

REFERENCE TITLE: durable medical equipment

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2504

Introduced by
Representative Burns J

AN ACT

AMENDING TITLE 32, CHAPTER 18, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.1; RELATING TO DURABLE MEDICAL EQUIPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 32, chapter 18, Arizona Revised Statutes, is amended
3 by adding article 2.1, to read:

4 ARTICLE 2.1. DURABLE MEDICAL EQUIPMENT

5 32-1951. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "CONSUMER" MEANS ANY INDIVIDUAL WHO USES DURABLE MEDICAL EQUIPMENT
8 AT THE INDIVIDUAL'S PLACE OF RESIDENCE.

9 2. "DURABLE MEDICAL EQUIPMENT" MEANS ANY MEDICAL DEVICE THAT CAN BE
10 USED IN A RESIDENTIAL SETTING AND INCLUDES ANY EQUIPMENT THAT PROVIDES
11 THERAPEUTIC BENEFITS OR ENABLES THE CONSUMER TO PERFORM CERTAIN TASKS THE
12 CONSUMER IS OTHERWISE UNABLE TO UNDERTAKE DUE TO CERTAIN MEDICAL CONDITIONS,
13 DISABILITIES OR ILLNESSES. DURABLE MEDICAL EQUIPMENT DOES NOT INCLUDE
14 PROSTHETICS, SPLINTS, BRACES OR AIDS THAT ARE CUSTOM FABRICATED BY A LICENSED
15 HEALTH CARE PROVIDER.

16 3. "DURABLE MEDICAL EQUIPMENT PERSONNEL" MEANS PERSONS WHO ARE
17 EMPLOYED BY OR UNDER CONTRACT WITH A DURABLE MEDICAL EQUIPMENT PROVIDER.

18 4. "DURABLE MEDICAL EQUIPMENT PROVIDER" OR "PROVIDER" MEANS A PERSON
19 OR ENTITY THAT SELLS OR RENTS, OR OFFERS TO SELL OR RENT, TO OR FOR A
20 CONSUMER ANY DURABLE MEDICAL EQUIPMENT FOR USE IN THE CONSUMER'S RESIDENCE
21 AND THAT BILLS THE CONSUMER OR THE CONSUMER'S THIRD-PARTY PAYOR FOR THE RENT
22 OR COST OF THE EQUIPMENT.

23 5. "DURABLE MEDICAL EQUIPMENT SERVICES" MEANS THE DELIVERY,
24 INSTALLATION, MAINTENANCE OR REPLACEMENT OF DURABLE MEDICAL EQUIPMENT, OR
25 INSTRUCTION IN THE USE OF DURABLE MEDICAL EQUIPMENT AND RELATED SUPPLIES.

26 6. "LICENSEE" MEANS THE PERSON OR ENTITY TO WHOM A LICENSE TO OPERATE
27 AS A DURABLE MEDICAL EQUIPMENT PROVIDER IS ISSUED BY THE BOARD PURSUANT TO
28 THIS ARTICLE.

29 7. "RESIDENCE" MEANS THE CONSUMER'S HOME OR PLACE OF RESIDENCE,
30 WHETHER TEMPORARY OR PERMANENT. RESIDENCE INCLUDES NURSING HOMES, ASSISTED
31 LIVING FACILITIES, TRANSITIONAL LIVING FACILITIES, ADULT FAMILY CARE HOMES
32 AND OTHER CONGREGATE RESIDENTIAL FACILITIES.

33 32-1952. Licensure; requirements; exemption from licensure;
34 denial or revocation of license

35 A. BEGINNING JANUARY 1, 2009, A DURABLE MEDICAL EQUIPMENT PROVIDER
36 MUST HAVE A LICENSE ISSUED BY THE BOARD FOR EACH FACILITY THAT IS DIRECTLY OR
37 INDIRECTLY OWNED OR OPERATED BY THE PROVIDER IN THIS STATE. SEPARATE
38 LICENSES ARE REQUIRED FOR ALL PREMISES EVEN IF THEY ARE OPERATED UNDER THE
39 SAME MANAGEMENT. THE PROVIDER MUST SUBMIT A COMPLETED APPLICATION AS
40 PRESCRIBED BY THE BOARD ON A FORM PROVIDED BY THE BOARD. THE PROVIDER SHALL
41 INCLUDE WITH THE APPLICATION AN INITIAL APPLICATION FEE PRESCRIBED BY THE
42 BOARD BY RULE.

43 B. ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE EXECUTIVE DIRECTOR SHALL
44 NOTIFY THE LICENSEE OF THE RENEWAL DATE AND PROVIDE THE CURRENT RENEWAL FORM.
45 THE EXECUTIVE DIRECTOR SHALL SEND THIS NOTICE BY FIRST CLASS MAIL TO THE

1 ADDRESS THE LICENSEE MOST RECENTLY PROVIDED TO THE BOARD. A LICENSEE SHALL
2 RENEW THE LICENSE ON OR BEFORE JANUARY 1 OF EACH YEAR BY SUBMITTING A
3 COMPLETED RENEWAL FORM AND A RENEWAL FEE PRESCRIBED BY THE BOARD BY RULE.

