

Board Meeting Minutes November 12, 2013

The Alabama Board of Home Medical Equipment Services Providers met on Tuesday, November 12, 2013, in Montgomery, Alabama at the Board office for the purpose of conducting Board business. Those in attendance were as follows: Peter Czapla, Chair; Wayne Lewis, Vice-Chair; Melissa Mann, Member; Dr. Fred Hunker, Member; Chris Tidwell, Member; Missy Fields, Member; John Beard, Member; Diane Giddens, Member, and Bruce Ovitt, Member. Not present was Kent Crenshaw, Member. Also present were Paula Scout McCaleb, Executive Director; Dana Billingsley, Legal Counsel; and Brandy Isenhour, Operations Manager and serving as Recording Secretary.

The meeting was called to order at approximately 10:08 a.m., with a quorum present, in the following members: Peter Czapla, Wayne Lewis, Missy Fields, Chris Tidwell, Melissa Mann, John Beard, Diane Giddens, Bruce Ovitt and Dr. Fred Hunker.

The meeting was advertised on the Board's web site, as well as the Secretary of State's web site, in accordance with the Alabama Open Meetings Act.

A motion was made by Peter Czapla to accept the meeting Minutes from August 20, 2013, as presented. Chris Tidwell seconded the motion. The motion passed unanimously. Voting "aye" were Peter Czapla, Wayne Lewis, Missy Fields, Chris Tidwell, Melissa Mann, John Beard, Diane Giddens, Bruce Ovitt and Dr. Fred Hunker. Voting "nay" were none. The motion passed.

A motion was made by Diane Giddens to nominate Peter Czapla for the position of Chair. Dr. Fred Hunker seconded the motion. The motion passed unanimously. Voting "aye" were Peter Czapla, Wayne Lewis, Missy Fields, Chris Tidwell, Melissa Mann, John Beard, Diane Giddens, Bruce Ovitt and Dr. Fred Hunker. Voting "nay" were none. The motion passed.

John Beard, Board member, joined the meeting in progress at approximately 10:15 am.

A motion was made by Missy Fields to nominate Wayne Lewis for the position of Vice Chair. Diane Giddens seconded the motion. The motion passed unanimously. Voting "aye" were Peter Czapla, Wayne Lewis, Missy Fields, Chris Tidwell, Melissa Mann, John Beard, Diane Giddens, Bruce Ovitt and Dr. Fred Hunker. Voting "nay" were none. The motion passed.

Peter Czapla requested to go on record saying Kudos for Frank Mitchell staying on Board as the Investigator/Inspector.

A motion was made by Missy Fields to accept the Proposed Rules and Regulations with corrections:

473-X-1-.01 Definitions.

(1) Applicant means an individual applicant in the case of a sole proprietorship, or any officer, director, agent, managing employee, general manager, or person in charge, or any partner or shareholder having an ownership interest in the corporation, partnership, or other business entity.

(2) Board means the Board of Home Medical Equipment Services Providers as established by the Code of Alabama, 1975, Sections 34-14C-1, et. seq.

(3) Consumer or Patient means any person who uses home medical equipment in his or her place of residence.

(4) Home Medical Equipment (HME) means medical devices usable in a residential setting. Home Medical Equipment is any equipment that provides therapeutic benefits or enables the consumer to perform certain tasks that he or she is unable to undertake otherwise due to certain medical conditions and/or illnesses. Home Medical Equipment is considered to be equipment that can withstand repeated use and is primarily and customarily used to serve a medical purpose. Home Medical Equipment includes, but is not limited to:

(a) equipment such as wheelchairs and scooters, wheelchair cushions and seating systems, hospital beds, traction equipment, canes, crutches, walkers; respiratory care equipment, including invasive and non invasive ventilators, apnea monitors, aerosol generators, nebulizers, such machines and oxygen equipment; and other medically needed items.

(b) any product intended for use in the home and defined as a medical device by the U. S. Food and Drug Administration under the federal Food, Drug and Cosmetic Act - Chapter 11, Sec. 201.[312] (b) and Chapter V, Subchapters (A) and (B).

(c) any product, intended for use in the home, which is a device, instrument, apparatus, machine, or other similar article whose label bears the statement: "Caution: Federal law requires dispensing by or on the order of a physician."

(d) any product eligible to be reimbursed under the Healthcare Common Procedure Coding System (HCPCS) code listing by any insurance provider, to include, but not limited to, Medicare Program Part B Durable Medical Equipment benefits or Alabama Medicaid Program Durable Medical Equipment benefits.

(e) Home Medical Equipment does not include prosthetics, splints, braces or aids custom fabricated by a licensed health care provider.

(f) Home Medical Equipment does not include vehicle platform lifts or residential platform lifts and stairways chair lifts.

