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## A BILL FOR AN ACT

RELATING TO TELEPHONIC SERVICES.

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

1           SECTION 1. Section 346-59.1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "~~§~~346-59.1~~§~~ Coverage for telehealth. (a) The  
4 State's medicaid managed care and fee-for-service programs shall  
5 not deny coverage for any service provided through telehealth  
6 that would be covered if the service were provided through  
7 in-person consultation between a patient and a health care  
8 provider.

9           (b) Reimbursement for services provided through telehealth  
10 shall be equivalent to reimbursement for the same services  
11 provided via face-to-face contact between a health care provider  
12 and a patient. Nothing in this section shall require a health  
13 care provider to be physically present with the patient at an  
14 originating site unless a health care provider at the distant  
15 site deems it necessary.



# H.B. NO. 1980

1 (c) There shall be no geographic restrictions or  
2 requirements for telehealth coverage or reimbursement under this  
3 section.

4 (d) There shall be no restrictions on originating site  
5 requirements for telehealth coverage or reimbursement under this  
6 section.

7 (e) Services provided by telehealth pursuant to this  
8 section shall be consistent with all federal and state privacy,  
9 security, and confidentiality laws.

10 (f) Notwithstanding any other law to the contrary, the  
11 provisions of this section shall comply with the applicable  
12 federal requirements related to utilization, coverage, and  
13 reimbursement for telehealth services.

14 (g) Telephonic behavioral health services may be covered  
15 only when:

16 (1) Telehealth services are technologically unavailable at  
17 the time the enrollee is scheduled to receive a  
18 behavioral health service;

19 (2) The behavioral health service is a medically  
20 necessary, covered health care service; and



1        (3) The health care provider has provided the enrollee  
2                    with an in-person behavioral health service no longer  
3                    than six months prior to the telephonic service;  
4 provided that nothing in this section shall be interpreted to  
5 require coverage for any telephonic service.

6            [~~(g)~~] (h) For the purposes of this section:

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

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



1 chapter 457, psychologists licensed under chapter 465, and  
2 dentists licensed under chapter 448.

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

12 "Telehealth" means the use of telecommunications services,  
13 as defined in section 269-1, to encompass four modalities:  
14 store and forward technologies, remote monitoring, live  
15 consultation, and mobile health; and which shall include but not  
16 be limited to real-time video conferencing-based communication,  
17 secure interactive and non-interactive web-based communication,  
18 and secure asynchronous information exchange, to transmit  
19 patient medical information, including diagnostic-quality  
20 digital images and laboratory results for medical interpretation  
21 and diagnosis, for the purpose of delivering enhanced health



1 care services and information while a patient is at an  
2 originating site and the health care provider is at a distant  
3 site. Standard telephone contacts, facsimile transmissions, or  
4 e-mail text, in combination or by itself, does not constitute a  
5 telehealth service for the purposes of this section."

6 "Telephonic service" means the use of two-way, real-time  
7 audio-only telephone communication by a health care provider at  
8 a distant site, for the purpose of diagnosing, monitoring, or  
9 treating a patient. Telephonic services do not constitute  
10 telehealth."

11 SECTION 2. Section 431:10A-116.3, Hawaii Revised Statutes,  
12 is amended to read as follows:

13 **"§431:10A-116.3 Coverage for telehealth.** (a) It is the  
14 intent of the legislature to recognize the application of  
15 telehealth as a reimbursable service by which an individual  
16 shall receive medical services from a health care provider  
17 without face-to-face contact with the health care provider.

18 (b) No accident and health or sickness insurance plan that  
19 is issued, amended, or renewed shall require face-to-face  
20 contact between a health care provider and a patient as a  
21 prerequisite for payment for services appropriately provided



1 through telehealth in accordance with generally accepted health  
2 care practices and standards prevailing in the applicable  
3 professional community at the time the services were provided.

4 The coverage required in this section may be subject to all  
5 terms and conditions of the plan agreed upon among the enrollee  
6 or subscriber, the insurer, and the health care provider.

7 (c) Reimbursement for services provided through telehealth  
8 shall be equivalent to reimbursement for the same services  
9 provided via face-to-face contact between a health care provider  
10 and a patient. Nothing in this section shall require a health  
11 care provider to be physically present with the patient at an  
12 originating site unless a health care provider at the distant  
13 site deems it necessary.

14 (d) Notwithstanding chapter 453 or rules adopted pursuant  
15 thereto, in the event that a health care provider-patient  
16 relationship does not exist between the patient and the health  
17 care provider to be involved in a telehealth interaction between  
18 the patient and the health care provider, a telehealth mechanism  
19 may be used to establish a health care provider-patient  
20 relationship.



# H.B. NO. 1980

1 (e) All insurers shall provide current and prospective  
2 insureds with written disclosure of coverages and benefits  
3 associated with telehealth services, including information on  
4 copayments, deductibles, or coinsurance requirements under a  
5 policy, contract, plan, or agreement. The information provided  
6 shall be current, understandable, and available prior to the  
7 issuance of a policy, contract, plan, or agreement, and upon  
8 request after the policy, contract, plan, or agreement has been  
9 issued.

