



GOV. MSG. NO. 1208

EXECUTIVE CHAMBERS  
KE KE'ENA O KE KIA'ĀINA

JOSH GREEN, M.D.  
GOVERNOR  
KE KIA'ĀINA

June 22, 2023

The Honorable Ronald D. Kouchi  
President of the Senate,  
and Members of the Senate  
Thirty-Second State Legislature  
State Capitol, Room 409  
Honolulu, Hawai'i 96813

✓ The Honorable Scott K. Saiki  
Speaker, and Members of the  
House of Representatives  
Thirty-Second State Legislature  
State Capitol, Room 431  
Honolulu, Hawai'i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

This is to inform you that on June 22, 2023, the following bill was signed into law:

HB907 HD2 SD2

RELATING TO TELEHEALTH.  
**ACT 107**

Sincerely,

Josh Green, M.D.  
Governor, State of Hawai'i

on JUN 22 2023

HOUSE OF REPRESENTATIVES  
THIRTY-SECOND LEGISLATURE, 2023  
STATE OF HAWAII

H.B. NO. 907  
H.D. 2  
S.D. 2

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# A BILL FOR AN ACT

RELATING TO TELEHEALTH.

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

1           SECTION 1. The legislature finds that telehealth has  
2 served as a lifeline of access to essential health care services  
3 for residents with adequate broadband coverage. However, many  
4 residents that live in rural and underprivileged communities are  
5 often cut off from receiving essential health care through  
6 telehealth because they lack the broadband coverage necessary to  
7 access this care. As a result, many of these residents will put  
8 off receiving care until the point of requiring emergency room  
9 admission, which in turn adds strain to a system already  
10 experiencing resource and staffing shortages.

11           The legislature further finds that the use of standard  
12 telephone contact in telehealth during the coronavirus disease  
13 2019 pandemic demonstrated the effectiveness of this tool as a  
14 mode of essential health care delivery, especially for residents  
15 living in rural, isolated, and underprivileged communities. For  
16 kupuna and others who may have limited digital literacy, the



1 ability to use a landline telephone to receive care was a  
2 lifeline resource during the pandemic.

3 The purpose of this Act is to temporarily allow for the  
4 reimbursement for services provided through an interactive  
5 telecommunication system and two-way, real-time audio-only  
6 communications for telehealth purposes, consistent with the 2023  
7 Medicare Physician Fee Schedule, and impose certain  
8 reimbursement limits and conditions for private insurers.

9 SECTION 2. Section 346-59.1, Hawaii Revised Statutes, is  
10 amended as follows:

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

12 "(b) Reimbursement for services provided through  
13 telehealth via an interactive telecommunications system shall be  
14 equivalent to reimbursement for the same services provided via  
15 [~~face-to-face~~] in-person contact between a health care provider  
16 and a patient~~[-]~~; provided that reimbursement for the diagnosis,  
17 evaluation, or treatment of a mental health disorder delivered  
18 through an interactive telecommunications system using two-way,  
19 real-time audio-only communication technology shall meet the  
20 requirements of title 42 Code of Federal Regulations section  
21 410.78. Nothing in this section shall require a health care



1 provider to be physically present with the patient at an  
2 originating site unless a health care provider at the distant  
3 site deems it necessary."

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

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

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

9 "Health care provider" means a provider of services, as  
10 defined in title 42 United States Code section 1395x(u), a  
11 provider of medical and other health services, as defined in  
12 title 42 United States Code section 1395x(s), other  
13 practitioners licensed by the State and working within their  
14 scope of practice, and any other person or organization who  
15 furnishes, bills, or is paid for health care in the normal  
16 course of business, including but not limited to primary care  
17 providers, mental health providers, oral health providers,  
18 physicians and osteopathic physicians licensed under chapter  
19 453, advanced practice registered nurses licensed under chapter  
20 457, psychologists licensed under chapter 465, and dentists  
21 licensed under chapter 448.



1       "Interactive telecommunications system" has the same  
2 meaning as the term is defined in title 42 Code of Federal  
3 Regulations section 410.78(a).

