

AN ACT relating to home medical equipment and service providers.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

→ Section 1. KRS 315.522 is amended to read as follows:

(1) (a) The board may *grant a license on the basis of reciprocity to a home medical equipment and services provider located in one (1) of Kentucky's seven (7) contiguous bordering states that license*~~permit an out-of-state~~ home medical equipment and services *providers*~~provider to obtain a license on the basis of reciprocity~~ if:

1.~~(a)~~ The out-of-state provider physically located in one (1) of *Kentucky's seven (7) contiguous*~~the~~ bordering states possesses a valid license from *a*~~another~~ jurisdiction that grants the same privileges to persons licensed by the Commonwealth as the Commonwealth grants to persons licensed by the other jurisdiction;

2.~~(b)~~ The requirements for licensure in the *contiguous* bordering state, *including but not limited to a requirement for a physical location in the state as a condition of issuing or renewing a license,* are substantially similar to the requirements under KRS 315.510 to 315.524; and

3.~~(c)~~ The out-of-state provider seeking licensure states that he or she has studied, is familiar with, and shall abide by KRS 315.510 to 315.524 and the administrative regulations promulgated thereunder.

(b) 1. *Notwithstanding subsection (2) of this section, the board may grant a license on the basis of reciprocity to a home medical equipment and services provider physically located in one (1) of Kentucky's seven (7) contiguous bordering states that does not license home medical equipment and services providers if the out-of-state provider seeking to operate in Kentucky states by affidavit that he or she has studied, is*

familiar with, and shall abide by KRS 315.510 to 315.524 and the administrative regulations promulgated thereunder; and

2. The contiguous bordering state grants the same privileges to persons licensed in the Commonwealth as the Commonwealth grants to providers from the state described in paragraph (b)1. of this subsection.

- (2) If the requirements for licensure under KRS 315.510 to 315.524 and the administrative regulations promulgated thereunder are more restrictive than the standards of a contiguous~~the other~~ jurisdiction, then the out-of-state provider shall comply with the additional requirements of KRS 315.510 to 315.524 to obtain a reciprocal license.

➔Section 2. KRS 315.191 is amended to read as follows:

- (1) The board is authorized to:
- (a) Promulgate administrative regulations pursuant to KRS Chapter 13A necessary to regulate and control all matters set forth in this chapter relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, manufacturers, and home medical equipment and services providers, to the extent that regulation and control of same have not been delegated to some other agency of the Commonwealth, but administrative regulations relating to drugs and home medical equipment and services shall be limited to the regulation and control of drugs sold pursuant to a prescription drug order or home medical equipment sold pursuant to a medical order. However, nothing contained in this chapter shall be construed as authorizing the board to promulgate any administrative regulations relating to prices or fees or to advertising or the promotion of the sales or use of commodities or services;
- (b) Issue subpoenas, schedule and conduct hearings, or appoint hearing officers to

- schedule and conduct hearings on behalf of the board on any matter under the jurisdiction of the board;
- (c) Prescribe the time, place, method, manner, scope, and subjects of examinations, with at least two (2) examinations to be held annually;
  - (d) Issue and renew all:
    - 1. Licenses for home medical equipment and services providers engaged in providing home medical equipment and services; and
    - 2. Licenses, certificates, and permits for all pharmacists, pharmacist interns, pharmacies, pharmacy technicians, wholesale distributors, and manufacturers engaged in the manufacture, distribution, or dispensation of drugs;
  - (e) Investigate all complaints or violations of the state pharmacy and home medical equipment laws and the administrative regulations promulgated by the board, and bring all these cases to the notice of the proper law enforcement authorities;
  - (f) Promulgate administrative regulations, pursuant to KRS Chapter 13A, that are necessary and to control the storage, retrieval, dispensing, refilling, and transfer of prescription drug orders within and between pharmacists and pharmacies licensed or issued a permit by it;
  - (g) Perform all other functions necessary to carry out the provisions of law and the administrative regulations promulgated by the board relating to pharmacists, pharmacist interns, pharmacy technicians, pharmacies, wholesale distributors, manufacturers, and home medical equipment and services providers;
  - (h) Establish or approve programs for training, qualifications, and registration of pharmacist interns;
  - (i) Assess reasonable fees, in addition to the fees specifically provided for in this

chapter and consistent with KRS 61.870 to 61.884, for services rendered to perform its duties and responsibilities, including, but not limited to, the following:

