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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 twelve to fifty-  
9 six per cent in Hawaii is unsustainable given the fixed costs of  
10 higher rent, utilities, and shipping costs that businesses in  
11 Hawaii face. Hawaii's fees are now on par with those in the  
12 Washington, D.C. area, even though the cost of living index in  
13 Honolulu is 21.4 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 suppliers of durable medical equipment, prosthetics, orthotics,  
3 and related supplies through an annual inspection by the office  
4 of health care assurance. This licensure program will ensure  
5 that Hawaii's durable medical equipment patients have access to  
6 the critical, life-sustaining medical supplies they need.

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

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

12 §321-A Title. This part shall be known and may be cited  
13 as the "Durable Medical Equipment Supplier Licensing and Patient  
14 Protection Program".

15 §321-B Findings and declaration of necessity. It is the  
16 intent of the legislature to establish standards for the  
17 licensing of suppliers of durable medical equipment,  
18 prosthetics, orthotics, and related supplies to protect medical  
19 patients in the State from life-threatening delays in receiving  
20 life-sustaining durable medical equipment that must be shipped  
21 from the mainland.



1           **§321-C Definitions.** As used in this part:

2           "Appropriate physical location" means a physical facility  
3 within the boundaries of the State used to store durable medical  
4 equipment inventory.

5           "Durable medical equipment" means equipment that can stand  
6 repeated use, is primarily and customarily used to serve a  
7 medical purpose, is generally not useful to a person in the  
8 absence of an illness or injury, is appropriate for use in the  
9 home, and does not contain any prescription drug.

10          "Supplier" means a supplier of durable medical equipment,  
11 prosthetics, orthotics, and related supplies.

12          **§321-D Licensing.** (a) All suppliers doing business in  
13 this State shall be licensed.

14          To receive a license, a supplier shall:

- 15          (1) Maintain an appropriate physical location within the  
16             State;
- 17          (2) Pass an annual inspection performed by the office of  
18             health care assurance; and
- 19          (3) Provide proof that it has complied with the business  
20             registration laws of the State and has all required  
21             tax identification numbers.



1 (b) The office of health care assurance shall maintain a  
2 list of suppliers licensed under this part.

3 (c) The office of health care assurance may adopt rules  
4 pursuant to chapter 91 for the purposes of this part.

5 **§321-E Annual inspection.** (a) The office of health care  
6 assurance shall perform an inspection of all suppliers licensed  
7 pursuant to this part.

8 (b) The inspection shall consist of:

- 9 (1) Confirmation that the supplier maintains an  
10 appropriate physical location within the State;
- 11 (2) Confirmation that the supplier maintains a working  
12 local telephone number;
- 13 (3) Confirmation that a full-time employee is available to  
14 Hawaii residents during normal business hours to  
15 answer customer inquiries; and
- 16 (4) Confirmation that the supplier has complied with the  
17 business registration laws of the State and has all  
18 required tax identification numbers.

19 **§321-F License fee.** The department may assess a licensure  
20 fee on all suppliers licensed pursuant to section 321-D(a). The



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

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

6 (b) A supplier shall provide proof that it has complied  
7 with the business registration laws of the State and has all  
8 required tax identification numbers and shall provide a copy of  
9 such proof to the office of health care assurance during its  
10 annual inspection.

11 **§321-H Exemptions.** Pharmacies licensed pursuant to  
12 chapter 461 are exempt from this part.

13 **§321-I Severability.** If any provision of this part or the  
14 application thereof to any person or circumstance is held  
15 invalid, the invalidity shall not affect the other provisions or  
16 application, and to this end the provisions of this part are  
17 severable."

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

20 "(a) There is established within the department of health,  
21 to be administered by the department of health, the office of



1 health care assurance special fund into which shall be deposited  
2 moneys collected under section 321-11.5(b), license fees for the  
3 administration of the durable medical equipment supplier  
4 licensing and patient protection program collected pursuant to  
5 section 321-F, and all administrative penalties imposed and  
6 collected by the office of health care assurance pursuant to  
7 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  
 5 established pursuant 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 (c) Any amount in the special fund in excess of [~~\$356,000~~]  
 10 \$\_\_\_\_\_ on June 30 of each year shall be deposited into the  
 11 general fund."

12 SECTION 4. There is appropriated out of the general  
 13 revenues of the State of Hawaii the sum of \$ \_\_\_\_\_ or so much  
 14 thereof as may be necessary for fiscal year 2015-2016 and the  
 15 same sum or so much thereof as may be necessary for fiscal year  
 16 2016-2017 to be paid into the office of health care assurance  
 17 special fund established pursuant to section 321-1.4, Hawaii  
 18 Revised Statutes.

19 SECTION 5. There is appropriated out of the office of  
 20 health care assurance special fund established pursuant to  
 21 section 321-1.4, Hawaii Revised Statutes, the sum of \$ \_\_\_\_\_





1 or so much thereof as may be necessary for fiscal year 2015-2016  
2 and the same sum or so much thereof as may be necessary for  
3 fiscal year 2016-2017 for two permanent full-time equivalent  
4 (2.0 FTE) positions to establish and administer the durable  
5 medical equipment supplier licensing and patient protection  
6 program and other expenses incurred by the office of health care  
7 assurance licensure programs.

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

10       SECTION 6. Section 26H-6, Hawaii Revised Statutes, shall  
11 not apply to this Act.

12       SECTION 7. In codifying the new sections added by section  
13 2 of this Act, the revisor of statutes shall substitute  
14 appropriate section numbers for the letters used in designating  
15 the new sections in this Act.

16       SECTION 8. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18       SECTION 9. This Act shall take effect on July 1, 2112.



**Report Title:**

Licensure; Durable Medical Equipment; Office of Health Care Assurance; Appropriation

**Description:**

Establishes licensure requirement for durable medical equipment suppliers through an annual inspection by the office of health care assurance. Appropriates funds to administer the durable medical equipment licensing program. Exempts licensing provisions from sunrise review. (SB307 HD1)

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

