

STATE OF HAWAII
DEPARTMENT OF HEALTH
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**Testimony COMMENTING on Senate Bill 0307
Relating to Health**

SENATOR JOSH GREEN, CHAIR
SENATOR ROSALYN H. BAKER, CHAIR

SENATE COMMITTEE ON HEALTH AND
COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Hearing Date: Tuesday, February 10, 2015 Room Number: 229

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

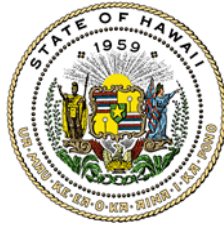
7 **Department Testimony:** The department supports the intent of this bill with the following
8 COMMENTS, reservations and concerns:

- 9 1. Responsibility: The licensure function should reside in the Office of Health Care
10 Assurance (OHCA) rather than under the Executive Office on Aging (EOA).
- 11 2. Priorities: OHCA's current licensure programs should be sufficiently supported before
12 adding new licensure programs. While the intent of this bill is laudable, it would divert
13 potential new resources away from the support of OHCA's other licensure programs.

- 1 3. Funding: The OHCA special fund does not currently have a sufficient fund balance to
2 cover the expected start-up expenses. The fund balance at the end of 2014 was
3 approximately \$12,000. The special fund will be used in the future to deposit licensure
4 fees but the implementation of fees has had its own challenges including intervention by
5 Gov. Abercrombie to halt the implementation of fees on certain types of providers.
6 General funds would be required but funds should not be provided at the expense of
7 requested funds under the governor's budget proposal.
- 8 4. Staffing: this bill allows for one (1) full time position. If the legislature intends for this
9 to be an ongoing program, two (2) positions will be requested and could also be used to
10 help support other current licensure programs - a clinical position similar to other
11 surveyor positions and an administrative support position. Both positions could also
12 support current licensure programs. The bill must also clearly identify these positions as
13 full time, permanent, civil service positions.
- 14 5. Administrative Rules: the bill requires administrative rules. However, administrative
15 rules should be permitted rather than required. This should enable the department to
16 implement the licensure program based on the statutory requirements more quickly,
17 assuming other funding is found to implement and maintain the program.
- 18 6. Fairness: the licensure program should be required of all DME providers in Hawaii
19 whether they are a Medicare contractor or not. It would seem that a licensure law
20 requiring licensure of Medicare contractors only would be unfair.
- 21 **Offered Amendments:** None except as identified above.

DAVID Y. IGE
GOVERNOR OF HAWAII

VIRGINIA PRESSLER, M.D.
DIRECTOR OF HEALTH



DIRECTOR

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EXECUTIVE OFFICE ON AGING
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Testimony in OPPOSITION to SB 307
Relating to Aging

Senator Rosalyn H. Baker, CHAIR
SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION
AND
SENATOR JOSH GREEN, CHAIR
SENATE COMMITTEE ON HEALTH

Testimony of Caroline Cadirao
Grants Chief, Executive Office on Aging
Attached Agency to the Department of Health

Hearing Date: FEBRUARY 10, 2015
9:00 A.M.

Room Number: CONF. ROOM 229

1 **EOA's Position:** The Executive Office on Aging (EOA) is opposed to SB307. This bill deals
2 with state licensure. It is unclear as to why EOA has been included in this bill. EOA has no
3 legal authority to license as EOA is not a licensing agency. The mission of the Executive Office
4 on Aging, designated as a "state unit on aging" is to be the leader relative to all aging issues
5 within the State, and is designed to lead to the development and enhancement of a
6 comprehensive and coordinated community based system of services and supports for older
7 adults within the State. [DHHS, Administration on Aging, Code of Federal Regulations Title 45
8 CFR 1321.7]

- 1 **Recommendations:** EOA respectfully recommends that this measure is better served through
- 2 similar bills related to durable medical equipment suppliers namely SB811, SB966, HB580, or
- 3 HB495. These bills place the authority with the appropriate licensing authority.
- 4 Thank you for the opportunity to testify.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2015**

ON THE FOLLOWING MEASURE:
S.B. NO. 307, RELATING TO HEALTH.