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

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



1 and diagnosis, for the purpose of delivering enhanced health  
2 care services and information while a patient is at an  
3 originating site and the health care provider is at a distant  
4 site. ~~[Standard]~~ Except as provided through an interactive  
5 telecommunications system, standard telephone contacts,  
6 facsimile transmissions, or e-mail text, in combination or [by  
7 ~~itself, does]~~ alone, do not constitute [a] telehealth [service  
8 ~~for the purposes of this section.] services."~~

9 SECTION 3. Section 431:10A-116.3, Hawaii Revised Statutes,  
10 is amended to read as follows:

11 1. By amending subsections (a) through (c) to read:

12 "(a) It is the intent of the legislature to recognize the  
13 application of telehealth as a reimbursable service by which an  
14 individual shall receive medical services from a health care  
15 provider without [~~face-to-face~~] in-person contact with the  
16 health care provider.

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



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

6 (c) Reimbursement for services provided through telehealth  
7 via an interactive telecommunications system shall be equivalent  
8 to reimbursement for the same services provided via [~~face-to-~~  
9 ~~face~~] in-person contact between a health care provider and a  
10 patient[-]; provided that reimbursement for two-way, real-time  
11 audio-only communication technology for purposes of diagnosis,  
12 evaluation, or treatment of a mental health disorder to a  
13 patient in the patient's home shall be equivalent to eighty per  
14 cent of the reimbursement for the same services provided via in-  
15 person contact between a health care provider and a patient. To  
16 be reimbursed for telehealth via an interactive  
17 telecommunications system using two-way, real-time audio-only  
18 communication technology in accordance with this subsection, the  
19 health care provider shall first conduct an in-person visit or a  
20 telehealth visit that is not audio only, within six months prior  
21 to the initial audio-only visit, or within twelve months prior



1 to any subsequent audio-only visit. The telehealth visit  
2 required prior to the initial or subsequent audio-only visit in  
3 this subsection shall not be provided using audio-only  
4 communication. 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 2. By amending subsection (g) to read:

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

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

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



1 physicians and osteopathic physicians licensed under chapter  
2 453, advanced practice registered nurses licensed under chapter  
3 457, psychologists licensed under chapter 465, and dentists  
4 licensed under chapter 448.

5 "Interactive telecommunications system" has the same  
6 meaning as the term is defined in title 42 Code of Federal  
7 Regulations section 410.78(a).

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

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



1 and secure asynchronous information exchange, to transmit  
2 patient medical information, including diagnostic-quality  
3 digital images and laboratory results for medical interpretation  
4 and diagnosis, for the purpose of delivering enhanced health  
5 care services and information while a patient is at an  
6 originating site and the health care provider is at a distant  
7 site. ~~[Standard]~~ Except as provided through an interactive  
8 telecommunications system, standard telephone contacts,  
9 facsimile transmissions, or e-mail text, in combination or [by  
10 itself, does] alone, do not constitute [a] telehealth [servicee  
11 for the purposes of this chapter.] services."

12 SECTION 4. Section 432:1-601.5, Hawaii Revised Statutes,  
13 is amended to read as follows:

14 1. By amending subsections (a) through (c) to read:

15 "(a) It is the intent of the legislature to recognize the  
16 application of telehealth as a reimbursable service by which an  
17 individual shall receive medical services from a health care  
18 provider without ~~[face-to-face]~~ in-person contact with the  
19 health care provider.

20 (b) No mutual benefit society plan that is issued,  
21 amended, or renewed shall require ~~[face-to-face]~~ in-person



1 contact between a health care provider and a patient as a  
2 prerequisite for payment for services appropriately provided  
3 through telehealth in accordance with generally accepted health  
4 care practices and standards prevailing in the applicable  
5 professional community at the time the services were provided.  
6 The coverage required in this section may be subject to all  
7 terms and conditions of the plan agreed upon among the enrollee  
8 or subscriber, the mutual benefit society, and the health care  
9 provider.