10 (f) Services provided by telehealth pursuant to this  
11 section shall be consistent with all federal and state privacy,  
12 security, and confidentiality laws.

13 (g) Telephonic behavioral health services may be covered  
14 only when:

15 (1) Telehealth services are technologically unavailable at  
16 the time the enrollee is scheduled to receive a  
17 behavioral health service;

18 (2) The behavioral health service is a medically  
19 necessary, covered health care service; and



1       (3) The health care provider has provided the enrollee  
2       with an in-person behavioral health service no longer  
3       than six months prior to the telephonic service;  
4 provided that nothing in this section shall be interpreted to  
5 require coverage for any telephonic service.

6       ~~(g)~~ (h) For the purposes of this section:

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

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





1 chapter 457, psychologists licensed under chapter 465, and  
2 dentists licensed under chapter 448.

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

11 "Telehealth" means the use of telecommunications services,  
12 as defined in section 269-1, to encompass four modalities:  
13 store and forward technologies, remote monitoring, live  
14 consultation, and mobile health; and which shall include but not  
15 be limited to real-time video conferencing-based communication,  
16 secure interactive and non-interactive web-based communication,  
17 and secure asynchronous information exchange, to transmit  
18 patient medical information, including diagnostic-quality  
19 digital images and laboratory results for medical interpretation  
20 and diagnosis, for the purpose of delivering enhanced health  
21 care services and information while a patient is at an



1 originating site and the health care provider is at a distant  
2 site. Standard telephone contacts, facsimile transmissions, or  
3 e-mail text, in combination or by itself, does not constitute a  
4 telehealth service for the purposes of this chapter.

5 "Telephonic service" means the use of two-way, real-time  
6 audio-only telephone communication by a health care provider at  
7 a distant site, for the purpose of diagnosing, monitoring, or  
8 treating a patient. Telephonic services do not constitute  
9 telehealth."

10 SECTION 3. Section 432:1-601.5, Hawaii Revised Statutes,  
11 is amended to read as follows:

12 **"§432:1-601.5 Coverage for telehealth.** (a) It is the  
13 intent of the legislature to recognize the application of  
14 telehealth as a reimbursable service by which an individual  
15 shall receive medical services from a health care provider  
16 without face-to-face contact with the health care provider.

17 (b) No mutual benefit society plan that is issued,  
18 amended, or renewed shall require face-to-face contact between a  
19 health care provider and a patient as a prerequisite for payment  
20 for services appropriately provided through telehealth in  
21 accordance with generally accepted health care practices and



1 standards prevailing in the applicable professional community at  
2 the time the services were provided. The coverage required in  
3 this section may be subject to all terms and conditions of the  
4 plan agreed upon among the enrollee or subscriber, the mutual  
5 benefit society, and the health care provider.

6 (c) Reimbursement for services provided through telehealth  
7 shall be equivalent to reimbursement for the same services  
8 provided via face-to-face contact between a health care provider  
9 and a patient. Nothing in this section shall require a health  
10 care provider to be physically present with the patient at an  
11 originating site unless a health care provider at the distant  
12 site deems it necessary.

13 (d) Notwithstanding chapter 453 or rules adopted pursuant  
14 thereto, in the event that a health care provider-patient  
15 relationship does not exist between the patient and the health  
16 care provider to be involved in a telehealth interaction between  
17 the patient and health care provider, a telehealth mechanism may  
18 be used to establish a health care provider-patient  
19 relationship.

20 (e) All insurers shall provide current and prospective  
21 enrollees or subscribers with written disclosure of coverages



1 and benefits associated with telehealth services, including  
2 information on copayments, deductibles, or coinsurance  
3 requirements under a policy, contract, plan, or agreement. The  
4 information provided shall be current, understandable, and  
5 available prior to the issuance of a policy, contract, plan, or  
6 agreement, and upon request after the policy, contract, plan, or  
7 agreement has been issued.

8 (f) Services provided by telehealth pursuant to this  
9 section shall be consistent with all federal and state privacy,  
10 security, and confidentiality laws.

11 (g) Telephonic behavioral health services may be covered  
12 only when:

13 (1) Telehealth services are technologically unavailable at  
14 the time the enrollee is scheduled to receive a  
15 behavioral health service;

16 (2) The behavioral health service is a medically  
17 necessary, covered health care service; and

18 (3) The health care provider has provided the enrollee  
19 with an in-person behavioral health service no longer  
20 than six months prior to the telephonic service;



1 provided that nothing in this section shall be interpreted to  
2 require coverage for any telephonic service.

3 [~~g~~] (h) For the purposes of this section:

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

17 "Originating site" means the location where the patient is  
18 located, whether accompanied or not by a health care provider,  
19 at the time services are provided by a health care provider  
20 through telehealth, including but not limited to a health care  
21 provider's office, hospital, health care facility, a patient's



1 home, and other nonmedical environments such as school-based  
2 health centers, university-based health centers, or the work  
3 location of a patient.