BEFORE THE:

SENATE COMMITTEES ON HEALTH AND
COMMERCE AND CONSUMER PROTECTION

DATE: Tuesday, February 10, 2015 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): RUSSELL A. SUZUKI, Attorney General, or
LORI H. WADA, DEPUTY ATTORNEY GENERAL

Chairs Green and Baker, and Members of the Committees:

The Department of the Attorney General provides the following comments.

The Office of Health Care Assurance (OHCA) of the Department of Health has the authority to license special treatment facilities and a spectrum of care homes. This bill confers on OHCA the authority to administer licensing fees on suppliers of durable medical equipment, prosthetics, orthotics, and related supplies (DMEPOS). The bill also authorizes the Executive Office on Aging (EOA), an agency administratively attached to the Department of Health, to conduct annual inspections of suppliers and maintain a list of licensed suppliers. The Centers for Medicare and Medicaid Services (CMS) is the federal agency entrusted with administering the Medicare program. The federal regulation governing DMEPOS Medicare suppliers, 34 C.F.R. section 424.57, expressly provides that “[i]f a State requires licensure to furnish certain items or services, a DMEPOS supplier (A) Must be licensed to provide the item or services; and (B) May contract with a licensed individual or other entity to provide the licensed services unless expressly prohibited by State law.”

This bill’s definition of the term “supplier” on page 4, lines 14-17, is problematic because it limits the group that must be licensed to those businesses “participating in the nationwide competitive bidding program for durable medical equipment, prosthetics, orthotics, and supplies established by section 302 of the Medicare Modernization Act of 2003.” Businesses that do not participate in this bidding program would not be able to obtain a license to supply DMEPOS in Hawaii. This distinction could be interpreted by CMS as too narrowly tailored to target only

participants in the bidding program. We recommend that the licensing scheme be broadened to license any entity or person that supplies DMEPOS to Medicare beneficiaries in Hawaii, not just participants in the bidding program.

Colorado recently enacted a DMEPOS law that has been in effect for a little over a month and is very similar in content and intent to this measure. As it is such a new law, we are unsure of how CMS would view it. However, the Colorado law uses broader language than this measure and may be a useful model. The Colorado law is attached as Exhibit A to this testimony and the bill that led to its enactment is attached as Exhibit B.

Colorado's definition of the term "durable medical equipment supplier" provides in pertinent part: "'durable medical equipment supplier' means a person or entity that delivers disposable medical supplies or durable medical equipment products directly to a recipient and that currently bills or plans to bill the medicare program for services or products in the current calendar year." In Colorado, the broad licensing scheme, through this definition, applies to all entities that provide DMEPOS to Medicare beneficiaries, whether they participate in the bidding program or not.

We recommend that the Legislature broaden the licensing scheme in this bill in either of the following ways:

- (1) By amending the bill's definition of "supplier" on page 4 to delete the following on lines 14-17: "participating in the nationwide competitive bidding program for durable medical equipment, prosthetics, orthotics, and supplies established by section 302 of the Medicare Modernization Act of 2003," so that licensure in Hawaii would apply to all suppliers of DMEPOS; or
- (2) By using the definition in the Colorado law instead of the bill's current wording.

If the Legislature follows either of the above recommendations, then for consistency, proposed section 321-B, Hawaii Revised Statutes, on page 3, line 16, to page 4, line 1, should be amended in the same way. The wording in recommendation (1) above would be:

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

The wording in recommendation (2) above would be:

“Supplier” means a person or entity that delivers disposable medical supplies or durable medical equipment products directly to a recipient and that currently bills or plans to bill the medicare program for services or products in the current calendar year.

For either recommendation, the bill should also delete the language “participating in the nationwide competitive bidding program for durable medical equipment, prosthetics, orthotics, and supplies established by section 302 of the Medicare Modernization Act of 2003” on page 3, line 18 to page 4, line 1; and page 4, lines 14-17. And in the bill's purpose section, the phrase "participating in the nationwide competitive bidding program" at page 3, lines 2-3, should be deleted.

We also recommend that the licensing requirements for suppliers of DMEPOS be express, and similar to those already employed by licensing agencies in the State. The statement on page 4, lines 20-21, that a supplier “shall be deemed licensed” if it meets three conditions is unnecessary and nebulous. OHCA will either license the applicant or not. We recommend deleting the word “deemed” on page 4, line 21. We also recommend including in the bill authority for rule making under chapter 91, so that the licensing scheme may be fleshed out.

