

CHAMBER ACTION

1 The Health Care Regulation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to home medical equipment providers;
7 amending s. 400.925, F.S.; revising and providing
8 definitions; amending s. 400.931, F.S.; including
9 additional categories of equipment in a report required by
10 applicants for licensure; increasing the amount of
11 liability insurance required of home medical equipment
12 providers; providing for issuance of temporary licenses;
13 amending s. 400.933, F.S.; revising requirements for
14 licensure inspections and investigations; providing for
15 assessment of fees to conduct complaint investigations;
16 amending s. 400.934, F.S.; revising minimum standards
17 required for licensure; amending s. 400.935, F.S.;
18 requiring the Agency for Health Care Administration to
19 provide additional regulatory standards by rule; creating
20 s. 400.936, F.S.; requiring proof of accreditation as a
21 prerequisite for licensure or license renewal; providing
22 for temporary licensure; providing for rules relating to
23 designation of accrediting organizations; amending s.

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24 | 400.95, F.S.; providing for notice of toll-free telephone
25 | number to report fraud and abuse by providers; providing
26 | an effective date.

27 |

28 | Be It Enacted by the Legislature of the State of Florida:

29 |

30 | Section 1. Subsection (1) of section 400.925, Florida
31 | Statutes, is amended, and subsections (17), (18), (19), and (20)
32 | are added to said section, to read:

33 | 400.925 Definitions.--As used in this part, the term:

34 | (1) "Accrediting organizations" means the Joint Commission
35 | on Accreditation of Healthcare Organizations, the Community
36 | Health Accreditation Program (CHAP), the Accreditation
37 | Commission for Health Care, Inc. (ACHC), or other ~~national~~
38 | accreditation agencies whose standards for accreditation are
39 | comparable to those required by this part for licensure.

40 | (17) "High-tech medical equipment provider" means any home
41 | medical equipment company that provides life-sustaining
42 | equipment, technologically advanced equipment, or any other
43 | similar equipment or product to any patient.

44 | (18) "Life-sustaining equipment" means mechanical
45 | ventilators or other equipment that is essential to the
46 | restoration or continuation of a bodily function important to
47 | the continuation of human life.

48 | (19) "Technologically advanced equipment" means equipment
49 | of such complexity that a licensed respiratory therapist or
50 | registered nurse must set it up and train the patient in its
51 | use.

52 (20) "From its own inventory" means to provide the items
 53 or services directly to the patient.

54 Section 2. Paragraph (a) of subsection (2) and subsections
 55 (6), (7), (9), and (17) of section 400.931, Florida Statutes,
 56 are amended to read:

57 400.931 Application for license; fee; temporary
 58 ~~provisional~~ license; temporary permit.--

59 (2) The applicant must file with the application
 60 satisfactory proof that the home medical equipment provider is
 61 in compliance with this part and applicable rules, including:

62 (a) A report, by category, of the equipment to be
 63 provided, indicating those offered either directly by the
 64 applicant or through contractual arrangements with existing
 65 providers. Categories of equipment include:

- 66 1. Respiratory modalities.
- 67 2. Ambulation aids.
- 68 3. Mobility aids.
- 69 4. Sickroom setup.
- 70 5. Disposables.
- 71 6. Life-sustaining equipment.
- 72 7. Technologically advanced equipment.

73 (6) The home medical equipment provider must also obtain
 74 and maintain professional and commercial liability insurance.
 75 Proof of liability insurance, as defined in s. 624.605, must be
 76 submitted with the application. The agency shall set the
 77 required amounts of liability insurance by rule, but the
 78 required amount must not be less than \$300,000 ~~\$250,000~~ per
 79 claim. In the case of contracted services, it is required that

80 | the contractor have liability insurance not less than \$300,000
81 | ~~\$250,000~~ per claim.

82 | (7) ~~A provisional license shall be issued to an approved~~
83 | ~~applicant for initial licensure for a period of 90 days, during~~
84 | ~~which time a survey must be conducted demonstrating substantial~~
85 | ~~compliance with this section.~~ A temporary ~~provisional~~ license
86 | shall ~~also~~ be issued pending the results of an applicant's
87 | Federal Bureau of Investigation report of background screening
88 | confirming that all standards have been met. If substantial
89 | compliance is demonstrated, a standard license shall be issued
90 | to expire 2 years after the effective date of the temporary
91 | ~~provisional~~ license.

92 | (9) When a change of ownership of a home medical equipment
93 | provider occurs, the prospective owner must submit an initial
94 | application for a license at least 15 days before the effective
95 | date of the change of ownership. An application for change of
96 | ownership of a license is required when ownership, a majority of
97 | the ownership, or controlling interest of a licensed home
98 | medical equipment provider is transferred or assigned and when a
99 | licensee agrees to undertake or provide services to the extent
100 | that legal liability for operation of the home medical equipment
101 | provider rests with the licensee. A temporary ~~provisional~~
102 | license shall be issued to the new owner for a period of 90
103 | days, during which time all required documentation must be
104 | submitted and a survey must be conducted demonstrating
105 | substantial compliance with this section. If substantial
106 | compliance is demonstrated, a standard license shall be issued

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107 | to expire 2 years after the issuance of the temporary
108 | ~~provisional~~ license.