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

19 "Telephonic service" means the use of two-way, real-time  
20 audio-only telephone communication by a health care provider at  
21 a distant site, for the purpose of diagnosing, monitoring, or



1 treating a patient. Telephonic services do not constitute  
2 telehealth."

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

5 "**§432D-23.5 Coverage for telehealth.** (a) It is the  
6 intent of the legislature to recognize the application of  
7 telehealth as a reimbursable service by which an individual  
8 shall receive medical services from a health care provider  
9 without face-to-face contact with the health care provider.

10 (b) No health maintenance organization plan that is  
11 issued, amended, or renewed shall require face-to-face contact  
12 between a health care provider and a patient as a prerequisite  
13 for payment for services appropriately provided through  
14 telehealth in accordance with generally accepted health care  
15 practices and standards prevailing in the applicable  
16 professional community at the time the services were provided.  
17 The coverage required in this section may be subject to all  
18 terms and conditions of the plan agreed upon among the enrollee  
19 or subscriber, the health maintenance organization, and the  
20 health care provider.



1 (c) Reimbursement for services provided through telehealth  
2 shall be equivalent to reimbursement for the same services  
3 provided via face-to-face contact between a health care provider  
4 and a patient. Nothing in this section shall require a health  
5 care provider to be physically present with the patient at an  
6 originating site unless a health care provider at the distant  
7 site deems it necessary.

8 (d) Notwithstanding chapter 453 or rules adopted pursuant  
9 thereto, in the event that a health care provider-patient  
10 relationship does not exist between the patient and the health  
11 care provider involved in a telehealth interaction between the  
12 patient and the health care provider, a telehealth mechanism may  
13 be used to establish a health care provider-patient  
14 relationship.

15 (e) All health maintenance organizations shall provide  
16 current and prospective insureds with written disclosure of  
17 coverages and benefits associated with telehealth services,  
18 including information on copayments, deductibles, or coinsurance  
19 requirements under a policy, contract, plan, or agreement. The  
20 information provided shall be current, understandable, and  
21 available prior to enrollment in a policy, contract, plan, or





1 agreement and upon request after enrollment in the policy,  
2 contract, plan, or agreement.

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

6 (g) Telephonic behavioral health services may be covered  
7 only when:

8 (1) Telehealth services are technologically unavailable at  
9 the time the enrollee is scheduled to receive a  
10 behavioral health service;

11 (2) The behavioral health service is a medically  
12 necessary, covered health care service; and

13 (3) The health care provider has provided the enrollee  
14 with an in-person behavioral health service no longer  
15 than six months prior to the telephonic service;

16 provided that nothing in this section shall be interpreted to  
17 require coverage for any telephonic service.

18 [~~g~~] (h) For the purposes of this section:

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



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

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



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

16 "Telephonic service" means the use of two-way, real-time  
17 audio-only telephone communication by a health care provider at  
18 a distant site, for the purpose of diagnosing, monitoring, or  
19 treating a patient. Telephonic services do not constitute  
20 telehealth."



1 SECTION 5. Section 453-1.3, Hawaii Revised Statutes, is  
2 amended by amending subsection (j) to read as follows:

3 "(j) For the purposes of this section:

4 "Distant site" means the location of the physician  
5 delivering services through telehealth at the time the services  
6 are provided.

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

15 "Telehealth" means the use of telecommunications as that  
16 term is defined in section 269-1, to encompass four modalities:  
17 store and forward technologies, remote monitoring, live  
18 consultation, and mobile health; and which shall include but not  
19 be limited to real-time video conferencing-based communication,  
20 secure interactive and non-interactive web-based communication,  
21 and secure asynchronous information exchange, to transmit



# H.B. NO. 1980

1 patient medical information, including diagnostic-quality  
2 digital images and laboratory results for medical interpretation  
3 and diagnosis, for the purposes of: delivering enhanced health  
4 care services and information while a patient is at an  
5 originating site and the physician is at a distant site;  
6 establishing a physician-patient relationship; evaluating a  
7 patient; or treating a patient. Telephonic services, as defined  
8 in section 431:10A-116.3, do not constitute telehealth."

9 SECTION 6. The department of health, department of human  
10 services, and department of commerce and consumer affairs shall  
11 adopt rules pursuant to chapter 91, Hawaii Revised Statutes, to  
12 effectuate the purposes of this Act.

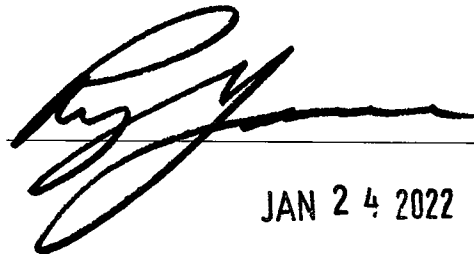
13 SECTION 7. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16 SECTION 8. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 9. This Act shall take effect on January 1, 2023.

19

INTRODUCED BY:



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JAN 24 2022



# H.B. NO. 1980

**Report Title:**

Medicaid; Insurance; Health Maintenance Organizations;  
Behavioral Health; Telephonic Services; Telehealth

**Description:**

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.

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

