

**PRESENTATION OF THE
BOARD OF PHARMACY**

TO THE HOUSE COMMITTEE ON
CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH LEGISLATURE
Regular Session of 2015

Monday, March 23, 2015
2:45 p.m.

TESTIMONY ON SENATE BILL NO. 307, S.D. 2, H.D. 1, RELATING TO HEALTH.

TO THE HONORABLE ANGUS L.K. MCKELVEY, CHAIR,
AND MEMBERS OF THE COMMITTEE:

My name is Lee Ann Teshima, Executive Officer for the Board of Pharmacy ("Board"). I appreciate the opportunity to testify in support of Senate Bill No. 307, S.D.2, H.D. 1, Relating to Health, that establishes licensure requirements for durable medical equipment suppliers through the Office of Health Care Assurance.

The passage of this bill would allow residents of this State more access to durable medical equipment by also allowing out-of-state providers to be licensed. This also provides for regulatory oversight over these providers of prescription devices, both in-state and out-of-state.

Thank you for the opportunity to testify on Senate Bill No. 307, S.D. 2, H.D. 1.



Monday, March 23, 2015 – 2:45 p.m.
Conference Room #325

House Committee on Consumer Protection and Commerce

To: Rep. Angus McKelvey, Chair
Rep. Justin Woodson, Vice Chair

From: George Greene, President & CEO
Healthcare Association of Hawaii

Re: Testimony in Support
SB307 SD2 HD1 — Relating to Health (DME Licensure)

The Healthcare Association of Hawaii's 160 member organizations include all of the acute care hospitals in Hawaii, all public and private skilled nursing facilities, all the Medicare-certified home health agencies, all hospices, all assisted living facilities, durable medical equipment suppliers and home infusion/ pharmacies. Members also represent other healthcare providers from throughout the continuum including case management, air and ground ambulance, blood bank, dialysis, and more. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 20,000 people statewide.

Thank you for the opportunity to testify in **support** of SB307 SD2 HD1, which establishes licensure requirements for durable medical equipment (DME) suppliers through the Department of Health's Office of Healthcare Assurance.

Round 2 of Medicare's DME Competitive Bidding Program began July 1, 2013 in the City and County of Honolulu. Unfortunately, only 13 of the 97 vendors selected were located within the state of Hawaii, leaving the vast majority of vendors incapable of delivering equipment in a timely fashion. These vendors also tend not to have special phone or service hours to account for the time difference in Hawaii. Without access to timely, local services, Medicare beneficiaries in Hawaii have been forced to either wait several weeks, forego necessary DME devices, or purchase such devices out of their own pocket. This restricted access to care has led to reductions in health, increases in preventable admissions and readmissions, increases in costs to beneficiaries, and reduced quality of life for Medicare patients.

It has also negatively impacted hospital, long-term care and hospice facilities by resulting in delays in patient discharge. Lack of locally-available DME supplies also greatly impacts our ability to care for patients in a time of major emergency or disaster. As an isolated island state, it is crucial to have at least a minimal in-state inventory of equipment and supplies. Hawaii historically has only a small inventory of essential devices such as ventilators, infusion pumps and oxygen concentrators.

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Affiliated with the American Hospital Association, American Health Care Association, National Association for Home Care and Hospice, American Association for Homecare and Council of State Home Care Associations

In prior hearings on this bill, issues were raised that a state licensure program might reduce competition by limiting the number of suppliers servicing the Hawaii market. Medicare's competitive bidding program has been designed to ensure that at least five suppliers are available for each product category; if Medicare determines additional suppliers are needed, they may offer contracts to suppliers who previously submitted bids for the program (but were not selected). Further, when a supplier signs a competitive bidding contract, that supplier agrees to all the provisions of the contract, and is not allowed to terminate the contract early without jeopardizing future participation in Medicare.

