

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Alabama Board of Home Medical Equipment

Rule No.: 473-X-3-.01

Rule Title: Administrative Procedures

_____ New X Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's
Police power and the protection of the public health,
Safety, or welfare? Yes

Is there another, less restrictive method of regulation
Available that could adequately protect the public? No

Does the proposed rule have the effect of directly or
Indirectly increasing the costs of any goods or services
Involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public
Than the harm that might result from the absence of
The proposed rule? No

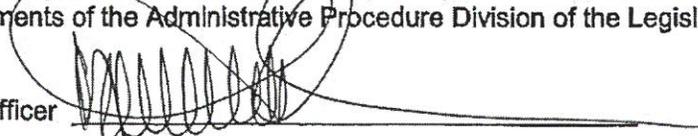
Are all facets of the rulemaking process designed solely
For the purpose of, and so they have, as their primary
Effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be
accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-
22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the
requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all
applicable filing requirements of the Administrative Procedure Division of the Legislative
Reference Service.

Signature of certifying officer 

Date: April 20, 2016

(DATE FILED)
(STAMP)

REC'D & FILED

APR 20 2016

LEGISLATIVE REF SERVICE

Alabama Board of Home Medical Equipment

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Home Medical Equipment

RULE NO. & TITLE: 473-X-3-.01 Administrative Procedures

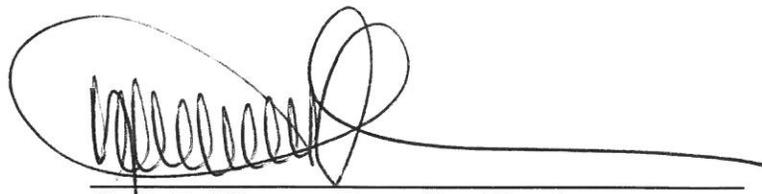
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to clarify liability insurance requirements, timeline for submitting new applications and training requirements for employees to be added to the inspection specifications for home medical equipment provider locations.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments will be received by the Board until 4:00 p.m. on Thursday, June 3, 2016. Comments should be directed to Keith E. Warren, Executive Director at 2777 Zelda Road, Montgomery, AL 36106 or via electronic mail at keith@alstateboard.com or via telephone at 334-215-3474.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Thursday, June 3, 2016.

CONTACT PERSON AT AGENCY: Keith E. Warren
Executive Director
2777 Zelda Road
Montgomery, AL 36106
(334) 420-7235



Keith E. Warren, *Executive Director*
Alabama Board of Home Medical Equipment

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. Must have comprehensive liability insurance in the amount of at least \$300,000 that covers both the supplier's place of business, and all consumer and employees of the supplier. If the provider manufactures its own items, this insurance must also cover product liability and complete operations.

(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. Submit complete and accurate information on the HME permit application. Any changes to this information must be reported to the Alabama Board of Home Medical Equipment, or its agents, within 30 days of the change.~~

(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 owners 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.

(11) Ensure the personnel are trained to set up the equipment, instruct the patients and caregivers in the safe operation and client maintenance of the equipment.

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

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Alabama Board of Home Medical Equipment

Rule No.: 473-X-4.01

Rule Title: Inspection Standards

_____ New Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's Police power and the protection of the public health, Safety, or welfare? Yes

Is there another, less restrictive method of regulation Available that could adequately protect the public? No

Does the proposed rule have the effect of directly or Indirectly increasing the costs of any goods or services Involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public Than the harm that might result from the absence of The proposed rule? No

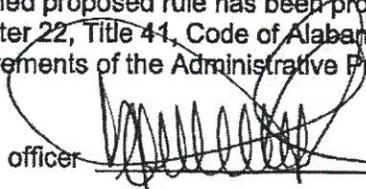
Are all facets of the rulemaking process designed solely For the purpose of, and so they have, as their primary Effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer 

Date: April 20, 2016

(DATE FILED)
(STAMP)

REC'D & FILED

APR 20 2016

LEGISLATIVE REF SERVICE

Alabama Board of Home Medical Equipment

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Home Medical Equipment

RULE NO. & TITLE: 473-X-4-.01 Inspection Standards

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to clarify inspection standards for inspection of home medical equipment provider facilities.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments will be received by the Board until 4:00 p.m. on Thursday, June 3, 2016. Comments should be directed to Keith E. Warren, Executive Director at 2777 Zelda Road, Montgomery, AL 36106 or via electronic mail at keith@alstateboard.com or via telephone at 334-215-3474.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Thursday, June 3, 2016.

