

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.)

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

BILL: SB 1134

INTRODUCER: Senator Detert

SUBJECT: Home Medical Equipment

DATE: March 19, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Pre-meeting
2.			AHS	
3.			AP	

I. Summary:

SB 1134 amends s. 400.925, F.S., to exempt from the definition of “home medical equipment provider” any medical practice that is wholly owned by one or more medical, osteopathic, or chiropractic physicians or owned by a physician and his or her spouse, parent, child, or sibling.

II. Present Situation:

Part VII of ch. 400, F.S., requires that the Agency for Health Care Administration (AHCA) license and regulate any person or entity that holds itself out to the public as providing home medical equipment¹ and services,² accepts physician orders for home medical equipment and services, or holds itself out to the public as providing home medical equipment that typically requires home medical services.³

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 who 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 are exempt from the

¹ Defined in s. 400.925, F.S., 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.

² Defined in s. 400.925, F.S., 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.

³ Section 400.93(1) and (2), F.S.

licensure as a home medical equipment providers.⁴ Currently there are 980 licensed home medical equipment providers, including those providers that are located out of the state but hold a Florida license.⁵

Any person or entity applying for a license as a home medical equipment provider must provide the AHCA with:

- A report of the medical equipment that will be provided, indicating whether it will be provided directly or by contract;
- A report of the services that will be provided, indicating whether the services will be provided directly or by contract;
- A list of the persons and entities with whom they contract;
- Documentation of accreditation, or an application for accreditation, from an organization recognized by the AHCA;
- Proof of liability insurance; and,
- A \$300 application fee and a \$400 inspection fee, unless exempt from inspection.⁶

As a requirement of licensure, home medical equipment providers must comply with a number of minimum standards including, but not limited to:

- Offering and providing home medical equipment and services, as necessary, to consumers who purchase or rent any equipment that requires such services;
- Providing at least one category of equipment directly from their own inventory;
- Responding to orders for other equipment from either their own inventory or from the inventory of other contracted companies;
- Maintaining trained personnel to coordinate orders and scheduling of equipment and service deliveries;
- Ensuring that their delivery personnel are appropriately trained;
- Ensuring that patients are aware of their service hours and emergency service procedures;
- Answering any questions or complaints a consumer has about an item or the use of an item;
- Maintaining and repairing, either directly or through contract, items rented to consumers;
- Maintaining a safe premises;
- Preparing and maintaining a comprehensive emergency management plan that must be updated annually and provide for continuing home medical equipment services for life-supporting or life-sustaining equipment during an emergency;
- Maintaining a prioritized list of patients who need continued services during an emergency;⁷
- Complying with AHCA rules on minimum qualifications for personnel, including ensuring that all personnel have the necessary training and background screening;⁸ and,
- Maintaining a record for each patient that includes the equipment and services the provider has provided and which must contain:
 - Any physician's order or certificate of medical necessity;

⁴ Section 400.93(5), F.S.

⁵ See FloridaHealthFinder.gov list of home medical equipment providers printed on Mar. 19, 2014, on file with Senate Health Policy committee staff

⁶ Section 400.931, F.S.

⁷ Section 400.934, F.S.

⁸ AHCA 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.

- Signed and dated delivery slips;
- Notes reflecting all services, maintenance performed, and equipment exchanges;
- The date on which rental equipment was retrieved; and
- Any other appropriate information.⁹

Licensed home medical equipment providers are subject to periodic inspections including biennial licensure inspections, inspections directed by the Centers for Medicare and Medicaid Services, and licensure complaint investigations. A home medical equipment provider may submit a survey or inspection by an accrediting organization in lieu of a licensure inspection if the provider's accreditation is not provisional and the AHCA receives a report from the accrediting organization. A copy of a valid medical oxygen retail establishment permit issued by the DOH may also be submitted in lieu of a licensure inspection.¹⁰

III. Effect of Proposed Changes:

The bill amends s. 400.925, F.S., to exempt from the definition of "home medical equipment provider" any medical practice that is wholly owned by one or more medical, osteopathic, or chiropractic physicians or owned by a physician and the spouse, parent, child, or sibling of the physician.

The bill establishes an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁹ Section 400.94, F.S.

¹⁰ Section 400.933, F.S.

B. Private Sector Impact:

Any exempted medical practices may see an indeterminate 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 see an indeterminate fiscal impact due to fewer licensed home medical equipment providers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 400.931, F.S., requires that any person or entity that holds itself out to the public as providing home medical equipment and services, accepts physician orders for home medical equipment and services, or holds itself out to the public as providing home medical equipment that typically requires home medical services be licensed as a home medical equipment provider. As such, simply exempting the listed medical practices from the definition of “home medical equipment provider” may not relieve them of the requirement to be licensed if those practices continue to provide home medical equipment and services. If the intent of the bill is to exempt such medical practices from licensure, it may be more clear to do so by adding such medical practices to the list of persons and entities that are exempt from licensure as a home medical equipment provider under s. 400.93(5), F.S.

VIII. Statutes Affected:

This bill substantially amends section 400.925 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.