DAVID Y. IGE
GOVERNOR OF HAWAII

ELIZABETH A. CHAR, M.D.
DIRECTOR OF HEALTH

STATE OF HAWAIʻI
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
PRINCESS VICTORIA KAMĀMALU BUILDING
1010 RICHARDS STREET, Room 122
HONOLULU, HAWAIʻI 96813
TELEPHONE: (808) 586-8100 FAX: (808) 586-7543

February 24, 2022

The Honorable Representative Sylvia Luke, Chair
House Committee on Finance
The Thirty-First Legislature
State Capitol
State of Hawaiʻi
Honolulu, Hawaiʻi 96813

Dear Representative Luke and Committee members:

SUBJECT: HB1980 HD2 Relating to Telephonic Services

The Hawaii State Council on Developmental Disabilities **SUPPORTS HB1980 HD2,** which permits, but does not require, Medicaid, insurance providers, and health maintenance organizations to cover telephonic behavioral health services under certain circumstances. Clarifies that telephonic services do not constitute telehealth.

COVID has shown that our intellectual and or developmental disability (I/DD) community members must turn more and more to internet-based supports. Some of these supports come in the form of telehealth appointments and Zoom based communication. COVID proved that many individuals within our I/DD community are part of a high-risk group that needed to rely on staying at home and using telehealth services more so than the average citizen. Many of our I/DD community members live in rural areas of our state and do not have easy access to highspeed broadband. These individuals found themselves without internet and many times without any form of support during the pandemic.

Permitting telephonic services as an option would help increase the capacity to take care of our I/DD community via telephonic health appointments. Telehealth is the preferred option; however, our community members can find themselves at times unable to connect via telehealth as it requires a high-speed internet connection to access video. There are instances in which our individuals only have access to their cell phone and would not be able to access video capability. Having telephonic services as an option could help alleviate these issues and increase the coverage of care for our individuals.

Thank you for the opportunity to submit testimony in **support of HB1980 HD2.**

Sincerely,

Daintry Bartoldus
Executive Administrator

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR

JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

Testimony of the Department of Commerce and Consumer Affairs

Before the
House Committee on Finance
Thursday, February 24, 2022
2:00 p.m.
Room 308 and Via Videoconference

On the following measure:
H.B.1980, H.D. 2, RELATING TO TELEPHONIC SERVICES

Chair Luke and Members of the Committee:

My name is Colin M. Hayashida, and I am the Insurance Commissioner of the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is to permit, but not require, Medicaid, insurance providers, and health maintenance organizations to cover telephonic behavioral health services under certain circumstances and to clarify that telephonic services do not constitute telehealth.

Initially, we point out that our State insurance laws ***do not*** currently prohibit health plans from voluntarily providing coverage for health services delivered via standard telephone contacts.

This bill, in part, amends Hawaii Revised Statutes (HRS) §§ 431:10A-116.3, 432:1-601.5, and 432D-23.5, by adding a new subsection (g). H.D. 2 of this bill has revised this subsection so that it would not prohibit health plans from voluntarily covering services.

The term “medically necessary" is used on p. 2, lines 19-20 of this bill. We note that “medical necessity” is addressed in HRS § 432E-1.4.

Thank you for the opportunity to testify on this bill.

UNIVERSITY OF HAWAIʻI SYSTEM
Legislative Testimony

Testimony Presented Before the
House Committee on Finance
February 24, 2022 at 2:00 p.m.
By
Jerris Hedges, MD, Dean and
Lee Buenconsejo-Lum, MD, FAAFP
Associate Dean for Academic Affairs & DIO, UH JABSOM
John A. Burns School of Medicine
And
Michael Bruno, PhD
Provost
University of Hawaiʻi at Mānoa

HB 1980 HD2 – RELATING TO TELEPHONIC SERVICES

Chair Luke, Vice Chair Yamashita, and members of the committee:

Thank you for the opportunity to present testimony today. The John A. Burns School of Medicine (JABSOM) supports HB 1980 HD2 which permits, but does not require, Medicaid, insurance providers and health maintenance organizations to cover telephonic behavioral health services under certain circumstances.

Since 1999, the use and expansion of telehealth services and technology in Hawaiʻi has been recognized as a way to increase access and reduce delays to health care, particularly in rural areas of the state. Many of the highest-risk patients reside in Medically Underserved Areas (MUA), are part of Medically Underserved Populations (MUP), or reside in federally-designated health professional shortage areas. Telehealth via telephonic communication benefits many in these communities. Elderly, as well as medically- and socially-complex patients often face transportation barriers and difficulty navigating our collective system of health care. Patients with behavioral health issues are especially vulnerable and frequently require immediate attention. The inability of behavioral health and other patients to access the internet presents an even greater barrier to much needed health care.

We note that Medicare and Medicaid pay equally for telephonic and telehealth services, recognizing the importance of telephonic services. 42 CFR § 410.78 defining telehealth services provides as follows:

> "(3) Interactive telecommunications system means, except as otherwise provided in this paragraph, multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner. For services furnished for purposes of diagnosis, evaluation, or treatment of a mental

health disorder to a patient in their home, **interactive telecommunications may include two-way, real-time audio-only communication technology if the distant site physician or practitioner is technically capable to use an interactive telecommunications system as defined in the previous sentence, but the patient is not capable of, or does not consent to, the use of video technology.** A modifier designated by CMS must be appended to the claim for services described in this paragraph to verify that these conditions have been met." Emphasis added.

One of the realities for Hawai‘i is that many of those most in need of telephonic care (limited means to travel, poor or absent internet coverage, residence remote from care providers, infirm with limited mobility, immune compromise in the age of COVID, etc.) suffer the most from a lack of provider reimbursement for telephonic coverage. Without telephonic coverage, these at-risk individuals must travel from their residence to clinics and emergency departments at great personal expense or choose to do without care guidance altogether. This measure is a positive step toward recognizing the value of telephonic health care services.

Thank you for the opportunity to provide testimony on this bill.

DAVID Y. IGE
GOVERNOR

CATHY BETTS
DIRECTOR

JOSEPH CAMPOS II
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
Honolulu, Hawaii 96809-0339

February 23, 2022

TO: The Honorable Representative Sylvia Luke, Chair
House Committee on Finance

FROM: Cathy Betts, Director

SUBJECT: **HB 1980 HD2– RELATING TO TELEPHONIC SERVICES.**

Hearing: Thursday, February 24, 2022, 2:00 p.m.
Via Videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of this bill and offers comments.