4 C. THE PROVIDER SHALL DISPLAY THE LICENSE ISSUED PURSUANT TO THIS
5 SECTION IN A CONSPICUOUS PLACE AT THE PREMISES FOR WHICH THE LICENSE IS
6 ISSUED.

7 D. UNLESS THEY HAVE A SEPARATE BUSINESS OR DIVISION THAT PROVIDES
8 DURABLE MEDICAL EQUIPMENT OR DURABLE MEDICAL EQUIPMENT SERVICES, THE
9 FOLLOWING ARE EXEMPT FROM THE LICENSURE REQUIREMENTS OF THIS ARTICLE:

- 10 1. NURSING HOMES.
- 11 2. ASSISTED LIVING FACILITIES.
- 12 3. HOME HEALTH AGENCIES.
- 13 4. HOSPICES.
- 14 5. INTERMEDIATE CARE FACILITIES, HOMES FOR SPECIAL SERVICES AND
15 TRANSITIONAL LIVING FACILITIES.
- 16 6. HOSPITALS AND AMBULATORY SURGICAL CENTERS.
- 17 7. MANUFACTURERS AND WHOLESALE DISTRIBUTORS THAT DO NOT SELL DIRECTLY
18 TO CONSUMERS.

19 8. HEALTH PROFESSIONALS WHO USE DURABLE MEDICAL EQUIPMENT IN THE
20 COURSE OF THEIR PRACTICE. FOR THE PURPOSES OF THIS PARAGRAPH, "HEALTH
21 PROFESSIONALS" HAS THE SAME MEANING PRESCRIBED IN SECTION 32-3201.

22 9. EMERGENCY MEDICAL SERVICES PROVIDERS.
23 E. THE BOARD MAY DENY OR REVOKE A LICENSE ISSUED PURSUANT TO THIS
24 SECTION IF THE APPLICANT OR LICENSEE:

- 25 1. HAS FALSELY REPRESENTED A MATERIAL FACT IN THE APPLICATION OR HAS
26 OMITTED ANY MATERIAL FACT FROM THE APPLICATION.
- 27 2. HAS BEEN THE SUBJECT OF A DISCIPLINARY ACTION TAKEN BY THE ARIZONA
28 HEALTH CARE COST CONTAINMENT SYSTEM ADMINISTRATION, ANOTHER STATE IN RELATION
29 TO THE PROVISION OF MEDICAID SERVICES OR THE UNITED STATES GOVERNMENT IN
30 RELATION TO THE PROVISION OF MEDICARE SERVICES.

31 32-1953. Minimum standards; rules; revocation or suspension of
32 license

33 A. THE BOARD SHALL ADOPT RULES TO ENFORCE THIS ARTICLE AND TO
34 ESTABLISH MINIMUM STANDARDS FOR DURABLE MEDICAL EQUIPMENT PROVIDERS RELATING
35 TO THE FOLLOWING:

- 36 1. RESPONDING TO ORDERS.
- 37 2. PROVIDING PROPERLY TRAINED DURABLE MEDICAL EQUIPMENT PERSONNEL WHO
38 CAN PROFESSIONALLY AND PROMPTLY FILL ORDERS, DELIVER, INSTALL AND SERVICE
39 DURABLE MEDICAL EQUIPMENT AND PROVIDE INSTRUCTION ON THE SAFE AND PROPER USE
40 OF THAT EQUIPMENT.
- 41 3. ENSURING THAT CONSUMERS ARE AWARE OF SERVICE HOURS AND EMERGENCY
42 SERVICE PROCEDURES.
- 43 4. MAINTAINING DURABLE MEDICAL EQUIPMENT THAT IS SOLD TO CONSUMERS AND
44 REPAIRING THAT EQUIPMENT DIRECTLY OR THROUGH A SERVICE CONTRACT WITH ANOTHER
45 COMPANY.

1 5. RETURN POLICIES FOR SUBSTANDARD OR UNSUITABLE EQUIPMENT FROM
2 CONSUMERS.

3 B. RULES ADOPTED PURSUANT TO THIS SECTION SHALL INCLUDE A PROCEDURE
4 FOR THE REVOCATION OR SUSPENSION OF A LICENSE IF A PROVIDER DOES NOT MEET THE
5 MINIMUM STANDARDS PRESCRIBED BY THE BOARD BY RULE.

6 32-1954. Complaints

7 THE BOARD BY RULE SHALL ESTABLISH A COMPLAINT PROCESS FOR CONSUMERS OF
8 DURABLE MEDICAL EQUIPMENT.