The bill provides that EOA will conduct annual inspections of suppliers and maintain a list of licensed suppliers. See page 5, line 7, to page 6, line 4. A single agency overseeing both the inspection and licensing functions for suppliers of DMEPOS may lead to less confusion among applicants and consumers seeking information about DMEPOS suppliers.

We respectfully request that the Committees consider our comments.

West's Colorado Revised Statutes Annotated Currentness

Title 24. Government--State

State Officers

Article 21. Secretary of State--Department of State (Refs & Annos)

Part 1. General Provisions

→→ § 24-21-115. Durable medical equipment supplier license--definition--rules

(1) As used in this section, "durable medical equipment supplier" means a person or entity that delivers disposable medical supplies or durable medical equipment products directly to a recipient and that currently bills or plans to bill the medicare program for services or products in the current calendar year. "Durable medical equipment supplier" does not include a supplier of insulin infusion pumps and related supplies or services.

(2) In order to do business in Colorado, a durable medical equipment supplier must be licensed by the secretary of state.

(3) An applicant for a durable medical equipment supplier license must:

(a) Complete the license application as directed by the secretary of state;

(b) Submit to the secretary of state a notarized affidavit attesting that:

(I) The applicant has one or more physical locations within the state or within fifty miles of the border of the state;

(II) The applicant has sufficient inventory and staff to service or repair products; and

(III) The applicant is accredited by an accrediting organization recognized and accepted by the federal centers for medicare and medicaid services;

(c) Provide to the secretary of state a street address and a local business telephone number; and

(d) Pay an annual fee established by the secretary of state, not to exceed five hundred dollars.

(4) The durable medical equipment supplier licensee shall prominently display the license at each of its physical business locations. The license may be duplicated for this purpose.

(5) The secretary of state shall refer all complaints concerning durable medical equipment suppliers, durable medical equipment, or services to the federal centers for medicare and medicaid.

(6) The secretary of state shall implement this section on or before December 31, 2014. The secretary of state may promulgate rules to implement this section.

CREDIT(S)

Added by Laws 2014, Ch. 256, § 2, eff. May 22, 2014.

HISTORICAL AND STATUTORY NOTES

Laws 2014, Ch. 256, § 1, provides:

“Legislative declaration. (1) The general assembly hereby finds and declares that:

“(a) It is in the best interests of the residents of Colorado who are in need of durable medical equipment to have ample and uncomplicated access to equipment within a reasonable distance from their homes.

“(b) Access to vital durable medical equipment is being jeopardized by suppliers outside the borders of Colorado that win contracts but do not have a physical location in Colorado, do not have inventory available, and do not have Colorado employees to run the businesses.

“(2) Therefore, it is the intent of the general assembly to require licensure of durable medical equipment suppliers that participate in centers for medicare and medicaid service programs so that the residents of Colorado have access to the services and products they need. It is not the intent of the general assembly to set up a barrier to trade in the durable medical equipment industry by licensing these suppliers, but it is the intent to recognize that licensure is for the safety and welfare of a vulnerable population.”

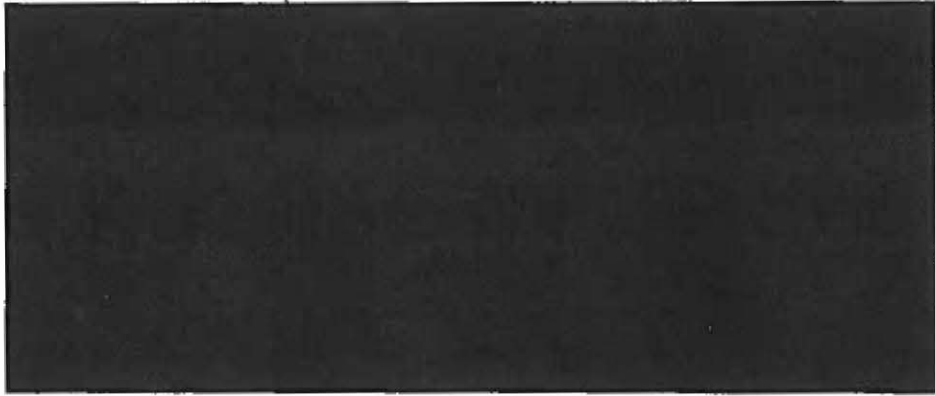
C. R. S. A. § 24-21-115, CO ST § 24-21-115

Current through the Second Regular Session of the Sixty-Ninth General Assembly (2014) and amendments adopted through the Nov. 4, 2014 General Election.

