

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 2128
 SPONSOR: Senator Crist
 SUBJECT: Home Medical Equipment Providers
 DATE: February 23, 2002 REVISED: 02/26/02 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Harkey</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/2 amendments</u>
2.	_____	_____	<u>CA</u>	_____
3.	_____	_____	<u>GO</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill removes the following assistive technology products from the definition of home medical equipment: voice-synthesized computer modules, optical scanners, talking software, braille printers, environmental control devices for use by persons with quadriplegia, motor vehicle adaptive transportation aids and devices that enable persons with severe speech disabilities to, in effect, speak. Under the proposed changes, the Agency for Health Care Administration (AHCA) would no longer regulate the providers of these assistive devices.

This bill amends s. 400.925, F.S.

II. Present Situation:

Part X, chapter 400, F.S., governing Home Medical Equipment Providers, is a professional licensure act. This part was enacted pursuant to the recommendations of the Thirteenth Statewide Grand Jury to help fight Medicaid/Medicare fraud. Applicants for licensure as a provider must meet statutory requirements, pass a background check, and pay a \$300 processing fee and a \$400 inspection fee for a 2-year license. When the requirement for licensure was enacted in 1999, the definition of *home medical equipment* did not include assistive technology devices. The 2001 Legislature amended the definition to include those devices.

Under the definition in s. 400.925(8), F.S.:

“Home medical equipment” includes 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, but is not limited to, oxygen and related respiratory equipment. Home medical equipment includes 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. Home medical equipment includes assistive technology devices, including: manual wheelchairs, motorized wheelchairs, motorized scooters, voice-synthesized computer modules, optical scanners, talking software, braille printers, environmental control devices for use by person with quadriplegia, motor vehicle adaptive transportation aids, devices that enable persons with severe speech disabilities to in effect speak, personal transfer systems and specialty beds, including demonstrator, for use by a person with a medical need.

The inclusion of adaptive technology used by persons who are blind or visually impaired--voice-synthesized computer modules, optical scanners, talking software, and braille printers--in the definition of home medical equipment was questioned by a vendor who objected to the licensing requirement. After considering the vendor's complaint, representatives of the Agency for Health Care Administration and the Division of Blind Services in the Department of Education agreed that such equipment should not be considered home medical equipment.

Regarding motor vehicle adaptive transportation aids, the AHCA analysis for SB 2128 states:

Motor vehicle adaptive transportation aids, such as hand controls to operate a vehicle's acceleration, cannot be considered home medical equipment. The National Mobility Equipment Dealers Association (NMEDA), that represents businesses that install motor vehicle transportation aids, has expressed concerns about the necessity for licensing these businesses. NMEDA certifies dealers that install adaptive transportation aids into vehicles....Also, NMEDA works closely with the National Highway Traffic Safety Association (NHTSA); the federal program that regulates providers that install adaptive transportation aids into vehicles. All providers that install adaptive transportation aids into vehicles are required to register with NHTSA and NHTSA will investigate reported complaints.

Persons with quadriplegia use environmental control devices. These devices are generally sold by businesses that do not provide home medical equipment, such as home repair supply stores.

Providers that sell optical scanners, talking software, braille printers, environmental control devices, and motor vehicle adaptive transportation aids cannot enroll in the Medicare and Medicaid durable medical equipment programs; thus those providers cannot be in a position to commit any fraudulent activity against these health care programs. There would not appear to be a need for AHCA to regulate the vendors of assistive technology devices.

III. Effect of Proposed Changes:

The bill amends subsection (8) of section 400.925, F.S., to remove the following assistive technology products from the definition of home medical equipment: voice-synthesized computer modules, optical scanners, talking software, braille printers, environmental control devices for use by persons with quadriplegia, motor vehicle adaptive transportation aids and devices that enable persons with severe speech disabilities to, in effect, speak.

Under the proposed changes, AHCA would no longer regulate the providers of these devices.

The bill takes effect July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, s. 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

AHCA estimates that approximately 50 vendors of assistive technology would not be licensed, and therefore those vendors would not incur the cost of licensure.

C. Government Sector Impact:

AHCA would lose a small amount of revenue but would not incur the cost of licensing and inspecting the businesses that provide assistive technology.

VI. Technical Deficiencies:

AHCA recommends that the words “but is not limited to” not be stricken on lines 18 and 19 of page 1. If the language remains stricken, the definition would be limited to only the equipment named in the statute.

AHCA also recommends that the effective date be “upon becoming law” rather than July 1, 2002. Otherwise, vendors would still have to be licensed until July 1, 2002.

VII. Related Issues:

None.

VIII. Amendments:

1 by Health, Aging and Long-Term Care:

Reinstates the words “but is not limited to” to indicate that items other than the listed items could meet the definition of home medical equipment.

2 by Health, Aging and Long-Term Care:

Changes the effective date from July 1 to “upon becoming a law.”

This Senate staff analysis does not reflect the intent or official position of the bill’s sponsor or the Florida Senate.