PURPOSE: The purpose of the bill permits, but does not require or prohibit, Medicaid, health insurers, mutual benefit societies, and health maintenance organizations to cover telephonic behavioral health services under certain circumstances. Clarifies that telephonic services do not constitute telehealth. Effective 1/1/2060. (HD2)

The HD2 amendments removed an inconsistency to clarify that telephonic behavioral health services may be covered by Medicaid, health insurers, mutual benefit societies, and health maintenance organizations and defected the date to January 1, 2060, to encourage further discussion.

DHS supports the intent of the measure to permit the use of telephonic behavioral health care with conditions and clarifies that telephonic care is not the same as an in-person visit or a real-time video-conference telehealth visit. Lastly, the DHS seeks clarification regarding the allowable use of telephone calls for other types of healthcare services.

During the pandemic, the use of telehealth for many services increased; this is particularly the case for behavioral health services. Also, during the pandemic, the Med-QUEST Division (MQD) increased flexibility to use telephonic modality for all types of clinical services, including behavioral health services. The increased flexibility has been helpful during the pandemic when access to in-person care was limited. Flexible telephonic service also acknowledges and seeks to remedy digital health disparities for individuals without access to audio-visual technology needed for telehealth, such as populations in rural communities or geographic areas that lack internet access or infrastructure and those without "smart" devices.

As the pandemic has worn on, both nationally and locally, Medicaid programs, payers, and healthcare providers have been monitoring and evaluating the use of telehealth and the use of the telephone for healthcare services' clinical outcomes, quality costs, and program integrity. Thus far, the area of behavioral health has shown to have relative equivalency in outcomes for in-person, telehealth, and telephonic visits. However, under some conditions, other health care services for some individuals have proven to be effective, particularly when a patient's real-time audio-visual healthcare visit is not feasible or not preferred.

Due to its technical inconsistency, the HD2 removed the HD1 clarification regarding 'neither requiring nor prohibiting' telephonic services. However, the current language is now silent regarding the provision of healthcare services using a telephonic modality beyond behavioral healthcare. The Department requests clarification regarding allowing the use of telephonic care for other healthcare services.

Thank you for the opportunity to testify on this measure.

DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 (V) • Fax (808) 586-8129

February 24, 2022

TESTIMONY TO THE HOUSE COMMITTEE ON FINANCE

House Bill 1980, House Draft 2 – Relating to Telephonic Services

The Disability and Communication Access Board (DCAB) supports House Bill 1980, House Draft 2 Relating to Telephonic Services. This bill allows for telephonic behavioral health services to be covered in certain circumstances.

When telehealth services for a behavioral health appointment is not available for people with disabilities, it is important to proceed via telephone to complete the appointment.

Please note that telephonic services for persons with hearing or speech disabilities use the telecommunications relay service (TRS) to communicate with health care providers. Health care providers should place and receive telephone calls through the TRS with patients who have hearing or speech disabilities to receive behavioral health services.

Thank you for the opportunity to provide testimony.

Respectfully submitted,

Kristine Pagano

for KIRBY L. SHAW
Executive Director

February 24, 2022 at 2:00 pm
Via Videoconference

House Committee on Finance

To: Chair Sylvia Luke
Vice Chair Kyle T. Yamashita

From: Paige Heckathorn Choy
Associate Vice President, Government Affairs
Healthcare Association of Hawaii

Re: Submitting Comments
HB 1980 HD 2, Relating to Telephonic Services

The Healthcare Association of Hawaii (HAH), established in 1939, serves as the leading voice of healthcare on behalf of 170 member organizations who represent almost every aspect of the health care continuum in Hawaii. Members include acute care hospitals, skilled nursing facilities, home health agencies, hospices, assisted living facilities and durable medical equipment suppliers. In addition to providing access to appropriate, affordable, high-quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

We write today with **comments** on this measure, which seeks to allow reimbursement for telephonic behavioral health services in certain circumstances. Hawaii has been at the forefront of telehealth adoption, which has increased access and shown the merits of this modality of providing care. The pandemic accelerated adoption of telehealth by more patients and providers here in Hawaii and the entire country, prompting key policy-makers—including Medicare—to change rules around use and reimbursement of telehealth to make it more accessible than ever before.

One of the ways in which telehealth has been expanded both in Hawaii and across the country is by allowing telephonic or audio-only services to be used for services in which a patient may not have reliable access to critical internet services or would sincerely prefer to use telephonic services. This flexibility has been especially meaningful for seniors, residents in areas with difficulty accessing internet services, and individuals seeking mental health services because it has made it easier to access very limited professional help.

The legislature has for years recognized the great promise of telehealth and supported policies that would put Hawaii at the forefront of innovation in this policy space. We believe that there are discussions that need to be continued to ensure that patients receive the highest level of care while ensuring proper use of the technology. Further, we want to ensure that all telehealth-related measures are flexible enough in their design to ensure that Hawaii is not unnecessarily limited in its adoption of future innovations and allowances at the federal level. Thank you for your consideration of our comments.

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The State Legislature
The House Committee on Finance
Thursday, Feb 24, 2022
2:00 p.m.

TO: The Honorable Sylvia Luke, Chair
RE: H.B. 1980 H.D. 2, Relating to Telephonic Service

Aloha Chair Luke and Members of the Committee:

My name is Keali'i Lopez and I am the State Director for AARP Hawai'i. AARP is a nonpartisan, social mission organization that advocates for individuals age 50 and older. We have a membership of nearly 38 million nationwide and over 140,000 in Hawaii. We advocate at the state and federal level for the issues that matter most to older adults and their families, including telehealth. **AARP supports the intent of H.B 1980 H.D.2** which permits, but does not require, Medicaid, insurance providers and health maintenance organizations to cover telephonic behavior health services under certain circumstances.

AARP fights for issues that matter most to families such as healthcare, family caregiving and independent living and believes no one's possibilities should ever be limited by their age and seeks to find new solutions so that more people can live and age as they choose. Among these issues is access to meaningful healthcare coverage.

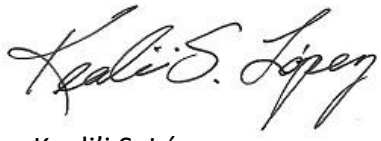
AARP believes that telehealth is a promising tool that can help people access health care in new ways and can make it easier for family caregivers to care for their loved ones. More and more of our members, especially those aged 50-59, are using their mobile devices and tablets to access information about their health. The use of telehealth technologies (especially those that include family members in virtual visits with providers) has the potential to result in better access to care, reduced transportation barriers, and improved outcomes for the care recipient.

