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## A BILL FOR AN ACT

RELATING TO THE LICENSURE OF SUPPLIERS OF DURABLE MEDICAL  
EQUIPMENT.

**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 that when medicare  
15 beneficiaries in Hawaii call after 11:00 a.m., the offices are  
16 closed. Without access to timely, local services, medicare



1 beneficiaries in Hawaii have been forced to forego necessary  
2 durable medical equipment devices. This restricted access to  
3 care has led to reductions in health, increases in preventable  
4 admissions and readmissions, increases in costs to beneficiaries  
5 and the medicare system, and negative impacts on quality of life  
6 for medicare patients.

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

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



1 medicare cost for a Hawaii beneficiary, on average, is only  
2 \$530.98, compared with \$792.99 nationally.

3       The office of health care assurance is organized under the  
4 state department of health under chapter 321, Hawaii Revised  
5 Statutes, to perform all state licensing activities for  
6 healthcare facilities, agencies, and organizations in Hawaii,  
7 including conducting all on-site state licensing surveys and  
8 medicare certification surveys on behalf of the United States  
9 Centers for Medicare and Medicaid Services.

10       The purpose of this Act is to provide for the licensure of  
11 durable medical equipment suppliers participating in the  
12 nationwide competitive bidding program under the oversight of  
13 the office of health care assurance.

14       SECTION 2. Due to exigent circumstances, the legislature  
15 finds that this licensure program is needed immediately to  
16 ensure that Hawaii's patients have timely access to the  
17 critical, life-sustaining medical supplies they need and  
18 therefore declares that this licensure program shall be exempt  
19 from the requirements of section 26H-6, Hawaii Revised Statutes.



1 SECTION 3. Chapter 321, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4 "PART .

5 SUPPLIER OF DURABLE MEDICAL EQUIPMENT LICENSING PROGRAM

6 §321-A Title. This part shall be known and may be cited  
7 as the " Supplier of Durable Medical Equipment Licensing  
8 Program."

9 §321-B Findings and declaration of necessity. It is the  
10 intent of the legislature to establish standards for the  
11 licensing of durable medical equipment suppliers participating  
12 in the nationwide competitive bidding program for durable  
13 medical equipment, prosthetics, orthotics, and supplies  
14 established by section 302 of the federal Medicare Modernization  
15 Act of 2003 to protect medical patients in the State from life  
16 threatening delays in receiving life-sustaining durable medical  
17 equipment that must be shipped from the mainland.

18 §321-C Definitions. As used in this part:

19 "Appropriate physical location" means a physical facility  
20 within the boundaries of the State used to store durable medical  
21 equipment inventory.



1 "Durable medical equipment" means equipment that can stand  
2 repeated use, is primarily and customarily used to serve a  
3 medical purpose, is generally not useful to a person in the  
4 absence of an illness or injury, is appropriate for use in the  
5 home, and is deemed to include prosthetics, orthotics, and  
6 related supplies.

7 "Supplier" means a supplier of durable medical equipment.

8 **§321-D Licensing.** (a) Any supplier who intends to  
9 participate in the nationwide competitive bidding program for  
10 durable medical equipment established by section 302 of the  
11 federal Medicare Modernization Act of 2003 shall be licensed  
12 pursuant to this part.

13 (b) A supplier shall be deemed licensed if:

- 14 (1) The supplier maintains an appropriate physical  
15 location within the State;  
16 (2) The supplier has passed an annual inspection performed  
17 by the office of health care assurance; and  
18 (3) The supplier is registered to do business in the  
19 State.

20 (c) The office of health care assurance shall maintain a  
21 list of suppliers licensed under this part.



1           **§321-E Annual inspection.** (a) The office of health care  
2 assurance shall perform an inspection of all suppliers who  
3 intends to participate in the nationwide competitive bidding  
4 program.

