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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, as established by the Code of Ala. 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 power-operated vehicles ("scooters"), wheelchair cushions and seating systems, hospital beds, traction equipment, canes, crutches, walkers; respiratory care equipment, including positive air pressure devices, invasive and non invasive ventilators, apnea monitors, aerosol compressors, nebulizers, oxygen therapy equipment, and other such devices; and other medically needed products or supplies.

(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 advertisement, in any form or through any medium, sale, rental, 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.

(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) Mail order company means a company which lists its products for consumers to buy, rent or lease via telephone, mailed check with order form, or Internet order and delivers such products directly to the consumer via a postal service, such as the U.S. Postal Service (USPS), UPS, FedEx or another courier service; provided, however, that a company that supplies respiratory care and oxygen equipment, as defined under Rule 473-X-1-.01(4)(a), to Alabama consumers in this manner, or any other home medical equipment necessary to avert an immediate threat to a consumer's health or safety, without which a consumer might be required to seek emergency medical treatment, shall not be considered to be a mail order company for purposes of this rule. Mail order companies do not have a licensed physical location in the state and must comply with the regulations of the Federal Trade Commission (FTC), 16 C.F.R. §§ 435.1 to 435.3, and the USPS. Home Medical Equipment Services Providers whose employees, agents or subcontractors enter the consumer's residence to service home medical equipment supplied by a mail order company or to instruct consumers in the use of such equipment shall not be considered mail order companies.

(9) 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.

(10) 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.

(11) 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.

HISTORY:

Author: *The Alabama Board of Home Medical Equipment*
Statutory Authority: *Code of Alabama, 1975 §34-14C1 thru §34-14C8, Act* #2000-739, HB 419 of the 2000 Regular Session.
Filed: July 9, 2014 **Effective Date:** August 13, 2014

473-X-2-.01. Employees; Oath; Meeting; Powers.

(1) The Board may employ an executive director, attorney, experts, and other personnel as it may from time to time find necessary, for the proper performance of its duties, and for whom necessary funds are appropriated.

(2) Before entering public duties of the office, the members of the Board shall take the constitutional oath of office.

(3) The Board shall elect, at the first meeting following October 1st each year, a Chair and a Vice Chair. The Board shall hold at least two meetings each year. Additional meetings may be held at the discretion of the Chair or upon the written request of any three members of the Board. A majority of the currently appointed members of the Board shall constitute a quorum.

(4) The Board shall inspect and pass on the qualifications of applicants and shall issue a license to each successful applicant.

(5) The Board may authorize expenditures as necessary to carry out its duties from the fees that it collects, pursuant to a budget developed and approved by the Board. In no event shall the expenditures exceed the revenues of the Board during any fiscal year.

(6) The Board may reimburse Board members for attorney fees incurred if individual members of the Board are personally sued under the Open Meetings Act. Absent negligence, recklessness, wantonness, or deliberate misconduct, members of the Board are immune from liability for all good faith acts performed in the exercise of their duties as members of the Board.

HISTORY:

Author: *The Alabama Board of Home Medical Equipment*
Statutory Authority: *Code of Alabama, 1975 §34-14C1 thru §34-14C8, Act* #2000-739, HB 419 of the 2000 Regular Session.
Filed: July 9, 2014 **Effective Date:** August 13, 2014

473-X-3-.01. Administrative Procedure.

(1) Any person may be heard by the Board in person or through an attorney, as long as they file a written request with the Board office. The Board will schedule the appearance at the next regularly scheduled meeting, provided the request is received at least fourteen (14) days prior to such meeting; otherwise, the appearance will be scheduled for the second meeting following receipt of the request.

(2) Board meetings shall be conducted following a written agenda, which is provided to each member at least ten (10) days prior to each meeting. The Alabama Open Meetings Act and/or Robert's Rules of Order, short form, shall be used as the parliamentary authority for all meetings of the Board.

(3) Upon receipt of an application and the appropriate fees therefor, the fees shall be deposited into the Home Medical Equipment Fund in the State Treasury, pursuant to Code of Ala. 1975, Section 34-14C-7.

(4) If the application is complete and sufficiently meets the standards set by the Board, the Board office shall schedule an inspection, as required.

(5) If the application is not complete, the Board office shall notify the applicant, in writing, of all deficiencies in the application. If the applicant does not return a properly completed application within ninety (90) days of the notification of deficiency, or, if a completed application can not be submitted within ninety (90) days, the fee is forfeited and the applicant may reapply.