1. Issuance of duplicate certificates;
  2. Mailing lists or reports of data maintained by the board;
  3. Copies of documents; or
  4. Notices of meetings;
- (j) Seize any drug or device found by the board to constitute an imminent danger to public health and welfare;
- (k) Establish an advisory council to advise the board on administrative regulations and other matters, within the discretion of the board, pertinent to the regulation of pharmacists, pharmacist interns, pharmacy technicians, pharmacies, drug distribution, drug manufacturing, and home medical equipment and services. The council shall consist of nine (9) members selected by the board for terms of up to four (4) years. No member shall serve on the council for more than eight (8) years. Membership of the council shall include seven (7)~~nine (9)~~ individuals broadly representative of the profession of pharmacy~~[-, the profession of providing home medical equipment and services,]~~ and the general public, **and two (2) individuals representative of the home medical equipment and services profession licensed in accordance with KRS 315.518.** Members shall be selected by the board from a list of qualified candidates submitted by the association, society, or other interested parties;
- (l) Promulgate administrative regulations establishing the qualifications that pharmacy technicians are required to attain prior to engaging in pharmacy practice activities outside the immediate supervision of a pharmacist; and
- (m) Oversee and administer the licensure of home medical equipment and services

providers pursuant to KRS 315.510 to 315.524.

- (2) The board shall have other authority as may be necessary to enforce pharmacy and home medical equipment laws and administrative regulations of the board including, but not limited to:
- (a) Joining or participating in professional organizations and associations organized exclusively to promote improvement of the standards of practice of pharmacy and of providing home medical equipment and services for the protection of public health and welfare or facilitate the activities of the board; and
  - (b) Receiving and expending funds, in addition to its biennial appropriation, received from parties other than the state, if:
    - 1. The funds are awarded for the pursuit of a specific objective which the board is authorized to enforce through this chapter, or which the board is qualified to pursue by reason of its jurisdiction or professional expertise;
    - 2. The funds are expended for the objective for which they were awarded;
    - 3. The activities connected with or occasioned by the expenditure of the funds do not interfere with the performance of the board's responsibilities and do not conflict with the exercise of its statutory powers;
    - 4. The funds are kept in a separate account and not commingled with funds received from the state; and
    - 5. Periodic accountings of the funds are maintained at the board office for inspection or review.
- (3) In addition to the sanctions provided in KRS 315.121, the board or its hearing officer may direct any licensee, permit holder, or certificate holder found guilty of a charge involving home medical equipment, pharmacy, or drug laws, rules, or administrative regulations of the state, any other state, or federal government, to pay

to the board a sum not to exceed the reasonable costs of investigation and prosecution of the case, not to exceed twenty-five thousand dollars (\$25,000).

- (4) In an action for recovery of costs, proof of the board's order shall be conclusive proof of the validity of the order of payment and any terms for payment.

➔Section 3. KRS 315.514 is amended to read as follows:

- (1) No person shall provide home medical equipment and services, or use the title "home medical equipment and services provider" in connection with his or her profession or business, without a license issued by the board.
- (2) Unless home medical equipment and services are provided through a separate legal entity, nothing in KRS 315.510 to 315.524 or any administrative regulations promulgated thereunder shall be construed as preventing or restricting the practices, services, or activities of the following:
- (a) A person licensed or registered in this state under any other law who is engaging in the profession or occupation for which he or she is licensed or registered;
  - (b) Health care practitioners who lawfully prescribe or order home medical equipment and services, or who use home medical equipment and services to treat their patients;
  - (c) Home health agencies that do not engage in the provision of home medical equipment and services;
  - (d) Hospitals that provide home medical equipment and services only as an integral part of patient care;
  - (e) Manufacturers and wholesale distributors of home medical equipment who do not sell, lease, or rent home medical equipment directly to a patient;
  - (f) Pharmacies that are engaged in the sale, lease, or rental of home medical equipment and services;
  - (g) An employee of a person licensed under KRS 315.510 to 315.524;

- (h) Hospice programs that do not involve the sale, lease, or rental of home medical equipment and services;
- (i) Skilled nursing facilities that do not involve the sale, lease, or rental of home medical equipment and services;~~and~~
- (j) Government agencies, including fire districts which provide emergency medical services; and
- (k) Notwithstanding subsection (1) of this section, an out-of-state provider whose primary business is the manufacture, distribution, or both, of highly specialized equipment who ships that equipment into this state if that equipment is not provided by a licensed Kentucky home medical equipment and services provider.