We want to comment that the allowable opportunities in this bill are rather limited, and would recommend audio-only telephonic communication be available when preferred by the patient. Under the proposed bill, audio-only (telephone) can only be used if other technology is unavailable and if the provider has seen the patient for an in-patient appointment within the previous twelve months. We strongly urge you to ensure Medicare allows audio-only in **instances of patient choice/preference**, rather than limiting its use to when live video isn't available.

With the wide-spread of COVID-19, many people are reluctant to leave their homes for an in-person visit with their health provider. Some are not comfortable using telehealth even with access to a computer and internet connection, while a telephone still remains the preferred mode for communication for many especially kupuna. Therefore, we respectfully recommend that audio-only be considered a valid telehealth modality.

Thank you very much for the opportunity to testify on **H. B 1980 H.D.2.**

Sincerely,



Keali'i S. López
State Director

An Independent Licensee of the Blue Cross and Blue Shield Association

February 22, 2022

The Honorable Sylvia Luke, Chair
The Honorable Kyle T. Yamashita, Vice Chair
House Committee on Finance

Re: HB 1980 HD2 – Relating to Telephonic Services

Dear Chair Luke, Vice Chair Yamashita, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in strong support of HB 1980, HD2, which permits, but does not require or prohibit, Medicaid, health insurers, mutual benefit societies, and health maintenance organizations to cover telephonic behavioral health services under certain circumstances. Clarifies that telephonic services do not constitute telehealth. Effective 1/1/2060.

HMSA strongly supports this measure to increase access to behavioral health care services in Hawaii. We believe that access to behavioral health care, especially in rural areas, poses a challenge for the entire health care community and that this bill will aid in addressing that issue.

Thank you for the opportunity to testify in strong support of HB 1980 HD2.

Sincerely,

Matthew W. Sasaki
Assistant Vice President
Government & External Relations

HPCA
HAWAI'I PRIMARY CARE ASSOCIATION

Testimony to the House Committee on Finance
Thursday, February 24, 2022; 2:00 p.m.
State Capitol, Conference Room 308
Via Videoconference

RE: HOUSE BILL NO. 1980, HOUSE DRAFT 2, RELATING TO TELEPHONIC SERVICES.

Chair Luke, Vice Chair Yamashita, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA **SUPPORTS THE INTENT** of House Bill No. 1980, House Draft 2, RELATING TO TELEHEALTH., and offer **PROPOSED AMENDMENTS** for your consideration.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

This bill, as received by your Committee, would allow insurance reimbursement for telephonic behavioral health services This bill would apply to Medicaid (Chapter 346, Hawaii Revised Statutes (HRS)), accident an health or sickness insurance contracts (Article 10A of Chapter 431:10A, HRS), benefit societies (Article 1 of Chapter 432, HRS), and health maintenance organizations (Chapter 432D, HRS).

This bill would take effect on January 1, 2060.

For people with adequate broadband access, telehealth was intended to be a lifeline for the provision of essential primary health care services. Yet, because rural and underprivileged communities lack adequate broadband access, they are effectively cut off from primary care. Many are forced to bear their maladies until it became necessary to go to the emergency room.

ADD 1003 BISHOP STREET PAUAHI TOWER SUITE 1810 HONOLULU, HI 96813 TEL 808.536.8442 WEB HAWAIIPCA.NET

During the COVID pandemic, we learned how effective the use of standard telephone contact in telehealth was. For many in very isolated communities, the poor, and especially for our kupuna who are not as technologically advanced as their keiki, the landline telephone was a lifeline to primary health care providers.

Our member FQHCs can attest to how effective standard telephonic contact was in the provision of primary care and behavioral health to their patients, especially when the State and counties issued restrictions on the number of patients who could enter waiting areas and examination rooms. As we stated in our testimony in 2020 and 2021, telephonic telehealth has always been used as the option of last resort for primary care, and I'm sure that the MedQUEST Division can confirm this through its actuarial data of loss costs. HPCA's concern has always been and continues to be the accessibility of primary care for ALL patients.

The HPCA also notes that recent developments in Medicare might provide an alternative approach that might be less problematic from both a policy and a drafting perspective.

On November 2, 2021, the Centers for Medicare and Medicaid Services (CMS) released its 2022 Medicare Physician Fee Schedule Final Rule. This regulation added certain services to the Medicare telehealth services list through December 31, 2022. "Category 3" services that were added to the Medicare services list for the duration of the federal public health emergency (PHE), which would have otherwise been removed after the PHE ended, will remain on the telehealth service list through the end of calendar year 2023.

Beyond the expanded service list, CMS amended the 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 established patients in their homes under certain circumstances. Generally, however, other services on the Medicare telehealth services list, unless specifically excepted, must still be furnished using audio and video equipment permitting two-way, real-time interaction communication.

This Committee may wish to consider the inclusion of a definition for "interactive telecommunications system" that provides the basic requirements applicable for audio-only communications, and then allow MedQUEST to amend the specifics pertaining to health care providers, as they deem it necessary, and subject to inclusion into the State Medicaid Plan and approval by CMS.

Ultimately any change to the benefits provided through Medicaid in the State of Hawaii must be approved by the federal government.

If similar language was applied to accident an health or sickness insurance contracts (Article 10A of Chapter 431:10A, HRS), benefit societies (Article 1 of Chapter 432, HRS), and health maintenance organizations (Chapter 432D, HRS), the same benefit would be applicable to ALL consumers. Specific concerns could also be addressed through rulemaking by the Insurance Commission for these chapters.

If it is good enough for Medicare and Medicaid why not private insurance as well?

For your consideration, attached please find proposed amendments that would integrate the definition of "interactive telecommunications system" from the 2022 Medicare Fee Schedule Final Rule into Hawaii's Telehealth Law. These amendments would allow audio-only telecommunications for the diagnosis, evaluation, or treatment of a mental health disorder to a patient in their home if the patient is not capable of, or does not consent to, the use of video technology.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiipca.net.

attachment

THE HOUSE OF REPRESENTATIVES
THIRTY-FIRST LEGISLATURE, 2022
STATE OF HAWAII

H.B. NO. 1980 H.D.3 DRAFT

A BILL FOR AN ACT

RELATING TO TELEPHONIC SERVICES.

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

SECTION 1. Section 346-59.1, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) 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 between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."

SECTION 2. Section 346-59.1, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) For the purposes of this section:

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

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, 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.

