

JAN 23 2015

A BILL FOR AN ACT

RELATING TO LICENSURE OF DURABLE MEDICAL EQUIPMENT SUPPLIERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that medicare
2 beneficiaries in Hawaii are experiencing a reduction in access
3 to quality care as a result of the change in the way medicare
4 purchases its durable medical equipment, prosthetics, orthotics,
5 and supplies. Round two of medicare's durable medical equipment
6 competitive bidding program began July 1, 2013, in the city and
7 county of Honolulu. The unintended consequences of the
8 implementation of this national program in Honolulu have been
9 disastrous.

10 Only thirteen of the ninety-seven vendors selected are
11 located within the State. The minimum shipping time is two to
12 four days and the typical wait time for physician-ordered
13 wheelchairs and hospital beds is four to eight weeks. These
14 vendors do not have special phone or service hours to account
15 for the time difference, which means that when medicare
16 beneficiaries in Hawaii call after 11:00 a.m. during certain
17 months of the year, the offices are closed. Without access to



1 timely, local services, medicare beneficiaries in Hawaii have
2 been forced to forego necessary durable medical equipment
3 devices. This restricted access to care has led to reductions
4 in health, increases in preventable admissions and readmissions,
5 and increases in costs to beneficiaries and the medicare system,
6 impacting on quality of life for medicare patients.

7 The national bidding program has the laudable intention of
8 cutting down on fraud and abuse and reducing medicare costs
9 nationally. However, a reduction in cost by 12 to 56 per cent
10 in Hawaii is unsustainable given the fixed costs of higher rent,
11 utilities, and shipping costs that businesses in Hawaii face.
12 Hawaii's fees are now on par with those in the Washington, D.C.
13 area, even though the cost of living index in Honolulu is 21.4
14 per cent higher than Washington, D.C.

15 The legislature further finds that medicare costs in Hawaii
16 were already low. A review of 2011 fee-for-service medicare
17 spending for durable medical equipment shows that Hawaii has the
18 lowest per capita durable medical equipment cost in the nation.
19 On average, each Hawaii beneficiary consumes only \$82.54 in
20 durable medical equipment, compared with \$230.16 nationally.



1 Furthermore, the total medicare cost for a Hawaii beneficiary,
2 on average, is only \$530.98, compared with \$792.99 nationally.

3 The office of health care assurance is organized under the
4 state department of health under chapter 321, Hawaii Revised
5 Statutes, to perform all state licensing activities for health
6 care facilities, agencies, and organizations in Hawaii,
7 including conducting all on-site state licensing surveys and
8 medicare certification surveys on behalf of the U.S. centers for
9 medicare and medicaid services.

10 The purpose of this Act is to provide for licensure of
11 durable medical equipment suppliers participating in the
12 nationwide competitive bidding program under oversight of the
13 office of health care assurance. Due to exigent circumstances,
14 the legislature finds that this licensure program is needed
15 immediately to ensure that Hawaii's patients have timely access
16 to the critical, life-sustaining medical supplies they need and
17 should therefore be exempt from section 26H-6, Hawaii Revised
18 Statutes.

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



1 absence of an illness or injury, and is appropriate for use in
2 the home.

3 "Supplier" means a supplier of durable medical equipment,
4 prosthetics, orthotics, and related supplies participating in
5 the nationwide competitive bidding program for durable medical
6 equipment, prosthetics, orthotics, and supplies established by
7 section 302 of the Medicare Modernization Act of 2003.

8 **§321-D Licensing.** (a) All suppliers of durable medical
9 equipment shall be licensed.

10 (b) A supplier of durable medical equipment shall be
11 deemed licensed if:

- 12 (1) The supplier maintains an appropriate physical
13 location within the State;
- 14 (2) The supplier has passed an annual inspection performed
15 by the office of health care assurance; and
- 16 (3) The supplier is registered to do business in the
17 State.

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

20 **§321-E Annual inspection.** (a) The office of health care
21 assurance shall perform an inspection of all durable medical



1 equipment suppliers participating in the nationwide durable
2 medical equipment competitive bidding program licensed pursuant
3 to this part.

4 (b) The inspection shall consist of:

5 (1) Confirmation that the durable medical equipment
6 supplier maintains an appropriate physical location
7 within the State;

8 (2) Confirmation that the durable medical equipment
9 supplier maintains a working local telephone number;

10 (3) Confirmation that a full-time employee is available to
11 Hawaii residents during normal local business hours to
12 answer customer inquiries; and

13 (4) Confirmation that the durable medical equipment
14 supplier is registered with the business registration
15 division of the department of commerce and consumer
16 affairs to do business in the State.

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



1 **§321-G Supplier duties.** (a) A durable medical equipment
2 supplier and its agents shall have a good faith duty to comply
3 with the annual inspection performed by the office of health
4 care assurance.

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

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

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

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



1 program collected pursuant to section 321-F, and all
2 administrative penalties imposed and collected by the office of
3 health care assurance pursuant to section 321-20.

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

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

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

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

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

19 (C) Administer the durable medical equipment
20 licensing program established pursuant to part
21 _____ of this chapter.



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

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

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

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect upon its approval;
18 provided that section 4 shall take effect on July 1, 2015.

19

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Report Title:

Centers for Medicare and Medicaid Services; Licensure; Durable Medical Equipment, Prosthetics, Orthotics, and Supplies; Bidding Program; Office of Health Care Assurance; License Fee; 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.

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