



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
Senate Committee on Commerce and Consumer Protection
Tuesday, February 22, 2022
10:00 a.m.
Room 229 and Via Videoconference**

**On the following measure:
S.B. 2645, S.D. 1, RELATING TO ACCESS TO BEHAVIORAL HEALTH SERVICES**

WRITTEN TESTIMONY ONLY

Chair Baker 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 allow for standard telephone contacts for telehealth purposes related to behavior health services.

This bill would amend the definition of "telehealth" in (HRS) sections 431:10A-116.3, 432:1-601.5, and 432D-23.5, which currently excludes telephone contacts. These amendments would allow behavioral health services under HRS section 453-1.3(h) to be considered "telehealth" under relevant State insurance laws.

We note that it is unclear whether this amendment to the definition of "telehealth" that is used to describe telehealth requirements in sections 431:10A-116.3, 432:1-601.5, and 432D-23.5, would be construed as "in addition to the essential health

benefits” within the meaning of 45 Code of Federal Regulations (CFR) § 155.170(a) or subject to defrayment provisions under 45 CFR § 155.170(b), which apply to benefits “in addition to the essential health benefits.”

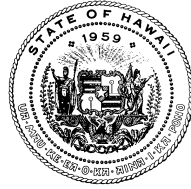
For the Committee’s information, Hawaii Revised Statutes section 23-51 provides, in part, that “[b]efore any legislative measure that mandates health insurance coverage for specific health services, specific diseases, or certain providers of health care services as part of individual or group health insurance policies, [sic] can be considered, there shall be concurrent resolutions passed requesting the auditor to prepare and submit to the legislature a report[.]”

Additionally, the amendments to HRS section 453-1.3 are unnecessary. HRS sections 431:10A-116.3(c), 432:1-601.5(c), and 432D-23.5(c) already address parity and would be using the amended definition of “telehealth” proposed by this bill, providing in part: “Reimbursement for services provided through telehealth **shall be equivalent** to reimbursement for the same services provided via face-to-face contact[.]” (emphasis added).

Finally, the adoption of telehealth services has reduced barriers to care during the COVID-19 public health emergency. The law on coverage for telehealth currently provides that telehealth reimbursement levels are equivalent to the same service provided via face-to-face contact. The National Association of Insurance Commissioners commented in a January 27, 2022 letter to the U.S. Department of Health and Human Services that the use of telehealth should be one factor in determining sufficient network coverage, but its value should be carefully considered and balanced with making in-person care sufficiently available. Telehealth is clinically different than in-person care and may not provide the same level of care in some situations.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR OF HAWAII



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

STATE OF HAWAII
DEPARTMENT OF HEALTH
STATE COUNCIL ON MENTAL HEALTH
P.O. Box 3378, Room 256
HONOLULU, HAWAII 96801-3378

STATE COUNCIL ON MENTAL HEALTH
Testimony to the Senate Committee Commerce and Consumer Protection
in SUPPORT of S.B. 2645, S.D. 1
RELATING TO ACCESS TO BEHAVIORAL HEALTH SERVICES

Tuesday, February 22, 2022 at 10:00 a.m.

CHAIRPERSON
Richard I. Ries Psy.D., M.S.Ed.

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Christopher Knightsbridge,
MAIR, MACL

2nd VICE CHAIRPERSON
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Jon Fujii
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Kathleen Rhoads Merriam, LCSW,
CSAC
Tara Reed, BSW
Jennifer Renfro

EX-OFFICIO:
Marian Tsuji,
Deputy Director, Behavioral
Health Administration

Chair Baker, Vice-Chair Chang and Members of the Senate Commerce and Consumer Protection Committee:

In alignment with §334-10, HRS, the State Council on Mental Health (SCMH) is a 21-member Council responsible for advising, reviewing and monitoring the provision of mental health services statewide. SCMH members from diverse backgrounds serve as volunteers, collectively representing mental health service recipients, students and youth, parents and family members, providers, and state agencies including the Hawaii Department of Health, Department of Human Services, and the Judiciary.

The majority of SCMH members **SUPPORT** S.B. 2645. S.D. 1 which is intended to help increase digital equity across the State. Solid broadband infrastructure and digital equity will help increase access to behavioral health services to a variety of individuals with mental health and co-occurring substance abuse needs.

Thank you for the opportunity to testify. Should you have any questions, please contact us at DOH.SCMHChairperson@doh.hawaii.gov.

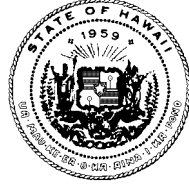
Who We Are

In alignment with §334-10, HRS, the State Council on Mental Health (SCMH) is a 21-member Council responsible for advising, reviewing and monitoring the provision of mental health services statewide. SCMH members from diverse backgrounds serve as volunteers, representing mental health service recipients, students and youth, parents and family members, providers, and state agencies including the Hawaii Department of Health, Department of Human Services, and the Judiciary.

The mission of the SCMH is to advocate for a Hawaii where all persons affected by mental illness can access treatment and support necessary to live a full life in the community of their choice. Should you want to contact us in the future, please e-mail DOH.SCMHChairperson@doh.hawaii.gov.

