

IC 25-26-21

Chapter 21. Home Medical Equipment Services Providers

IC 25-26-21-1

"Board"

Sec. 1. As used in this chapter, "board" refers to the Indiana board of pharmacy established by IC 25-26-13-3.

As added by P.L.122-2005, SEC.1.

IC 25-26-21-2

"Home medical equipment"

Sec. 2. (a) As used in this chapter, "home medical equipment" means equipment that:

- (1) is prescribed by a health care provider;
- (2) sustains, restores, or supplants a vital bodily function; and
- (3) is technologically sophisticated and requires individualized adjustment or regular maintenance.

(b) The term does not include the following:

- (1) Walkers.
- (2) Ambulatory aids.
- (3) Commodes.
- (4) Any other home medical equipment determined by the board in rules adopted under section 7 of this chapter.

As added by P.L.122-2005, SEC.1. Amended by P.L.105-2008, SEC.50.

IC 25-26-21-3

"Home medical equipment services"

Sec. 3. As used in this chapter, "home medical equipment services" means the:

- (1) sale, rental, delivery, or installation; and
- (2) installation, maintenance, and instruction in the use;

of medical equipment used by an individual that allows the individual to reside in a noninstitutional environment.

As added by P.L.122-2005, SEC.1. Amended by P.L.105-2008, SEC.51.

IC 25-26-21-4

"Provider"

Sec. 4. As used in this chapter, "provider" means a person engaged in the business of providing home medical equipment services to an unrelated individual in the individual's residence.

As added by P.L.122-2005, SEC.1.

IC 25-26-21-5

Application of chapter

Sec. 5. (a) This chapter does not apply to the following:

- (1) A home health agency (as defined in IC 16-27-1-2) that does not sell, lease, or rent home medical equipment.
- (2) A hospital licensed under IC 16-21-2 that:

- (A) provides home medical equipment services only as an integral part of patient care; and
- (B) does not provide home medical equipment services through a separate business entity.
- (3) A manufacturer or wholesale distributor that does not sell, lease, or rent home medical equipment directly to a consumer.
- (4) Except as provided under subsection (b), a practitioner (as defined in IC 25-1-9-2) who does not sell, lease, or rent home medical equipment.
- (5) A veterinarian licensed under IC 25-38.1-3.
- (6) A hospice program (as defined in IC 16-25-1.1-4) that does not sell, lease, or rent home medical equipment.
- (7) A health facility licensed under IC 16-28 that does not sell, lease, or rent home medical equipment.
- (8) A provider that:
 - (A) provides home medical equipment services within the scope of the licensed provider's professional practice;
 - (B) is otherwise licensed by the state; and
 - (C) receives annual continuing education that is documented by the provider or the licensing entity.
- (9) An employee of a person licensed under this chapter.
- (b) A pharmacist licensed in Indiana or a pharmacy that holds a permit issued under IC 25-26 that sells, leases, or rents home medical equipment:
 - (1) is not required to obtain a license under this chapter; and
 - (2) is otherwise subject to the:
 - (A) requirements of this chapter; and
 - (B) requirements established by the board by rule under this chapter.

As added by P.L.122-2005, SEC.1. Amended by P.L.2-2008, SEC.64.

IC 25-26-21-6

License application; requirements

Sec. 6. (a) A person seeking to provide home medical equipment services in Indiana shall apply to the board for a license in the manner prescribed by the board.

(b) A provider shall do the following:

- (1) Comply with:
 - (A) federal and state law; and
 - (B) regulatory requirements;

for home medical equipment services.

- (2) Maintain a physical facility and medical equipment inventory in Indiana.
- (3) Purchase and maintain in an amount determined by the board:
 - (A) product liability insurance; and
 - (B) professional liability insurance;
 and maintain proof of the insurance coverage.
- (4) Establish procedures to ensure that an employee or a contractor of the provider who is engaged in the following home

medical equipment activities receives annual training:

- (A) Delivery.
- (B) Orientation of a patient in the use of home medical equipment.
- (C) Reimbursement assistance.
- (D) Maintenance.
- (E) Repair.
- (F) Cleaning and inventory control.
- (G) Administration of home medical equipment services.

The provider shall maintain documentation of the annual training received by each employee or contractor.

- (5) Maintain clinical records on a customer receiving home medical equipment services.
- (6) Establish home medical equipment maintenance and personnel policies.
- (7) Provide home medical equipment emergency maintenance services available twenty-four (24) hours a day.
- (8) Comply with the rules adopted by the board under this chapter.

As added by P.L.122-2005, SEC.1.

IC 25-26-21-7

Rules

Sec. 7. (a) The board may adopt rules under IC 4-22-2 to do the following:

- (1) Specify home medical equipment that is or is not to be regulated under this chapter.
- (2) Set standards for the licensure of providers.
- (3) Govern the safety and quality of home medical equipment services that are provided to customers.
- (4) Specify the amount of insurance coverage required under section 6(b)(3) of this chapter.
- (5) Set reasonable fees for the application, issuance, and renewal of a license under this chapter and set other fees permitted under IC 25-1-8.

(b) The board may consult with individuals engaged in the home medical equipment services business to advise the board on the formulation of rules under subsection (a). The individuals may not be compensated or reimbursed for mileage by the board.