109 | (17) A home medical equipment provider against whom a
110 | proceeding for revocation or suspension, or for denial of a
111 | renewal application, is pending at the time of license renewal
112 | may be issued a temporary ~~provisional~~ license effective until
113 | final disposition by the agency of such proceedings. If judicial
114 | relief is sought from the final disposition, the court that has
115 | jurisdiction may issue a temporary permit for the duration of
116 | the judicial proceeding.

117 | Section 3. Subsection (2) of section 400.933, Florida
118 | Statutes, is amended, and subsection (3) is added to said
119 | section, to read:

120 | 400.933 Licensure inspections and investigations.--

121 | (2) The agency shall accept, in lieu of its own periodic
122 | inspections for licensure, submission of ~~the following:~~

123 | ~~(a)~~ the survey or inspection of an accrediting
124 | organization, provided the accreditation of the licensed home
125 | medical equipment provider is not provisional and provided the
126 | licensed home medical equipment provider authorizes release of,
127 | and the agency receives the report of, the accrediting
128 | organization; ~~or~~

129 | ~~(b) A copy of a valid medical oxygen retail establishment~~
130 | ~~permit issued by the Department of Health, pursuant to chapter~~
131 | ~~499.~~

132 | (3) In addition to any administrative fines imposed, the
133 | agency may assess a survey fee of \$500 to cover the cost of
134 | conducting complaint investigations that result in the finding

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135 of a violation that was the subject of the complaint and any
136 followup visits conducted to verify the correction of the
137 violations found in complaints.

138 Section 4. Subsections (3), (4), and (18) of section
139 400.934, Florida Statutes, are amended, and subsection (20) is
140 added to said section, to read:

141 400.934 Minimum standards.--As a requirement of licensure,
142 home medical equipment providers shall:

143 (3) Respond to orders received for other equipment by
144 filling those orders from its own inventory or inventory from
145 other companies with which it has contracted to fill such
146 orders~~+~~ or by customizing or fitting items for sale from
147 supplies purchased under contract, except that high-tech medical
148 equipment providers shall fill all orders for technologically
149 advanced equipment directly from its own inventory and shall not
150 contract with any entity for the delivery of such orders unless
151 such entity is also licensed and accredited pursuant to this
152 part.

153 (4) Maintain trained personnel to coordinate order
154 fulfillment and schedule timely equipment and service delivery.
155 High-tech medical equipment providers shall have on staff, at a
156 minimum, one licensed respiratory therapist, who is either a
157 certified respiratory therapist (CRT) or a registered
158 respiratory therapist (RRT), or a registered nurse.

159 (18) Maintain safe premises that are fully accessible to
160 all patients between the hours of 9 a.m. and 5 p.m.

161 (20) Provide consumers with after-hours emergency service
162 appropriately staffed by personnel equipped to offer necessary

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163 services to the public. High-tech medical equipment providers
 164 shall have on call, at a minimum, one licensed respiratory
 165 therapist, who is either a certified respiratory therapist (CRT)
 166 or a registered respiratory therapist (RRT), or a registered
 167 nurse.

168 Section 5. Subsections (11) and (12) are added to section
 169 400.935, Florida Statutes, to read:

170 400.935 Rules establishing minimum standards.--The agency
 171 shall adopt, publish, and enforce rules to implement this part,
 172 which must provide reasonable and fair minimum standards
 173 relating to:

174 (11) The designation of equipment as life sustaining or
 175 technologically advanced.

176 (12) The designation of appropriate accrediting
 177 organizations.

178 Section 6. Section 400.936, Florida Statutes, is created
 179 to read:

180 400.936 Mandatory accreditation.--

181 (1) Effective January 1, 2006, all home medical equipment
 182 providers licensed pursuant to this part shall submit to the
 183 agency proof of accreditation as a prerequisite for licensure or
 184 license renewal. Any provider that does not submit proof of
 185 accreditation shall be issued a temporary license and shall have
 186 60 days to submit proof of application to an accrediting
 187 organization. Such provider shall submit proof of accreditation
 188 within 180 days after submitting an application in order to
 189 receive a permanent license. Any home medical equipment provider
 190 licensed as of January 1, 2006, shall have a reasonable period

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191 of time, not to exceed the next licensure renewal date for the
 192 provider, to comply with the accreditation requirement.
 193 Applicants that submit proof of accreditation, a completed
 194 licensure application, and the required fee may receive a
 195 temporary license until completion of the review of
 196 accreditation.

197 (2) The agency shall adopt rules designating appropriate
 198 accrediting organizations whose standards for accreditation are
 199 comparable to those required by this part for licensure.

200 Section 7. Section 400.95, Florida Statutes, is amended to
 201 read:

202 400.95 Notice of toll-free telephone number for central
 203 fraud and abuse hotline.--On or before the first day home
 204 medical equipment is delivered to the patient's home, any home
 205 medical equipment provider licensed under this part must inform
 206 the consumer and his or her immediate family, if appropriate, of
 207 the right to report fraudulent, abusive, neglectful, or
 208 exploitative practices. The statewide toll-free telephone number
 209 for the central fraud and abuse hotline must be provided to
 210 consumers in a manner that is clearly legible and must include
 211 the words: "To report fraud, abuse, neglect, or exploitation,
 212 please call toll-free 1-800-962-2873." Home medical equipment
 213 providers shall establish appropriate policies and procedures
 214 for providing such notice to consumers.

215 Section 8. This act shall take effect July 1, 2005.