ENGROSSED HOUSE
BILL NO. 2649 By: Echols of the House

and

Dugger of the Senate

An Act relating to durable medical equipment; creating the Oklahoma Durable Medical Equipment Licensing Act; defining terms; requiring a license; providing for effective date of license; authorizing certain inspections; requiring promulgation of rules; construing provision; providing for licensing qualifications; providing for license revocation or suspension; listing exceptions; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 375 of Title 59, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Durable Medical Equipment Licensing Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 376 of Title 59, unless there is created a duplication in numbering, reads as follows:

As used in the Oklahoma Durable Medical Equipment Licensing Act:

1. "Board" means the State Board of Pharmacy;

2. a. "Durable medical equipment" means equipment for which a prescription is required, including for repair and replacement parts, and that:

(1) can stand repeated use,

(2) has an expected useful life of at least three (3) years,

(3) is primarily and customarily used to serve a medical purpose,

(4) is not generally useful to a person in the absence of illness or injury,

(5) is appropriate for use in the home, and

(6) is intended for use by the consumer.

b. Durable medical equipment includes, but is not limited to:

(1) ambulating assistance equipment,

(2) mobility equipment,

(3) rehabilitation seating,

(4) oxygen care and oxygen delivery systems,

(5) respiratory equipment and respiratory disease management devices,

(6) rehabilitation environmental control equipment,

(7) ventilators,

(8) apnea monitors,

(9) diagnostic equipment,

(10) feeding pumps,

(11) beds prescribed by physicians to alleviate medical conditions,

(12) transcutaneous electrical nerve stimulators, and

(13) sequential compression devices; and

3. "Supplier" means any person or entity that provides durable medical equipment services or products and that currently bills or plans to bill a claim for reimbursement of services or products to a third party.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 377 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. Any supplier of durable medical equipment to a consumer in Oklahoma shall possess a durable medical equipment supplier license issued by the Board pursuant to this act.

B. Licenses issued by the Board pursuant to this act shall be effective for twelve (12) months from the date of issuance and shall not be transferable or assignable.

C. The Board shall have the authority to initially and periodically inspect the applicant's office or place of business.

D. The Board shall promulgate rules necessary to implement the provisions of this act. Such rules shall prioritize patient safety and quality of durable medical equipment. The Board may provide by rule that any person or entity accredited by organizations

recognized by the Centers for Medicare and Medicaid Services is deemed to meet all or some of the requirements of this act.

E. Nothing in this section shall be construed to restrict or prohibit private transactions between two parties.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 378 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. The Board shall be authorized to issue a license to an applicant for licensure as a supplier of durable medical equipment if the applicant:

1. Submits an application in a form prescribed by the Board;

2. Maintains a physical office or place of business within this state;

3. Pays a license fee established by the Board;

4. Meets all state and federal accreditation requirements; and

5. Meets all safety standards established by the Board, which shall include, but not be limited to:

a. ensuring that all personnel engaged in delivery, maintenance and repair of durable medical equipment receive annual continuing education,

b. instructing the patient or patient's caregiver about how to use the durable medical equipment provided,

c. receiving and responding to complaints from patients,

d. maintaining records of all patients receiving durable medical equipment, and

e. managing, maintaining and servicing durable medical equipment.

B. The Board may issue a license to a Medicare or Medicaid enrolled out-of-state supplier who has at least one accredited facility within one hundred (100) miles of any Oklahoma resident being served by the supplier.

C. The Board may revoke or suspend a license for:

1. Violation of state or federal law;

2. Violation of rules promulgated pursuant to this act;

3. Permitting, aiding or abetting any illegal act;

4. Failing to meet the safety standards established by the Board pursuant to this act;

5. Engaging in conduct or practices found by the Board to be detrimental to the health, safety or welfare of patients; or

6. Failing to renew a license.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 379 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Durable Medical Equipment Licensing Act shall not apply to:

1. Pharmacies and pharmacists;

2. Hospitals;

3. Ambulatory surgical centers;

4. Health care facilities owned or operated by the state or federal government;

5. Skilled nursing facilities;

6. Assisted living facilities;

7. Prosthetic or orthotic practitioners;

8. Health care practitioners who are licensed to practice health care in the State of Oklahoma and who provide durable medical equipment within the scope of their health care practice;

9. Manufacturers or wholesale distributors that do not sell or rent durable medical equipment directly to consumers; or

10. Suppliers of insulin infusion pumps and related supplies or services.

SECTION 6. This act shall become effective November 1, 2021.

Passed the House of Representatives the 9th day of March, 2021.

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Presiding Officer of the House of Representatives

Passed the Senate the ___ day of _____, 2021.

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Presiding Officer of the Senate