For more information about the State Council on Mental Health, please visit: www.scmh.hawaii.gov

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 20, 2022

TO: The Honorable Senator Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection

FROM: Cathy Betts, Director

SUBJECT: **SB 2645 SD1– RELATING TO ACCESS TO BEHAVIORAL HEALTH SERVICES.**

Hearing: Tuesday, February 22, 2022, 10:00 a.m.
Via Videoconference, State Capitol

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

PURPOSE: The purpose of the bill is to allow for standard telephone contacts for telehealth purposes related to behavioral health services. Effective 1/1/2050. (SD1) The SD1 defected the effective date to encourage further discussion.

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 all telephonic services. The latter 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, there is also agreement that guardrails are needed for the ongoing utilization of telephonic modality. Parameters are needed to ensure positive clinical outcomes long-term, program integrity, and so that there is no inadvertent deepening of health disparities among those whose access to care would be mainly via the phone. MQD would like to have the option of adding guardrails as needed should this bill move forward.

The cost of care for in-person care, audio-visual technology, and the telephone is very different. The Department respectfully suggests reimbursement equity for the different modalities and not the fiscal parity that currently exists for in-person care and the audio-visual telehealth modality.

Therefore, DHS appreciates the intent to allow the use of telephonic healthcare; however, has concerns regarding the parity of telephonic modality for behavioral health with audio-visual telehealth and in-person care.

Thank you for the opportunity to testify on this measure.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Commerce and Consumer Protection
Tuesday, February 22, 2022 at 10:00 a.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 Hawai'i at Mānoa

SB 2645 SD1 – RELATING TO ACCESS TO BEHAVIORAL HEALTH SERVICES

Chair Baker, Vice Chair Chang, and members of the committee:

Thank you for the opportunity to present testimony today. The John A. Burns School of Medicine (JABSOM) **supports SB 2645 SD1** 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 Hawai'i 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. SB 2645 is a positive step toward recognizing the value of telephonic health care services.

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



February 22, 2022 at 10:00 am
Via Videoconference

Senate Committee on Commerce and Consumer Protection

To: Chair Rosalyn H. Baker
Vice Chair Stanley Chang

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

Re: **Submitting Comments**
SB 2645 SD1, Relating to Behavioral Health 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. We appreciate the intent of this legislation to expand access to critical mental and behavioral health services, especially as we grapple with the lasting effects of the pandemic. We know that, globally, this pandemic has caused immense stress and anguish for many, including healthcare workers. Polling has shown the mental and physical toll this crisis has taken on healthcare professionals, especially front-line staff such as nurses, have suffered during this extended crisis. According to a survey carried out by Mental Health Americaⁱ, nearly all healthcare workers (93%) reported experiencing stress, with a large share (76%) experiencing exhaustion and burnout. The predominant worry that these healthcare workers shouldered was exposing children, spouses, partners, and older adult family members to the disease. This stress manifested in trouble with sleep, work-related dread, physical exhaustion, compassion fatigue, and questioning their career path.

We understand that there are efforts at the federal level to expand access to mental health services through telephonic means, and that Medicare is considering how best to use technology and telehealth to provide clinically-indicated, high-quality care. Hawaii has long been at the forefront of innovation in the telehealth space, and we appreciate the legislature's continued focus on how best to provide meaningful care and access to all residents with appropriate guardrails in place. Thank you for the opportunity to share our comments and to continue dialogue on this important matter.

ⁱ <https://mhanational.org/mental-health-healthcare-workers-covid-19>



February 18, 2022

The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair
Senate Committee on Commerce and Consumer Protection

Re: SB 2645 SD1 – Relating to Access to Behavioral Health Services

Dear Chair Baker, Vice Chair Chang, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in opposition on SB 2645, SD1, which allows for standard telephone contacts for telehealth purposes related to behavior health services. Effective 1/1/2050.

As a strong supporter of telehealth, HMSA was the first health plan in the nation to provide a telehealth platform: HMSA Online Care. We believe that the ability to provide remote face-to-face patient-provider interaction allows for increased access and quality of care. While HMSA does support standard telephone contacts as a form of care delivery, this modality does not always provide an equitable level of clinical outcome compared to face-to-face patient-provider interaction.

Should this bill move forward, we respectfully request that the State Auditor conduct an impact assessment report pursuant to Section 23-51 and 23-52 of the Hawaii Revised Statutes first since it creates new mandated benefits which increase costs for our members.

Thank you for allowing us to testify on SB 2645, SD1. Your consideration of our comments is appreciated.

Sincerely,

Matthew W. Sasaki
Assistant Vice President
Government & External Relations



SB2645 SD1 Use Telephone for Telehealth

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

Tuesday, Feb 22 2022: 10:00 am : Videoconference

Hawaii Substance Abuse Coalition supports SB2645 SD1:

ALOHA CHAIR, VICE CHAIR AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies.

While telehealth doesn't replace the efficacy of face to face, especially for those who have more chronic conditions, it certainly allows us to treat more people who are in need of services that otherwise would not have access to services, especially for rural areas.