"Interactive telecommunications system" means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communications between the patient and distant site physician or practitioner; provided that for services furnished for purposes of diagnosis, evaluation, or tratment of a mental health disorder to a patient in their home, interactive telecommunications may include two-way, real-time audio-only

communication technology if the distant site physician or practitioner is technically capable to use an interactive telecommunications system but the patient is not capable of, or does not consent to, the use of video technology; and provided further that the term shall have the same meaning as the term is defined in Title 42, Code of Federal Regulations Section 410.78, as amended.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based

communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. [~~Standard~~] Except as otherwise provided for in this section, standard telephone contacts, facsimile transmissions[,] or e-mail text, in combination or by itself, does not constitute a telehealth service [~~for the purposes of this section~~]."

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

"(c) 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 between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an

originating site unless a health care provider at the distant site deems it necessary."

SECTION 4. Section 431:10A-116.3, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) For the purposes of this section:

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

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, 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.

"Interactive telecommunications system" means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communications between the patient and distant site physician or practitioner; provided that for services furnished for purposes of diagnosis, evaluation, or tratment of a mental health disorder to a patient in their home, interactive telecommunications may include two-way, real-time audio-only communication technology if the distant site physician or practitioner is technically capable to use an interactive telecommunications system but the patient is not capable of, or does not consent to, the use of video technology; and provided further that the term shall have the same meaning as the term is defined in Title 42, Code of Federal Regulations Section 410.78, as amended.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, health care facility, a patient's home, and other nonmedical environments such as school-based

health centers, university-based health centers, or the work location of a patient.

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

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

"(c) 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 between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."

SECTION 6. Section 432:1-601.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) For the purposes of this section:

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, 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.

"Interactive telecommunications system" means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communications between the patient and distant site physician or practitioner; provided that for services furnished for purposes of diagnosis, evaluation, or tratment of a mental health disorder to a patient in their home, interactive telecommunications may include two-way, real-time audio-only communication technology if the distant site physician or practitioner is technically capable to use an interactive telecommunications system but the patient is not capable of, or does not consent to, the use of video technology; and provided further that the term shall have the same meaning as the term is defined in Title 42, Code of Federal Regulations Section 410.78, as amended.

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

through telehealth, including but not limited to a health care provider's office, hospital, health care facility, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. [~~Standard~~] Except as otherwise provided for in this section, standard telephone contacts, facsimile

transmissions[,] or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter."

SECTION 7. Section 432D-23.5, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) 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 between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary."

SECTION 8. Section 432D-23.5, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) For the purposes of this section:

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

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a

provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, 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.

"Interactive telecommunications system" means multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communications between the patient and distant site physician or practitioner; provided that for services furnished for purposes of diagnosis, evaluation, or tratment of a mental health disorder to a patient in their home, interactive telecommunications may include two-way, real-time audio-only communication technology if the distant site physician or practitioner is technically capable to use an interactive

telecommunications system but the patient is not capable of, or does not consent to, the use of video technology; and provided further that the term shall have the same meaning as the term is defined in Title 42, Code of Federal Regulations Section 410.78, as amended.

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

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-

quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. [~~Standard~~] Except as otherwise provided for in this section, standard telephone contacts, facsimile transmissions[,] or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter."

SECTION 9. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 10. This Act shall take effect upon its approval.

Report Title:
Medicaid; Accident and Sickness Insurance; Mutual Benefit Societies; Health Maintenance Organizations

Description:
Conforms Hawaii's Telehealth Law to Medicare standards by clarifying that telehealth services be reimbursed for telehealth services provided by way of an "interactive telecommunications system"

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

Medicare Language

HAWAIʻI PACIFIC HEALTH | KAPIʻOLANI PALI MOMI STRAUB WILCOX

Thursday, February 24, 2022 at 2:00 PM
Via Video Conference

House Committee on Finance

To: Representative Sylvia Luke, Chair
Representative Kyle Yamashita, Vice Chair

From: Michael Robinson
Vice President, Government Relations & Community Affairs

Re: HB 1980, HD2 – Comments
Relating to Telephonic Services

My name is Michael Robinson, Vice President of Government Relations & Community Affairs at Hawaiʻi Pacific Health. Hawaiʻi Pacific Health is a not-for-profit health care system comprised of its four medical centers – Kapiʻolani, Pali Momi, Straub and Wilcox and over seventy locations statewide with a mission of creating a healthier Hawaiʻi.

I am writing to provide comments on HB 1980, HD2 which permits, but does not require, Medicaid, insurance providers and health maintenance organizations to cover telephonic behavioral health services under certain circumstances.

Since 1999, the use and expansion of telehealth services and technology in Hawaii has been recognized as a strategy to increase patient access to healthcare by overcoming the geographic challenges across our state. Many of Hawaii's geographically access challenged patients reside in Medically Underserved Areas (MUA), are part of Medically Underserved Populations (MUP), or reside in federally designated health professional shortage areas. Elderly, as well as medically- and socially complex patients often face transportation barriers, limited broadband access and personal difficulty navigating the technological requirements of accessing traditional video telehealth care services. In these instances, telephonic communication becomes a viable alternative for many in these communities to overcome barriers enabling them to access healthcare remotely.

HPH supports the development of a provider reimbursement system that also incorporates reimbursement for telephonic services. The same barriers that pose challenges for patients to access behavioral health are often similar to the challenges we have experienced with our patients accessing acute care services (limited means to travel, poor or absent internet coverage, residence remote from care providers, infirm with limited mobility, immune compromise in the age of COVID, etc.). As a related example,

within HPH charges for telephonic services represent 12-15% of total charges for remote physician to patient acute care service charges indicating a need for telephonic services as an alternative care modality. In the absence of telephonic services being provided or available, these at-risk individuals would have had to resort to travel from their residence to clinics and emergency departments at great personal expense or choose to do without care guidance altogether.

We therefore hope to foster a telehealth environment in Hawaii that allows both patients today the ability to access behavioral health services remotely without unnecessarily foreclosing future opportunities to develop alternative reimbursement structures for other remote access modalities to flourish.

Thank you for the opportunity to testify.

HB-1980-HD-2
Submitted on: 2/23/2022 9:40:55 AM
Testimony for FIN on 2/24/2022 2:00:00 PM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michael Robinson	Hawaii Pacific Health	Comments	Yes

Comments:

Please refer to HPH's written comments which were submitted earlier. HPH believes that the development of a provider reimbursement system that also provides reimbursement for telephonic services is curcial in bringing needed healthcare to individuals who do not have access to the internet, who have limited means to travel, reside in remote areas or are infirm with limited mobility.

We request the opportunity to present oral testimony during the hearing. Please provide the zoom link when it becomes available.

Thank you.