(6) No one may operate, as a Home Medical Equipment Services Provider without a valid license, including during the time a license application is pending.

(7) The licensure application, the form of which is indexed in the appendix to this section, shall include at a minimum, the following information:

(a) Name, physical location, mailing address, and telephone number of the business, including all trade or business names.

i) Name, physical location, mailing address, telephone number and Person in Charge for any other corporate branch or location that may provide home medical equipment and/or services to Alabama customers pursuant to Rule 473-X-3-.02.

(b) The name of the manager or person in charge of the day-to-day business operations at the physical location.

(c) The names and home addresses of officers or other persons in positions of control.

(d) The hours and days of operation of the business.

(e) A list of categories of equipment and services provided to the public.

(f) Certification of insurance.

(g) The Federal Employee identification number assigned to the business. For a sole proprietor, this may be the social security number of the owner.

(h) Disclosure of ownership, which includes: the name of a person, if a person; the full name of a sole proprietor and the name of the business entity, if a sole proprietorship; the name of each partner and the name of the partnership, if a partnership; the name and title of each corporate officer and director, a list of shareholders, the corporate name and the state of incorporation and the name of any parent company, if a corporation; or the full name and title of each member and each manager of a limited liability company, the name of the state where organized and the name of the parent company.

(i) Proof of United States citizenship or of legal presence in the United States, as required by Section 31-13-7, Code of Ala., 1975.

(j) Certification, signed by a person with the authority to bind the applicant and notarized under oath, indicating that the applicant complies with the rules and regulations of the Board, and has truthfully and completely disclosed all ownership and control of the applicant, and that all information

submitted on or with the application is true and complete. The certification shall include a acknowledgement that the ownership of the licensed instate location, as defined in subparagraph (h) above, shall be responsible to the Board for any home medical equipment and/or services provided to an Alabama customer by any corporate branch or location other than the licensed instate location, as provided under Rule 473-X-3.02(2).

(k) No question should be left blank. If an item does not apply, then the applicant should mark the question in a fashion adequate to allow the Board to determine that the applicant did not over look it.

(8) Any change in the name, address, control, ownership, manager or person in charge of a licensee shall be reported to the Board office within thirty (30) days of such change. The change should be reported on the applicable form(s) indexed in the appendices to these rules.

(a) A change only in the physical address of a licensee requires submission of the Application for a Change of Address and the required fee within thirty (30) days of such change, and a site inspection of the new facility.

(b) A change only in the Person in Charge of a licensee requires submission of the Application for Change of Person in Charge within thirty (30) days of such change.

(c) A change in the ownership or control of a licensee requires notification of the change in ownership within (30) days of such change.

1. The purchase of only the assets of a business (an asset purchase) requires the buyer to operate the business under a new tax identification number (TIN). A change in the TIN requires the new owner to obtain a new Medicare supplier number and submit a new application for licensure to the Board. The new owner~~s~~ must successfully complete the reapplication process before a new license can be issued.

2. The purchase of all the assets and liabilities of a business (a stock purchase) permits the buyer to retain and operate the business under the existing TIN. The new owner must submit a letter notifying the Board of the change in ownership or control within thirty (30) days of such change.

(d) If more than one change occurs simultaneously in the information reflected on

the licensee's application,
including but not limited to, the physical address, equipment provided, FEIN or SSN, or if disciplinary actions against the licensee have ensued before this Board or in any other licensing state or jurisdiction, the licensee must complete and submit a new application for licensure reflecting all such changes within thirty (30) days of such change and successfully complete the reapplication process before a new license can be issued.

(9) All licenses expire on August 31st of each year. If not renewed within sixty (60) days of the expiration date, the license is considered lapsed, and a new application and inspection will be required. The Board may notify third party payors, related regulatory boards and agencies, and governmental agencies responsible for reimbursement to home medical equipment services providers, such as Medicaid and Medicare, of lapsed licenses no earlier than November 1st of each licensing year.

(10) Certain entities are exempt from licensure pursuant to Section §34-14C-5, Code of Ala. 1975.

HISTORY:

Author: *The Alabama Board of Home Medical Equipment*
Statutory Authority: *Code of Alabama, 1975 §34-14C1 thru §34-14C8, Act* #2000-739, HB 419 of the 2000 Regular Session.
Filed: November 19, 2014 **Effective Date:** December 24, 2014

473-X-3-.02 In-State Location Requirements.