10 (c) Reimbursement for services provided through telehealth  
11 via an interactive telecommunications system shall be equivalent  
12 to reimbursement for the same services provided via [~~face-to-~~  
13 ~~face~~] in-person contact between a health care provider and a  
14 patient[-]; provided that reimbursement for two-way, real-time  
15 audio-only communication technology for purposes of diagnosis,  
16 evaluation, or treatment of a mental health disorder to a  
17 patient in the patient's home shall be equivalent to eighty per  
18 cent of the reimbursement for the same services provided via in-  
19 person contact between a health care provider and a patient. To  
20 be reimbursed for telehealth via an interactive  
21 telecommunications system using two-way, real-time audio-only



1 communication technology in accordance with this subsection, the  
2 health care provider shall first conduct an in-person visit or a  
3 telehealth visit that is not audio only, within six months prior  
4 to the initial audio-only visit, or within twelve months prior  
5 to any subsequent audio-only visit. The telehealth visit  
6 required prior to the initial or subsequent audio-only visit in  
7 this subsection shall not be provided using audio-only  
8 communication. Nothing in this section shall require a health  
9 care provider to be physically present with the patient at an  
10 originating site unless a health care provider at the distant  
11 site deems it necessary."

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

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

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



1 providers, mental health providers, oral health providers,  
2 physicians and osteopathic physicians licensed under chapter  
3 453, advanced practice registered nurses licensed under chapter  
4 457, psychologists licensed under chapter 465, and dentists  
5 licensed under chapter 448.

6 "Interactive telecommunications system" has the same  
7 meaning as the term is defined in title 42 Code of Federal  
8 Regulations section 410.78(a).

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

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



1 secure interactive and non-interactive web-based communication,  
2 and secure asynchronous information exchange, to transmit  
3 patient medical information, including diagnostic-quality  
4 digital images and laboratory results for medical interpretation  
5 and diagnosis, for the purpose of delivering enhanced health  
6 care services and information while a patient is at an  
7 originating site and the health care provider is at a distant  
8 site. ~~[Standard]~~ Except as provided through an interactive  
9 telecommunications system, standard telephone contacts,  
10 facsimile transmissions, or e-mail text, in combination or [by  
11 itself, does] alone, do not constitute [a] telehealth [service  
12 for the purposes of this chapter.] services."

13 SECTION 5. Section 432D-23.5, Hawaii Revised Statutes, is  
14 amended to read as follows:

15 1. By amending subsection (a) through (c) to read:

16 "(a) It is the intent of the legislature to recognize the  
17 application of telehealth as a reimbursable service by which an  
18 individual shall receive medical services from a health care  
19 provider without ~~[face-to-face]~~ in-person contact with the  
20 health care provider.



1 (b) No health maintenance organization plan that is  
2 issued, amended, or renewed shall require [~~face-to-face~~] in-  
3 person contact between a health care provider and a patient as a  
4 prerequisite for payment for services appropriately provided  
5 through telehealth in accordance with generally accepted health  
6 care practices and standards prevailing in the applicable  
7 professional community at the time the services were provided.  
8 The coverage required in this section may be subject to all  
9 terms and conditions of the plan agreed upon among the enrollee  
10 or subscriber, the health maintenance organization, and the  
11 health care provider.

12 (c) Reimbursement for services provided through telehealth  
13 via an interactive telecommunications system shall be equivalent  
14 to reimbursement for the same services provided via [~~face-to-~~  
15 ~~face~~] in-person contact between a health care provider and a  
16 patient[-]; provided that reimbursement for two-way, real-time  
17 audio-only communication technology for purposes of diagnosis,  
18 evaluation, or treatment of a mental health disorder to a  
19 patient in the patient's home shall be equivalent to eighty per  
20 cent of the reimbursement for the same services provided via in-  
21 person contact between a health care provider and a patient. To



1 be reimbursed for telehealth via an interactive  
2 telecommunications system using two-way, real-time audio-only  
3 communication technology in accordance with this subsection, the  
4 health care provider shall first conduct an in-person visit or a  
5 telehealth visit that is not audio only, within six months prior  
6 to the initial audio-only visit, or within twelve months prior  
7 to any subsequent audio-only visit. The telehealth visit  
8 required prior to the initial or subsequent audio-only visit in  
9 this subsection shall not be provided using audio-only  
10 communication. 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 2. By amending subsection (g) to read:

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

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

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



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

11 "Interactive telecommunications system" has the same  
12 meaning as the term is defined in title 42 Code of Federal  
13 Regulations section 410.78(a).