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END OF DOCUMENT

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.



HOUSE BILL 14-1369

BY REPRESENTATIVE(S) Young, Pabon, Ginal, Hulinghorst, Kraft-Tharp, Labuda, Melton, Mitsch Bush, Rosenthal, Ryden, Schafer, Tyler, Vigil;
also SENATOR(S) Crowder and Jahn, Newell, Tochtrop.

CONCERNING REQUIRED LICENSURE FOR DURABLE MEDICAL EQUIPMENT SUPPLIERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds and declares that:

(a) It is in the best interests of the residents of Colorado who are in need of durable medical equipment to have ample and uncomplicated access to equipment within a reasonable distance from their homes.

(b) Access to vital durable medical equipment is being jeopardized by suppliers outside the borders of Colorado that win contracts but do not have a physical location in Colorado, do not have inventory available, and do not have Colorado employees to run the businesses.

EXHIBIT "B"

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(II) THE APPLICANT IS ACCREDITED BY AN ACCREDITING ORGANIZATION RECOGNIZED AND ACCEPTED BY THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID SERVICES;

(c) PROVIDE TO THE SECRETARY OF STATE A STREET ADDRESS AND A LOCAL BUSINESS TELEPHONE NUMBER; AND

(d) PAY AN ANNUAL FEE ESTABLISHED BY THE SECRETARY OF STATE, NOT TO EXCEED FIVE HUNDRED DOLLARS.

(4) THE DURABLE MEDICAL EQUIPMENT SUPPLIER LICENSEE SHALL PROMINENTLY DISPLAY THE LICENSE AT EACH OF ITS PHYSICAL BUSINESS LOCATIONS. THE LICENSE MAY BE DUPLICATED FOR THIS PURPOSE.

(5) THE SECRETARY OF STATE SHALL REFER ALL COMPLAINTS CONCERNING DURABLE MEDICAL EQUIPMENT SUPPLIERS, DURABLE MEDICAL EQUIPMENT, OR SERVICES TO THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID.

(6) THE SECRETARY OF STATE SHALL IMPLEMENT THIS SECTION ON OR BEFORE DECEMBER 31, 2014. THE SECRETARY OF STATE MAY PROMULGATE RULES TO IMPLEMENT THIS SECTION.

SECTION 3. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2014, the sum of \$95,775 and 0.1 FTE, or so much thereof as may be necessary, to be allocated for the implementation of this act as follows:

(a) \$5,135 and 0.1 FTE to the business and licensing division for personal services; and

(b) \$90,640 to information technology services for information technology costs.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

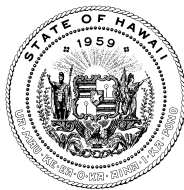
Morgan Carroll
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

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CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

TO THE SENATE COMMITTEES ON HEALTH AND COMMERCE AND CONSUMER
PROTECTON
THE TWENTY-EIGHTH LEGISLATURE
REGULAR SESSION OF 2015

Date: Tuesday, February 10, 2015
Time: 9:00 a.m.
Conference Room: 229

**TESTIMONY ON SENATE BILL NO. 307
RELATING TO HEALTH**

TO THE HONORABLE JOSH GREEN AND THE HONORABLE ROSALYN H. BAKER, CHAIRS,
AND MEMBERS OF THE COMMITTEES:

Thank you for the opportunity to testify. My name is Tung Chan, Commissioner of Securities and head of the Business Registration Division of the Department of Commerce and Consumer Affairs (“BREG”). We offer technical comments relating to the bill’s references to business registration and take no position beyond our area of expertise.

This bill requires the Department of Health to implement a licensing program for durable medical equipment suppliers. The bill refers to state business registration in three different sections using inconsistent language that we have highlighted below.