U.S. Congress has stated that preliminary evaluations have demonstrated that telehealth practices do save money and improve care, especially for the elderly and behavioral health, as well as specialty care/primary care checkups. People with chronic conditions who have limited access to care need follow-up Telehealth and if not available, telephonic care to prevent ER and hospital care.

Telephone services are an integral part of Medicaid and Medicare and can be for commercial plans as well subject to financing and authorizations.

In many cases, it's a more efficient use of time for those care givers and patients who could benefit well from the use of Telehealth.

We appreciate the opportunity to provide testimony and are available for questions.

TESTIMONY ON BEHALF OF HAWAII PSYCHIATRIC MEDICAL ASSOCIATION

To: Senator Rosalyn H. Baker, Chair, and Senator Stanley Chang, Vice Chair

From: Dr. Denis Mee-Lee Legislative Committee Co-Chair

Hawaii Psychiatric Medical Association

Time: Tuesday, February 22, 2022

Re: SB 2645 SD1, Relating to Access to Behavioral Health Services

Position: **SUPPORT**

Dear Chair Baker, Vice-Chair Chang and members of the committee.

The Hawaii Psychiatric Medical Association (HPMA) appreciates this opportunity to testify in support of SB 2645 SD1, which allows for standard telephone contacts for Telehealth purposes related to behavioral health.

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

HPMA appreciates that the American Psychiatric Association has worked closely with CMS on Telehealth legislation. While services delivered through audio-only technology are not our first choice when providing care, we recognize that telephonic care is an important tool to ensure continuity of care to certain vulnerable patients. HPMA supports tele-health with a focus on best practices and ensuring patient safety.

While HPMA supports expanding access to care to Medically Underserved Populations in Medically Underserved areas, we advocate for safe, quality care as Telehealth access expands.

HPMA has concerns regarding the parity of 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.

While HPMA does support standard telephone contacts as a form of care delivery, 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.



**Testimony to the Senate Committee on Commerce and Consumer Protection
Tuesday, February 22, 2022; 10:00 a.m.
State Capitol, Conference Room 229
Via Videoconference**

RE: SENATE BILL NO. 2645, SENATE DRAFT 1, RELATING TO ACCESS TO BEHAVIORAL HEALTH SERVICES.

Chair Baker, Vice Chair Chang, 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 Senate Bill No. 2645, Senate Draft 1, RELATING TO ACCESS TO BEHAVIORAL HEALTH SERVICES., and offers **PROPOSED AMENDMENTS** for your consideration.

By way of background, the HPCA represents Hawaii's FQHCs. FQHCs provide desperately needed medical services at the frontlines 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 specify that "standard telephonic contacts not constitute a telehealth service except for behavioral health services pursuant to section 453-1.3(h), Hawaii Revised Statutes (HRS), and apply to Medicaid (Chapter 346, 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).

Section 453-1.3(h), HRS, states"

". . . Reimbursement for behavioral health services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. . . "

Testimony on Senate Bill No. 2645, Senate Draft 1

Tuesday, February 22, 2022; 10:00 a.m.

Page 2

Thus, because this section is in Chapter 453, HRS, entitled, "Medicine and Surgery", it would appear that the provisions of this bill would apply solely to physicians and not to other health care professionals.

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.

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 appears to 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.

Testimony on Senate Bill No. 2645, Senate Draft 1

Tuesday, February 22, 2022; 10:00 a.m.

Page 3

This Committee may want 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.

However, the title of this bill may be too restrictive for the amendments proposed and as such, the HPCA recommends this Committee consult with the Majority Attorney at legal check to determine whether this or Senate Bill No. 2073 would be the most appropriate vehicle for this issue.

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@hawaiiipca.net.

A BILL FOR AN ACT

RELATING TO ACCESS TO BEHAVIORAL HEALTH 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 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 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 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 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 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 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 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 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.



DATE: 20 Feb 2022

TO: Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair
Senate Committee on Commerce and Consumer Protection

RE: **Testimony in Strong Support of SB 2645 SD1, RELATING TO ACCESS TO BEHAVIORAL HEALTH SERVICES**

HRG: 22 Feb 2022, 10:00 AM conference room 229 & via videoconference

Dear Chair Baker, Vice Chair Chang, and Members of the Committees,

The Hawai'i Public Health Association (HPHA) is a group of over 450 community members, public health professionals, and organizations statewide dedicated to improving public health. Our mission is to promote public health in Hawai'i through leadership, collaboration, education and advocacy. Additionally, HPHA aims to call attention to issues around social justice and equity in areas that extend beyond the traditional context of health (e.g., education, digital equity, cultural sensitivity), which can have profound impacts on health equity and well-being. Therefore, as stewards of public health, HPHA is also advocating for equity in all policies.