Hawai‘i Psychological Association

For a Healthy Hawai‘i

P.O. Box 833
Honolulu, HI 96808

www.hawaiipsychology.org

Phone: (808) 521 -8995

COMMITTEE ON CONSUMER PROTECTION AND COMMERCE
Rep. Sylvia Luke, Chair
Rep. Kyle T. Yamashita, Vice Chair
DATE: February 24, 2022 2:00 PM. - VIA VIDEO CONFERENCE – Room 308

The Hawai‘i Psychological Association (HPA) offers these comments <u>supporting the intent of HB1980 HD2 to expand access to behavioral health, with important clarifications.</u>

HB1980 HD2 revises four sections of Hawaii's health insurance code for Medicaid; Private Insurance Plans; Benefit Societies; and Health Maintenance Organizations, by providing that telephonic behavioral health services may be provided when:

> (1) Telehealth services are technologic[1]ally unavailable at the time the patient is scheduled to receive a behavioral health service;
> (2) The behavioral health service is a medically necessary, covered health care service; and
> (3) The health care provider has provided the patient with an in-person behavioral health service no longer than twelve months prior to the telephonic service;

According to the committee report accompanying the HD1 of this bill, "**<u>[t]his measure expands access</u>** to remote behavioral health care services." HPA believes that to better comport with the spirit and intent of this bill – amendments to clarify the conditions for coverage are needed.

First, it is very important that access to and health equity in mental health care be actually *expanded* by this proposal, as recent research indicates strong disparities between those who use audio versus video services – particularly along racial, ethnic, linguistic, financial, and age-specific lines. On February 2, 2022, the United States Department of Health and Human Services (DHHS) issued a policy brief entitled "<u>National Survey Trends in Telehealth Use in 2021: Disparities in Utilization and Audio vs. Video Services</u>"[2] which reported:

> *"[O]ur study findings are consistent with research studies that show **disparities in audio-only vs. video- enabled telehealth modalities by race/ethnicity, age, education, income, and health insurance coverage**. In a recent survey study, patients with a household income of $50,000 or more were 34 percent more likely to choose a telehealth visit than those making less than $50,000. . . . Although research shows that video visits offer some additional benefits compared with telephone visits, they require more complex setup, video-enabled devices, and broadband internet access, which may present **barriers for older adults, lower income households, and those with limited English proficiency.** In addition to these factors, patients with lower incomes may be more likely to use audio-only services because they are at work during appointments or lack privacy at home. Consistent with these concerns, **we also found lower use of video-enabled telehealth services among adults with low-incomes and those without a high school degree**."*

Second, expanding access to audio-only mental health therapy actually promises to improve patient outcomes. It is established in the research that behavioral health services administered over the

[1] https://www.capitol.hawaii.gov/session2022/CommReports/HB1980_HD1_HSCR154-22_.htm
[2] <u>https://aspe.hhs.gov/sites/default/files/documents/4e1853c0b4885112b2994680a58af9ed/telehealth-hps-ib.pdf</u>

telephone are not only as effective, but **sometimes more effective than face-to-face therapy**. For example, in one study published in Clinical Psychology: Science and Practice (v15 n3, September 2008), researchers concluded that: "**telephone-administered psychotherapy can produce significant reductions in depressive symptoms. Attrition rates were considerably lower than rates reported in face-to-face psychotherapy."**

Third, to best achieve the intent of this bill, and optimize clinical mental health outcomes, we urge this committee to address certain ambiguities in this bill.

For example, it is not clear what might constitute "**technologically unavailable".** Would it be possible for an elderly patient with poor eyesight and declining manual dexterity to refuse to use telehealth video-conferencing and talk with their therapist on the phone instead? What about the patient with social anxiety who prefers audio-only treatment? Will there be coverage if that patient turns off the video in a Zoom call, but not if they decide to connect using the telephone? What type of paperwork and authorization process would be needed to monitor this requirement, and will it hinder timely, life-saving care? If the internet connection is poor and/or spotty, will the patient and practitioner be required to maintain the video if they both agree phone would be better? Our membership has experienced multiple glitches and connection issues through video-conferencing during the pandemic. If interpreted too broadly, "technologically unavailable" can lead to dangerous and life-threatening situations if a patient cannot communicate with their therapist in a time of need.

Another ambiguity relates to the requirement that "**the behavioral health service is a medically necessary, covered health care service."** This language may not be necessary given the implicit nature of health insurance plans. If a service is not covered, it would not be outlined in the plan and there would be no need to address this in statute.

Furthermore, the requirement that the "**provider has provided the enrollee with an in-person behavioral health service no longer than twelve months prior to the telephonic service**" unnecessarily constrains the clinical judgment of the mental health provider. While a time-specific in-person visit may be vital for the proper treatment for many physical ailments and conditions, such as Cancer, Parkinson's Disease, Epilepsy, etc., such regimen and structure may not be necessary in many or most mental health contexts. Particularly concerning would be situations where a patient and his or her mental health provider are unable to meet in person during an extended period, or perhaps it was determined that such a meeting was unnecessary, or the patient is not able-bodied, and has difficulty using transportation. We don't want logistical barriers, health conditions, or other irrelevant barrier to cause a patient to forego treatment, and subsequently relapse or decompensate due to triggering circumstances. We don't want this language to be an unnecessary barrier to life-saving communication.

Fourth, as for policy developments on the national level, we note that **the Centers for Medicare and Medicaid Services (CMS) expressly includes telephone and audio-only communications technology in its definition of "interactive telecommunications system" when administering "telehealth" for mental disorders**. We encourage this committee to consider capitalizing on the trailblazing work in the telehealth policy of our publicly funded health insurance plans, and adopt similar language that seeks to balance access, care, equity, utilization, and costs. **If telephone contact counts as "telehealth" for Medicare, why can't our private plans do the same?**

Finally, we would like to respond to any resistance against "parity" for reimbursements for telephone contacts vis-à-vis video contacts as potentially creating unsustainable cost and coverage conditions for insurers and consumers. HPA believes that any unsubstantiated fear of fraud or unnecessary loss costs should not justify depriving access to many vulnerable populations, nor should it warrant a failure to provide reimbursement that is on par (and in some cases exceed) the level of and effectiveness of care provided by video-based telehealth.

The pandemic has had devastating effects not only to our public health system and economies, but to our collective mental health. The disruptions, anxieties, depression, substance abuse, and chronic stress that COVID has created in our lives - prolonged now for over two years – have brought many in our community to the brink of emotional collapse. The need for mental health services could not be more apparent or pressing; and we must all do what is necessary to address this burgeoning need. We all deserve access to quality mental health services.

