

By the Committees on Health and Human Services Appropriations;
Health Care; and Senators Jones and Bennett

603-2305-05

1 A bill to be entitled
2 An act relating to home medical equipment
3 providers; amending s. 400.925, F.S.; revising
4 and providing definitions; amending s. 400.93,
5 F.S.; providing that physicians who sell, rent,
6 or supply equipment or devices to their
7 patients are exempt from licensure as a home
8 medical equipment provider; amending s.
9 400.931, F.S.; including additional categories
10 of equipment in a report required by applicants
11 for licensure; increasing the amount of
12 liability insurance required of home medical
13 equipment providers; amending s. 400.933, F.S.;
14 revising requirements for licensure and
15 assessment of fees; amending s. 400.934, F.S.;
16 revising minimum standards required for
17 licensure; amending s. 400.935, F.S.; requiring
18 the Agency for Health Care Administration to
19 provide additional regulatory standards by
20 rule; creating s. 400.936, F.S.; requiring
21 proof of accreditation as a prerequisite for
22 licensure or license renewal; providing for
23 temporary licensure; providing for rules
24 relating to designation of accrediting
25 organizations; amending s. 400.95, F.S.;
26 providing for notice of a toll-free telephone
27 number to report fraud and abuse by providers;
28 providing an effective date.
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30 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Subsection (1) of section 400.925, Florida
2 Statutes, is amended, and subsections (17), (18), (19), and
3 (20) are added to that section, to read:

4 400.925 Definitions.--As used in this part, the term:

5 (1) "Accrediting organizations" means the Joint
6 Commission on Accreditation of Healthcare Organizations, the
7 Community Health Accreditation Program (CHAP), the
8 Accreditation Commission for Health Care, Inc. (ACHC), or
9 other national accreditation agencies whose standards for
10 accreditation are comparable to those required by this part
11 for licensure.

12 (17) "High-tech medical equipment provider" means any
13 home medical equipment company that provides life-sustaining
14 equipment, technologically advanced equipment, or any other
15 similar equipment or product to any patient.

16 (18) "Life-sustaining equipment" means mechanical
17 ventilators or other equipment that is essential to the
18 restoration or continuation of a bodily function important to
19 the continuation of human life.

20 (19) "Technologically advanced equipment" means
21 equipment of such complexity that a licensed respiratory
22 therapist or registered nurse must set it up and train the
23 patient in its use.

24 (20) "From its own inventory" means to provide the
25 items or service directly to the patient.

26 Section 2. Paragraph (i) of subsection (5) of section
27 400.93, Florida Statutes, is amended to read:

28 400.93 Licensure required; exemptions; unlawful acts;
29 penalties.--

30 (5) The following are exempt from home medical
31 equipment provider licensure, unless they have a separate

1 | company, corporation, or division that is in the business of
2 | providing home medical equipment and services for sale or rent
3 | to consumers at their regular or temporary place of residence
4 | pursuant to the provisions of this part:

5 | (i) Licensed health care practitioners who utilize
6 | home medical equipment in the course of their practice, but do
7 | not sell or rent home medical equipment to their patients, or
8 | physicians who sell, rent, or supply to their patients
9 | equipment or devices in the physicians' offices.

10 | Section 3. Paragraph (a) of subsection (2) and
11 | subsections (6) and (7) of section 400.931, Florida Statutes,
12 | are amended to read:

13 | 400.931 Application for license; fee; provisional
14 | license; temporary permit.--

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

18 | (a) A report, by category, of the equipment to be
19 | provided, indicating those offered either directly by the
20 | applicant or through contractual arrangements with existing
21 | providers. Categories of equipment include:

- 22 | 1. Respiratory modalities.
- 23 | 2. Ambulation aids.
- 24 | 3. Mobility aids.
- 25 | 4. Sickroom setup.
- 26 | 5. Disposables.
- 27 | 6. Life-sustaining equipment.
- 28 | 7. Technologically advanced equipment.

29 | (6) The home medical equipment provider must also
30 | obtain and maintain professional and commercial liability
31 | insurance. Proof of liability insurance, as defined in s.

1 624.605, must be submitted with the application. The agency
2 shall set the required amounts of liability insurance by rule,
3 but the required amount must not be less than \$300,000
4 ~~\$250,000~~ per claim. In the case of contracted services, it is
5 required that the contractor have liability insurance not less
6 than \$300,000 ~~\$250,000~~ per claim.

7 (7) ~~A provisional license shall be issued to an~~
8 ~~approved applicant for initial licensure for a period of 90~~
9 ~~days, during which time a survey must be conducted~~
10 ~~demonstrating substantial compliance with this section. A~~
11 temporary provisional license shall ~~also~~ be issued pending the
12 results of an applicant's Federal Bureau of Investigation
13 report of background screening confirming that all standards
14 have been met. If substantial compliance is demonstrated, a
15 standard license shall be issued to expire 2 years after the
16 effective date of the provisional license.

