

**First Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 17-0709.01 Brita Darling x2241

**HOUSE BILL 17-1080**

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**HOUSE SPONSORSHIP**

**Young,**

**SENATE SPONSORSHIP**

**Sonnenberg,**

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**House Committees**

Health, Insurance, & Environment  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101      **CONCERNING AFFIDAVIT REQUIREMENTS FOR DURABLE MEDICAL**  
102      **EQUIPMENT SUPPLIERS.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill amends the definition of "durable medical equipment supplier" to include a person or entity that bills or plans to bill the state medicaid program. Further, the bill amends the exceptions to the definition of "durable medical equipment supplier" to exclude persons or entities that only supply insulin infusion pumps or diabetes testing supplies.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

The bill clarifies the requirements for a durable medical equipment supplier to do business in Colorado. For each of its physical locations providing services in Colorado, a durable medical equipment supplier must be licensed by the Colorado secretary of state and attest that each of its physical locations providing services in Colorado are within 100 miles of any Colorado-resident medicare beneficiary being served by the supplier in Colorado or any Colorado medicaid recipient who is being served by the provider in Colorado.

The bill removes language in the medicaid durable medical equipment provider statute and replaces it with a cross reference to the licensing statute for durable medical equipment providers.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 24-21-115, **amend**  
3 (1)(a), (1)(b)(IV), (1)(b)(V), (2)(a), (3), (4), (5), and (6) as follows:

4 **24-21-115. Durable medical equipment supplier license -**  
5 **definition - rules.** (1) As used in this section:

6 (a) "Durable medical equipment supplier" means a person or  
7 entity that:

8 (I) Currently bills or plans to bill the medicare program IN THIS  
9 STATE IN THE CURRENT CALENDAR YEAR for services or products listed in  
10 the centers for medicare and medicaid SERVICES durable medical  
11 equipment, prosthetics, orthotics, and supplies, ALSO REFERRED TO IN THIS  
12 SECTION AS "DMEPOS", competitive bid product categories ~~in this state~~  
13 ~~in the current calendar year~~ OR PURSUANT TO ANY SUCCESSOR BIDDING  
14 PROGRAM ESTABLISHED BY THE CENTERS FOR MEDICARE AND MEDICAID  
15 SERVICES AFTER THE EFFECTIVE DATE OF THIS ACT; or

16 (II) Intends to bid IN THIS STATE IN THE CURRENT CALENDAR YEAR  
17 for services or products listed in the centers for medicare and medicaid  
18 durable medical equipment, prosthetics, orthotics, and supplies SERVICES  
19 DMEPOS competitive bid product categories ~~in this state in the current~~

1 ~~calendar year~~ OR PURSUANT TO ANY SUCCESSOR BIDDING PROGRAM  
2 ESTABLISHED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES  
3 AFTER THE EFFECTIVE DATE OF THIS ACT.

4 (b) "Durable medical equipment supplier" does not include:

5 (IV) A practitioner identified in 42 U.S.C. sec. 1395u ~~(18)(C)~~  
6 ~~(b)(18)(C)~~ or a physician, if the practitioner or the physician is supplying  
7 or providing durable medical equipment to his or her own patients as part  
8 of the practitioner's or physician's own services; or

9 (V) A person or entity that supplies or provides devices directly  
10 to a practitioner identified in 42 U.S.C. sec. 1395u ~~(18)(C)~~ ~~(b)(18)(C)~~ or  
11 a physician that require a prescription for dispensing to the patient as part  
12 of his or her own services, whether mailed to the practitioner or physician  
13 for fitting or directly mailed to the patient.

14 (2) (a) In order to do business in Colorado, FOR EACH PHYSICAL  
15 LOCATION PROVIDING SERVICES IN COLORADO, a durable medical  
16 equipment supplier must be licensed by the COLORADO secretary of state  
17 AND MEET THE REQUIREMENTS OF SUBSECTION (3) OF THIS SECTION.