We are providing this testimony in **strong support of SB 2645 SD1**, which seeks to allow for standard telephone contacts for telehealth purposes related to behavior health services. This bill will ensure that our community has long-term access to patient-centered behavioral health services that meet patients where they are at. The evidence is clear that the COVID pandemic has caused undue emotional burden and distress on many in our community, and there has been an increase in mental health concerns. With talk therapy being a main component of behavioral health services, the ability to connect to compassionate behavioral health in the least restrictive and least burdensome way, via telephone, can have a significant impact on behavioral health outcomes in our community.

The people of Hawai'i deserve safe, timely, and easy to access behavioral health services. The ability to bill insurance for telephone visits for behavioral health services will benefit vulnerable population and help to reduce disparities in behavior health outcomes. Example of vulnerable population include kūpuna and those living in remote communities where technology needed for video telehealth may be limited. HPHA is a strong advocate for policies that work to ensure equity, and providing safe and easy access to behavioral health care contributes to this goal.

We support SB 2645 SD1 and respectfully ask that you pass this measure. Thank you for the opportunity to provide testimony on this important public health issue affecting members of our community.

Sincerely,

J. Leocadia Conlon, PhD, MPH, PA-C
Legislative Committee Chair
Hawai'i Public Health Association



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The State Legislature
The Senate Committee on Commerce and Consumer Protection
Tuesday, Feb 22, 2022
10:00 a.m.

TO: The Honorable Rosalyn Baker, Chair
RE: S.B. 2645 S.D.1 Relating to Access to Behavioral Health Services

Aloha Chair Baker 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 S.B. 2645 S.D.1** which allows the use of standard telephone contact for telehealth purposes related to behavioral health services.

The COVID-19 pandemic have created chronic and unprecedented emotional distress, anxiety, and mental conditions for all of Hawaii's communities. The demand for mental health services has increased. While tele-health has greatly increased access for many residents, we recognize that not everyone is comfortable with digital or video technology and/or know how to use video calls for their telehealth visit with their health care provider. Some people prefer to use the standard telephone especially if a face-to-face visit is not necessary. With inconsistent wi-fi connectivity in many areas, and limited access and knowledge in using video technology, a telephone remains the preferred mode for communication for many especially kupuna. Allowing the standard telephone (audio-only) contact to reimbursed by the insurance plans for mental health treatment makes sense.

Thank you very much for the opportunity to testify in support on **S.B. 2645 S.D.1**.

Sincerely,

A handwritten signature in black ink that reads "Keali'i S. Lopez". The signature is written in a cursive, flowing style.

Keali'i S. López
State Director

Testimony of
Jonathan Ching
Government Relations Director

Before:
Senate Committee on Commerce and Consumer Protection
The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair

February 22, 2022
10:00 a.m.
Via Videoconference

Re: SB 2645, SD1, Relating to Telephonic Services

Chair Baker, Vice Chair Chang, and committee members, thank you for this opportunity to provide testimony on SB 2645, SD1, which allows for standard telephone contacts for telehealth purposes related to behavior health services.

Kaiser Permanente Hawai'i provides the following COMMENTS on SB 2645, SD1.

Kaiser Permanente Hawai'i is Hawai'i's largest integrated health system that provides care and coverage for approximately 265,000 members. Each day, more than 4,400 dedicated employees and more than 650 Hawai'i Permanente Medical Group physicians and providers come to work at Kaiser Permanente Hawai'i to care for our members at our 20 medical facilities, including Moanalua Medical Center, providing high-quality care for our members and delivering on our commitment to improve the health of the 1.4 million people living in the communities we serve.

Since the COVID-19 pandemic began in 2020, the use of telehealth in Hawai'i has dramatically increased as telehealth has been critical to limit the risk of person-to-person transmission while helping to avoid overwhelming our healthcare facilities. While Kaiser Permanente Hawai'i was already providing high-quality care through telehealth modalities, we saw a dramatic increase in the use of telehealth visits between 2019 and 2020. In 2019, approximately 1,000 of our outpatient visits were done as video visits and 458,000 as telephone visits. In stark contrast, in 2020, approximately 67,000 video visits were performed and 777,000 telephone visits. In 2021, approximately 84,000 video visits were performed and 700,000 telephone visits. We expect this number to continue to increase in 2022 in response to the ongoing pandemic and surges fueled by variants such as Omicron.

Kaiser Permanente Hawaii utilizes audio-only telephone visits as a modality to provide access to high-quality care, including our integrated behavioral health department, as part of our integrated approach to care delivery, and we believe this modality is important to offer for individuals who

do not have access to, or may not be comfortable using, video conferencing technology. Therefore, we support the inclusion of audio-only telephone visits as part of the definition of “telehealth.” **We recognize that costs associated with different types of visits can vary substantially and we urge the legislature to take an equity approach to reimbursement rather than requiring all audio-only telephone visits to be paid at parity with in-person visits.** This approach accounts for the provider’s time and resources as well as the relative equivalency to in-person care and allows us to continue to leverage telemedicine as a strategy to make health care more affordable.

While we support the inclusion of audio-only telephone as part of the definition of “telehealth” for behavioral health services and support appropriate payment for all telehealth modalities, given that the costs associated with different types of visits/encounters can vary substantially, **we do not support mandating that all telehealth modalities for behavioral health services including standard telephone contacts, facsimile transmissions or email text be reimbursed at parity with in-person visits.**

Mahalo for the opportunity to testify on this important measure.

