

APA-1
07/04

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. _____ Department or Agency The Board of Home Medical Equipment

Rule No. 473-X-3-.01

Rule Title: Administrative Procedure

_____ New X Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Brandy L. Benhew
Date 4-23-14

APA-2
07/04

Board of Home Medical Equipment

NOTICE OF INTENDED ACTION

AGENCY NAME:

Board of Home Medical Equipment

RULE NO. & TITLE:

473-X-3-.01 Administrative Procedure

INTENDED ACTION:

To amend Rules and Regulations.

SUBSTANCE OF PROPOSED ACTION:

The Board of Home Medical Equipment proposes to adopt an Administrative Code or Rules and Regulations under which to operate.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

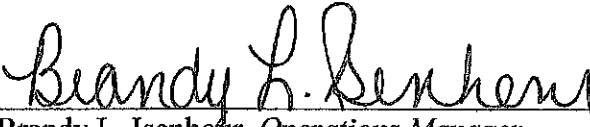
Written comments, views, or arguments will be received by the Board of Home Medical Equipment until 4:30 p.m. on July 3, 2014. Comments should be directed to Paula McCaleb, Executive Director, at Post Office Box 240636, Montgomery, AL 36124-0636, or via fax at 334-215-3457.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

July 3, 2014

CONTACT PERSON AT AGENCY:

Brandy L. Isenhour
334.215.3474


Brandy L. Isenhour, Operations Manager

473-X-3-.01. Administrative Procedure.

(1) Any person may be heard by the Board in person or through an attorney, as long as they file a written request with the ~~office of the Bboard office~~. The Board will schedule the appearance at the next regularly scheduled meeting, provided the request is received at least fourteen (14) days prior to such meeting; otherwise, the appearance will be scheduled for the second meeting following receipt of the request.

(2) Board meetings shall be conducted following a written agenda, which is provided to each member at least ten (10) days prior to each meeting. The Alabama Open Meetings Act and/or Robert's Rules of Order, short form, shall be used as the parliamentary authority for all meetings of the Bboard.

(3) Upon receipt of an application and the appropriate fees therefor, the fees shall be deposited into the Home Medical Equipment ~~Services~~ Fund in the State Treasury, pursuant to Code of Ala. 1975, Section 34-14C-7.

(4) If the application is complete and sufficiently meets the standards set by the Board, ~~the office of the Bboard office~~ shall schedule an inspection, as required.

(5) If the application is not complete, ~~the office of the Bboard office~~ shall notify the applicant, in writing, of all deficiencies in the application. If the applicant does not return a properly completed application within ninety (90) days, of the notification of deficiency, or, if a completed application can not be submitted within ninety (90) days, ~~documentation of the applicant's inability to complete the application process within the specified time period and a request for an extension thereof~~, the fee is forfeited and the applicant may reapply.

(6) No one may operate as a Home Medical Equipment Services Provider without a valid license, including during the time a license application is pending.

(7) The licensure application, the form of which is indexed in the appendix to this section, shall include at a minimum, the following information:

- (a) Name, physical location, mailing address, and telephone number of the business, including all trade or business names.
- (b) The name of the manager or person in charge of the day-to-day business operations at the physical location.
- (c) The names and home addresses of officers or other persons in positions of control.
- (d) The hours and days of operation of the business.
- (e) A list of categories of equipment and services provided to the public.

(f) Certification of insurance.

~~(g) The Federal Employee identification number assigned to the business. For a sole proprietor, this may be the social security number of the owner.~~

(h) Disclosure of ownership, which includes: the name of a person, if a person; the full name of a sole proprietor and the name of the business entity, if a sole proprietorship; the name of each partner and the name of the partnership, if a partnership; the name and title of each corporate officer and director, a list of shareholders, the corporate name and the state of incorporation and the name of any parent company, if a corporation; or the full name and title of each member and each manager of a limited liability company, the name of the state where organized and the name of the parent company.

(i) Proof of United States citizenship or of legal presence in the United States, as required by Section 31-13-7, Code of Ala., 1975.

(ij) Certification, signed by a person with the authority to bind the applicant and notarized under oath, indicating that the applicant complies with the rules and regulations of the Board, and has truthfully and completely disclosed all ownership and control of the applicant, and that all information submitted on or with the application is true and complete.

(jk) No question should be left blank. If an item does not apply, then the applicant should mark the question in a fashion adequate to allow the Board to determine that the applicant did not overlook it.

(8) Any change in the name, address, control, ownership, manager or person in charge of a licensee shall be reported to ~~the office of the Board office~~ within thirty (30) days of such change. The change should be reported on the applicable form(s) indexed in the appendices to these rules.

(a) A change only in the physical address of a licensee requires submission of the Application for a Change of Address and the required fee within thirty (30) days of such change, and a site inspection of the new facility.

(b) A change only in the Person in Charge of a licensee requires submission of the Application for Change of Person in Charge within thirty (30) days of such change.

(c) A change ~~only~~ in the ownership or control of a licensee requires ~~submission of notification of the Application for Change in Ownership~~ within (30) days of such change.

1. The purchase of only the assets of a business (an asset purchase) requires the buyer to operate the business under a new tax identification number (TIN). A change in the TIN requires the new owner to obtain a new Medicare supplier number and ~~submit complete the Application for Change in Ownership or~~

~~Control and~~ a new application for licensure ~~to with the B~~board. The new owners must successfully complete the reapplication process before a new license can be issued.

2. The purchase of all the assets and liabilities of a business (a stock purchase) permits the buyer to retain and operate the business under the existing TIN. The new owner must submit a letter notifying the Board of the only an Application for Change in Ownership or Control within thirty (30) days of such change.

(d) If more than one change occurs simultaneously in the information reflected on the licensee's application, including but not limited to, the physical address, equipment provided, FEIN or SSN, or if disciplinary actions against the licensee have ensued before this Bboard or in any other licensing state or jurisdiction, the licensee must complete and submit a new application for licensure reflecting all such changes within thirty (30) days of such change and successfully complete the reapplication process before a new license can be issued.

(9) All licenses expire on August 31st of each year. If not renewed within sixty (60) days of the expiration date, the license is considered lapsed expired, and a new application and inspection will be required. The Board may notify third party payors, related regulatory boards and agencies, and governmental agencies responsible for reimbursement to home medical equipment services providers, such as Medicaid and Medicare, of lapsed expired licenses no earlier than November 1st of each licensing year.

(10) Certain entities are exempt from licensure pursuant to Section §34-14C-5, Code of Ala. 1975.

HISTORY:

New Rule: Filed July 20, 2001; effective August 24, 2001. **Amended:** Filed July 10, 2006; effective August 14, 2006. **Amended:** Filed February 27, 2009; effective April 3, 2009.