1. §321-D(b), relating to licensing states: “(b) A supplier of durable medical equipment shall be deemed licensed if...(3) The supplier is registered to do business in the State.” (Emphasis added.)¹
2. §321-E(b), relating to annual inspection states: “(b) The inspection shall consist of...(4) Confirmation that the durable medical equipment supplier is registered with the business registration division of the department of commerce and consumer affairs to do business in the State.” (Emphasis added.)²
3. §321-G(b), relating to supplier duties states: “(b) A durable medical equipment supplier shall register its business with the business registration division of the department of commerce and consumer affairs and shall provide a copy of a current business registration³ to the executive office on aging during its annual inspection.” (Emphasis added.)

We recommend maintaining consistency in the language from these sections to reduce ambiguity and confusion on the requirements for the new licensing program. Moreover, the bill’s current language does not make clear whether the intention is to have the supplier register with BREG and maintain good standing with our office (e.g., provide a certificate of good standing upon applying for the license); or whether the intention is to require the supplier to register with BREG and also properly obtain a General Excise Tax License from the Department of Taxation.

¹ This language is quite broad and could encompass not only DCCA-BREG registrations, but Department of Taxation General Excise Tax licensing as well.

² Confirmation of DCCA-BREG registration and compliance is usually given through the issuance of a Certificate of Good Standing (“COGS”) for business entities. However, if a supplier is a sole proprietorship, he or she may register a trade name for which there is no COGS.

³ The term “current business registration” is a vague term, which could apply to COGS or other registration documents.

For the reasons above, we recommend replacing all three variations of the sections of the bill that require business registration to consistently and clearly state that the supplier “shall provide proof that it has complied with the business registration laws of the state and has all required tax identification numbers.”

Thank you for the opportunity to testify. I would be happy to answer any questions the Committee may have and to assist with drafting alternative language if desired.



Tuesday, February 10, 2015 – 9:00 a.m.
Conference Room #229

Senate Committees on Health and Commerce and Consumer Protection

To: Sen. Josh Green, MD, Chair, HTH Committee
Sen. Glenn Wakai, Vice Chair, HTH Committee

Sen. Rosalyn Baker, Chair, CPN Committee
Sen. Brian Taniguchi, Vice Chair, CPN Committee

From: George Greene
President & CEO
Healthcare Association of Hawaii

Re: **Testimony in Support**
SB307 — Relating to Health

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, which establishes licensure requirements for durable medical equipment (DME) suppliers participating in Medicare's competitive bidding program 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.

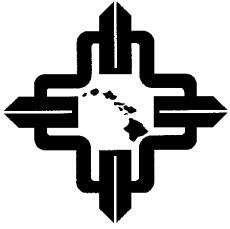
In prior sessions on similar bills, issues were raised that a state licensure program might further reduce the number of available suppliers. Medicare's competitive bidding program has been designed to ensure that at least five suppliers are available for each product category; if Medicare determines 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.

It is also important to note that this bill would not apply to DME suppliers of Medicare Advantage (MA) plans, as MA does not participate in the competitive bidding program. Such suppliers would continue to negotiate with MA plans directly.

With regard to the inspection process outlined in this bill, it is our understanding that the Executive Office on Aging (EOA) has not historically served such a function. As such, we respectfully suggest amending this bill to transfer the responsibilities given to the EOA to the Office of Health Care Assurance. Further, we defer to the Department of Health in determining the amount of resources they would require to carry out the duties as outlined in this measure.

In closing, 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.



HAWAII HEALTH SYSTEMS
C O R P O R A T I O N

"Quality Healthcare for All"

**Senate Committee on Health
Senator Josh Green, Chair
Senator Glenn Wakai, Vice Chair**

**Senate Committee on Commerce and Consumer Protection
Senator Rosalyn H. Baker, Chair
Senator Brian T. Taniguchi, Vice Chair**

February 10, 2015
Conference Room 229
9:00 a.m.
Hawaii State Capitol

Testimony Supporting Senate Bill 307, Relating to Health (Licensure of Durable Medical Equipment Suppliers)

Linda Rosen, M.D., M.P.H.
Chief Executive Officer
Hawaii Health Systems Corporation

On behalf of the Hawaii Health Systems Corporation (HHSC) Corporate Board of Directors, thank you for the opportunity to present testimony in support of Senate Bill 307, which requires licensure of durable medical equipment suppliers.

