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Why Hawaii lawmakers should adopt interstate telehealth

Allowing Hawaii residents to consult with out-of-state physicians would improve healthcare access and health outcomes throughout the islands

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Executive Summary

Hawaii lawmakers should expand healthcare access by allowing local patients to obtain telehealth care from physicians in other states. There are three primary avenues to achieve this, all of which would require at least some modification of existing Hawaii law. They are:

- Establish a registration program through which out-of-state providers who meet specified qualifications could register with the state medical board, agree to the terms of the registry and pay any required fees. Once accepted into the program, the providers would be able to offer telehealth services to Hawaii residents without the burden of obtaining a full Hawaii medical license.

- Offer temporary or special licenses that allow out-of-state providers to deliver telehealth services to patients in Hawaii under specific circumstances.

- Enter into reciprocity agreements with one or more states that negate Hawaii's restriction on cross-border telehealth between participating states.

Given Hawaii's unique geographic challenges and pressing physician shortage, state lawmakers should be open to how technology could help improve healthcare access and outcomes. Enabling greater use of interstate telehealth could be part of that strategy.

Introduction

Telehealth is an umbrella term that describes the use of technology in healthcare services and innovation.

It is often used interchangeably with the term telemedicine; however, telemedicine more properly refers to only the use and delivery of clinical services outside of an in-person setting, either between patients and providers or among providers themselves.

Telehealth, on the other hand, encompasses the many ways in which technology can be used to deliver healthcare. For the purposes of this brief, the term telemedicine will only be used in reference to studies of telemedicine specifically. Otherwise, the term telehealth will be used throughout in accordance with Hawaii telehealth law.

Hawaii has been a leader in telehealth adoption, passing Act 226, its comprehensive telehealth law, as early as 2016.[1] According to the Pacific Basin Telehealth Resource Center, based at the University of Hawaii, adoption of telehealth in Hawaii increased from only 2% in 2014 to 20.5% in 2019.[2] However, more could be done to increase its use and effectiveness — and fortunately, it is possible to do so without great expense or inconvenience.

This brief will discuss how lawmakers can remove the state's burdensome regulatory requirement that any provider offering telehealth services to patients in Hawaii hold a Hawaii medical license,[3] which was done successfully during the COVID-19 pandemic.

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[1] Gov. David Ige, "Gov. Mess. No. 1328," July 7, 2016.
[2] "Telehealth Initiatives" Pacific Basin Telehealth Resource Center, accessed June 3, 2024.
[3] Hawaii Revised Statutes § 453-1.3(e) states: "A physician-patient relationship may be established via a telehealth interaction; provided that the physician has a license to practice medicine in the State."

The Grassroot Institute of Hawaii explored how medical licensing barriers limit the mobility of healthcare professionals without increasing patient safety in its 2023 policy brief titled "How changing Hawaii's licensing laws could improve healthcare access."[4]

In addition, the Pacific Basin Telehealth Resource Center stated in a presentation to the Hawaii Legislature's House Committee on Health and Homelessness in 2023 that the state's lack of licensing flexibility is considered a priority policy "need" by regional telehealth stakeholders.[5]

State law includes a limited exception for telehealth used in interstate consultation between physicians,[6] but it generally prohibits the direct use of telehealth between a patient located in Hawaii and a provider licensed in another state. From a practical standpoint, this in-state licensing requirement for telehealth can lead to undesirable and illogical results.

Consider students or visitors who are under the care of a mainland physician. Why should they be barred from seeing their regular providers via telehealth just because those providers are not licensed to practice in Hawaii?

And what about Hawaii patients who cannot find a local specialist to address their health needs? Given the physician shortage on the neighbor islands, especially for specialty care, it seems cruel to force these patients to fly to the mainland or navigate the bureaucratic maze of consultation before getting help.

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[4] Malia Hill, "How changing Hawaii's licensing laws could improve healthcare access," Grassroot Institute of Hawaii policy brief, February 2023.

