

JAN 23 2015

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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



1 equipment devices. This restricted access to care has led to  
2 reductions in health, increases in preventable admissions and  
3 readmissions, and increases in costs to beneficiaries and the  
4 medicare system and has impacted the quality of life for  
5 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. A reduction in cost, however, by 12 to 56 per cent  
9 in Hawaii is unsustainable given the fixed costs of higher rent,  
10 utilities, and shipping costs that businesses in Hawaii face.  
11 Hawaii's fees are now on par with those in the Washington, D.C.  
12 area, even though the cost of living index in Honolulu is 21.4  
13 per cent higher than Washington, D.C.

14 Medicare costs in Hawaii were already low. A review of  
15 2011 fee-for-service medicare spending for durable medical  
16 equipment shows that Hawaii has the lowest per capita durable  
17 medical equipment cost in the nation. On average, each Hawaii  
18 beneficiary consumes only \$82.54 in durable medical equipment,  
19 compared with \$230.16 nationally. Furthermore, the total  
20 medicare cost for a Hawaii beneficiary, on average, is only  
21 \$530.98, compared with \$792.99 nationally.



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

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

11       "PART       . DURABLE MEDICAL EQUIPMENT SUPPLIER LICENSING AND  
12   PATIENT PROTECTION PROGRAM

13       §321-A Title. This part shall be known and may be cited  
14 as the "Durable Medical Equipment Supplier Licensing and Patient  
15 Protection Program".

16       §321-B Findings and declaration of necessity. It is the  
17 intent of the legislature to establish standards for the  
18 licensing of durable medical equipment suppliers participating  
19 in the nationwide competitive bidding program for durable  
20 medical equipment, prosthetics, orthotics, and supplies  
21 established by section 302 of the Medicare Modernization Act of



1 2003 to protect medical patients in the State from life-  
2 threatening delays in receiving life-sustaining durable medical  
3 equipment that must be shipped from the mainland.

4 **§321-C Definitions.** As used in this part:

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

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

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

18 **§321-D Licensing.** (a) All suppliers of durable medical  
19 equipment shall be licensed.

20 (b) A supplier of durable medical equipment shall be  
21 deemed licensed if:



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

7           (c) The executive office on aging shall maintain a list of

8 suppliers licensed under this part.

9           §321-E Annual inspection. (a) The executive office on

10 aging shall perform an inspection of all durable medical

11 equipment suppliers licensed pursuant to this part.

12           (b) The inspection shall consist of:

- 13           (1) Confirmation that the durable medical equipment
- 14                   supplier maintains an appropriate physical location
- 15                   within the State;
- 16           (2) Confirmation that the durable medical equipment
- 17                   supplier maintains a working local telephone number;
- 18           (3) Confirmation that a full-time employee is available to
- 19                   Hawaii residents during normal business hours to
- 20                   answer customer inquiries; and



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

5           **§321-F License fee.** A fee of \$           per license year  
6 shall be assessed on all suppliers of durable medical equipment.  
7 The license fee collected shall be deposited in the health care  
8 assurance special fund pursuant to section 321-1.4.

9           **§321-G Supplier duties.** (a) A durable medical equipment  
10 supplier and its agents shall have a good faith duty to comply  
11 with the annual inspection performed by the executive office on  
12 aging.

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

18           **§321-H Severability.** If any provision of this part or the  
19 application thereof to any person or circumstance is held  
20 invalid, the invalidity shall not affect the other provisions or



1 application, and to this end the provisions of this part are  
2 severable."

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

5 "(a) There is established within the department of health,  
6 to be administered by the department of health, the office of  
7 health care assurance special fund into which shall be deposited  
8 moneys collected under section 321-11.5(b), license fees for the  
9 administration of the durable medical equipment licensing  
10 program collected pursuant to section 321-F, and all  
11 administrative penalties imposed and collected by the office of  
12 health care assurance pursuant to section 321-20.

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

15 (1) To assist in offsetting operating costs and  
16 educational program expenses of the department of  
17 health's office of health care assurance; and

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



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1 (A) Improve public health outreach efforts, program  
2 and community development, and consultations to  
3 industries regulated; [~~and~~]

4 (B) Educate the public, the staff of the department  
5 of health, [~~+~~]and[~~+~~] other departments within the  
6 State, as well as staff and providers of all  
7 health care facilities and agencies regulated[~~-~~];  
8 and

9 (C) Administer the durable medical equipment  
10 licensing program established pursuant to  
11 part \_\_\_\_\_ of this chapter.

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

15 (c) Any amount in the special fund in excess of [~~\$356,000~~]  
16 \$ \_\_\_\_\_ on June 30 of each year shall be deposited into the  
17 general fund."

18 SECTION 4. There is appropriated out of the office of  
19 health care assurance special fund established pursuant to  
20 section 321-1.4, Hawaii Revised Statutes, the sum of \$  
21 or so much thereof as may be necessary for fiscal year 2015-2016





1 and the same sum or so much thereof as may be necessary for  
 2 fiscal year 2016-2017 for expenses incurred by the office of  
 3 health care assurance to fill one full-time equivalent (1.0 FTE)  
 4 position to establish and administer the durable medical  
 5 equipment licensing program.

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

8 SECTION 5. In codifying the new sections added by section  
 9 2 of this Act, the revisor of statutes shall substitute  
 10 appropriate section numbers for the letters used in designating  
 11 the new sections in this Act.

12 SECTION 6. Statutory material to be repealed is bracketed  
 13 and stricken. New statutory material is underscored.

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

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**Report Title:**

Centers for Medicare and Medicaid Services; Licensure; Durable Medical Equipment; Office of Health Care Assurance; Appropriation

**Description:**

Establishes licensure requirement for durable medical equipment suppliers participating in the nationwide competitive bidding program through an annual inspection by the office of health care assurance. 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.*

