
A BILL FOR AN ACT

RELATING TO THE LICENSURE OF DURABLE MEDICAL EQUIPMENT
SUPPLIERS.

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 through a
5 competitive bidding program. The unintended consequences of the
6 implementation of this national program in Honolulu have so far
7 been disastrous.

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



1 necessary durable medical equipment and devices. This
2 restricted access to care has led to reductions in health,
3 increases in preventable admissions and readmissions, increases
4 in costs to beneficiaries and the medicare system, and reduced
5 quality of life for medicare patients.

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

15 Medicare costs in Hawaii were already low. A review of
16 2011 fee-for-service medicare spending for durable medical
17 equipment shows that Hawaii had the lowest per capita durable
18 medical 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
21 medicare cost for a Hawaii beneficiary, on average, is only



1 \$530.98, compared with \$792.99 nationally.

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

9 The purpose of this Act is to provide for licensure and
10 oversight by the office of health care assurance of durable
11 medical equipment suppliers participating in the nationwide
12 competitive bidding program to provide durable medical equipment
13 to medicare beneficiaries in Hawaii. Due to exigent
14 circumstances, the legislature finds that this licensure program
15 is needed immediately to ensure that Hawaii's patients have
16 timely access to the critical, life-sustaining medical supplies
17 they need. Therefore, this licensure program shall be exempt
18 from the provisions of section 26H-6, Hawaii Revised Statutes.

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



1 "PART .

2 DURABLE MEDICAL EQUIPMENT SUPPLIER LICENSING AND PATIENT

3 PROTECTION PROGRAM

4 §321- Title. This part shall be known and may be cited
5 as the "Durable Medical Equipment Supplier Licensing and Patient
6 Protection Program."

7 §321- Findings and declaration of necessity. The
8 legislature finds that it is necessary to establish standards
9 for the licensing of durable medical equipment suppliers
10 participating in the nationwide competitive bidding program for
11 durable medical equipment, prosthetics, orthotics, and supplies
12 established by section 302 of the Medicare Modernization Act of
13 2003 to protect medical patients in the State from life
14 threatening delays in receiving life-sustaining durable medical
15 equipment that must be shipped from the mainland.

16 §321- Definitions. As used in this part:

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

20 "Durable medical equipment" means equipment that can stand
21 repeated use, is primarily and customarily used to serve a



1 medical purpose, is generally not useful to a person in the
2 absence of an illness or injury, and is appropriate for use in
3 the home.

4 "Supplier" means a supplier of durable medical equipment,
5 prosthetics, orthotics, and related supplies participating in
6 the nationwide competitive bidding program for durable medical
7 equipment, prosthetics, orthotics, and supplies established by
8 section 302 of the Medicare Modernization Act of 2003.

9 **§321- Licensing.** (a) All suppliers of durable medical
10 equipment shall be licensed pursuant to this part.

11 (b) A supplier of durable medical equipment shall be
12 deemed to be licensed if:

13 (1) The supplier maintains an appropriate physical
14 location within the State;

15 (2) The supplier has passed an annual inspection performed
16 by the office of health care assurance; and

17 (3) The supplier is registered to do business in the
18 State.

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



1 **§321- Annual inspection.** (a) The office of health care
2 assurance shall perform an inspection of all durable medical
3 equipment suppliers participating in the nationwide durable
4 medical equipment competitive bidding program and licensed
5 pursuant to this part.

6 (b) The inspection shall consist of:

7 (1) Confirmation that the durable medical equipment
8 supplier maintains an appropriate physical location
9 within the State;

10 (2) Confirmation that the durable medical equipment
11 supplier maintains a working local telephone number;

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

15 (4) Confirmation that the durable medical equipment
16 supplier is registered with the business registration
17 division of the department of commerce and consumer
18 affairs to do business in the State.

19 **§321- License fees.** A fee of \$ per license year
20 shall be assessed on all suppliers of durable medical equipment.



1 The license fees collected shall be deposited in the health care
2 assurance special fund pursuant to section 321-1.4.

3 **§321- Supplier duties.** (a) A durable medical equipment
4 supplier and its agents shall have a good faith duty to comply
5 with the annual inspection performed by the office of health
6 care assurance.

7 (b) A durable medical equipment supplier shall register
8 its business with the business registration division of the
9 department of commerce and consumer affairs and shall provide a
10 copy of a current business registration to the office of health
11 care assurance during its annual inspection.

12 **§321- Rules.** The director shall adopt rules pursuant to
13 chapter 91 to carry out the purposes of this part.

14 **§321- Severability.** If any provision of this part or
15 the application thereof to any person or circumstance is held
16 invalid, the invalidity shall not affect the other provisions or
17 application, and to this end the provisions of this part are
18 severable."

19 SECTION 3. Section 321-1.4, Hawaii Revised Statutes, is
20 amended by amending subsections (a) and (b) to read as follows:



1 "(a) There is established within the department of health,
2 to be administered by the department of health, the office of
3 health care assurance special fund into which shall be deposited
4 moneys collected under section 321-11.5(b), license fees
5 collected under section 321-_____, and all administrative
6 penalties imposed and collected by the office of health care
7 assurance pursuant to section 321-20.

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

10 (1) To assist in offsetting operating costs and
11 educational program expenses of the department of
12 health's office of health care assurance; and

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

15 (A) Improve public health outreach efforts, program
16 and community development, and consultations to
17 industries regulated; [~~and~~]

18 (B) Educate the public, the staff of the department
19 of health, [~~+~~]and[~~+~~] other departments within the
20 State, as well as staff and providers of all



1 health care facilities and agencies regulated[-];
 2 and
 3 (C) Administer the durable medical equipment supplier
 4 licensing and patient protection program pursuant
 5 to part of this chapter.

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

9 SECTION 4. There is appropriated out of the office of
 10 health care assurance special fund established pursuant to
 11 section 321-1.4, Hawaii Revised Statutes, the sum of \$ _____ or
 12 so much thereof as may be necessary for fiscal year 2015-2016
 13 and the same sum or so much thereof as may be necessary for
 14 fiscal year 2016-2017 for expenses incurred by the office of
 15 healthcare assurance to establish and administer the durable
 16 medical equipment supplier licensing and patient protection
 17 program, including one full-time equivalent (1.0 FTE) position
 18 to administer the program.

19 The sums appropriated shall be expended by the office of
 20 health care assurance for the purposes of this Act.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on July 1, 2015.

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JAN 23 2015



H.B. NO. 580

Report Title:

Centers for Medicare and Medicaid Services; Licensure; Durable Medical Equipment, Prosthetics, Orthotics, and Supplies

Description:

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

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