[5] Christina Higa, co-director of the Pacific Basin Telehealth Resource Center, University of Hawai'i at Mānoa, presenting during the "House informational briefing," Hawaii House of Representatives Committee on Health & Homelessness, Oct. 30, 2023, at 55:14. See also "Federal and State Telehealth Policy Updates," Pacific Basin Telehealth Resource Center, Oct. 30, 2023.

[6] Hawaii Revised Statutes § 453-2(b)(4).

Put simply, Hawaii law unnecessarily constrains the potential of telehealth by limiting telehealth access for Hawaii residents to Hawaii-licensed providers alone.

The situation might improve slightly with Hawaii now being a member of the Interstate Medical Licensure Compact. The compact facilitates expedited licensure for doctors among the participating states and territories, which means those who obtain a Hawaii medical license through the compact will be able to engage in telehealth services with Hawaii patients.

However, Hawaii's in-state licensure requirement for telehealth will continue to limit the use and scope of telehealth.

Interstate telehealth could help relieve Hawaii's physician shortage

It is well established that Hawaii's physician shortage is one of the state's greatest healthcare problems.

According to the most recent report from the Hawaii Physician Workforce Assessment Project, the statewide shortage of 543 full-time equivalent physicians is actually closer to 768 after factoring in geographic limitations and the lack of specialty care on neighbor islands.[7]

The ideal solution would be to recruit more doctors to live and work in Hawaii. However, it would be foolish to ignore the ways in which telehealth expansion could mitigate some of Hawaii's problems related to lack of access and doctor shortages — without compromising patient safety.

[7] "Hawaii Physician Workforce Report 2025," University of Hawaii System, December 2024.

For example, a 2021 report on telemedicine in particular, published in the Annual Review of Public Health,[8] determined that increased use and adoption of telemedicine has improved access to healthcare across a wide range of clinical conditions, including stroke, diabetes, heart failure and pregnancy.

In some circumstances, according to the study, telemedicine was even able to provide better health outcomes than traditional modalities while reducing costs and unnecessary hospitalizations.

In addition, the study noted that telemedicine was effective in overcoming geographic barriers to care, especially in underserved rural populations, though overcoming social barriers remains an issue.

A separate survey of the use of telemedicine in pediatric care looked at outcomes from a similarly wide range of conditions, including asthma, obesity, skin conditions and mental health. In every scenario, telemedicine interventions resulted in outcomes comparable to or better than the outcomes of control groups.

The study concluded that telemedicine services could be comparable to in-person services, and both patients and providers could benefit from combining telehealth with traditional care.[9]

A safe, effective way to improve healthcare

The Hawaii Emergency Management Agency conducted a "Statewide Telemedicine Needs Assessment" during the COVID-19 lockdowns and

[8] WIlliam Barbosa, Kina Zhou, Emma Waddell, et al., "Improving Access to Care: Telemedicine Across Medical Domains," Annual Review of Public Health, Vol. 42, April 2021, pp. 463-481.

[9] Aashaka C. Shah and Sherif M Badawy, "Telemedicine in Pediatrics: Systematic Review of Randomized Controlled Trials," JMIR Pediatrics and Parenting, Vol. 4, February 2021, p. 1

found a significant increase in such offerings across the state, with many providers indicating a desire to expand services.[10]

In Hawaii, access to telemedicine could be expanded by amending the state's telehealth law to allow local patients to receive medical care from providers who are located and licensed in other U.S. states, districts or territories.

This is not as revolutionary as it might seem. In fact, it was successfully implemented during the COVID-19 lockdowns both in Hawaii and throughout the country.

