
| SB 2073.SD1             | HTH, CPN            | 02-23-2022 |

The Committee is reconsidering its previous decision on this measure.  
If so, then the previous decision was to: \_\_\_\_\_

The Recommendation is:

Pass, unamended 2312     Pass, with amendments 2311     Hold 2310     Recommit 2313

| Members                  | Aye      | Aye (WR) | Nay      | Excused  |
|--------------------------|----------|----------|----------|----------|
| BAKER, Rosalyn H. (C)    | /        |          |          |          |
| CHANG, Stanley (VC)      | /        |          |          |          |
| DECOITE, Lynn            | /        |          |          |          |
| NISHIHARA, Clarence K.   | /        |          |          |          |
| RIVIERE, Gil             | /        |          |          |          |
| SAN BUENAVENTURA, Joy A. |          |          |          | /        |
| FEVELLA, Kurt            | /        |          |          |          |
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| <b>TOTAL</b>             | <b>6</b> | <b>-</b> | <b>-</b> | <b>1</b> |

Recommendation:  Adopted     Not Adopted

Chair's or Designee's Signature:  
*Clarence K. Nishihara*

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\*Only one measure per Record of Votes