Tuesday, February 22, 2022 at 10:00 AM
Via Video Conference

Senate Committee on Commerce and Consumer Protection

To: Senator Rosalyn Baker, Chair
Senator Stanley Chang, Vice Chair

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

Re: **SB 2645, SD1 – Comments**
Relating to Access To Behavioral Health Services

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

I am writing to provide comments on SB 2645, SD1 which permits 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. Therefore, we 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.

SB-2645-SD-1

Submitted on: 2/20/2022 9:02:09 PM

Testimony for CPN on 2/22/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jeremy Kalan	Testifying for Center for Healing & Transformation	Support	No

Comments:

Aloha,

Phone, Video Conferencing and In Person are ALL helpful and healing to clients. They should all be covered by insurance. Some people cannot afford the internet or to use their precious data on video conferencing calls and those people should not be punished for that.

Mahalo,

Jeremy Kalan, CEO Center for Healing & Transformation, Kailua HI

SB-2645-SD-1

Submitted on: 2/21/2022 7:04:13 AM

Testimony for CPN on 2/22/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
shawna ledward	Testifying for Clinical Psychology Services, LLC	Support	No

Comments:

I strongly support bill SB2645 SDI for the use of audio only telehealth for mental health. The use of audio only telehealth services during the pandemic proved extremely helpful for many clients who could not receive services due to restrictions. However, it also opened up the ability for a patient to gain access to the providers located on the other side of the island, if needed when previously location had been an issue. Moreover, audio only eliminated the disparity between those who did not have sufficient technology for video telehealth services and/or were unable figure out how to use technology. As such, I strongly support bill SB 2645 SDI in allowing audio only telehealth for mental health to improve access to all.



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814

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www.hawaiimedicalassociation.org

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

Date: February 22, 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 SB 2645 SDI, RELATING TO BEHAVIORAL HEALTH

Position: Support

Physicians have rapidly adopted telemedicine technologies to better serve our population. Primary care physicians (PCPs) connect with patients via telemedicine to provide preventive and chronic disease services. Experience shows that many patients, due to limited understanding and/or access to technology and internet services, prefer audio-only interaction. The time and staffing resources physicians put into telephone visits with patients is on par with video visits.

While video telehealth appointments have offered an important alternative for patients, audio-only visits provide a means for our most marginalized communities to access care. Patients who are elderly, on Medicaid, non-English speaking and/or have limited internet access patients are more likely to use audio-only services than video visits.

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

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

REFERENCES

Chen, J., Li, K.Y., Andino, J. *et al.* Predictors of Audio-Only Versus Video Telehealth Visits During the COVID-19 Pandemic. *J GEN INTERN MED* (2021). <https://doi.org/10.1007/s11606-021-07172-y>

Volk J et al. States' Actions to Expand Telemedicine Access During COVID-19 and Future Policy Considerations. The Commonwealth Fund. [Commonwealthfund.org. June 23 2021.](https://www.commonwealthfund.org/publications/issue-briefs/2021/june/states-actions-to-expand-telemedicine-access-during-covid-19-and-future-policy-considerations)

HMA OFFICERS

President – Angela Pratt, MD President-Elect – Elizabeth Ann Ignacio, MD
Immediate Past President – Michael Champion, MD Treasurer – Nadine Tenn Salle, MD
Secretary – Thomas Kosasa, MD Executive Director – Marc Alexander



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O'Reilly KB. Amid pandemic, CMS should level field for phone E/M visits. Ama-assn.org. [Apr 20, 2020](#).

State Telehealth Laws and Reimbursement Policies Report, Fall 2021. CCHPCA.org. [October 2021](#).

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Secretary – Thomas Kosasa, MD Executive Director – Marc Alexander



Testimony to the Senate Committee on Commerce and Consumer Protection
Tuesday, February 22, 2022
10:00 a. m.
Via videoconference

Re: SB 2645 SD 1, RELATING TO ACCESS TO BEHAVIORAL HEALTH SERVICES

Dear Chair Baker, Vice Chair Chang, and Honorable Members of the Senate Committee on Commerce and Consumer Protection:

I am Gary Simon, immediate past president and a current board member of the Hawai'i Family Caregiver Coalition. The mission of the Hawai'i Family Caregiver Coalition (HFCC) is to improve the quality of life of those who give and receive care by increasing community awareness of caregiver issues through continuing advocacy, education, and training.

HFCC strongly supports SB 2645 SD 1, RELATING TO BEHAVIORAL HEALTH SERVICES, which would allow for standard telephone contacts for telehealth purposes related to behavior health services.

The use of standard telephone contact in telehealth is especially valuable for those with limited mobility and for those who live in rural areas, hours away from the nearest specialist.

We urge you to support SB 2645 SD 1, and we urge you to recommend its passage.

On behalf of HFCC, I thank you for seriously considering the bill.

Very sincerely,

A handwritten signature in cursive script that reads "Gary Simon".