We have also learned that since Medicare's competitive bidding program began around two years ago, a total of 17 states have since instituted varying licensure requirements on DME suppliers. At this time last year, we were only aware of one state (Tennessee) that had such a program in place. Clearly, more and more states that make up the contiguous 48 are implementing legislative remedies to address this growing problem. Establishing the licensure program and requiring a physical in-state presence as outlined in this measure would go a long way to assuring that Medicare beneficiaries in Hawaii have timely access to the DME devices they need to maintain their quality of life.

Thank you for the opportunity to testify in support of SB307 SD2 HD1.



THE QUEEN'S HEALTH SYSTEMS

To: Chair Angus L.K. McKelvey
Vice Chair Justin H. Woodson
House Committee on Consumer Protection and Commerce

From: Paula Yoshioka
Senior Vice President
The Queen's Health Systems

Re: SB 307 SD 2 HD 1, Relating to Health
Hearing—March 23, 2015 at 2:45 PM

The Queen's Health Systems would like to provide support for legislative efforts that will increase the quality of services provided to our patients need durable medical equipment.

Like many other facilities, we have had issues with durable medical suppliers who compete in the Medicare national competitive bidding program. Many of the suppliers participating in this program are located thousands of miles from Hawaii. Because of the large distances and time differences, it is often hard for our staff to engage with these suppliers to even check on the status of previously placed orders. We have many cases where our staff is unable to contact vendors to obtain needed equipment and many contracted vendors are unable to fulfill our orders in a timely fashion.

The many issues we have had with these contracted vendors has directly and negatively impacted the quality of care our patients receive. This happens because of delayed discharges to the appropriate settings and, sometimes, because the right equipment is simply not delivered.

We would ask for your support to ensure that Hawaii residents are able to get the highest possible quality of care. Thank you for your time and consideration of this matter.

The mission of The Queen's Health Systems is to fulfill the intent of Queen Emma and King Kamehameha IV to provide in perpetuity quality health care services to improve the well-being of Native Hawaiians and all of the people of Hawai'i.



An Independent Licensee of the Blue Cross and Blue Shield Association

March 23, 2015

The Honorable Angus L.K. McKelvey., Chair
The Honorable, Justin H. Woodson, Vice Chair
House Committee on Consumer Protection and Commerce

Re: SB 307, SD2, HD1 – Relating to Health

Dear Chair McKelvey, Vice Chair Woodson and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 307, SD2, HD1, which would establish licensure requirements for durable medical equipment (DME) suppliers. HMSA has grave concerns with this Bill.

It has long been HMSA's mission to improve the health and well-being of our members and for all the people of Hawai'i. But, we also are cognizant of the need to provide services and products our members demand, in the most efficient way. We need to do our part to contain the cost of Hawai'i's health care system.

HMSA has concerns with this Bill because it will drive up costs for all of our plans and not only the Medicare plans. . Under the original Medicare program, purchases of DME must be made exclusively from the list of vendors secured under the CMS DME procurement contract. This Bill will require all DME vendors to be licensed and have a physical local presence. Since the Bill applies to all DME vendors, it will drive up costs - not only for Medicare members, but for our commercial, QUEST, EUTF, and ETUF retiree plans, as well as our Medicare Advantage plans. This legislation will:

- Reduce competition
- In some cases, effectively create monopolies; and
- Worst of all, potentially eliminate the availability of any vendor for a particular DME. Some devices are only supplied by a few DME vendors, and Medicare will deny claims from non-Medicare-procured vendors. Should a Medicare-approved vendor choose not to have a local presence, as is required under the Bill, beneficiaries may lose access to those devices.

We understand the main concern of the proponents of this measure is a lack of timely accessibility to DME, and there is a belief that a vendor with local presence will resolve that problem. We are informed that there are certain DME that vendors simply will not store locally or already have decided not to offer. Consequently, the concern will not be addressed by this Bill.

HMSA believes in the importance of ensuring cost-effective access to quality DME from suppliers that members can trust. HMSA has concerns with this Bill because it will have the immediate effect of reducing competition and, consequently, driving-up the cost of health care for our members and the State. Simply put, this Bill is not consumer friendly.