We believe with important clarifications, ensuring audio-only treatment, as telehealth or otherwise, as a covered expense in the administration of mental health services is crucial to improving patient outcomes, expediting timely service, and ultimately reducing costs and unnecessary administrative functions. HPA thus supports such an effort and greatly appreciates legislative action to ensure old tools, like the standard telephone, are available to assure adequate lines of communication stay open; and that necessary treatment is available to those who are: not comfortable with video-conferencing platforms; not equipped with the necessary technology or equipment due to expense; or those who live on the more remote neighbor islands or in rural areas - out of reach of necessary broadband network capabilities.

Thank you for the opportunity to provide input on this important bill.

Sincerely,

Alex Lichton, Ph.D.

Alex Lichton, Ph.D.
Chair, HPA Legislative Action Committee

TESTIMONY ON BEHALF OF HAWAII PSYCHIATRIC MEDICAL ASSOCIATION

To: Chair Sylvia Luke, Vice-Chair Kyle Yamashita
Members of the Committee on Finance

From: Dr. Denis Mee-Lee, Legislative Committee Co-Chair
Hawaii Psychiatric Medical Association

Time: 2:00 p.m., February 24, 2022

Re: HB 1980 HD2, RELATING TO TELEPHONIC SERVICES.

Position: **COMMENTS**

Dear Chair Luke, Vice-Chair Yamashita and Members of the Committee on Finance:

The Hawaii Psychiatric Medical Association (HPMA) appreciates this opportunity to testify with comments on HB 1980 HD2, Relating to Telephonic Services. This bill permits, but does not require or prohibit, Medicaid, health insurers, mutual benefit societies, and health maintenance organizations to cover telephonic behavioral health services under certain circumstances and clarifies that telephonic services do not constitute Telehealth.

HPMA represents between 100 and 200 Physicians, who, after four years of medical school, receive additional years of specialty training in Psychiatry.

HPMA appreciates that the American Psychiatric Association has worked closely with CMS on Telehealth legislation. Although care delivered through audio-only technology is not our first choice, we recognize that the telephonic modality is an important tool to ensure continuity of care to certain vulnerable patients. We recommend the State of Hawai‘i align with CMS regarding originating and distant sites and other important rules. We appreciate that HB 1980 HD2 specifies that only licensed professions practicing within their scope are authorized to perform Telehealth.

HPMA supports Telehealth with a focus on best practices and ensuring patient safety.

HPMA has concerns regarding the parity of the telephonic modality with audio-visual Telehealth and in-person care.

Remote face-to- face patient-provider interaction allows for increased access and quality of care.

With respect to telephonic care delivery, simply put: clinical outcomes of this modality are not always equivalent to outcomes received with a face-to-face patient-provider interaction.

Thank you allowing HPMA the opportunity to testify on this important measure.

The Hawaiian Islands Association
for Marriage and Family Therapy
(HIAMFT)
We know systems.
We know relationships.
We know FAMILY MATTERS.

COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair
Rep. Kyle T. Yamashita, Vice Chair

DATE: February 24, 2022 2:00 PM. - VIA VIDEO CONFERENCE – Room 308

Testimony with Comments on HB1980 HD2 RELATING TO TELEPHONIC SERVICES

The Hawaiian Islands Association for Marriage and Family Therapy (HIAMFT) supports the intent and purpose of HB1980 HD2 to the extent its net effect is an overall improvement and increased access to quality mental health services. HB1980 HD2 adds language to the insurance codes that permit the costs of treatment administered via telephone to be reimbursed by health insurance plans operating in Hawaii under certain circumstances. Mental health treatment through talk therapy, such as provided by Marriage and Family Therapists, fits squarely into the type of service covered by this proposal.

Proposal and Draft History

In this draft, HB1980 HD2 provides that: "*Telephonic behavioral health services may be covered, including when: (1) Telehealth services are technologically unavailable at the time the enrollee is scheduled to receive a behavioral health service; (2) The behavioral health service is a medically necessary, covered health care service; and (3) The health care provider has provided the enrollee with an in-person behavioral health service no longer than twelve months prior to the telephonic service*." (Underlining added.) This language is a strong improvement from the HD1 where telephonic services were only allowed ***if*** these conditions were met –thus perhaps inadvertently undermining the expressed purpose of this bill because some plans were already providing coverage for such services *without* such conditions. The HD1 would require existing plans to scale back and ultimately reduce access and patient utilization of necessary tools; so we appreciate the CPC committee for this change.

While we strongly support efforts to encourage insurance plans to explicitly cover behavioral health therapies over the telephone, we do not think the current language in HB1980 HD2 adds any material change to our laws. We favor the language in SB2645 SD1 (SD2 draft currently pending) which amends the definition of "telehealth" to include "standard telephone contacts" – which has been allowed pursuant to public health emergency proclamations. **Healthcare and insurance plans have operated successfully in this way for the two-plus years we've been in the pandemic; therefore, this proposal adds nothing new. We know it is effective without any reported negative consequences.**

Phone: (808) 291-5321 **Email:** hawaiianislandsmfts@gmail.com **Address:** PO Box 698 Honolulu, HI 96709 **Website:** www.hawaiimft.org **Social Media:** FB - @mfthawaii, IG - @hawaiimft

Telephone Contacts as "Telehealth" is Recognized by CMS

We also want to bring to the committee's attention the language on page 20, lines 17-19: "A telephonic service, as defined in section 431:10A-116.3, does not constitute telehealth." As the DCCA Commissioner noted in his testimony on the HD1, this added language is redundant to the definition of telehealth which excludes "telephone contacts." Ultimately, we would like to see the parity in insurance reimbursement that would result if telephone contact qualified as telehealth for behavioral health – as it dues under the emergency orders, because treatment provided by telephone is just as effective, or in some cases, *more* effective in treating mental health conditions. Moreover, such care requires the same degree of time, resources, note-taking, analysis, and treatment methods. This is the approach taken in SB2645 SD1.

It's our understanding that the **Centers for Medicare and Medicaid Services (CMS) has adopted language tailored to mental health contexts to allow telephonic services as "telehealth".** We recommend this committee follow the lead of CMS and the pioneering work they are doing in this area to assure there are no gaps in access and coverage due to economics, age, disability, residence, and/or patient and provider preference. The Hawaii Primary Care Association has recommended language to this effect.

As a matter of policy, if telephonic behavioral health treatment is covered as "telehealth" by government-funded health insurance plans like Medicare, why shouldn't private plans offer the same?