As added by P.L.122-2005, SEC.1. Amended by P.L.105-2008, SEC.52.

IC 25-26-21-8

License required; form; notification; renewal; reciprocity

Sec. 8. (a) A provider must be licensed by the board before the provider may provide home medical equipment services. If a provider provides home medical equipment services from more than one (1) location in Indiana, the provider must obtain a license under this chapter for each location.

(b) An applicant shall submit the application to the board on a

form adopted by the board. The nonrefundable application fee set by the board must be submitted with the application. The fee must be deposited in the state general fund.

(c) If the board determines that the applicant:

- (1) meets the standards set forth by the board; and
- (2) has satisfied the requirements under this chapter and the requirements established by the board by rule;

the board shall notify the applicant in writing that the license is being issued to the applicant. The license is effective on the applicant's receipt of the written notification.

(d) A license issued under this chapter expires biennially on a date established by the agency under IC 25-1-5-4. An entity that is licensed under this chapter shall display the license or a copy of the license on the licensed premises.

(e) A license lapses without any action by the board if an application for renewal has not been filed and the required fee has not been paid by the established biennial renewal date.

(f) If a license under this chapter has been expired for not more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements of IC 25-1-8-6(c).

(g) If a license under this chapter has been expired for more than three (3) years, the license may be reinstated by the board if the holder of the license meets the requirements for reinstatement under IC 25-1-8-6(d).

(h) The board may adopt rules that permit an out-of-state provider to obtain a license on the basis of reciprocity if:

- (1) the out-of-state provider possesses a valid license granted by another state;
- (2) the legal standards for licensure in the other state are comparable to the standards under this chapter; and
- (3) the other state extends reciprocity to providers licensed in Indiana.

However, if the requirements for licensure under this chapter are more restrictive than the standards of the other state, the out-of-state provider must comply with the additional requirements of this chapter to obtain a reciprocal license under this chapter.

As added by P.L.122-2005, SEC.1. Amended by P.L.98-2006, SEC.28; P.L.105-2008, SEC.53.

IC 25-26-21-9

Inspections; report; appeal; inspectors; confidential information

Sec. 9. (a) The board may inspect the operations and facilities of an applicant for a license under this chapter to determine whether to issue the applicant a license.

(b) The board may conduct random inspections at any time for the following reasons:

- (1) To ensure the integrity and effectiveness of the licensing process.
- (2) To investigate a consumer complaint or a complaint by a qualified source as identified by the board.

(3) To ensure continuing compliance with the licensing requirements under this chapter.

(c) The board shall provide the provider a report of the board's findings after the board completes an investigation under this section.

(d) A provider that disputes the report in subsection (c) may file an appeal under IC 4-21.5 with the board not later than thirty (30) days after receipt of the report. The board shall review the inspection report and, upon the provider's request, conduct a new inspection.

(e) The board shall employ qualified inspectors to investigate complaints and conduct inspections. Investigators may review and audit records under an investigation or inspection during the inspected facility's normal business hours at the place of business of the provider being investigated.

(f) The board and the board's employees may not disclose confidential information obtained during an investigation except:

(1) during a disciplinary hearing held under section 10 of this chapter; or

(2) under a court order.

As added by P.L.122-2005, SEC.1.

IC 25-26-21-10

Discipline

Sec. 10. The board may discipline the holder of a license under IC 25-1-9 after a hearing or for any of the following reasons:

(1) Violation of this chapter or violation of a rule established by the board.

(2) Violation of a board order.

(3) Failure to meet the standards set forth in section 6(b) of this chapter.

(4) The conviction or plea of guilty for a felony or misdemeanor that:

(A) involves fraud or deceit; or

(B) is directly related to providing home medical equipment services.

(5) Negligence or gross misconduct in providing home medical equipment services.

(6) The aid, assistance, or willful allowance of another person in violating a provision under this chapter or a rule adopted by the board.

(7) Failure to provide information within sixty (60) days in response to a written request from the board.

(8) The engagement in conduct that is likely to deceive, defraud, or harm the public.

(9) Denial, revocation, suspension, or restriction of a license in another state or jurisdiction to provide home medical equipment services for a reason other than the failure to renew the license.

(10) The receipt of a fee, commission, rebate, or other form of compensation for services not rendered.

(11) Knowingly making or filing false records, reports, or billings in the course of providing home medical equipment

services, including false records, reports, or billings prepared for or submitted to state or federal agencies or departments.

(12) Failure to comply with federal rules issued under the federal Medicare program (42 U.S.C. 1395 et seq.) relating to operations, financial transactions, and general business practices of home medical equipment services providers.

As added by P.L.122-2005, SEC.1.

IC 25-26-21-11

Penalties

Sec. 11. (a) A person who engages in the business of home medical equipment services and who:

(1) is required to be licensed under this chapter; and

(2) knowingly provides home medical equipment services without a license issued under this chapter;

commits a Class A misdemeanor.

(b) Each day a violation of this section continues constitutes a separate offense.

(c) The board may, in the name of the state and through the attorney general, apply in a court to enjoin a person from providing home medical equipment services in violation of this chapter.

As added by P.L.122-2005, SEC.1.