
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
18 equipment devices. This restricted access to care has led to



1 reductions in health, increases in preventable admissions and
2 readmissions, and increases in costs to beneficiaries and the
3 medicare system and has impacted the quality of life for
4 medicare patients.

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

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

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

12 **§321-D Licensing.** (a) All suppliers shall be licensed.

13 (b) A supplier shall be licensed if:

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

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

18 (3) The supplier provides proof that it has complied with
19 the business regulation laws of the State and has all
20 required tax identification numbers.



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

3 (d) 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.** A fee of \$ per license year
20 shall be assessed on all suppliers. The license fee collected



1 shall be deposited in the health care assurance special fund
2 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 to
9 the office of health care assurance during its annual
10 inspection.

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

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

18 "(a) There is established within the department of health,
19 to be administered by the department of health, the office of
20 health care assurance special fund into which shall be deposited
21 moneys collected under section 321-11.5(b), license fees for the



1 administration of the durable medical equipment supplier
2 licensing and patient protection program collected pursuant to
3 section 321-F, and all administrative penalties imposed and
4 collected by the office of health care assurance pursuant to
5 section 321-20.

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

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

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

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

16 (B) Educate the public, the staff of the department
17 of health, [~~+~~]and[~~+~~] other departments within the
18 State, as well as staff and providers of all
19 health care facilities and agencies regulated[~~-~~];

20 and



1 (C) Administer the durable medical equipment supplier
 2 licensing and patient protection program
 3 established pursuant to part of this
 4 chapter.

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

8 (c) Any amount in the special fund in excess of [~~\$356,000~~]
 9 \$ _____ on June 30 of each year shall be deposited into the
 10 general fund."

11 SECTION 4. There is appropriated out of the office of
 12 health care assurance special fund established pursuant to
 13 section 321-1.4, Hawaii Revised Statutes, the sum of \$
 14 or so much thereof as may be necessary for fiscal year 2015-2016
 15 and the same sum or so much thereof as may be necessary for
 16 fiscal year 2016-2017 for expenses incurred by the office of
 17 health care assurance to fill two permanent full-time equivalent
 18 (2.0 FTE) positions to establish and administer the durable
 19 medical equipment supplier licensing and patient protection
 20 program as well as help support other current licensure
 21 programs.



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

3 SECTION 5. In codifying the new sections added by section
4 2 of this Act, the revisor of statutes shall substitute
5 appropriate section numbers for the letters used in designating
6 the new sections in this Act.

7 SECTION 6. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 7. This Act shall take effect on July 1, 2050.



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 from the office of health care assurance special fund to administer the durable medical equipment licensing program. Effective 7/1/2050. (SD1)

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