

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: SB 996

INTRODUCER: Senator Richter

SUBJECT: Home Medical Equipment

DATE: April 8, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<b>Favorable</b>
2.	<u>Browne</u>	<u>Pigott</u>	<u>AHS</u>	<b>Recommend: Favorable</b>
3.	<u>Goedert</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Favorable</b>

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**I. Summary:**

SB 996 amends s. 400.93, F.S., to exempt physicians licensed under chs. 458, 459, and 460, F.S., who sell or rent electrostimulation medical equipment to their patients in the course of their practice from the requirement that they be licensed as a home medical equipment provider.

The bill may have an insignificant fiscal impact on the Agency for Health Care Administration (AHCA).

**II. Present Situation:**

**Home Medical Equipment Providers**

Part VII of ch. 400, F.S., requires the AHCA to license and regulate any person or entity that holds itself out to the public as performing any of the following functions:<sup>1</sup>

- Providing home medical equipment<sup>2</sup> and services;<sup>3</sup>
- Accepting physician orders for home medical equipment and services; or
- Providing home medical equipment that typically requires home medical services.

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<sup>1</sup> Section 400.93(1) and (2), F.S.

<sup>2</sup> See also s. 400.925(6), F.S., defining “home medical equipment” as any product as defined by the Federal Drug Administration’s Drugs, Devices and Cosmetics Act, any products reimbursed under the Medicare Part B Durable Medical Equipment benefits, or any products reimbursed under the Florida Medicaid durable medical equipment program. Home medical equipment includes oxygen and related respiratory equipment; manual, motorized, or customized wheelchairs and related seating and positioning, but does not include prosthetics or orthotics or any splints, braces, or aids custom fabricated by a licensed health care practitioner; motorized scooters; personal transfer systems; and specialty beds, for use by a person with a medical need.

<sup>3</sup> See also s. 400.925(9), F.S., defining “home medical equipment services” as equipment management and consumer instruction, including selection, delivery, setup, and maintenance of equipment, and other related services for the use of home medical equipment in the consumer’s regular or temporary place of residence.

The following are exempt from home medical equipment provider licensure:<sup>4</sup>

- Providers operated by the Department of Health (DOH) or the federal government;
- Nursing homes;
- Assisted living facilities;
- Home health agencies;
- Hospices;
- Intermediate care facilities;
- Homes for special services;
- Transitional living facilities;
- Hospitals;
- Ambulatory surgical centers;
- Manufacturers and wholesale distributors that do not sell directly to the consumer;
- Licensed health care practitioners who utilize home medical equipment in the course of their practice, but do not sell or rent home medical equipment to their patients; and
- Pharmacies.

Currently there are 1,006 licensed home medical equipment providers, including those providers that are located out of the state but hold a Florida license.<sup>5</sup>

Any person or entity applying for a license as a home medical equipment provider must provide the AHCA with certain information, including proof of liability insurance, a \$300 application fee, and a \$400 inspection fee, unless exempt from inspection.<sup>6</sup>

As a requirement of licensure, home medical equipment providers must comply with a number of minimum standards including: providing at least one category of equipment directly from their own inventory; answering any consumer questions or complaints; maintaining and repairing items rented to consumers; and maintaining a record for each patient.<sup>7</sup> Providers also must comply with the AHCA rules on minimum qualifications for personnel, including ensuring that all personnel have the necessary training and background screening.<sup>8</sup>

Licensed home medical equipment providers are subject to periodic inspections, including biennial licensure inspections, inspections directed by the federal Centers for Medicare & Medicaid Services, and licensure complaint investigations.<sup>9</sup>

### **Electrostimulation Medical Equipment**

Devices that provide electrical stimulation can be used to treat a number of symptoms and conditions. Electrical stimulators provide direct, alternating, pulsating, and/or pulsed waveform forms of energy to the human body through electrodes that may be indwelling, implanted in the

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<sup>4</sup> Section 400.93(5), F.S.

<sup>5</sup> See AHCA, FloridaHealthFinder.gov, available at <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (search conducted Apr. 6, 2015).

<sup>6</sup> Section 400.931, F.S.

<sup>7</sup> Sections 400.934 and 400.94, F.S.

<sup>8</sup> Rule 59A-25.004, F.A.C. All home medical equipment provider personnel are also subject to a level 2 background screening per s. 400.953, F.S.

<sup>9</sup> Section 400.933, F.S.

skin, or used on the surface of the skin.<sup>10</sup> Such devices may be “used to exercise muscles, demonstrate a muscular response to stimulation of a nerve, relieve pain, relieve incontinence, and provide test measurements.”<sup>11</sup>

Functional electrical stimulation (FES), also known as therapeutic electrical stimulation (TES), is used to prevent or reverse muscular atrophy and bone loss by stimulating paralyzed limbs. FES is “designed to be used as a part of a self-administered home-based rehabilitation program for the treatment of upper limb paralysis.”<sup>12</sup> An FES system consists of a custom-fitted device and control unit that allows the user to adjust the stimulation intensity and training mode.<sup>13</sup>

Other types of electrical stimulation include interferential therapy (IFT) and neuromuscular electrical stimulation (NMES). IFT uses two alternating currents simultaneously applied to the affected area through electrodes to relieve musculoskeletal pain and increase healing in soft tissue injuries and bone fractures.<sup>14</sup> NMES involves the application of electrical currents to cause muscle contractions and is used to promote the restoration of nerve supply, prevent or slow atrophy, relax muscle spasms, and to promote voluntary control of muscles in patients who have lost muscle function.<sup>15</sup>

### III. Effect of Proposed Changes:

The bill amends s. 400.93, F.S., to exempt physicians who sell or rent electrostimulation medical equipment to their patients in the course of their practice from the requirement to be licensed as a home medical equipment provider.

The bill takes effect July 1, 2015.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>10</sup> United Healthcare Medical Policy, *Electrical Stimulation for the Treatment of Pain and Muscle Rehabilitation*, p. 4, (December 1, 2014), [https://www.unitedhealthcareonline.com/ccmcontent/ProviderII/UHC/en-US/Assets/ProviderStaticFiles/ProviderStaticFilesPdf/Tools%20and%20Resources/Policies%20and%20Protocols/Medical%20Policies/Medical%20Policies/Electrical\\_Stim\\_Tx\\_Pain\\_Muscle\\_Rehab.pdf](https://www.unitedhealthcareonline.com/ccmcontent/ProviderII/UHC/en-US/Assets/ProviderStaticFiles/ProviderStaticFilesPdf/Tools%20and%20Resources/Policies%20and%20Protocols/Medical%20Policies/Medical%20Policies/Electrical_Stim_Tx_Pain_Muscle_Rehab.pdf) (last visited Apr. 6, 2015).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at p. 9.

<sup>15</sup> *Id.* at p. 5.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Any exempted physicians may see a positive fiscal impact due to no longer having to pay licensure and inspection fees or meet the licensure requirements of part VII of ch. 400, F.S.

**C. Government Sector Impact:**

The AHCA may experience a negative, but likely insignificant, fiscal impact due to fewer licensed home medical equipment providers.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 400.93 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.