18 (3) FOR EACH PHYSICAL LOCATION PROVIDING SERVICES IN  
19 COLORADO, an applicant for a durable medical equipment supplier license  
20 must:

21 (a) Complete the license application as directed by the COLORADO  
22 secretary of state;

23 (b) Submit to the COLORADO secretary of state a notarized  
24 affidavit attesting that:

25 (I) ~~The applicant has at least one accredited physical facility that~~  
26 ~~is staffed during reasonable business hours and~~ APPLICANT'S PHYSICAL  
27 LOCATION is within one hundred miles of any Colorado resident medicare

1 beneficiary being served by the applicant IN COLORADO;

2 (II) ~~The applicant has sufficient inventory and staff to service or~~  
3 ~~repair products; and~~

4 (III) The applicant APPLICANT'S LOCATION is accredited AS A  
5 DMEPOS-ACCREDITED LOCATION, AS DEFINED IN 42 CFR 424.57 (c), by  
6 an accrediting organization recognized and accepted by the federal  
7 centers for medicare and medicaid services AND INCLUDES THE NAME AND  
8 ADDRESS OF THE ACCREDITING ORGANIZATION THAT HAS ACCREDITED THE  
9 APPLICANT'S PHYSICAL LOCATION AS IN COMPLIANCE WITH THE  
10 REQUIREMENTS SET FORTH IN SUBSECTION (3)(b)(I) OF THIS SECTION; AND

11 (IV) THE APPLICANT IS NOT USING A PHYSICAL LOCATION THAT IT  
12 USES AS A DMEPOS WAREHOUSE OR REPAIR FACILITY TO MEET THE  
13 REQUIREMENTS SET FORTH IN SUBSECTION (3)(b)(I) TO OBTAIN A LICENSE  
14 AND TO QUALIFY FOR ACCREDITATION, AS DEFINED IN 42 CFR 424.57 (c);  
15 EXCEPT THAT THE APPLICANT MAY DOMICILE A FULLY ACCREDITED  
16 DMEPOS FACILITY WITHIN A DMEPOS WAREHOUSE OR REPAIR FACILITY  
17 TO MEET THE REQUIREMENTS SET FORTH IN SUBSECTION (3)(b)(I) TO  
18 OBTAIN A LICENSE FOR THE FULLY ACCREDITED DMEPOS FACILITY AND  
19 TO QUALIFY FOR ACCREDITATION, AS DEFINED IN 42 CFR 424.57 (c);

20 (c) Provide to the COLORADO secretary of state a LOCAL street  
21 address and a local business telephone number FOR EACH PHYSICAL  
22 LOCATION PROVIDING SERVICES IN COLORADO; and

23 (d) Pay an annual fee established by the COLORADO secretary of  
24 state, not to exceed five hundred dollars FOR EACH PHYSICAL LOCATION  
25 THAT IS IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN  
26 SUBSECTION (3)(b)(I) OF THIS SECTION THAT IS PROVIDING SERVICES IN  
27 COLORADO; AND

1 (e) PROVIDE THE COLORADO SECRETARY OF STATE WITH A  
2 TELEPHONE NUMBER AND HOME OR BUSINESS ADDRESS FOR THE AFFIANT.

3 (4) The durable medical equipment supplier licensee shall  
4 prominently display the license at each of its physical business locations.  
5 ~~The license may be duplicated for this purpose.~~

6 (5) The COLORADO secretary of state shall refer all complaints  
7 concerning durable medical equipment suppliers, durable medical  
8 equipment, or services to the federal centers for medicare and medicaid  
9 SERVICES.

10 (6) ~~The secretary of state shall implement this section on or before~~  
11 ~~December 31, 2014.~~ The COLORADO secretary of state may promulgate  
12 rules to implement this section.

13 **SECTION 2. Safety clause.** The general assembly hereby finds,  
14 determines, and declares that this act is necessary for the immediate  
15 preservation of the public peace, health, and safety.