"Telehealth" Innovation Should Not Forfeit Access to Those Incapable of Using this Technology

While devasting to public health and our economy, the COVID 19 Pandemic has spurred revolutionary developments in telehealth. However, as much as we need to embrace change, we should not turn our back on old reliable tools to meeting our most vulnerable. It is estimated that telehealth utilization had increased by over 300% to comply with social distancing protocols. The United States Department of Health and Human Services (DHHS) Assistant Secretary of Planning and Evaluation issued a policy brief[1] on February 2, 2022 highlighting the increased use of telehealth from 1% of visits to 80% in some high-prevalence areas during the initial outbreak peak from March – April 2020; and that Medicare telehealth utilization increased 63-fold between 2019 and 2020.

The wisdom of "necessity is the mother of invention" couldn't be truer than with telehealth services. The efficiencies and improvements in patient health outcomes credited to remote treatment are unprecedented – and likely here to stay. Across the country multiple jurisdictions are making permanent many of the pandemic-prompted changes to the way health care is provided. However, certain measures have been necessary to assure access and connection to those who are otherwise out-of-reach from this quickly-advancing technology.

As is confirmed by recent research, telephonic service is critical to improving access to several **vulnerable groups of patients: (1) the elderly; (2) low-income; (3) mobility- challenged; (4) limited English proficient; and (5) rural residents.** The disparities evident between the patients who use audio-only/telephone calls vs. the video-conferencing technologies of telehealth – during the pandemic - has been thoroughly researched and recognized by DHHS. The DHHS policy brief (entitled "National Survey Trends in Telehealth Use in 2021: Disparities in Utilization and Audio vs. Video Services" reported:

> "[O]ur study findings are consistent with research studies that show **disparities in audio-only vs. video-enabled telehealth modalities by race/ethnicity, age, education, income, and health insurance coverage**. In a recent survey study, patients with a household income of $50,000 or more were 34 percent more likely to choose a telehealth visit than those making less than $50,000. . . . Although research shows that video visits

[1] https://aspe.hhs.gov/sites/default/files/documents/4e1853c0b4885112b2994680a58af9ed/telehealth-hps-ib.pdf

> offer some additional benefits compared with telephone visits, they require more complex setup, video-enabled devices, and broadband internet access, which may present **barriers for older adults, lower income households, and those with limited English proficiency.** In addition to these factors, patients with lower incomes may be more likely to use audio-only services because they are at work during appointments or lack privacy at home. Consistent with these concerns, **we also found lower use of video-enabled telehealth services among adults with low-incomes and those without a high school degree**."

We believe audio-only treatment is a critical measure in reaching vulnerable groups who do not have access to digital telehealth, either because they: lack of the financial means to obtain the necessary equipment or broad band service; live in rural and remote areas; do not have an adequate command of the English language to navigate the online platforms; or maybe because they are uncomfortable using high technology.

Vague Language in this Bill

To ensure adequate access and best patient outcomes, HIAMFT recommends important clarifying amendments to ensure that clinically appropriate treatment is not barred from coverage by vague language, like "technologically unavailable" and "medically necessary" are not defined in this bill.

Also, HIAMFT would like to stress that a 12-month in-person meeting, in the behavioral health context, may be unnecessary. We would like to see appropriate latitude and discretion be afforded to mental health practitioners to determine what is clinically advisable for their patient under the circumstances. For example, requiring a long-term long-distance patient with a mild disorder or anxiety to meet with their therapist in person may present an artificial, even harmful barrier. A patient who is otherwise functioning and adapting well to stressors, would not need an in-person meet-up. Asking patients with a severe disability, or terminal condition (as is contemplated in the Our Care Our Choice proposals) to physically come to an office when such effort is unnecessary, and perhaps dangerous - would only seem to set them back. We don't want such a requirement – which in many cases would seem arbitrary - to dissuade patients from seeking treatment.

From a personal standpoint, language requiring an in-person meeting would shut down my entire practice – as all my patients are remote.

Summary

We believe with important clarifications, ensuring audio-only treatment, as telehealth or otherwise, as a covered expense in the administration of mental health services is crucial to improving patient outcomes, expediting timely service, and ultimately reducing costs and unnecessary administrative functions.

HIAMFT supports legislative action to ensure that time-tested modalities, like standard telephone conversations – equal in content, duration, and clinical outcomes as in-person or telehealth treatments, are available to patients; and not precluded from insurance reimbursement. HIAMFT also supports efforts to ensure that insurance laws and regulations do not create unnecessary barriers to the provision of appropriate treatment within the clinical judgment of providers.

Thank you for the opportunity to provide this testimony on this critical access to care legislation.

Sincerely,

Dr. John Souza, Jr., LMFT, DMFT, President
The Hawaiian Islands Association for Marriage and Family Therapy

NASW HAWAI'I CHAPTER
National Association of Social Workers

COMMITTEE ON FINANCE
Rep. Sylvia Luke, Chair
Rep. Kyle T. Yamashita, Vice Chair

February 24, 2022 2:00 PM. - VIA VIDEO CONFERENCE – Room 308

Testimony with Comments on HB1980 HD2 HEALTH

The National Association of Social Workers – Hawai'i (NASW- HI) supports amendments to this measure to help clarify the application and effect of HB1980 HD2, which currently suggests, in statute, that insurance plans provide reimbursement for telephonic behavioral services in limited, but vague circumstances. NASW-HI nevertheless appreciates this proposal as it purports to "expand" access to quality mental health care.

As we pivoted to a socially distant way of life over the last few years, we've come to appreciate the breadth and utility of telehealth services. However, several members of our community are unable to avail themselves of these services because they may not live in an area equipped with broadband coverage; or they may lack the resources to purchase a smartphone, tablet, or computer; or they are elderly or disabled and cannot operate equipment that require technological know-how or manual dexterity.

We respectfully ask this committee to address the ambiguity in the proposed language, as well as language that prohibits coverage unless digital access is "technologically unavailable." It is also unclear as to what is "medically necessary". We are concerned that such requirements will result in onerous administrative oversight and present unnecessary and avoidable burdens, costs, and delays that are clinically unrelated to the care being administered.

Also concerning is the requirement that an in-person meeting occur every twelve months. This may not be advisable, clinically, in the behavioral health context; nor may it even be possible in so many circumstances - as social-distance protocols continue to be imposed.

Finally, we note that the Centers for Medicare and Medicaid Services (CMS) considers telephonic services a modality of "telehealth" in Medicare. We encourage the committee to consider amending this bill with language that follows the lead taken by CMS. If publicly-funded Medicare provides parity for telephonic treatment, private insurance should too.

