



April 18, 2025

The Honorable Henry J.C. Aquino
Chair, Hawaii SB 1281 Conference Committee
Hawai'i State Capitol, Room 204
415 S Beretania St.,
Honolulu, HI 96813

RE: ATA ACTION SUPPORT FOR SB 1281 H.D. 2

Dear Chair Aquino and members of the Conference Committee on Hawaii Senate Bill 1281:

On behalf of ATA Action, I am writing to you to provide our comments on Senate Bill 1281 and encourage you to adopt the amendments made by the House and pass this legislation in H.D. 2 form.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth coverage and fair payment policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

Our organization is supportive of SB 1281 H.D. 2 which would extend the sunset of Act 107, Session Laws of Hawaii 2023, ensuring that reimbursement of services provided through telehealth via an interactive telecommunications system continues. This will ensure that patients who have come to rely on telehealth will not have their care interrupted and continues extended access to high-quality healthcare for all Hawaii patients. This will be especially beneficial for patients in rural or underserved communities or those with transportation barriers that may complicate in-person visits.

Furthermore, the extension of the sunset in the House version of this legislation represents a step forward for Hawaii's telehealth policy, while the version passed by the Senate includes provisions which would limit audio-only care. Our organization understands the Senate's attempts to clarify the definition of "interactive communications system" and to provide certainty in a reimbursement framework aligned with Medicare; however, our organization is concerned that, if the Senate version of SB 1281 is passed, this legislation will have the unintended consequence of limiting patient access to audio-only care. Specifically, by removing the option of an audio-visual visit, instead of an in-person visit, within six months prior to the initial audio-only visit or within twelve months prior to any subsequent audio-only visit in order to receive reimbursement, this bill could limit patient choice in care.

Current statute allows for reimbursement of audio-only telehealth care if an in-person appointment or non-audio-only telehealth visit is conducted within six months prior to the initial audio-only visit or within twelve months prior to any subsequent audio-only visit. These amendments would remove the

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flexibility to meet this reimbursement requirement through a non-audio-only telehealth appointment. While this may align with Medicare language in statute, it is crucial to note that Congress has extended several Medicare telehealth flexibilities through September 30, 2025, including waiving tele-behavioral/mental health patients' requirement for an in-person visit within six months of their initial telehealth visit and annually thereafter and allowing the use of audio-only communications technology for the provision of telehealth services.¹ These flexibilities have been especially beneficial for Medicare patients seeking mental health care with Medicare beneficiaries utilizing telehealth for a larger share of their behavioral health services—43% of beneficiaries for behavioral health services versus 13% of beneficiaries for office visits (E/M visits).²

ATA Action continues to advocate at the federal level for the permanent codification of these telehealth flexibilities to ensure continued access for Medicare patients, including through audio-only telehealth care. While Congress continues to debate the future of these audio-only flexibilities, our organization believes it would be premature to remove this flexibility from Hawaii statute and potentially make Hawaii Medicare and Insurance Code more restrictive than federal code.

Thank you for the opportunity to comment. We encourage the Conference Committee to adopt the amendments made to SB 1281 by the House. Please do not hesitate to let us know how we can be helpful in your efforts to advance common-sense telehealth policy in Hawaii. If you have any questions or would like to discuss further the telehealth industry's perspective, please contact me at kzebley@ataaction.org.

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley", written in a cursive style.

Kyle Zebley
Executive Director
ATA Action

¹ Jared Augenstein and Jacqueline Marks, Manatt, Manatt Telehealth Policy Tracker: Tracking Ongoing Federal and State Telehealth Policy Changes, January 28, 2025. <https://www.manatt.com/insights/white-papers/2025/manatt-telehealth-policy-tracker-tracking-ongoing-federal-and-state-telehealth-policy-changes>.

² U.S. Department of Health and Human Services Office of Inspector General. (2022). Data brief: Telehealth was critical for providing services to Medicare beneficiaries during the first year of the covid-19 pandemic. Retrieved from <https://oig.hhs.gov/oei/reports/OEI-02-20-00520.pdf>.