CONTACT PERSON AT AGENCY: Keith E. Warren
Executive Director
2777 Zelda Road
Montgomery, AL 36106
(334) 420-7235

A handwritten signature in black ink, consisting of a large, stylized loop at the top and a series of smaller, repetitive loops below it, ending in a long horizontal stroke.

Keith E. Warren, *Executive Director*
Alabama Board of Home Medical Equipment

473-X-4-01. Inspection Standards.

(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 requirements with which applicants for licensure must comply.~~ Permit Alabama Board of Home Medical Equipment, or its agents, to conduct random on-site inspections to ascertain compliance with rules, regulations and standards.

(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 listed under the name of the business in a local directory or a toll free number available through directory assistance. ~~The exclusive use of a beeper, answering machine, answering service, or cell phone during posted business hours is prohibited. 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.

(10) Fill orders from its own inventory or contract with other companies for the purchase of items necessary to fill orders.

(11) Maintain all applicable City, County, State Business Licenses and all other applicable licensure as required (i.e. State Board of Pharmacy Oxygen Permit).

(12) If licensee supplies oxygen, mechanical ventilation, or other life sustaining equipment; maintain after hours service necessary to avert an immediate threat to consumers health or safety. Ensure that patients are made aware of service hours and emergency service procedures.

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

APA-1
11/96

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control _____ Department or Agency: Alabama Board of Home Medical Equipment

Rule No.: 473-X-5-.01

Rule Title: Ethics

_____ New X Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly
Harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's
Police power and the protection of the public health,
Safety, or welfare? Yes

Is there another, less restrictive method of regulation
Available that could adequately protect the public? No

Does the proposed rule have the effect of directly or
Indirectly increasing the costs of any goods or services
Involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public
Than the harm that might result from the absence of
The proposed rule? No

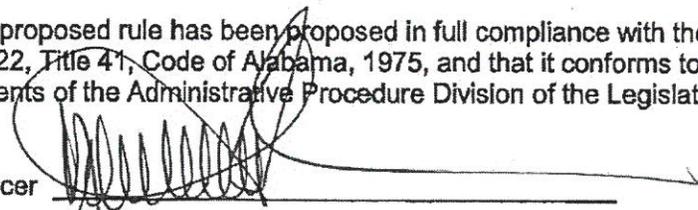
Are all facets of the rulemaking process designed solely
For the purpose of, and so they have, as their primary
Effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

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accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-
22-23, Code of Alabama, 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the
requirements of Chapter 22, Title 41, Code of Alabama, 1975, and that it conforms to all
applicable filing requirements of the Administrative Procedure Division of the Legislative
Reference Service.

Signature of certifying officer 

Date: April 20, 2016

REC'D & FILED (DATE FILED)
(STAMP)

APR 20 2016

LEGISLATIVE REF SERVICE

Alabama Board of Home Medical Equipment

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama Board of Home Medical Equipment

RULE NO. & TITLE: 473-X-5-.01 Ethics

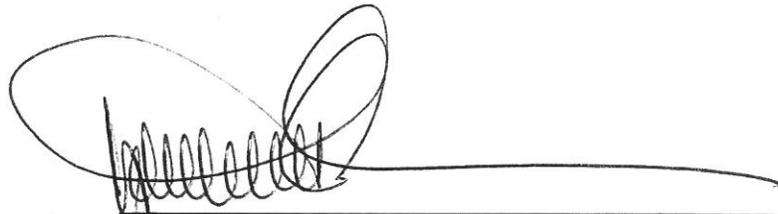
INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION: The Board proposes to remove the Medicare Supplier Standards as part of the requirements for home medical equipment providers.

TIME, PLACE, MANNER OF PRESENTING VIEWS: Written comments will be received by the Board until 4:00 p.m. on Thursday, June 3, 2016. Comments should be directed to Keith E. Warren, Executive Director at 2777 Zelda Road, Montgomery, AL 36106 or via electronic mail at keith@alstateboard.com or via telephone at 334-215-3474.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Thursday, June 3, 2016.

CONTACT PERSON AT AGENCY: Keith E. Warren
Executive Director
2777 Zelda Road
Montgomery, AL 36106
(334) 420-7235



Keith E. Warren, *Executive Director*
Alabama Board of Home Medical Equipment

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