(1) On March 11, 2014, Governor Bentley signed Alabama Act 2014-172 (the "Act") into law, which amended ALA. CODE § 34-14C-4(a) (1975 as amended) to require each provider of home medical equipment services with a principal place of business outside the state of Alabama, not otherwise exempted from licensure pursuant to ALA. CODE § 34-14C-5, to maintain at least one physical location within the state, each of which must be licensed by the Board of Home Medical Equipment. By its terms, the Act became effective on June 1, 2014. Previous to the passage of the Act, out of state home medical equipment services providers were not required to maintain a physical location within the state, but were only required to provide a physical location meeting the requirements of Rule 473-X-4-.01, and be subject to inspection by the Board.

A provider of home medical equipment that has a principal place of business outside this state and has established a licensed, instate location may provide home medical

equipment and services to its Alabama customers through any corporate branch or location, including an out of state location that is not otherwise eligible for an exemption from licensure pursuant to ALA. CODE § 34-14C-5, as permitted under the CMS DMEPOS Supplier Standards and applicable regulations. For purposes of this rule, a corporate branch or location does not include a corporate subsidiary or affiliate that would itself require a license from this Board; the branch or location should be a provider of home medical equipment services that is duly licensed in accordance with applicable law in the state in which it is located. The ownership of the provider's licensed instate location, as defined in Rule 473-X-3-.01(7)(h), will be responsible to the Board for any equipment or services provided to the customer by any other corporate branch or location

HISTORY:

Author: *The Alabama Board of Home Medical Equipment*
Statutory Authority: *Code of Alabama, 1975 §34-14C1 thru §34-14C8, Act* #2000-739, HB 419 of the 2000 Regular Session.
Filed: November 19, 2014 **Effective Date:** December 24, 2014

473-X-4-.01. <u>Inspection Standards</u>.

(1) The Board hereby incorporates the Centers for Medicare and Medicaid Services (CMS) Medicare Durable Medical Equipment Provider of Service (DMEPOS) Supplier Standards as additional requirements with which all applicants must comply for licensure; provided, however, the Board does not incorporate the requirement for accreditation as an additional requirement~~s~~ with which applicants for licensure must comply.

(2) A Home Medical Equipment Services Provider shall maintain a physical facility on an appropriate site. The facility must contain space for storing business records, including the supplier's delivery, maintenance, and patient records. For purposes of this rule, a residence, post office box or commercial mailbox is not considered a physical facility.

(3) A Home Medical Equipment Services Provider must maintain a primary business telephone at the physical facility. This telephone number must be listed under the name of the business and in the business section of the local telephone company directory. The exclusive use of a pager number, call forwarding, answering service, cell phone, or answering machine may not be used as the primary business telephone.

(4) The physical facility must be staffed during normal business hours, and must have a

visible sign with the name of the business, business hours, and the phone number required by paragraph (3).

(5) Medical equipment shall be maintained in a clean and sanitary condition and stored in a dry, well-ventilated area. Routine maintenance, preventative maintenance, and repairs shall be performed according to manufacturer's guidelines. The home medical equipment services provider shall provide consumer instruction regarding the use of home medical equipment requiring services. Delivery services include transportation of equipment to and from consumer, equipment setup, and record keeping.

(6) Records shall be maintained to the same extent as required by federal regulations, including, but not limited to, any physician orders, certificates of medical necessity, signed and dated delivery slips, documentation of all services, equipment, and maintenance received, and other information as appropriate for the equipment provided.

(7) License applicants who, upon initial inspection, are found not to comply with applicable licensing standards, shall be notified by the Board office of the areas of noncompliance and shall be re-inspected for compliance upon application and payment of a re-inspection fee of no more than three hundred dollars ($300), as established by the Board.

(8) The Board may conduct random inspections upon the filing of a complaint, application for renewal of a license, for cause, and as otherwise necessary to ensure the integrity and effectiveness of the licensing process. Licensees who fail to pass an inspection related to the filing of a complaint, for cause, upon an application for license renewal or for any other cause must cease and desist their operations upon receipt of written notice of failure to pass inspection until they have come into compliance with all applicable standards, unless the Board negotiates a plan for compliance with the licensee and conducts a further inspection for compliance at a time to be determined by the Board. Licensees subject to re-inspection will be required to remit an additional re-inspection fee of two hundred and fifty dollars ($250).