17 Section 4. Subsection (2) of section 400.933, Florida
18 Statutes, is amended, and subsection (3) is added to that
19 section, to read:

20 400.933 Licensure inspections and investigations.--

21 (2) The agency shall accept, in lieu of its own
22 periodic inspections for licensure, submission of ~~the~~
23 ~~following:~~

24 ~~(a)~~ the survey or inspection of an accrediting
25 organization, provided the accreditation of the licensed home
26 medical equipment provider is not provisional and provided the
27 licensed home medical equipment provider authorizes release
28 of, and the agency receives the report of, the accrediting
29 organization. ~~;~~ ~~or~~

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1 ~~(b) A copy of a valid medical oxygen retail~~
2 ~~establishment permit issued by the Department of Health,~~
3 ~~pursuant to chapter 499.~~

4 (3) In addition to any administrative fines imposed,
5 the agency may assess a survey fee of \$500 to cover the cost
6 of conducting complaint investigations that result in the
7 finding of a violation that was the subject of the complaint
8 and any followup visits conducted to verify the correction of
9 the violations found in complaints.

10 Section 5. Subsections (3), (4), and (18) of section
11 400.934, Florida Statutes, are amended, and subsection (20) is
12 added to that section, to read:

13 400.934 Minimum standards.--As a requirement of
14 licensure, home medical equipment providers shall:

15 (3) Respond to orders received for other equipment by
16 filling those orders from its own inventory or inventory from
17 other companies with which it has contracted to fill such
18 orders; or by customizing or fitting items for sale from
19 supplies purchased under contract, except that high-tech
20 medical equipment providers shall fill all orders for
21 technologically advanced equipment directly from their own
22 inventory and shall not contract with any entity for the
23 delivery of such orders unless such entity is also licensed
24 and accredited pursuant to this subsection.

25 (4) Maintain trained personnel to coordinate order
26 fulfillment and schedule timely equipment and service
27 delivery. High-tech medical equipment providers shall have on
28 staff, at a minimum, one licensed respiratory therapist, who
29 is either a certified respiratory therapist (CRT), a
30 registered respiratory therapist (RRT), or a registered nurse.

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

3 (20) Provide consumers with after-hours emergency
4 service appropriately staffed by personnel equipped to offer
5 necessary services to the public. High-tech medical equipment
6 providers shall have on call, at a minimum, one licensed
7 respiratory therapist who is either a certified respiratory
8 therapist (CRT), a registered respiratory therapist (RRT), or
9 a registered nurse.

10 Section 6. Subsections (11) and (12) are added to
11 section 400.935, Florida Statutes, to read:

12 400.935 Rules establishing minimum standards.--The
13 agency shall adopt, publish, and enforce rules to implement
14 this part, which must provide reasonable and fair minimum
15 standards relating to:

16 (11) The designation of equipment as life sustaining
17 or technologically advanced.

18 (12) The designation of appropriate accrediting
19 organizations.

20 Section 7. Section 400.936, Florida Statutes, is
21 created to read:

22 400.936 Mandatory accreditation.--

23 (1) Effective January 1, 2006, all home medical
24 equipment providers licensed under this part shall submit to
25 the agency proof of accreditation as a prerequisite for
26 licensure or license renewal. Any provider that does not
27 submit proof of accreditation shall be issued a temporary
28 license and shall have 60 days to submit proof of application
29 to an accrediting organization. Such provider shall submit
30 proof of accreditation within 180 days after submitting an
31 application in order to receive a permanent license. Any home

1 medical equipment provider licenses as of January 1, 2006,
2 shall have a reasonable period of time, not to exceed its next
3 licensure renewal date, to comply with the accreditation
4 requirement. Applicants that submit proof of accreditation, a
5 completed licensure application, and the required fee may
6 receive a temporary license until completion of the review of
7 accreditation.

8 (2) The agency shall adopt rules designating
9 appropriate accrediting organizations whose standards for
10 accreditation are comparable to those required by this part
11 for licensure.

12 Section 8. Section 400.95, Florida Statutes, is
13 amended to read:

14 400.95 Notice of toll-free telephone number for
15 central fraud and abuse hotline.--On or before the first day
16 home medical equipment is delivered to the patient's home, any
17 home medical equipment provider licensed under this part must
18 inform the consumer and his or her immediate family, if
19 appropriate, of the right to report fraudulent, abusive,
20 neglectful, or exploitative practices. The statewide toll-free
21 telephone number for the central fraud and abuse hotline must
22 be provided to consumers in a manner that is clearly legible
23 and must include the words: "To report fraud, abuse, neglect,
24 or exploitation, please call toll-free 1-800-962-2873." Home
25 medical equipment providers shall establish appropriate
26 policies and procedures for providing such notice to
27 consumers.

28 Section 9. This act shall take effect July 1, 2005.
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
CS for SB 2570

Provides an exemption from home medical licensure for
physicians that sell, rent, or supply home medical equipment
from their office.