
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 Definitions. As used in this part:

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

19 "Durable medical equipment" means equipment that can stand
20 repeated use, is primarily and customarily used to serve a
21 medical purpose, is generally not useful to a person in the



1 absence of an illness or injury, is appropriate for use in the
2 home, and does not contain any prescription drug.

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

5 §321-C Licensing. (a) All suppliers doing business in
6 this State shall be licensed.

7 To receive a license, a supplier shall:

8 (1) Maintain an appropriate physical location within the
9 State;

10 (2) Pass an annual inspection performed by the office of
11 health care assurance; and

12 (3) Provide proof that it has complied with the business
13 registration laws of the State and has all required
14 tax identification numbers.

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

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

19 §321-D Annual inspection. (a) The office of health care
20 assurance shall perform an inspection of all suppliers licensed
21 pursuant to this part.



- 1 (b) The inspection shall consist of:
- 2 (1) Confirmation that the supplier maintains an
- 3 appropriate physical location within the State;
- 4 (2) Confirmation that the supplier maintains a working
- 5 local telephone number;
- 6 (3) Confirmation that a full-time employee is available to
- 7 Hawaii residents during normal business hours to
- 8 answer customer inquiries; and
- 9 (4) Confirmation that the supplier has complied with the
- 10 business registration laws of the State and has all
- 11 required tax identification numbers.

12 §321-E License fee. The department may assess a licensure
 13 fee on all suppliers licensed pursuant to section 321-C(a). The
 14 license fee collected shall be deposited in the health care
 15 assurance special fund pursuant to section 321-1.4.

16 §321-F Supplier duties. (a) A supplier and its agents
 17 shall have a good faith duty to comply with the annual
 18 inspection performed by the office of health care assurance.

19 (b) A supplier shall provide proof that it has complied
 20 with the business registration laws of the State and has all
 21 required tax identification numbers and shall provide a copy of



1 such proof to the office of health care assurance during its
2 annual inspection.

3 §321-G Exemptions. Pharmacies licensed pursuant to
4 chapter 461 are exempt from this part.

5 §321-H Severability. If any provision of this part or the
6 application thereof to any person or circumstance is held
7 invalid, the invalidity shall not affect the other provisions or
8 application of this part that can be given effect without the
9 invalid provision or application, and to this end the provisions
10 of this part are severable."

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

13 "(a) There is established within the department of health,
14 to be administered by the department of health, the office of
15 health care assurance special fund into which shall be deposited
16 moneys collected under section 321-11.5(b), license fees for the
17 administration of the durable medical equipment supplier
18 licensing and patient protection program collected pursuant to
19 section 321-E, and all administrative penalties imposed and
20 collected by the office of health care assurance pursuant to
21 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
18 established pursuant 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 (c) Any amount in the special fund in excess of [~~\$356,000~~]
2 \$_____ on June 30 of each year shall be deposited into the
3 general fund."

4 SECTION 4. The office of health care assurance shall
5 submit a report to the legislature no later than twenty days
6 prior to the convening of the regular session of 2016. The
7 office of health care assurance shall report on the status of
8 the durable medical equipment supplier licensing and patient
9 protection program, including its findings and conclusions on
10 the program's effectiveness, along with any proposed
11 legislation.

12 SECTION 5. 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 6. 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 7. Section 26H-6, Hawaii Revised Statutes, shall
11 not apply to this Act.

12 SECTION 8. 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 9. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 10. This Act shall take effect on July 1, 2112.



Report Title:

Durable Medical Equipment Supplier Licensing and Patient Protection Program; 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 Supplier Licensing and Patient Protection Program. Exempts licensing provisions from sunrise review. (SB307 HD2)

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

