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# 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 to provide durable medical equipment  
12 to medicare beneficiaries in Hawaii. Due to exigent  
13 circumstances, the legislature finds that this licensure program  
14 is needed immediately to ensure that Hawaii's patients have  
15 timely access to the critical, life-sustaining medical supplies  
16 they need. Therefore, this licensure program shall be exempt  
17 from the provisions of section 26H-6, Hawaii Revised Statutes.

18 SECTION 2. Chapter 321, Hawaii Revised Statutes, is  
19 amended by adding a new part to be appropriately designated and  
20 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 to  
10 protect medical patients in the State from life threatening  
11 delays in receiving life-sustaining durable medical equipment  
12 that must be shipped from the mainland.

13 §321- Definitions. As used in this part:

14 "Appropriate physical location" means a physical facility  
15 within the boundaries of the State used to store durable medical  
16 equipment inventory.

17 "Durable medical equipment" means equipment that can stand  
18 repeated use, is primarily and customarily used to serve a  
19 medical purpose, is generally not useful to a person in the  
20 absence of an illness or injury, and is appropriate for use in  
21 the home.



1 "Supplier" means a person or entity that delivers  
2 disposable medical supplies or durable medical equipment  
3 products directly to a recipient and that currently bills or  
4 plans to bill the medicare program for services or products in  
5 the current calendar year.

6 **§321- Licensing.** (a) All suppliers of durable medical  
7 equipment shall be licensed pursuant to this part.

8 (b) A supplier of durable medical equipment shall be  
9 licensed if:

10 (1) The supplier maintains an appropriate physical  
11 location within the State;

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

14 (3) The supplier is registered to do business in the  
15 State.

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

18 **§321- Annual inspection.** (a) The office of health care  
19 assurance shall perform an inspection of all durable medical  
20 equipment suppliers before granting licensure pursuant to this  
21 part.



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

14 **§321- License fees.** A fee of \$ per license year  
 15 shall be assessed on all suppliers of durable medical equipment.  
 16 The license fees collected shall be deposited in the office of  
 17 health care assurance special fund pursuant to section 321-1.4.

18 **§321- Supplier duties.** (a) A durable medical equipment  
 19 supplier and its agents shall have a good faith duty to comply  
 20 with the annual inspection performed by the office of health  
 21 care assurance.

1 (b) A durable medical equipment supplier shall register  
2 its business with the business registration division of the  
3 department of commerce and consumer affairs and shall provide a  
4 copy of a current business registration to the office of health  
5 care assurance during its annual inspection.

6 **§321- Rules.** The director shall adopt rules pursuant to  
7 chapter 91 to carry out the purposes of this part.

8 **§321- Severability.** If any provision of this part or  
9 the application thereof to any person or circumstance is held  
10 invalid, the invalidity shall not affect the other provisions or  
11 application, and to this end the provisions of this part are  
12 severable."

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

15 "(a) There is established within the department of health,  
16 to be administered by the department of health, the office of  
17 health care assurance special fund into which shall be deposited  
18 moneys collected under section 321-11.5(b), license fees  
19 collected under section 321- , and all administrative  
20 penalties imposed and collected by the office of health care  
21 assurance pursuant to section 321-20.



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

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

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

8 (A) Improve public health outreach efforts, program  
9 and community development, and consultations to  
10 industries regulated; [~~and~~]

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

16 (C) Administer the durable medical equipment supplier  
17 licensing and patient protection program pursuant  
18 to part of this chapter.

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





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

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

13 SECTION 5. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 6. This Act shall take effect on July 1, 2050.



**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 through the Office of Health Care Assurance.  
Appropriates funds from the Office of Health Care Assurance Special Fund. (HB580 HD2)

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