Hawaii Gov. David Ige's emergency proclamations related to the COVID-19 crisis temporarily suspended several state restrictions on out-of-state providers. In addition to creating a path for out-of-state doctors and nurses to work in Hawaii, the emergency orders allowed certain out-of-state providers to provide telehealth services in Hawaii — a policy also put in place by every state and the federal government to expand access to care across state lines.[11]

Those temporary measures demonstrated that states can safely and effectively improve healthcare access by expanding telehealth beyond geographic licensing restrictions. The effectiveness of this sudden expansion of telehealth resulted in great innovation under pressure.

Telehealth use greatly increased during the COVID-19 lockdowns. Before the coronavirus crisis, fewer than 1% of Medicare primary care visits were conducted via telehealth, but by April 2020, that number soared to 43.5%.[12]

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[10] "Statewide Telemedicine Needs Assessment," Hawaii Emergency Management Agency, Sept. 24, 2020, pp. 7-15.

[11] "Eighth Supplementary Proclamation Related to the COVID-19 Emergency," Hawaii Office of the Governor, April 16, 2020.

[12] Nitin Bhanot, George Dimitriou, Susan Marizi, et al., "Medicare Beneficiary Use of Telehealth Visits: Early Data from the Start of the COVID-19 Pandemic, 2020," Journal of Patient Experience, Vol. 8, January-February 2021.

This implementation of interstate telehealth gave patients greater access to a variety of healthcare specialists than ever before. The Johns Hopkins health system estimated that 10% of the 330,000 telehealth patients it served during the pandemic were from out of state.[13]

The use of cross-border telehealth during the pandemic varied by state, but studies of Medicare beneficiaries suggest that the ability to visit out-of-state providers is especially helpful to rural patients. In one study, 28% of rural Medicare patients used cross-border telehealth during the pandemic, compared to 23% of non-rural patients.[14]

A pandemic-era study of telemedicine use specifically found that Medicare beneficiaries used out-of-state telemedicine at higher rates for specialty care, especially cancer care, which amounted to 9.8% of all out-of-state telemedicine visits, followed by hematology and neurological diseases.[15]

As lockdown-era telehealth waivers expired, healthcare experts expressed concern about how the end of cross-border telehealth would affect patient health. And as expected, the end of interstate telehealth marked a return to the access-to-care issues that existed before the waivers were enacted.

One study found that patients who had established out-of-state telehealth relationships during the pandemic were less likely to continue

[13] Julie Appleby, "Telehealth's Limits: Battle Over State Lines and Licensing Threatens Patients' Options," Kaiser Health News, Aug. 31, 2021.
[14] Juan J. Andino, Ziwei Zhu, Mihir Surapeneni, et al., "Interstate Telehealth Use By Medicare Beneficiaries Before And After COVID-19 Licensure Waivers, 2017-20," Health Affairs, Vol. 41, No. 6., June 2022.
[15] Ateev Mehrotra, Haiden Huskamp, Alok Nimgaonkar, et al., "Receipt of Out-of-State Telemedicine Visits Among Medicare Beneficiaries During the COVID-19 Pandemic," JAMA Health Forum, Sept. 16, 2022.

with any care once the waivers expired, whether through telehealth or in-person.[16]

The success of interstate telehealth during the pandemic prompted additional calls for licensing reform among healthcare advocates, with some even pushing for a federalized approach to medical licensing.

The American Medical Association opposes any nationalized licensing system, but it does favor increased reciprocity between states and supports removing the bar to cross-border telehealth for physician-to-physician consultations, pre-existing relationships, emergencies and cases in which it is part of a modified care plan.[17]

Additionally, the Washington, D.C.-based Bipartisan Policy Center[18] and a broad group of healthcare experts have called for increased flexibility in cross-state medical licensing regulation, especially in the area of telehealth.[19]

How Hawaii can allow interstate telehealth

Hawaii's newly established membership in the Interstate Medical Licensure Compact will increase the pool of physicians who qualify to provide telehealth to residents. However, the IMLC alone will not substantially improve telehealth access in Hawaii.