(9) Upon notice of failure to pass inspection, an applicant or licensee shall have thirty (30) days to appeal the inspection results, or be subject to penalties pursuant to Section 34-14C-6, Code of Ala., 1975. Upon appeal, a provider shall have the right to an inspection review or a new inspection, in accordance with Rule 473-X-7-.01.

HISTORY:

Author: *The Alabama Board of Home Medical Equipment*
Statutory Authority: *Code of Alabama, 1975 §34-14C1 thru §34-14C8, Act* #2000-739, HB 419 of the 2000 Regular Session.
Filed: July 9, 2014 **Effective Date:** August 13, 2014

473-X-5-.01. Ethics.

(1) The Board hereby incorporates by reference the Medicare Supplier Standards [found at 42 C.F.R. pt. 424, sec 424.57(c), effective December 11, 2000]; with the exception of accreditation standards.

(2) Dishonorable, unethical or unprofessional conduct within the meaning of Section 34-14C-6(e)(9), Code of Ala., 1975, is interpreted to include, but is not limited to, the following acts or practices:

a. (a) Practicing, condoning, facilitating or collaborating with any form of discrimination against any person or group on the basis of race, color, sex, sexual orientation, age, religion, national origin, marital status, political belief, mental or physical handicap, or any other preference or personal characteristic, condition or status.

(b) Failing to offer all facts regarding services or equipment to the consumer prior to administration of services (such as proper use and maintenance of equipment, warranty information, etc.). Patients and caregivers shall be informed of their rights and obligations regarding the sale, rental, and service of home medical equipment.

(c) Failing to protect the privacy of patient information and disclosing such information without proper authorization, except as required by law.

(d) Performing or allowing employees to perform professional services beyond their scope of practice and competency.

(e) Failing to establish and maintain client records.

(f) Intentional submission of fraudulent claims for services to any person or entity, including, but not limited to, health insurance companies or health service plans or third party payors.

(g) Failure to abide by federal and local laws and regulations governing the home medical equipment industry.

(h) Participating, directly or indirectly, with a source of patient referrals, in any arrangement which interferes with a consumer's right to choose a home medical equipment supplier.

HISTORY:

Author: *The Alabama Board of Home Medical Equipment*
Statutory Authority: *Code of Alabama, 1975 §34-14C1 thru §34-14C8, Act* #2000-739, HB 419 of the 2000 Regular Session.
Filed: July 9, 2014 **Effective Date:** August 13, 2014

473-X-6-.01. Denial, Revocation, Suspension.

(1) A license may not be denied, suspended, or revoked except by majority vote of the Board and with prior notice and opportunity for hearing, in accordance with Code of Ala. 1975, Sections 34-14C-1, et seq., and the Alabama Administrative Procedure Act.

(2) The Board may institute a hearing for denial, suspension, or revocation of a license or any person may file a written complaint with the Board seeking the denial, suspension, or revocation of an application for licensure or license issued by the Board or the investigation of any unlicensed person or entity providing home medical equipment services. Complaints shall be in a form prescribed by the Board and shall be verified under oath by the complainant. If the Board determines that the complaint is substantive and relevant, it may inspect the operations of the provider to determine compliance with the Board's rules and regulations. Upon receipt of the inspection report, the Board may dismiss the complaint or send a notice of non-compliance to the licensee, which may be appealed through the Board in accordance with the procedures set forth in Rule 473-X-7-.01.

(3) A copy of the charges, including notice of the time and place of hearing, will be served by certified mail, return receipt requested, at least twenty-one (21) days before the scheduled hearing date to the most recent address of the applicant or licensee on file with the Board, or to the last known address of any unlicensed person or entity providing home medical equipment services. If the notice and opportunity for hearing is refused or the return receipt has not been received by the Board within ten (10) days before the scheduled hearing, the applicant, licensee, or unlicensed person or entity may be served by mailing the charges and notice by first class mail, at least seven (7) days before the hearing date, to the most recent address on file with the Board, or to the last known address of the unlicensed person or entity providing home medical equipment services.

(4) Any hearings related to matters before the Board shall be conducted in Montgomery County, Alabama.