An Independent Licensee of the Blue Cross and Blue Shield Association

Thank you for allowing us to testify on SB 307, SD2, HD1, and your consideration of the concerns we have raised is appreciated.

Sincerely,

A handwritten signature in black ink that reads "Mark K. Oto". The signature is written in a cursive style with a prominent initial "M" and a long, sweeping tail.

Mark K. Oto
Director, Government Relations



STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony COMMENTING on Senate Bill 307, SD 2, HD 1
RELATING TO HEALTH**

REPRESENTATIVE ANGUS L.K. MCKELVEY, CHAIR
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Hearing Date: Monday, March 23, 2015

Room Number: 325

1 **Fiscal Implications:** The Office of Health Care Assurance (OHCA) Special Fund does not
2 currently have sufficient funds to implement or support this new program. Approximately
3 \$225,000 over the next two (2) fiscal years and two (2) new full time, permanent, civil service
4 positions would be required which are not part of the governor's budget proposal.

5 **Department Testimony:** The department appreciates the intent of this bill with the following
6 COMMENTS and concerns:

- 7 1. The department appreciates that HD1 allows the department to establish a licensure fee in
8 administrative rules rather than by statute.
- 9 2. Priorities, Staff and Funding: the department also appreciates the legislature's
10 recognition of the need to support the department's current licensure programs by
11 providing staff resources for this DME licensure program and in support of the
12 department's other current licensure programs. The department testified previously that
13 the funding for this new licensure program should come from general funds. However,
14 the bill appropriates general funds into the department's special fund and requires the
15 special fund to cover the expenses of the licensure program. This appears to be a long-

1 term way for the state to fund this licensure program through the special fund. However,
2 the department has plans to utilize the special fund to conduct a significant modernization
3 program on how the department performs licensure inspections, gathers, stores, and
4 analyzes inspection data in order to improve the quality of care of licensed providers. As
5 a result, the department would prefer these positions to be general funded and not go into
6 the special fund.

7 Thank you for hearing the department's concerns and for the opportunity to support the
8 intent of this bill and to provide comments.



Hawaii Association of Health Plans

March 23, 2015

Honorable Angus McKelvey, Chair
Honorable Justin Woodson, Vice Chair
House Committee on Consumer Protection and Commerce

RE: SB307 SD2 HD1 – Relating to Health

Chair McKelvey, Vice Chair Woodson and Members of the Committee:

The Hawai'i Association of Health Plans (HAHP) respectfully submits comments in opposition of SB307 SD2 HD1, which among other things establishes a licensure requirement for durable medical equipment suppliers participating in the nationwide competitive bidding program through the Office of Health Care Assurance (Department of Health).

HAHP has previously opposed similar legislation, primarily because of the potential unintended consequences of suppliers choosing not to participate in Hawaii's marketplace due to the additional regulations and fees that would accompany passage of this measure. In effect, the bill undermines existing Medicare procurement policy, thus reducing competition and driving up costs for Medicare recipients.

We would also draw the Committee's attention to the possible impact that this bill could have on creating a monopoly in certain situations if suppliers choose not to compete in Hawaii.

The concerns expressed by the Department of Health with regard to the Department's ongoing expense derived from this program, as well as whether there is adequate staffing to execute this measure, are also worth considering should this measure advance.

Thank you for allowing HAHP to testify in opposition to SB307 SD2 HD1.

Sincerely,

Wendy Morriarty
Chair, HAHP Public Policy Committee

Cc: HAHP Board Members

• AlohaCare • HMAA • HMSA • HWMG • Kaiser Permanente • MDX Hawaii
• 'Ohana Health Plan • UHA • UnitedHealthcare •

HAHP c/o Jennifer Diesman, HMSA, 818 Keeaumoku Street, Honolulu HI 96814

www.hahp.org