State lawmakers should explore ways to more directly address the needs and concerns of telehealth patients, such as by reforming Hawaii's licensure laws regarding telehealth providers.

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[16] Eric Bressman, Rachel Werner, Daniel Cullen, et al., "Expiration of State Licensure Waivers and Out-of-State Telemedicine Relationships," JAMA Network Open, Nov. 15, 2023.
[17] American Medical Association, "AMA issue brief: Telehealth licensure," May 8, 2023.
[18] "What Eliminating Barriers to Interstate Telehealth Taught Us During the Pandemic," Bipartisan Policy Center, November 2021.
[19] Edward Timmons and Conor Norris, "Potential licensing reforms in light of COVID-19," Health Policy Open, Dec. 3, 2022; and Samyukta Mullangi, Mohit Agrawal and Kevin Shulman, "The COVID-19 Pandemic—An Opportune Time to Update Medical Licensing," JAMA Internal Medicine, March 1 2021.

Short of implementing the broader reforms discussed below, state lawmakers could carve out a few minor exceptions to the requirement that Hawaii patients receive telehealth services from only healthcare providers licensed in Hawaii.

Hawaii would not be alone in doing this; 27 states currently have some kind of exception or alternative to full licensure for out-of-state telehealth providers.[20]

As mentioned earlier, Hawaii already allows interstate consulting between physicians.[21] This could be broadened to encompass informal consultations and second opinions, in accordance with the American Medical Association's recommendations.

In addition, exceptions to the in-state license requirement could at least be created for emergencies and situations in which the patients already have ongoing relationships with out-of-state providers. State lawmakers could even take steps to lift Hawaii's in-state telehealth licensing requirement for certain specialties, such as mental health providers, whether on a permanent or temporary basis.

For a more transformative and future-oriented approach, there are three avenues that would broaden patient access to out-of-state telehealth: a comprehensive telehealth registration program, temporary or special licensing agreements, or reciprocity agreements.

>> Telehealth registration program

The most comprehensive approach to increasing the pool of telehealth providers would be to implement a telehealth registration program. A registration program is more complex than other forms of telehealth

[20] "State Telehealth Laws and Reimbursement Policies," Public Health Institute, Center for Connected Health Policy, Fall 2023.

[21] "License required: exceptions," Section 453-2 (b) 4, Hawaii Revised Statutes, Hawaii State Legislature, accessed June 4, 2024.

expansion, but it provides the most potential to significantly improve overall healthcare access and shortages in Hawaii.

Under this model, the state would establish a process by which out-of-state providers who meet specified qualifications could register with the state medical board, agree to the terms of the registry and pay any required fees before offering telehealth services to residents. Members of the registration program, however, would not have a full Hawaii medical license, and their activities in the state would be limited to the rules of the registration program.

This model has been successfully implemented in Florida, where out-of-state healthcare practitioners with active, unencumbered licenses from other U.S. states, districts or territories can provide telehealth services to patients located in Florida.[22]

In order to qualify for Florida's telehealth program, participants must submit an application; maintain their license; have no disciplinary actions, investigations or revocations in the last five years; designate an agent for service of process in Florida; maintain liability coverage for their Florida telehealth patients at the same level required of Florida providers; neither open an office in Florida nor provide in-person services to Florida patients; and use only Florida-licensed pharmacies and facilities to dispense drugs to Florida patients.[23]

Lawmakers concerned about public safety issues related to out-of-state telehealth might find it comforting that a registration model allows oversight of participating providers and protections for patients.

Also significant is that there is no evidence that out-of-state telehealth increases patient risk. A recent study found that in the first two-and-a-half

[22] "Use of telehealth to provide services," Section 456.47, The 2023 Florida Statutes (including Special Session C), Online Sunshine, Florida Legislature, accessed June 4, 2024.
[23] "Out-of-State Telehealth Provider Registration," Florida Board of Medicine, accessed June 4, 2024.

years of Florida's telehealth registration system, there were only 16 complaints reported for out-of-state providers compared to 57 over the same period for in-state providers.[24] None of those 16 complaints resulted in disciplinary action.