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]~~ Except as provided through an interactive  
14 telecommunications system, standard telephone contacts,  
15 facsimile transmissions, or e-mail text, in combination or [by  
16 itself, does] alone, do not constitute [a] telehealth [service  
17 for the purposes of this chapter.] services."

18 SECTION 6. Section 453-1.3, Hawaii Revised Statutes, is  
19 amended to read as follows:

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



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

15           2. By amending subsection (h) to read:

16           "(h) ~~[Reimbursement]~~ Unless otherwise provided by law,  
17 reimbursement for behavioral health services provided through  
18 telehealth via an interactive telecommunications system shall be  
19 equivalent to reimbursement for the same services provided via  
20 ~~[face-to-face]~~ in-person contact between a health care provider  
21 and a patient[-]; provided that reimbursement for two-way, real-



1 time audio-only communication technology for purposes of  
2 diagnosis, evaluation, or treatment of a mental health disorder  
3 to a patient in the patient's home shall be equivalent to eighty  
4 per cent of the reimbursement for the same services provided via  
5 in-person contact between a health care provider and a patient.  
6 To be reimbursed for telehealth via an interactive  
7 telecommunications system using two-way, real-time audio-only  
8 communication technology in accordance with this subsection, the  
9 health care provider shall first conduct an in-person visit or a  
10 telehealth visit that is not audio only, within six months prior  
11 to the initial audio-only visit, or within twelve months prior  
12 to any subsequent audio-only visit. The telehealth visit  
13 required prior to the initial or subsequent audio-only visit in  
14 this subsection shall not be provided using audio-only  
15 communication."

16 3. By amending subsection (j) to read:

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

18 "Distant site" means the location of the physician  
19 delivering services through telehealth at the time the services  
20 are provided.



1        "Interactive telecommunications system" has the same  
2 meaning as the term is defined in title 42 Code of Federal  
3 Regulations section 410.78(a).

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

12        "Telehealth" means the use of telecommunications as [~~that~~  
13 ~~term is~~] 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 purposes of: delivering enhanced health

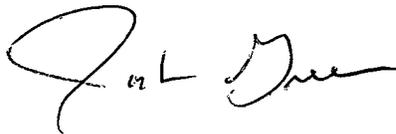


1 care services and information while a patient is at an  
2 originating site and the physician is at a distant site;  
3 establishing a physician-patient relationship; evaluating a  
4 patient; or treating a patient. Except as provided through an  
5 interactive telecommunications system, standard telephone  
6 contacts, facsimile transmissions, or e-mail text, in  
7 combination or alone, do not constitute telehealth services."

8 SECTION 7. Statutory material to be repealed is bracketed  
9 and stricken. New statutory material is underscored.

10 SECTION 8. This Act shall take effect upon its approval;  
11 provided that on December 31, 2025, this Act shall be repealed  
12 and sections 346-59.1, 431:10A-116.3, 432:1-601.5, 432D-23.5,  
13 and 453-1.3, Hawaii Revised Statutes, shall be reenacted in the  
14 form in which they read on the day prior to the effective date  
15 of this Act.

APPROVED this 22nd day of June , 2023



GOVERNOR OF THE STATE OF HAWAII



HB No. 907, HD 2, SD 2

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: May 2, 2023  
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the House of Representatives of the Thirty-Second Legislature of the State of Hawaii, Regular Session of 2023.



Scott K. Saiki  
Speaker  
House of Representatives



Brian L. Takeshita  
Chief Clerk  
House of Representatives

**THE SENATE OF THE STATE OF HAWAI'I**

Date: April 11, 2023  
Honolulu, Hawai'i 96813

We hereby certify that the foregoing Bill this day passed Third Reading in the Senate of the Thirty-Second Legislature of the State of Hawai'i, Regular Session of 2023.



President of the Senate



Clerk of the Senate

Clerk of the Senate