We believe these clarifications are necessary because access to quality mental health services should be streamlined, and not constrained - as seems possible under the current language. Allowing telephonic behavioral health treatment, whether qualifying as "telehealth" or otherwise, is critical to our collective recovery from the chronic stressors presented by the pandemic. Limiting insurance reimbursement for such services effectively functions as a state-sanctioned barrier to access for so many disenfranchised members of our society who do not use the video technology required for telehealth.

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808.489.9549 • info@naswhi.org • www.naswhi.org

Recent studies have indicated that several vulnerable populations prefer audio-only treatments; and that expanding coverage in this way will the meet the needs of the elderly, disabled, low-income, disenfranchised racial, ethnic, and linguistic groups, and many others who may simply utilize and respond better to telephonic treatment. On this access matter, the Dept. of Health and Human Services recently issued policy brief (entitled "National Survey Trends in Telehealth Use in 2021: Disparities in Utilization and Audio vs. Video Services", reporting that:

> "[O]ur study findings are consistent with research studies that show **disparities in audio-only vs. video- enabled telehealth modalities by race/ethnicity, age, education, income, and health insurance coverage**. In a recent survey study, patients with a household income of $50,000 or more were 34 percent more likely to choose a telehealth visit than those making less than $50,000. . . . Although research shows that video visits offer some additional benefits compared with telephone visits, they require more complex setup, video-enabled devices, and broadband internet access, which may present **barriers for older adults, lower income households, and those with limited English proficiency.** In addition to these factors, patients with lower incomes may be more likely to use audio-only services because they are at work during appointments or lack privacy at home. Consistent with these concerns, **we also found lower use of video-enabled telehealth services among adults with low-incomes and those without a high school degree**."

There is such great demand and such a limited supply of providers, we want to enable and bolster all the methods that can be employed in addressing Hawaii's mental health needs. We thus support this proposal to the extent that it improves access to quality mental health services – especially to our vulnerable populations. If they prefer and respond most favorably to treatment administered via the telephone, we should be removing barriers to such care.

Thank you for the opportunity to provide this testimony in support

Sincerely,

Sonja Bigalke-Bannan, MSW, LCSW

Sonja Bigalke-Bannan, MSW, LCSW
Executive Director,
National Association of Social Workers- Hawai'i Chapter

THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Sylvia Luke, Chair
The Honorable Kyle T. Yamashita, Vice Chair
Members, House Committee on Finance

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

Date: February 24, 2022

Re: Comments on HB 1980 HD2: Relating to Telephonic Services

The Queen's Health Systems (Queen's) is a nonprofit corporation that provides expanded health care capabilities to the people of Hawai'i and the Pacific Basin. Since the founding of the first Queen's hospital in 1859 by Queen Emma and King Kamehameha IV, it has been our mission to provide quality health care services in perpetuity for Native Hawaiians and all of the people of Hawai'i. Over the years, the organization has grown to four hospitals, and more than 1,500 affiliated physicians and providers statewide. As the preeminent health care system in Hawai'i, Queen's strives to provide superior patient care that is constantly advancing through education and research.

Queen's appreciates the opportunity to provide comments on HB 1980 HD2, which would permit Medicaid, insurance providers, and health maintenance organizations to cover telephonic behavioral health services under certain circumstances and clarifies that telephonic services do not constitute telehealth. Throughout the COVID19 pandemic Queen's has relied increasingly on various modes of telehealth to deliver critical medical services to our patients – including those delivered through telephonic means. This is particularly beneficial to patients who may have limited mobility, reside in rural areas, or otherwise cannot access services in an office setting.

Queen's provides a number of telemedicine specialties in areas such as, but not limited to, stroke and neurology, psychiatry, wound care, and critical care; approximately 11.5% of physician-patient acute telehealth services are classified as telephonic. Telehealth modalities assist with connecting our four hospitals statewide and allow our health care professionals to provide care to patients in their local communities who may not access critical care otherwise. Since the start of the COVID19 pandemic, Queen's has made substantial investments in shifting to telehealth as a modality for providing quality care for our patients – including those requiring behavioral health services.

Furthermore, we strongly support efforts to ensure Hawai'i's telehealth statute remains nimble and able to adapt to new, diverse, and safe ways of delivering care to those with behavioral health needs and other chronic conditions.

Thank you for the opportunity to provide comments on HB 1980 HD2.

LATE *Testimony submitted late may not be considered by the Committee for decision making purposes.

Hawaii Association of Health Plans

February 22, 2022

The Honorable Sylvia Luke, Chair
The Honorable Kyle T. Yamashita, Vice Chair
House Committee on Finance

House Bill 1980 HD2 – Relating to Telephonic Services

Dear Chair Luke, Vice Chair Yamashita, and Members of the Committee:

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to provide testimony on HB 1980 HD2. HAHP is a statewide partnership of Hawaii's health plans and affiliated organizations to improve the health of Hawaii's communities together. The vast majority of Hawaii residents receive their health coverage through a health plan associated with one of our organizations.

HAHP supports the intent of this measure to increase access to health care in Hawaii. Greater access to behavioral health services is needed throughout the state and especially in rural areas where the shortages of health care providers are most severe.

Thank you for allowing us to submit testimony in **support** of HB 1980 HD2.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members

HAWAII MEDICAL ASSOCIATION
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HOUSE COMMITTEE ON FINANCE
Representative Sylvia Luke, Chair
Representative Kyle T. Yamashita, Vice Chair

Date: February 24, 2022
From: Hawaii Medical Association
Will Scruggs MD
Elizabeth England MD, Vice Chair, HMA Legislative Committee
Elizabeth Ann Ignacio MD, Chair, HMA Legislative Committee

Re: HB 1980 HD2: Medicaid; Insurance; Health Insurers; Mutual Benefit Societies; Health Maintenance Organizations; Behavioral Health; Telephonic Services; Telehealth
Position: Support

The Hawaii Medical Association (HMA) supports HB 1980. Payment for audio only health services increases access to care, particularly for the elderly, the underserved, and patients in rural areas with limited internet access.

Physicians have rapidly adopted telemedicine technologies to better serve our population. Experience shows that many patients, due to limited understanding and/or access to technology and internet services, prefer audio only interaction. Expanding audio-only telemedicine services holds special promise in improving access to behavioral health issues where visual and physical examinations are often less important in providing care. Further, the time and staffing resources physicians put into telephone visits with patients is on par with video visits.

Payment parity for audio-only telemedicine care is fair and appropriate. This will increase access to care, improve health, and in doing so, reduce long term costs.

Thank you for allowing Hawaii Medical Association to testify in support of this measure.

continued

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