>> Temporary and special licenses

Several states have implemented some form of temporary or special limited license that allows out-of-state physicians to offer telehealth services under specific circumstances.

For example, New Mexico allows out-of-state physicians to obtain a temporary telemedicine license if they are "of good moral character" and hold a full and unrestricted license to practice medicine in another U.S. state, district or territory.[25]

Utah allows for the issuance of temporary telemedicine licenses for out-of-state healthcare providers. It also authorizes licensing exemptions to out-of-state mental health specialists providing temporary transitional services to new residents.[26] [27]

The advantage of issuing temporary or special licenses is that the state can specifically designate the scope and duration of a telehealth-only license. However, a limited license will necessarily have a limited effect, thereby diminishing the extent to which it could ease issues with healthcare access and provider shortages.

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[24] Josh Archambault and Ateev Mehrotra, "Few Disciplinary Issues with Out-of-State Telehealth," Cicero Institute, January 2023.
[25] "Telemedicine License," Section 16.10.2.11, New Mexico Administrative Code, accessed March 4, 2025.
[26] "Exemptions from licensure," Section 58-61-307(k), Utah Code, Utah State Legislature, accessed June 4, 2024.
[27] "Temporary license for telemedicine," Section 58-1-302.1, Utah Code, Utah State Legislature, accessed June 4, 2024.

>> Reciprocity agreements

As discussed in Grassroot's policy brief "How changing Hawaii's licensing laws could improve healthcare access," licensing reciprocity refers to an agreement between or among specific states regarding the conditions for recognition or expedited licensing of a provider.[28]

Establishing licensing reciprocity is slightly different from joining a compact, as the terms of the reciprocity agreement are determined by and limited to the states involved. In contrast, a compact allows states to join so long as they abide by the terms of the compact itself.

For example, Maryland, Virginia and the District of Columbia recently entered into a reciprocity agreement to facilitate expedited licensing of doctors practicing across those jurisdictions.

Similarly, Hawaii could seek out a telehealth reciprocity agreement with one or more states, thereby removing limitations on cross-border telehealth between the states that participate. This approach could have an effect on provider shortages, but might be too limited in its scope to make a substantial impact on healthcare access.

IMPORTANT NOTE: To be fully effective, any reform of Hawaii telehealth laws to allow patients access to out-of-state providers should be combined with reform of state laws governing prescriptions. Specifically, the Hawaii Controlled Substance Act prohibits practitioners who are not physically in the state from prescribing controlled substances.[29] Thus, in order to effectively expand telehealth, this law would have to be modified to bring it more in line with the intent of out-of-state telehealth licensing reform.

[28] "How changing Hawaii's licensing laws could improve healthcare access," p. 10.
[29] "Prohibited acts, B — penalties," Section 329 41(a)(8), Hawaii Revised Statutes, Hawaii State Legislature, accessed June 4, 2024.

Conclusion

There is no one-size-fits-all solution to Hawaii's multi-faceted healthcare crisis, which can be attributed to insufficient medical staff, lack of specialty care, limited access in rural areas and more. Resolving the problem will require implementing a range of policies aimed at specific issues.

Hawaii's healthcare challenges and geographic considerations make telehealth one of the most promising avenues to improve patient care throughout the state. Although telehealth use greatly expanded in Hawaii and throughout the nation during the COVID-19 lockdowns, many factors still prevent it from reaching its full potential.

It is therefore crucial that state lawmakers expand telehealth access, in particular by reforming the state's telehealth law to afford Hawaii residents access to out-of-state providers — whether through a registration program, temporary and special licenses or reciprocity agreements.

This would be a cost-effective avenue to expand the pool of healthcare providers available to Hawaii patients, and one of the most promising ways to improve patient care statewide.