(5) The Board may invoke disciplinary action as outlined in paragraph (6) below, including the denial or suspension of an application for an initial or renewal license, whenever it is established to the satisfaction of the Board, after a hearing held in accordance with Code of Ala. 1975, Sections 34-14C-1, et seq., and the Alabama Administrative Procedure Act, that a person is guilty of any of the following acts:

(b) (a) Violation of any provision of the Board's licensure act or any rule or regulation of the Board.

(b) Making a material misrepresentation in furnishing information to the Board.

(c) Making a misrepresentation to obtain licensure or to otherwise violate the Board's licensure act or the rules and regulations of the Board.

(d) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States, or any state or territory of the United States, or to any crime that is a misdemeanor, if an essential element of the crime is dishonesty or is directly related to providing home medical equipment
services.

(e) Gross negligence or gross misconduct in providing home medical equipment services.

(f) Aiding, assisting, or willingly permitting another person to violate any provision of the Board's licensure act or rule or regulation of the Board.

(g) Failing, within thirty (30) days, to provide information in response to a written request of the Board.

(h) Failing to cooperate with an inspection or with an investigation conducted by the Board.

(i) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(j) Denial, revocation, suspension, or restriction of a license in another state or jurisdiction to provide home medical equipment services for a reason other than failure to renew the license.

(k) Directly or indirectly giving to or receiving from any person, partnership, corporation, or other legal entity any fee, commission, rebate, or other form of compensation for services not actually or personally rendered.

(l) A finding that a licensee on probationary status has violated the terms of the probation.

(m) Willfully making or filing false records, reports, or billings in the course of providing home medical equipment services, including, but not limited to, false records, reports, or billings filed with state or federal agencies or departments.

(n) The use of any words, abbreviations, figures, or letters with the intention of indicating practice as a home medical equipment services provider without having first obtained a license from the Board.

(o) Failure to comply with state or federal laws and regulations concerning home medical equipment services providers.

(p) Solicitation of home medical equipment services using false or misleading advertising.

(q) Failure to prominently display a license at each licensed location.

(r) Failure to report a change of name, address, control, ownership, or administration to the Board within thirty (30) days after the date of change.

(6) When the Board finds any person guilty of any of the grounds set forth in paragraph five (5), it may enter an order imposing one or more of the following penalties:

(a) A letter of reprimand.

(b) Probation for a period of time and subject to such conditions as may be prescribed by the Board.

(c) Denial of an application for an initial or renewal license.

(d) Suspension of a license for a period of time established by the Board, with or without automatic reinstatement.

(e) Revocation of a license.

(f) Payment of restitution to each consumer negatively affected by the prohibited act. Proof of such restitution shall be a signed and notarized release executed by the consumer or the estate of the consumer.

(g) Assessment of the costs of the disciplinary proceedings.

(7) Failure to comply with any final order of the Board is also cause for suspension or revocation of a license. The Board may suspend or revoke any license which has been issued based on false or fraudulent representations.

(8) The Board may informally resolve any alleged violation of its licensure act or rules and regulations by stipulation, agreed settlement, or consent order, in lieu of an administrative hearing.

(9) In addition to any other disciplinary action authorized hereunder, the Board may levy and collect administrative fines for violations of the Board's licensure act or its rules and regulations in an amount of up to one thousand dollars ($1,000) for each violation.

(10) Any entity or person found to be providing home medical equipment services without a license shall be subject to an administrative fine of up to one thousand dollars ($1,000) per day that services were provided without a license and may be administratively enjoined from providing such services until such time as the person or entity comes into compliance. Any person or entity subject to the penalties prescribed in this paragraph (10) may pursue an appeal through the Board in accordance with the procedures set forth in Rule 473-X-7-.01.

(11) The Board may seek injunctive relief against any person or entity found to be in violation of its licensure act or its rules and regulations in addition to any other penalty or disciplinary action authorized hereunder. In an action for an injunction, the Board may demand and recover a civil penalty of fifty dollars ($50) per day for each violation, reasonable attorney fees, and court costs; provided, however, that no civil penalty shall be awarded to the Board if an administrative fine is assessed

pursuant to paragraph ten (10).

(12) Upon the revocation or suspension of a license, the licensee shall immediately surrender the license to the Board. If the licensee fails to do so, the Board may seize the license.

(13) Any person aggrieved by an adverse action of the Board may appeal the action to the Circuit Court of Montgomery County, in accordance with the Alabama Administrative Procedure Act.