5           (b) The inspection shall consist of:

- 6           (1) Confirmation that the supplier maintains an  
7           appropriate physical location within the State;  
8           (2) Confirmation that the supplier maintains a working  
9           local telephone number;  
10          (3) Confirmation that a full-time employee is available to  
11          Hawaii residents during normal local business hours to  
12          answer customer inquiries; and  
13          (4) Confirmation that the supplier is registered with the  
14          department of commerce and consumer affairs to do  
15          business in the State.

16          **§321-F License fees.** A fee of \$       per licensing year  
17 shall be assessed on each supplier. The license fees collected  
18 shall be deposited in the health care assurance special fund  
19 pursuant to section 321-1.4.



1           **§321-G Supplier duties.** (a) A supplier and its agents  
2 shall have a good faith duty to comply with the annual  
3 inspection performed by the office of health care assurance.

4           (b) A supplier shall register its business with the  
5 business registration division of the department of commerce and  
6 consumer affairs and shall provide a copy of a current business  
7 registration to the office of health care assurance during its  
8 annual inspection.

9           **§321-H Severability.** If any provision of this part or the  
10 application thereof to any person or circumstance is held  
11 invalid, the invalidity shall not affect the other provisions or  
12 application, and to this end the provisions of this part are  
13 severable."

14           SECTION 4. Section 321-1.4, Hawaii Revised Statutes, is  
15 amended by amending subsections (a) and (b) to read as follows:

16           "(a) There is established within the department of health,  
17 to be administered by the department of health, the office of  
18 health care assurance special fund into which shall be deposited  
19 moneys collected under section 321-11.5(b), license fees for the  
20 administration of the supplier of durable medical equipment  
21 licensing program collected pursuant to section 321-F, and all



1 administrative penalties imposed and collected by the office of  
2 health care assurance pursuant to section 321-20.

3 (b) Moneys in the special fund shall be expended by the  
4 department of health:

5 (1) To assist in offsetting operating costs and  
6 educational program expenses of the department of  
7 health's office of health care assurance; and

8 (2) For the purpose of enhancing the capacity of office of  
9 health care assurance programs to:

10 (A) Improve public health outreach efforts, program  
11 and community development, and consultations to  
12 industries regulated; ~~and~~

13 (B) Educate the public, the staff of the department  
14 of health, ~~[+]~~and~~[+]~~ other departments within the  
15 State, as well as staff and providers of all  
16 health care facilities and agencies regulated~~[-]~~;  
17 and

18 (C) Administer the supplier of durable medical  
19 equipment licensing program established pursuant  
20 to part of this chapter.





1 Not more than [\$300,000] \$ \_\_\_\_\_ of the special fund may be  
2 used during any fiscal year for the activities carried out by  
3 the office of health care assurance."

4 SECTION 5. The enactment of this chapter shall be exempt  
5 from the requirements of chapter 26H-6.

6 SECTION 6. There is appropriated out of the office of  
7 health care assurance special fund the sum of \$ \_\_\_\_\_ or so  
8 much thereof as may be necessary for fiscal year 2015-2016 and  
9 the same sum or so much thereof as may be necessary for fiscal  
10 year 2016-2017 for expenses incurred by the office of health  
11 care assurance to fill one full-time equivalent (1.0 FTE)  
12 position to establish and administer the durable medical  
13 equipment licensing program.

14 The sums appropriated shall be expended by the department  
15 of health for the purposes of this Act.

16 SECTION 7. This Act shall take effect on July 1, 2015.

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# H.B. NO. 495

**Report Title:**

Centers for Medicare and Medicaid Services; Licensure; Durable Medical Equipment, Prosthetics, Orthotics, and Supplies; Bidding Program; Office of Health Care Assurance; License Fee; Appropriation

**Description:**

Establishes a licensure requirement for durable medical equipment suppliers participating in the nationwide competitive bidding program. Appropriates funds from the office of health care assurance special fund to administer the durable medical equipment licensing program.

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