(5) Home Medical Equipment Services means the delivery, installation, maintenance, replacement of, or instruction in the use of medical equipment and related supplies used by a sick or disabled individual to obtain care or treatment and be maintained in a residential setting. The advertisement of such services, in any form or through any medium, also constitutes the provision of Home Medical Equipment Services for purposes of these Rules.

(6) Home Medical Equipment Services Provider means a corporation, other business entity, or person engaged in the business of providing home medical equipment, either directly or through a contractual arrangement, to an unrelated sick or disabled individual in the residence of that individual.

(7) Licensee means the person or entity to which a license is issued by the Board.

(8) Person in Charge means any individual, partnership, corporation, association, governmental subdivision or public or private organization that directly or indirectly manages, controls, or oversees the operation of a corporation or other business entity that is a licensee, regardless if that person is a partner, shareholder, owner, officer, director, agent, or employee of the entity.

(9) Change in Ownership or Change in Control means the purchase of either the assets or stock of a Home Medical Equipment Services Provider's Business.

- (a) An asset purchase is the purchase of the assets of a business only. The buyer will be operating the business under a new tax identification number (TIN).
- (b) A stock purchase is the purchase of all the assets and liabilities of a business, where the buyer will retain and operate the business under its existing TIN.

(10) Warehouse means a support facility to a licensed location that houses a licensee's surplus inventory of home medical equipment. A warehouse is not open to the public, may not sell or distribute home medical equipment directly to the consumer and may not be advertised as a licensed location. A warehouse does not meet the supplier standards set forth in 473-X-4.01 and may not be licensed as a separate location.

Author: The Alabama Board of Home Medical Equipment Services Providers

Statutory Authority: Code of Alabama, 1975 §34-14C1 thru §34-14C8

Amended: Filed November 15, 2013

473-X-8.01 Renewal of License.

- (1) The Home Medical Equipment Service Provider license shall be valid for one (1) year, expiring on August 31st of each year; however, the initial licensure period for any given license may be prorated so that its expiration date coincides with the August 31st renewal date for all valid licenses. The license fee will not be prorated for abbreviated licenses issued.
- (2) Failure to renew within sixty (60) days after the expiration date of the current license will result in an ~~expired~~ lapsed license. Home Medical Equipment Services Providers will not be permitted to provide home medical equipment services with an ~~expired~~ lapsed license. Licensees who operate under ~~expired~~ lapsed licenses shall be subject to the penalties established under Section 34-14-C-6(a), Code of Alabama, 1975.
- (3) One (1) renewal notice will be provided by U.S. Mail to the licensee's last address of record sixty (60) days prior to the renewal date. Licensees are responsible to maintain a current mailing address with the Board. One final renewal notice will be placed by an automated calling service on August 21st to licensees who have not renewed by this date.
- (4) To be eligible for renewal, an applicant shall:
 - (a) Hold a valid, active Alabama license; and
 - (b) Timely submit a completed and signed renewal application and required fee(s) to the Board.
- (5) Renewals will be submitted online via the Board's web site. Licensees may request manual renewal by making a written request to the Board office.
- (6) Failure to receive the renewal application or notice of renewal shall not relieve the licensee of the responsibility to renew the license by the expiration date.
- (7) Once a license has ~~expired~~ lapsed, a cease and desist letter will be issued by certified mail to the last address of record and a new application and inspection will be required for licensure.
- (8) The Board may notify third party payors, regulatory boards and agencies, and governmental agencies responsible for reimbursement to home medical equipment services providers such as Medicaid and Medicare, of ~~expired~~ lapsed licenses no earlier than November 1st of each licensing year.

Author: The Alabama Board of Home Medical Equipment Services Providers

Statutory Authority: Section 34-14C-6(c), Code of Alabama, 1975

Amended: November 15, 2013

Dr. Fred Hunker seconded the motion. The motion passed unanimously. Voting "aye" were Peter Czapla, Wayne Lewis, Missy Fields, Chris Tidwell, Melissa Mann, John Beard, Diane Giddens, Bruce Ovitt and Dr. Fred Hunker. Voting "nay" were none. The motion passed.

A motion was made by Wayne Lewis to approve the 2014 Board meeting dates of February 18, 2014, May 20, 2014, August 19, 2014 and November 18, 2014. John Beard seconded the motion. The motion passed unanimously. Voting "aye" were Peter Czapla, Wayne Lewis, Missy Fields, Chris Tidwell, Melissa Mann, John Beard, Diane Giddens, Bruce Ovitt and Dr. Fred Hunker. Voting "nay" were none. The motion passed.

There being no further Board business, the Board meeting was adjourned, the time being approximately 12:25 p.m. The Chair announced that the next scheduled meeting would be held February 18, 2014, in the Montgomery Board Office.

Respectfully Submitted,

Peter Czapla, Chairman

Paula McCaleb, Executive Director

Wayne Lewis, Vice Chair

Brandy L. Isenhour, Operations Manager
and Serving as Recording Secretary