

**CHAPTER 14C**  
**HOME MEDICAL EQUIPMENT SERVICES PROVIDERS**

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**HISTORY**

**Effective date:**

The act which added this chapter is effective August 1, 2000.

**Section 34-14C-1 Definitions.**

As used in this chapter, the following terms shall have the following meanings:

- (1) BOARD. The Board of Home Medical Equipment Services Providers as established by this chapter.
- (2) HOME MEDICAL EQUIPMENT. Medical devices usable in a residential setting, as defined in regulations established by the board.
- (3) HOME MEDICAL EQUIPMENT SERVICES. 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 allow that individual to obtain care or treatment and be maintained in a residential setting.
- (4) HOME MEDICAL EQUIPMENT SERVICES PROVIDER. A corporation, other business entity, or person engaged in the business of providing home medical equipment services, either directly or through a contractual arrangement, to an unrelated sick or disabled individual in the residence of that individual. (Act 2000-739, p. 1619, § 1.)

**HISTORY**

**Effective date:**

The act which added this chapter is effective August 1, 2000.

**Section 34-14C-2 Home Medical Equipment Services Providers Board.**

- (a) Within 90 days of August 1, 2000, the Governor shall appoint a minimum of nine persons to serve on the Home Medical Equipment Services Providers, such persons to include a majority who are representatives of the home medical equipment services industry, and at least one person from each of

the following categories: A consumer of home medical equipment services, a physician, a representative from the acute-care hospital community, and a representative from the home health agency community. Those persons representing the Home Medical Equipment Services Provider industry shall be selected from a list submitted by the Alabama Durable Medical Equipment Association or its successor. Board members shall have no record of sanctions related to fraud under federal or state law. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

- (b) The members appointed to the board shall serve for terms of three to five years, with one third of the board being replaced each year, beginning in year four. The terms may be renewed for successive three-year periods.
- (c) Members of the board shall not be entitled to compensation for service, but shall be reimbursed for reasonable travel and meeting expenses, according to a budget developed and approved by the board.
- (d) The board shall have the responsibility for creating, establishing, maintaining, and enforcing regulations governing the operation of home medical equipment services providers, including the qualifications of inspectors, the nature of inspections, and the process for appeals.
- (5) Any vacancy on the board must be filled by the Governor within 60 days. If a vacancy occurs among those members who represent the home medical equipment services provider industry, the appointment shall be made from a list submitted by the Alabama Durable Medical Equipment Association or its successor. (Act 2000-739, p. 1619, § 2.)

#### HISTORY

Effective date:

The act which added this chapter is effective August 1, 2000.

#### **Section 34-14C-3 Duties of the board; requirements of providers.**

- (a) Through consultation with current members in good standing of the Alabama Durable Medical Equipment Association or its successor, the board shall adopt regulations that specify the medical equipment to be included in this chapter, set standards for the licensure of entities which provide home medical equipment services, and govern the safety and quality of home medical equipment service providers.
- (b) All home medical equipment services providers shall:
  - (1) Comply with all applicable federal and state laws and regulations governing the safety of home medical equipment services provider facilities and delivery vehicles, the safety and quality of home medical equipment, and the safety, quality, and effectiveness of home medical equipment service procedures.
  - (2) Comply with any additional standards and testing requirements, as duly promulgated by the board and required for licensure. (Act 2000-739, p. 1619, § 3.)

## HISTORY

Effective date:

The act which added this section is effective August 1, 2000.

### **Section 34-14C-4 Licensure; inspections.**

- (a) Except as otherwise provided in this chapter, a home medical equipment services provider shall be licensed annually by the board before the provider may engage in the provision of home medical equipment services. In Alabama, when a single business entity provides home medical equipment services from more than one location within the state, each such location shall be required to obtain a license on its own merit. Out-of-state home medical equipment services providers are not required to maintain a physical location in state; however, out-of-state applicants must provide a physical location meeting requirements of Section 473-X-4-.01, Subsection a-f, Alabama Administrative Code, or its successors, and may be subject to inspection by the board.
- (b) A license applicant shall submit the application for licensing or renewal to the board on a form promulgated and required by the board. In-state and out-of-state applicants shall pay a reasonable nonrefundable fee established by the board at the time the application is submitted. The board shall have the authority to set reasonable fees for in-state and out-of-state applicants to obtain a license. The license to engage in providing home medical equipment services shall be effective upon written notification from the board that the applicant meets the standards and has complied with all requirements for licensing.
- (c) Accreditation by the Joint Commission on Accreditation of Healthcare Organizations, the Community Health Accreditation Program, or other accrediting entities shall not be substituted for compliance with this chapter.
- (d) Licenses Issued pursuant to this chapter expire on the anniversary date of the original license unless renewed for an additional one-year period.
- (e) Home medical equipment service providers who, upon initial inspection are found not to comply with applicable licensing standards, may be issued a provisional license valid for six months. The board shall advise the provider of the areas of noncompliance contemporaneous with the issuance of the provisional license, and shall reinspect the provider for compliance between four and six months after the provisional license is issued upon application and payment of a reasonable inspection fee established by the board of up to one hundred fifty dollars (\$150).
- (f) Except as provided in this chapter, the board shall inspect all license applicants to determine compliance with the requirements of this chapter prior to the issuance of a license.
- (g) The board may conduct random inspections upon application for renewal of a license, for a cause, and as necessary to ensure the integrity and effectiveness of the licensing process.

