

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

INTRODUCED

LLS NO. 17-0709.01 Brita Darling x2241

HOUSE BILL 17-1080

HOUSE SPONSORSHIP

Young,

SENATE SPONSORSHIP

Sonnenberg,

House Committees

Health, Insurance, & Environment

Senate Committees

A BILL FOR AN ACT

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

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.

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

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 24-21-115 as
3 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, OR THE~~
9 ~~STATE MEDICAL ASSISTANCE PROGRAM ESTABLISHED IN ARTICLES 4, 5,~~
10 ~~AND 6 OF TITLE 25.5, IN COLORADO IN THE CURRENT CALENDAR YEAR for~~
11 ~~services or products listed in DEFINED BY the FEDERAL centers for~~
12 ~~medicare and medicaid SERVICES AS durable medical equipment,~~
13 ~~prosthetics, orthotics, and supplies. competitive bid product categories in~~
14 ~~this state in the current calendar year; or~~

15 ~~(II) Intends to bid for services or products listed in the centers for~~
16 ~~medicare and medicaid durable medical equipment, prosthetics, orthotics,~~
17 ~~and supplies competitive bid product categories in this state in the current~~
18 ~~calendar year.~~

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

1 (I) A person or entity that ONLY supplies or provides insulin
2 infusion pumps and ~~related~~ supplies or services RELATED TO INSULIN
3 INFUSION PUMPS;

4 (II) A person or entity that ONLY supplies or provides products
5 that are part of medicare's national mail order program FOR DIABETES
6 TESTING SUPPLIES;

7 (III) A pharmacy located in Colorado that has a current pharmacy
8 accreditation exemption that is accepted and recognized by the national
9 supplier clearinghouse that enables the pharmacy to be enrolled in
10 Medicare to supply durable medical equipment without having the
11 accreditation;

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

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

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

25 ~~(b) A durable medical equipment supplier license is not required~~
26 ~~as a condition of enrollment as a provider in the medical assistance~~
27 ~~program described in title 25.5, C.R.S.~~

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

4 (a) Complete the license application as directed by the COLORADO
5 secretary of state;

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

8 (I) ~~The applicant has at least one accredited physical facility that~~
9 ~~is staffed during reasonable business hours and~~ APPLICANT'S PHYSICAL
10 LOCATION is within one hundred miles of any Colorado resident medicare
11 beneficiary being served by the applicant IN COLORADO OR ANY
12 RECIPIENT OF SERVICES UNDER THE STATE MEDICAL ASSISTANCE PROGRAM
13 ESTABLISHED IN ARTICLES 4, 5, AND 6 OF TITLE 25.5 WHO IS BEING SERVED
14 BY THE APPLICANT IN COLORADO;

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

17 ~~(II)~~ (II) The applicant is accredited by an accrediting organization
18 recognized and accepted by the federal centers for medicare and medicaid
19 services AND INCLUDES THE NAME AND ADDRESS OF THE ACCREDITING
20 ORGANIZATION THAT HAS ACCREDITED THE APPLICANT'S PHYSICAL
21 LOCATION AS IN COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN
22 SUBSECTION (3)(b)(I) OF THIS SECTION; AND

23 (III) THE APPLICANT'S PHYSICAL LOCATION THAT IS IN
24 COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN SUBSECTION (3)(b)(I)
25 OF THIS SECTION IS NOT ACCREDITED AS A WAREHOUSE.

26 (c) Provide to the COLORADO secretary of state a LOCAL street
27 address and a local business telephone number FOR EACH PHYSICAL

1 LOCATION PROVIDING SERVICES IN COLORADO; ~~and~~

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

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

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

12 (5) The secretary of state shall refer all complaints concerning
13 durable medical equipment suppliers, durable medical equipment, or
14 services to the federal centers for medicare and medicaid SERVICES.

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

18 **SECTION 2.** In Colorado Revised Statutes, 25.5-4-416, **amend**
19 (2)(a)(II); and **repeal** (2)(a)(I) as follows:

20 **25.5-4-416. Providers - medical equipment and supplies -**
21 **requirements.** (2) On and after January 1, 2007, the state board rules for
22 the payment for disposable medical supplies and durable medical
23 equipment, including but not limited to prosthetic and orthotic devices,
24 shall prohibit a provider from being reimbursed unless the provider:

25 (a) (I) ~~Has one or more physical locations within the state of~~
26 ~~Colorado or within fifty miles of a border of Colorado with a street~~
27 ~~address, a local business telephone number, an inventory, and a sufficient~~

1 ~~staff to service or repair products; except that the requirements of this~~
2 ~~paragraph (a) shall not apply to durable medical equipment or disposable~~
3 ~~medical supplies that are medically necessary and cannot be purchased~~
4 ~~from a provider meeting the requirements of this paragraph (a);~~

5 (II) Complies with ~~all~~ THE REQUIREMENTS SET FORTH IN SECTION
6 24-21-115 AND ANY OTHER state and local licensing, insurance, and
7 regulatory requirements for operating the provider's business;

8 **SECTION 3. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.