Gary Simon
Hawai'i Family Caregiver Coalition
Email garysimon@hawaii.rr.com





THE QUEEN'S HEALTH SYSTEMS

To: The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair
Members, Senate Committee on Commerce & Consumer Protection

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

Date: February 22, 2022

Re: Comments on SB 2645 SD1– Relating to Behavioral Health

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 SB 2645 SD1, which would allow for standard telephone contacts for telehealth purposes related to behavior health services. 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 therefore supports efforts to establish appropriate provider reimbursement for these telephonic services.

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 remain 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 allowing Queen's to provide comments on SB 2645 SD1.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.



Hawai'i Psychological Association

For a Healthy Hawai i

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Phone: (808) 521 -8995

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

DATE: February 22, 2022 10:00 A.M. - VIA VIDEO CONFERENCE

Testimony in Strong Support of SB2645 SD1 RELATING TO BEHAVIORAL HEALTH SERVICES

The Hawai'i Psychological Association (HPA) **strongly supports SB2645 SD1**, as this measure would codify a policy - already implemented during the pandemic - **proven to significantly improve access to quality mental health care for several vulnerable populations – specifically the elderly, the economically disadvantaged, limited English proficient, and rural residents** who cannot utilize telehealth as currently defined.

The purpose of SB2645 SD1 is to allow for the use and insurance reimbursement of standard telephone contacts as telehealth in providing mental health treatment. SB2645 SD1 revises Hawaii Revised Statutes (HRS) Chapter 453 on Medicine and Surgery; and four sections of our health insurance code for: Medicaid (HRS Chapter 346); Private Insurance Plans (HRS Chapter 331:10A); Benefit Societies (HRS Chapter 432:1); and Health Maintenance Organizations (HRS Chapter 432D), by clarifying that the restriction against using “standard telephone contacts” as a modality of telehealth does not apply to “behavioral health services.”

First, it is well-established in the research that behavioral health services administered over the telephone is 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.”***

Second, this is a policy Hawaii has already implemented - quite successfully. The Governor's emergency proclamation on December 16, 2020 suspending the restriction on the use of standard telephone contacts as telehealth, along with similar measures nationwide, has yielded important research findings on patient access and outcomes. On February 2, 2022, the United States Department of Health and Human Services (DHHS) issued a policy brief entitled **“National Survey Trends in Telehealth Use in 2021: Disparities in Utilization and Audio vs. Video Services”** 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.**”*

Finally, we think the policy analysis and positions taken by federal authorities can be instructive on this matter. Pursuant to the 2022 Medicare Fee Schedule Final Rule issued in November 2021 by the DHHS Centers for Medicare and Medicaid Services (CMS), Medicare now includes telephone and audio-only communications technology in its definition of “interactive telecommunications system” when administering “telehealth” for mental disorders. If telephone contacts are permissible under our federal taxpayer-funded health plans, similar provisions should also apply to private insurance plans. This may very well be the trend in the marketplace, as it’s our understanding that a number of private plans do indeed consider treatment via telephone a covered expense – whether as a “telehealth” service or not.

HPA thus supports legislative action to ensure reliable tools, like the standard telephone, are available to assure adequate lines of communication stay open; and that necessary treatment is available to everyone out of reach of high technology. Moreover, meeting the mental health needs of our most vulnerable is an important proactive, preventative public health measure – saving untold resources the state would expend managing more costly societal symptoms. This concern is especially acute as conditions related to the hardships presented by the pandemic - depression, substance abuse, anxiety, chronic stress, domestic abuse, and all the physical manifestations thereof - continue to destabilize large swaths of Hawaii’s population.

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

Sincerely,



Alex Lichton, Ph.D.

Chair, HPA Legislative Action Committee



The Hawaiian Islands Association for Marriage and Family Therapy
(HIAMFT)

We know systems. We know relationships.
We know FAMILY MATTERS.

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator Stanley Chang, Vice Chair

DATE: February 22, 2022 10:00 A.M. - VIA VIDEO CONFERENCE

Testimony in Strong Support of SB2645 SD1 RELATING TO BEHAVIORAL HEALTH SERVICES

The Hawaiian Islands Association for Marriage and Family Therapy (HIAMFT) strongly supports SB2645 SD1, which allows the costs of mental health treatment administered via standard telephone contacts to be reimbursed by health insurance plans as a modality through which “telehealth” can be provided. While Telephonic Service is an essential tool in providing telehealth-based mental health treatment, audio-only treatment is particularly critical for providing access to care for the elderly, those in low-income areas, rural residents, and those with limited English proficiency.

While devastating to public health and our economy, the COVID 19 Pandemic has spurred revolutionary developments in telehealth. 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 brief¹ 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.

Here in Hawai’i, one such measure has already been successfully implemented through the Governor’s December 16, 2020 proclamation allowing for the use of standard telephone contacts for health care. Through talk therapy, mental health treatment (such as that provided by Marriage and Family Therapists)

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

fits squarely into the type of service allowed coverage. SB2645 would simply make permanent this allowance for telephone contacts/audio-only treatment as a modality in mental health contexts – which by many measures, has been found to be just as, and sometimes more effective², in the treatment of many behavioral conditions, such as behavioral group therapy for families and children in rural areas suffering from obesity³, children with disruptive behaviors⁴, and online parent programs⁵.