- (h) Employees, contractors, or inspectors of the board may conduct inspections of out-of-state facilities upon application from out-of-state applicants for licensure and renewal. Travel allowances, as allowed by the Alabama Ethics Commission, shall be provided by the out-of-state applicant for all inspections conducted at the physical out-of-state location.
- (i) At any time upon the filing of a substantive, relevant complaint of a consumer of services or other qualified source as identified by the board, the board may inspect the operations of the provider to determine compliance with the requirements of this chapter.
- (j) The board shall adopt and maintain standards for the individuals charged with conducting the inspections for the purpose of determining compliance with the requirements of this chapter. Board employees or contractors may be authorized to conduct inspections. Out-of-state inspections shall be limited to no more than two employees, contractors, or inspectors of the board per visit.
- (k) Upon notice of a failure to pass an inspection and obtain a license, a provider shall have 30 days to appeal the inspection results or be subject to penalties pursuant to Section 34-14C-6. Upon appeal, a provider shall have the right to an inspection review of a new inspection in accordance with procedures promulgated by the board. (*Act 2000-739, p. 1619, § 4; Act 2004-441, § 1.*)

#### HISTORY

Amendment notes:

The 2004 amendment, effective August 1, 2004

#### **§ 34-14C-4.1. Inspection fees.**

The Board of Home Medical Equipment Services Providers may establish by rule, and charge and collect, reasonable inspection fees pursuant to the Alabama Administrative procedures Act. (*Act 2002-95, p. 308, § 3.*)

#### HISTORY

Effective date:

The act which added this section is effective February 27, 2002.

#### **Section 34-14C-5. Exemptions.**

The licensure requirements of this chapter do not apply to the following entities or practitioners:

- (1) Home health agencies certified by the State of Alabama to participate in the Medicare and Medicaid programs.
- (2) Hospital based home medical equipment services, whether or not the services are provided through a separate corporation or other business entity.

- (3) Health care practitioners legally eligible to order or prescribe home medical equipment, or who use home medical equipment to treat patients in locations other than the patient's residence, including, but not limited to, physicians, nurses, physical therapists, respiratory therapists, speech therapists, occupational therapists, optometrists, chiropractors, and podiatrists, except for those practitioners who provide home medical equipment services in a patient's residence.
- (4) Manufacturers and wholesale distributors, when not selling directly to the patient.
- (5) Retail community pharmacies, including providers of home infusion therapy services.
- (6) Hospice programs, except programs which provide home medical equipment services, including delivery to a patient's residence.
- (7) Skilled nursing facilities, except facilities which provide home medical equipment services, including delivery to a patient's residence.
- (8) Governmental agencies, including fire districts which provide emergency medical services, and contractors to governmental agencies whose business deals only with the contracted agency.
- (9) Mail order companies, if deliveries are made only via common carriers, including the United States Postal Service. (*Act 2000-739, p. 1619, § 5*)

#### HISTORY

Effective date:

The act which added this section is effective August 1, 2000.

#### **Section 34-14C-6. Violations; penalties.**

- (a) An entity or person found providing home medical equipment services without a license as required by this act shall be subject to an administrative fine of one thousand dollars (\$1,000) per day that services were provided without a license. Funds collected pursuant to this act shall be allocated to the administration of the program.
- (b) An entity or person found providing home medical equipment services without a license as required by this act may be administratively enjoined by the board from providing services until such time as the entity or person complies with this act.
- (c) An entity or person subject to the penalties prescribed by subsection (a) and (b) shall be entitled to pursue an appeal through the board according to regulations promulgated by the board.
- (d) Any hearings related to matters before the board shall be conducted in Montgomery County. (*Act 2000-739, p. 1619 § 6; Act 2004-441, § 1.*)

#### HISTORY

Amendment notes:

2004 amendment, effective August 1, 2004

### **Section 34-14C-7. Home Medical Equipment Services Fund.**

There is hereby established a separate special revenue trust fund in the State Treasury to be known as the Home Medical Equipment Services Fund. All receipts collected by the board under the provisions of this act are to be deposited into this fund and shall be used only to carry out the provisions of this act. The receipts shall be disbursed only by warrant of the State Comptroller upon the State Treasury, upon itemized vouchers approved by the executive director. No funds shall be withdrawn or expended except as budgeted and allotted according to Sections 41-4-80 to 41-4-96, inclusive, and 41-19-1 to 41-19-12, inclusive, Code of Alabama 1975, and only in amounts as stipulated in the general appropriations bill or other appropriations bills. (*Act 2000-739, p. 1619, § 7; Act 2004-441, § 1.*)

#### HISTORY

Amendment notes:

The 2004 amendment, effective August 1, 2004.

### **Section 34-14-C-8. Sunset provision.**

The home medical equipment services providers shall be subject to the Alabama Sunset law, Title 41, Chapter 20, Code of Alabama, 1975, as an enumerated agency as provided in Section 41-20-3, and shall have a termination date of October 1, 2002, and every four years thereafter, unless continued pursuant to the Alabama Sunset law. (*Act 2000-739, p. 1619 § 8*)

#### HISTORY

Effective date:

The act which added this section is effective August 1, 2000