HISTORY:

Author: *The Alabama Board of Home Medical Equipment*
Statutory Authority: *Code of Alabama, 1975 §34-14C1 thru §34-14C8, Act* #2000-739, HB 419 of the 2000 Regular Session.
Filed: July 9, 2014 **Effective Date:** August 13, 2014

473-X-7-.01. Appeal to the Board.

(1) Any entity or person against whom an administrative fine has been levied by the Board for providing home medical equipment services without a license as required under Section 34-14C-4, Code of Ala. 1975, or who has been administratively enjoined from providing home medical equipment services without such a license, shall be entitled to pursue an appeal through the Board for reconsideration of such decisions rendered after a contested case proceeding. This rule shall also govern appeals of inspection results from any entity or person to whom a written notice of failure to pass inspection has been issued by the Board.

(2)The Board shall entertain written requests for reconsideration of inspection results or of its decision in a contested case proceeding as set forth in paragraph (1) above in an appeal hearing by either party thereto if timely submitted within thirty (30) days from the rendition of said decision in a written final order adopted by the Board.

(3)The request should be based upon newly discovered evidence which would justify relief from the decision
rendered.

(4)Such requests should include, by written memorandum or brief, the detailed basis for such reconsideration. The opposing party shall have the opportunity to present a written

reply memorandum or brief challenging such basis within thirty (30) days from the submission of the request for reconsideration.

(5)The Board shall review the written arguments of the parties at its next regular or special meeting and, based upon such review, determine in its discretion by a majority vote of a quorum of its members whether to sustain its previous decision or grant such relief from the decision as may be appropriate. In reviewing the request, the Board may, at its sole discretion, hear further oral argument or new sworn testimony or suggest supplemental responses. The Board shall render a written order setting forth the determination of the Board within thirty (30) days of the vote reflecting the determination of the Board.

(6)The filing of the request for reconsideration shall be at the option of the parties and should not be deemed as a prerequisite to, or hindrance of, either party's right to judicial review of a Board decision in accordance with the procedures provided under the Alabama Administrative Procedure Act, Chapter 22, Title 41, Code of Ala. 1975.

HISTORY:

Author: *The Alabama Board of Home Medical Equipment*
Statutory Authority: *Code of Alabama, 1975 §34-14C1 thru §34-14C8, Act* #2000-739, HB 419 of the 2000 Regular Session.
Filed: July 9, 2014 **Effective Date:** August 13, 2014

473-X-8-.01. Renewal of License.

(1) The Home Medical Equipment 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. A license may still be renewed within the sixty (60) day period following the expiration date of August 31st upon payment of both the required renewal fee of two hundred and fifty dollars ($250) and a late fee of one hundred and fifty dollars ($150).

(2) Failure to renew within sixty (60) days after the expiration date of the current licensure will result in a lapsed license. Home Medical Equipment Services Providers will not be permitted to provide home medical equipment services with a lapsed license. Licensees who operate under lapsed licenses shall be subject to the penalties established under Section 34-14-C-6, Code of Ala., 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. The renewal application shall include an acknowledgement that the ownership of the licensed instate location being renewed, as defined in Rule 473-X-3-.01(7)(h), shall be responsible to the Board for any home medical equipment and/or services provided to an Alabama customer by any corporate branch or location other than the licensed instate location, as provided under Rule 473-X-3-.02(2).

(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 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 lapsed licenses no earlier than November 1st of each licensing year.

HISTORY:

Author: *The Alabama Board of Home Medical Equipment*
Statutory Authority: *Code of Alabama, 1975 §34-14C1 thru §34-14C8, Act* #2000-739, HB 419 of the 2000 Regular Session.
Filed: November 19, 2014 **Effective Date:** December 24, 2014

Appendix I. Fees

$250 License/Renewal Fee (per location)

$500 Initial Inspection Fee (per location)

$250 Re-Inspection Fee

$275 Site Inspection Fee upon Change of Physical Location

$150 Late Renewal Fee

$1,000 Processing Fee per Out of State Corporate Branch or Location Providing Services on Behalf of the Licensed Location

HISTORY:

Author: *The Alabama Board of Home Medical Equipment*
Statutory Authority: *Code of Alabama, 1975 §34-14C1 thru §34-14C8, Act* #2000-739, HB 419 of the 2000 Regular Session.
Filed: November 19, 2014 **Effective Date:** December 24, 2014

APPENDICES 2 - Forms associated with these Rules and Regulations.

Application for Initial License