We also 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 unfamiliar or uncomfortable using telehealth technologies, state governments are finding it necessary to ensure treatments provided through standard telephone contacts is covered by insurance plans.

The disparities presented by restricting audio-only telehealth is also well-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 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.**”

Furthermore, it’s our understanding that CMS has adopted language tailored to mental health contexts to allow telephonic services -as a matter of equity and improved patient outcomes. We thus respectfully ask

² McLean, S. A., Booth, A. T., Schnabel, A., Wright, B. J., Painter, F. L., & McIntosh, J. E. (2021). Exploring the Efficacy of Telehealth for Family Therapy Through Systematic, Meta-analytic, and Qualitative Evidence. *Clinical Child and Family Psychology Review*, 24(2), 244–266. <https://doi.org/10.1007/s10567-020-00340-2>

³ Reports on Obesity Findings from University of Kansas Provide New Insights (Treating rural paediatric obesity through telemedicine vs. telephone: Outcomes from a cluster randomized controlled trial). (2016, April 23). *Pediatrics Week*, 345.

⁴ McGrath, P. J., Lingley-Pottie, P., Thurston, C., MacLean, C., Cunningham, C., Waschbusch, D. A., Watters, C., Stewart, S., Bagnell, A., Santor, D., & Chaplin, W. (2011). Telephone-Based Mental Health Interventions for Child Disruptive Behavior or Anxiety Disorders: Randomized Trials and Overall Analysis. *Journal of the American Academy of Child & Adolescent Psychiatry*, 50(11), 1162–1172. <https://doi.org/10.1016/j.jaac.2011.07.013>

⁵ Day, J. J., & Sanders, M. R. (2018). Do Parents Benefit From Help When Completing a Self-Guided Parenting Program Online? A Randomized Controlled Trial Comparing Triple P Online With and Without Telephone Support. *Behavior Therapy*, 49(6), 1020–1038. <https://doi.org/10.1016/j.beth.2018.03.002>

the State to also address the gaps in access and coverage recognized by CMS – namely due to economics, age, language, disability, residence, and/or patient and provider preference.

If audio-only/telephone contacts is good enough for Medicare, it is good enough for the private insurance made available to Hawai'i residents.

We believe that by following the research and adding telephone contacts/audio-only treatment to the list of "telehealth" treatment modalities, Hawai'i residents will experience improved access to care and patient outcomes across all segments of our diverse population, but particularly our kupuna, low-income and rural residents, and those for whom English is not their primary language. It will also expedite timely service; remove any barriers to care presented by transportation, mobility, and/or technology; and will alleviate well-documented disparities stemming from systemic/institutionalized ageism, racism, etc.

Therefore HIAMFT strongly 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) be made 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 in strong support.

Sincerely,

A handwritten signature in black ink that reads "John Souza, Jr. LMFT, DMFT". The signature is written in a cursive style with a large, stylized initial "J".

Dr. John Souza, Jr., LMFT, DMFT, President

The Hawaiian Islands Association for Marriage and Family Therapy

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
Senator Rosalyn H. Baker, Chair
Senator Stanley Chang, Vice Chair

DATE: Tuesday, February 22, 2022
TIME: 10:00AM
PLACE: Via Videoconference

Testimony in Strong Support of SB2645 SD1 RELATING TO BEHAVIORAL HEALTH SERVICES

The National Association of Social Workers – Hawai'i (NASW- HI) strongly supports SB2645 SD1, which would authorize insurance reimbursement for telephonic behavioral services as “telehealth”.

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; they may lack the financial resources to purchase a smartphone, tablet, computer, or necessary bandwidth; or they may be elderly, disabled, and/or limited English proficient and cannot easily operate equipment requiring technological know-how or manual dexterity.

Allowing telephone contacts to qualify as telehealth will help immensely in meeting this gap in access to mental health services. Moreover, it is not new idea. In his emergency proclamation on December 16, 2020, Governor Ige suspended the restriction on the use of standard telephone contacts as telehealth; and it has been profoundly successful in reaching many in need of mental health services. This measure would merely codify what has been shown to be a successful and critical means of improving patient access and clinical outcomes - which shouldn't go away because the exigencies of the pandemic driving this innovation are waning.

The disparities that result by limiting the use of telephone contacts in administering adequate health care was recognized recently by the United States Department of Health and Human Services (DHHS) in its policy brief entitled “[National Survey Trends in Telehealth Use in 2021: Disparities in Utilization and Audio vs. Video Services](#),” 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.**”*

Furthermore, in a 2021 publication in JAMIA Open¹, researchers found:

“Amongst telehealth users, adjusted odds of video participation were significantly lower for those who were Black, American Indian, male, prefer a non-English language, have Medicaid or Medicare, or older. Seniors, non-English speakers, and Black patients were more reliant on telephone than video for care. The differences in telehealth adoption by vulnerable populations demonstrate the tendency toward disparities that can occur in the expansion of telehealth and suggest structural biases.”

