

Meeting Minutes
November 12, 2008

The Alabama Board of Home Medical Equipment Services Providers met on Wednesday, November 12, 2008, in Montgomery, Alabama at the Board Office for the purpose of conducting Board Business. Those in attendance were as follows: Diane Garrett Williamson, Vice-Chair; Lewis Fuller, Member; John Beard, Member; Roger Schofield, Member; and Leigh Ann Matthews, Member. Also present were Paula Scout McCaleb, Executive Director; Dana Billingsley, Legal Counsel; and Jessica Burdette, Licensing Agent. Those not present were Mike Benefield, Chair; Graham Sisson, Member; and Dr. Mitchell Shirah, Member.

The meeting was called to order at approximately 10:10 A.M. with a quorum present.

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

A motion was made by Lewis Fuller to approve the Meeting Minutes from July 22, 2008 as distributed. Leigh Ann Matthews seconded the motion and the motion passed unanimously.

A motion was made by Leigh Ann Matthews to accept the proposed 2009 Board Calendar. Roger Schofield seconded the motion and the motion passed unanimously.

A motion was made by Roger Schofield to approve the 5% annual contract raise for Leadership Alliance, L.L.C. Lewis Fuller seconded the motion and the motion passed unanimously.

A motion was made by Leigh Ann Matthews to approve the language changes in Rules and Regulation 473-X-1-.01 to read as follows:

“(4) 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

(5) 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. ~~Examples of Home Medical Equipment include, but are not limited to, 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. 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 does not include prosthetics, or any splints, braces, or aids custom fabricated by a licensed health care provider. Home Medical Equipment includes, but is not limited to:~~

(a) equipment such as wheelchairs and scooters, wheelchair cushions and seating systems, breast prostheses, mastectomy bras, 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.

~~(a)(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).

~~(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."

~~(e)(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 under the Alabama Medicaid Program Durable Medical Equipment benefits.

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

(6) 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.

(7) 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.

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

(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.

Author: The Alabama Board of Home Medical Equipment Services Providers

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

Effective Date: July 10, 2006

and 473-X-3-.01 to read as follows:

(8) Any change in the name, address, control, ownership, manager or Person in ~~control~~ Charge of a licensee shall be reported to the office of the board within thirty (30) days of such change. The change should be reported on the applicable form(s) indexed in the appendixes 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 only in the ownership or control of a licensee requires submission of the Application for 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 complete the Application for Change in Ownership or Control and a new application for licensure with 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 only an Application for Change in Ownership or Control.

(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.

Roger Schofield seconded the motion and the motion passed unanimously.

A motion was made by Lewis Fuller to approve the consent order from Southland Medical Equipment. John Beard seconded the motion and the motion passed unanimously.

A motion was made by Leigh Ann Matthews to accept the consent order from Kinex Medical Supply. John Beard seconded the motion and the motion passed unanimously.

A motion was made by Roger Schofield to re-elect Mike Benefield as chairman of the Board. John Beard seconded the motion and the motion passed unanimously.

A motion was made by John Beard to re-elect Diane Garrett Williamson as Vice-Chair of the Board. Lewis Fuller seconded the motion and the motion passed unanimously.

There being no further Board Business, a motion was made by Lewis Fuller to adjourn the meeting. John Beard seconded the motion and the motion passed unanimously. The time being approximately 11:22 A.M. The Vice-Chair announced that the next Board meeting would be held January 22, 2009 at the Montgomery Board Office.

Respectfully Submitted,

Mike Benefield, Chair

Diane Garrett-Williamson, Vice-Chair

Paula Scout McCaleb, Executive Director

Jessica Burdette, Licensing Agent serving as Recording Secretary.