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# A BILL FOR AN ACT

RELATING TO HEALTH.

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

1           SECTION 1. Medicare beneficiaries in Hawaii are  
2    experiencing a reduction in access to quality care as a result  
3    of the change in the way medicare purchases its durable medical  
4    equipment and prosthetics, orthotics, and supplies. Round two  
5    of medicare's durable medical equipment competitive bidding  
6    program began July 1, 2013, in the city and county of Honolulu.  
7    The unintended consequences of the implementation of this  
8    national program in Honolulu have been disastrous.

9           Only thirteen of the ninety-seven vendors selected are  
10   located within the State. The minimum shipping time is two to  
11   four days and the typical wait time for physician-ordered  
12   wheelchairs and hospital beds is four to eight weeks. These  
13   vendors do not have special phone or service hours to account  
14   for the time difference which means when medicare beneficiaries  
15   in Hawaii call after 11:00 a.m., the offices are closed.  
16   Without access to timely, local services, medicare beneficiaries  
17   in Hawaii have been forced to forego necessary durable medical  
18   equipment devices. This restricted access to care has led to



1 reductions in health, increases in preventable admissions and  
2 readmissions, increases in costs to beneficiaries and the  
3 medicare system and impact on quality of life for medicare  
4 patients.

5 The national bidding program has the laudable intention of  
6 cutting down on fraud and abuse and reducing medicare costs  
7 nationally. A reduction in cost, however, by twelve to fifty-  
8 six per cent in Hawaii is unsustainable given the fixed costs of  
9 higher rent, utilities and shipping costs that businesses in  
10 Hawaii face. Hawaii's fees are now on par with those in the  
11 Washington, D.C. area, even though the cost of living index in  
12 Honolulu is 21.4 per cent higher than Washington D.C.

13 Medicare costs in Hawaii were already low. A review of  
14 2011 fee-for-service medicare spending for durable medical  
15 equipment shows that Hawaii has the lowest per capita durable  
16 medical equipment cost in the nation. On average, each Hawaii  
17 beneficiary consumes only \$82.54 in durable medical equipment,  
18 compared with \$230.16 nationally. Furthermore, the total  
19 medicare cost for a Hawaii beneficiary, on average, is only  
20 \$530.98, compared with \$792.99 nationally.

21 Chapter 349, Hawaii Revised Statutes, establishes the  
22 executive office on aging as the focal point for all matters



1 relating to older adults' needs and the coordination and  
2 development of caregiver support services within the State.

3 The purpose of this Act is to provide for licensure of  
4 durable medical equipment suppliers participating in the  
5 nationwide competitive bidding program through an annual  
6 inspection by the executive office on aging. This licensure  
7 program will ensure that Hawaii's durable medical equipment  
8 patients have access to the critical, life-sustaining medical  
9 supplies they need.

10 SECTION 2. Chapter 349, Hawaii Revised Statutes, is  
11 amended by adding a new part to be appropriately designated and  
12 to read as follows:

13 "PART

14 DURABLE MEDICAL EQUIPMENT SUPPLIER LICENSING AND PATIENT  
15 PROTECTION PROGRAM

16 §349- Title. This part shall be known and may be cited  
17 as the "Durable Medical Equipment Supplier Licensing and Patient  
18 Protection Program."

19 §349- Findings and declaration of necessity. It is the  
20 intent of the legislature to establish standards for the  
21 licensing of durable medical equipment suppliers participating  
22 in the nationwide competitive bidding program for durable



1 medical equipment, prosthetics, orthotics, and supplies  
2 established by section 302 of the Medicare Modernization Act of  
3 2003 to protect medical patients in the State from life  
4 threatening delays in receiving life-sustaining durable medical  
5 equipment that must be shipped from the mainland.

6       **§349- Definitions.** As used in this part:

7       "Appropriate physical location" means a physical facility  
8 within the boundaries of the State used to store durable medical  
9 equipment inventory.

10       "Durable medical equipment" means equipment that can stand  
11 repeated use, is primarily and customarily used to serve a  
12 medical purpose, is generally not useful to a person in the  
13 absence of an illness or injury, and is appropriate for use in  
14 the home.

15       "Supplier" means a supplier of durable medical equipment,  
16 prosthetics, orthotics, and related supplies participating in  
17 the nationwide competitive bidding program for durable medical  
18 equipment, prosthetics, orthotics, and supplies established by  
19 section 302 of the Medicare Modernization Act of 2003.

20       **§349- Licensing.** (a) All suppliers of durable medical  
21 equipment shall be licensed.



1 (b) A supplier of durable medical equipment shall be  
2 deemed licensed if:

- 3 (1) The supplier maintains an appropriate physical  
4 location within the State;
- 5 (2) The supplier has passed an annual inspection performed  
6 by the executive office on aging; and
- 7 (3) The supplier is registered to do business in the  
8 State.

9 (c) The executive office on aging shall maintain a list of  
10 suppliers licensed under this part.

11 **§349- Annual inspection.** (a) The executive office on  
12 aging shall perform an inspection of all durable medical  
13 equipment suppliers participating in the nationwide durable  
14 medical equipment competitive bidding program licensed pursuant  
15 to this chapter.

- 16 (b) The inspection shall consist of:
  - 17 (1) Confirmation that the durable medical equipment  
18 supplier maintains an appropriate physical location  
19 within the State;
  - 20 (2) Confirmation that the durable medical equipment  
21 supplier maintains a working local telephone number;



1 (3) Confirmation that a full-time employee is available to  
2 Hawaii residents during normal business hours to  
3 answer customer inquiries; and

4 (4) Confirmation that the durable medical equipment  
5 supplier is registered with the business registration  
6 division of the department of commerce and consumer  
7 affairs to do business in the State.

8 §349- Supplier duties. (a) A durable medical equipment  
9 supplier and its agents shall have a good faith duty to comply  
10 with the annual inspection performed by the executive office on  
11 aging.

12 (b) A durable medical equipment supplier shall register  
13 its business with the business registration division of the  
14 department of commerce and consumer affairs and shall provide a  
15 copy of a current business registration to the executive office  
16 on aging during its annual inspection.

17 §349- Severability. If any provision of this chapter or  
18 the application thereof to any person or circumstance is held  
19 invalid, the invalidity shall not affect the other provisions or  
20 application, and to this end the provisions of this chapter are  
21 severable."

22 SECTION 3. This Act shall take effect on July 1, 2112.



**Report Title:**

Centers for Medicare and Medicaid Services; Physical Presence;  
Durable Medical Equipment

**Description:**

Establishes licensure requirement for durable medical equipment suppliers participating in the nationwide competitive bidding program through an annual inspection by the Executive Office on Aging. Effective July 1, 2012. (SB2031 HD2)

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