The benefits of audio-only treatment in all healthcare contexts is clear and conclusive. Even more so in behavioral health, as talk therapy is the principal modality of through which positive patient outcomes result. Talk therapy can be just as effectively administered via telephone as it is via video. In fact, in many situations involving social anxiety and a patient’s reluctance to seek help in-person – due to structural, familial, or economic barriers (or during pandemic-imposed regulations on social gatherings) telephone contact is the only way of reaching those in dire need.

It’s also important to note the policy developments coming out of the DHHS Centers of Medicare and Medicaid Services (CMS). According to CMS’s 2022 Fee Schedule, telephone/audio-only treatment is now reimbursable for mental disorders and behavioral health treatments. If audio-only mental health treatment is allowed in taxpayer-funded health plans, it should also be allowed by private insurers.

NASW-HI believes access to quality mental health services should be streamlined. Allowing telephonic behavioral health treatment to qualify as “telehealth” is critical to our collective recovery from the chronic stressors presented by the pandemic. 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

Executive Director,

National Association of Social Workers- Hawai’i Chapter

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8496485/>



LATE

February 18, 2022

The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair
Senate Committee on Commerce and Consumer Protection

Senate Bill 2645 SD1 – Relating to Access to Behavioral Health Services

Dear Chair Baker, Vice Chair Chang, and Committee Members:

The Hawaii Association of Health Plans (HAHP) appreciates the opportunity to testify on SB 2645, SD1. 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.

While HAHP appreciates the intent of this measure, we believe that HB1980 HD1 Relating to Telephonic Services is a more appropriate vehicle to encourage access to behavioral health care services across Hawaii.

Thank you for allowing us to testify in **opposition** to SB 2645 SD1. Your consideration of our comments is appreciated.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members

hahp.org | 818 Keeaumoku St., Honolulu, HI 96814 | info@hahp.org

AlohaCare | HMAA | HMSA | Humana | HWMG | Kaiser Permanente | MDX Hawaii | Ohana Health Plan |
UHA Health Insurance | UnitedHealthcare

SB-2645-SD-1

Submitted on: 2/20/2022 9:38:51 PM

Testimony for CPN on 2/22/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Stacie M Burke	Individual	Support	No

Comments:

Sen Rosalyn H. Baker , Chair

Sen Stanley Chang, Vice Chair

Senate Committee on Commerce and Consumer Protection

Tuesday, February 22, 2022

Support 2645 Relating to access to behavioral Health Services

I am writing in strong support for SB 2645. Access to mental health care is crucial , especially for vulnerable members of our community. Many living in rural areas do not have adequate broadband available to them, while others are intimidated by the process altogether.

Let's build a better society, by offering options to those in need.

Mahalo

Stacie Burke

Aiea, Hawai'i

SB-2645-SD-1

Submitted on: 2/21/2022 6:04:01 AM

Testimony for CPN on 2/22/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mary Myers	Individual	Support	No

Comments:

- *Black, Latino and Asian adults are more likely than their white counterparts to use audio telehealth services rather than video, according to” data from HHS. The national survey data revealed that “telehealth usage was similar across demographic groups, but white people, young adults, people earning at least \$100,000 and the privately insured were most likely to use video services.” Meanwhile, “people of color, people with lower incomes, adults without a high school degree and seniors skewed toward using audio-only services.”*
- *This [study](#) came to similar conclusions:: Amongst telehealth users, adjusted odds of video participation were significantly lower for those who were Black, American Indian, male, prefer a non-English language, have Medicaid or Medicare, or older. Seniors, non-English speakers, and Black patients were more reliant on telephone than video for care. The differences in telehealth adoption by vulnerable populations demonstrate the tendency toward disparities that can occur in the expansion of telehealth and suggest structural biases.*

LATE

SB-2645-SD-1

Submitted on: 2/21/2022 7:06:42 PM

Testimony for CPN on 2/22/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cynthia F Tucker PsyD	Individual	Support	No

Comments:

Thank you for hearing my testimony. I am a Clinical Psychologist, who has 25 years of experience as a therapist, with a private practice on the Windward side of O'ahu. I strongly support SB2645 SD1. In the past 2 years, I have experienced a very heightened demand for psychotherapy services in stressful times and during the Covid period. Patients benefit greatly from mental health services, which can mitigate stress, anxiety, depression, and build coping abilities, etc. Patients benefit from consistent, and reliable, care and treatment. Often on the islands, conditions exist such as: no access to wifi, no computer equipment, cell towers going out from time to time, wifi connectivity going out from time to time, inability to pay utilities bills, having to go to work and not being near a computer when telehealth (audio only) time approaches, etc, as well as patients who have a paranoia with electronic devices being fearful of the equipment, and children or kapuna not being able to manage the equipment. Under all of these circumstances, including rural areas, as well as incorporated areas, Patients can continue to benefit from being able to keep their appointments in a consistent and reliable manner with telehealth, including Audio Only treatment as outlined in SB2645 SD1. I strongly support.

Mahalo for your time and consideration.