

## **An Important Notice Regarding the Provision of Diabetic Shoes and Inserts to Alabama Consumers**

Representatives from the Alabama Board of Home Medical Equipment Services Providers ("HME Board") have been working with the Alabama State Board of Prosthetists and Orthotists ("O&P Board") in an effort to resolve questions and concerns regarding the provision of Diabetic Shoes and removable inserts to Alabama consumers by licensees of both Boards.

While the two Boards differ on many of the attendant complexities, we did agree that the creation of a license classification for Therapeutic or Certified Shoe Fitters, overseen by the O&P Board, seems the most likely vehicle for resolving both the jurisdictional and technical aspects of providing these services and protecting the interests of the Alabama consumers we both serve. We also agree that both Boards have been active in their efforts to eradicate unlicensed activities by transient sellers of diabetic goods in our state, and both remain committed to ensuring that we work in tandem so that out-of-state providers seeking to capitalize on our senior citizens' needs are, insofar as our jurisdictions permit, regulated by one or the other Board. Lastly, but perhaps most importantly, we agree that any regulatory scheme proposed as a compromise to the Alabama Legislature should not deprive the consumer of easy accessibility to such services in all areas of the state.

In the absence of a legislative compromise, both Boards remain charged to enforce what we interpret to be concurrent jurisdiction over Diabetic Shoes and inserts. The O&P Board's current posting on its website evidences such a commitment, as follows: "At this time, the O & P Board remains required to enforce the O & P Law as it is currently written meaning that licensed Pedorthists, at a minimum, are qualified to dispense diabetic shoes to consumers with a diabetic diagnosis with secondary conditions. This position could change at a later date if an agreeable solution is obtained and the O & P Law is changed to reflect the intent of the agreeable solution."

Likewise, licensed HME providers may provide such services pursuant to ALA. CODE § 34-14C-1(2) (1975 as amended) and ALA. ADMIN. CODE r. 473-X-1-.01(4)(b) - (e) (2007), which include medical devices, as defined by the U.S. Food and Drug Administration under the federal Food, Drug and Cosmetic Act, and any product eligible for reimbursement 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, within the definition of Home Medical Equipment.

We have pledged that we will work with the O&P Board in earnest on a permanent resolution to this matter and will keep you apprised of our progress and possible solutions that may affect your businesses. We are also thankful for the spirit of cooperation and mutual respect being shown by both Boards during this process. Should you have any questions or concerns regarding this matter, we would ask that you address those to the HME Board's Executive Director, Paula Scout McCaleb, (at [paulamccaleb@gmail.com](mailto:paulamccaleb@gmail.com)) and we will be happy to confer with the O&P Board, as required.