The Medicare program implemented a bidding process for the award of contracts to supply durable medical equipment to Medicare patients a few years ago. Unfortunately, the vast majority of the vendors in the program are located on the mainland, which causes logistical and communication problems resulting in delays in receipt of the equipment. Not all vendors who are located here are allowed to provide all types of equipment. Last year, Maui Memorial Medical Center estimated a loss of \$516,096 in one year due to the delays in discharging patients who were not able to obtain the necessary equipment to use at home. (2 day delay x \$1344 room and board rate x 4 patients per week = \$10,752. 52 weeks = \$516,096.). Our other acute facilities are facing similar delays.

More important than the lost revenue is the fact Maui Memorial Medical Center's acute beds have been consistently full for the past year. Patients needing the acute beds are being held in the Emergency Department or elsewhere while patients ready to be

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discharged but for the needed equipment occupy the acute beds. Therefore, the care of our patients is affected by this delay in the discharge process.

This bill requires that the vendors comply with local licensing regulations administered by the Executive Office on Aging. We respectfully submit that it would be more appropriate to place this regulatory responsibility within the DOH, Office of Healthcare Assurance, as outlined in SB 580.

By adding this licensing and oversight requirement, the State can ensure that the vendors meet the needs of the patients and meet explicit standards, including the timely supply of needed equipment.

We support this measure with the suggested change noted above. Thank you for the opportunity to testify.

February 10, 2015

The Honorable Josh Green, M.D., Chair
Senate Committee on Health
The Honorable Rosalyn H. Baker, Chair
Senate Committee on Commerce and Consumer Protection

Re: SB 307 – Relating to Health

Dear Chair Green, Chair Baker and Members of the Committees:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify on SB 307 which would establish licensure requirements for durable medical equipment 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 Hawaii's health care system.

To that end, we believe in the importance of ensuring cost-effective access to quality durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) from suppliers that members can trust. The Center for Medicare and Medicaid Services (CMS) competitive bid program for DMEPOS is designed to do just that. During its first year of the procurement program's implementation, it saved the Medicare program over \$202 million, a 42 percent drop in expenditures in the nine participating markets.

HMSA has concerns with this Bill because it undermines the goal of that efficient CMS procurement process – it will reduce competition and drive up costs for Medicare recipients.

Under the original Medicare program, purchases of DMEPOS must be made exclusively from the list of vendors secured under the CMS DMEPOS procurement contract. This Bill will require the licensure of DMEPOS vendors requiring all DMEPOS to have a physical local presence. This legislation will:

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

The provisions of this Bill will impact all Medicare and QUEST beneficiaries, and EUTF retirees as well. Simply put, this Bill is not consumer friendly, and it is detrimental to the welfare of Honolulu's Medicare recipients.



An Independent Licensee of the Blue Cross and Blue Shield Association

HMSA believes in the importance of ensuring cost-effective access to quality DMEPOS 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.

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

Sincerely,

Jennifer Diesman
Vice President, Government Relations



HPCA

HAWAII PRIMARY CARE ASSOCIATION

Senate Committee on Health

The Hon. Josh Green, Chair

The Hon. Glenn Wakai, Vice Chair

Senate Committee on Commerce and Consumer Protection

The Hon. Rosalyn H. Baker, Chair

The Hon. Brian T. Taniguchi, Vice Chair

Testimony on Senate Bill 307

Relating to Health

Submitted by Robert Hirokawa, Chief Executive Officer

February 10, 2015, 9:00 am, Room 229

The Hawaii Primary Care Association (HPCA), which represents the federally qualified community health centers in Hawaii, supports Senate Bill 307, establishing licensure requirements for durable medical equipment suppliers.

In Hawaii there is an extreme dearth of access to durable medical equipment. This shortage often times leads to the foregoing of necessary devices, resulting in reductions in health, increases in preventable admissions, and increases in costs to patients and the system as a whole. This bill hopes to alleviate that by providing a system of annual inspection that will make participation in the national program easier for local providers.

For this reason we support Senate Bill 307 and thank you for the opportunity to testify.