

Senate File 372 - Introduced

SENATE FILE 372
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SSB 1172)

A BILL FOR

1 An Act relating to licensure of durable medical equipment
2 providers, providing penalties, and including effective date
3 and implementation provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 147.1, subsections 3 and 6, Code 2015,
2 are amended to read as follows:

3 3. "*Licensed*" or "*certified*", when applied to a physician
4 and surgeon, podiatric physician, osteopathic physician and
5 surgeon, physician assistant, psychologist, chiropractor,
6 nurse, dentist, dental hygienist, dental assistant,
7 optometrist, speech pathologist, audiologist, pharmacist,
8 physical therapist, physical therapist assistant, occupational
9 therapist, occupational therapy assistant, orthotist,
10 prosthetist, pedorthist, respiratory care practitioner,
11 practitioner of cosmetology arts and sciences, practitioner
12 of barbering, funeral director, dietitian, marital and family
13 therapist, mental health counselor, social worker, massage
14 therapist, athletic trainer, acupuncturist, nursing home
15 administrator, hearing aid dispenser, durable medical equipment
16 provider, or sign language interpreter or transliterator means
17 a person licensed under this subtitle.

18 6. "*Profession*" means medicine and surgery, podiatry,
19 osteopathic medicine and surgery, practice as a physician
20 assistant, psychology, chiropractic, nursing, dentistry,
21 dental hygiene, dental assisting, optometry, speech pathology,
22 audiology, pharmacy, physical therapy, physical therapist
23 assisting, occupational therapy, occupational therapy
24 assisting, respiratory care, cosmetology arts and sciences,
25 barbering, mortuary science, marital and family therapy, mental
26 health counseling, social work, dietetics, massage therapy,
27 athletic training, acupuncture, nursing home administration,
28 hearing aid dispensing, durable medical equipment providing,
29 sign language interpreting or transliterating, orthotics,
30 prosthetics, or pedorthics.

31 Sec. 2. Section 147.2, subsection 1, Code 2015, is amended
32 to read as follows:

33 1. A person shall not engage in the practice of medicine
34 and surgery, podiatry, osteopathic medicine and surgery,
35 psychology, chiropractic, physical therapy, physical

1 therapist assisting, nursing, dentistry, dental hygiene,
2 dental assisting, optometry, speech pathology, audiology,
3 occupational therapy, occupational therapy assisting,
4 orthotics, prosthetics, pedorthics, respiratory care,
5 pharmacy, cosmetology arts and sciences, barbering, social
6 work, dietetics, marital and family therapy or mental health
7 counseling, massage therapy, mortuary science, athletic
8 training, acupuncture, nursing home administration, hearing
9 aid dispensing, durable medical equipment providing, or sign
10 language interpreting or transliterating, or shall not practice
11 as a physician assistant, unless the person has obtained a
12 license for that purpose from the board for the profession.

13 Sec. 3. Section 147.13, Code 2015, is amended by adding the
14 following new subsection:

15 NEW SUBSECTION. 25. For durable medical equipment
16 providers, the board of durable medical equipment providers.

17 Sec. 4. Section 147.14, subsection 1, Code 2015, is amended
18 by adding the following new paragraph:

19 NEW PARAGRAPH. x. For durable medical equipment providers,
20 seven licensed durable medical equipment providers.

21 Sec. 5. NEW SECTION. 154G.1 **Definitions.**

22 For purposes of this chapter:

23 1. *"Accrediting organization"* means any organization
24 recognized by the centers for Medicare and Medicaid services of
25 the United States department of health and human services as an
26 accreditation body for durable medical equipment providers.

27 2. *"Affiliated person"* means any person who directly or
28 indirectly manages, controls, or oversees the operation of
29 a corporation or other business entity that is a licensee,
30 regardless of whether such person is a partner, shareholder,
31 owner, officer, director, agent, or employee of the entity.

32 3. *"Applicant"* means an individual applicant in the case of
33 a sole proprietorship or any officer, director, agent, managing
34 employee, general manager, or affiliated person or any partner
35 or shareholder having an ownership interest equal to five

1 percent or greater in the corporation or other business entity.

2 4. "*Board*" means the board of durable medical equipment
3 providers.

4 5. "*Consumer*" or "*patient*" means a person who uses durable
5 medical equipment in the person's residence.

6 6. "*Durable medical equipment*" means any product reimbursed
7 under Medicare part B durable medical equipment benefits and
8 any product as defined by the federal Food, Drug, and Cosmetic
9 Act or reimbursable under Medicaid as provided by the board by
10 rule. "*Durable medical equipment*" includes but is not limited
11 to hospital beds, oxygen, walkers, continuous positive airway
12 pressure machines, customized wheelchairs, and related seating
13 and positioning devices, but does not include prosthetics
14 or orthotics or any splints, braces, or aids custom-fit or
15 custom-fabricated by a licensed health care practitioner or
16 commercially available noncustomized splints, braces, or aids
17 prescribed by a licensed health care practitioner.

18 7. "*Durable medical equipment provider*" means a person or
19 entity that sells or rents, or offers to sell or rent, to or
20 for a consumer any durable medical equipment or durable medical
21 equipment services.

22 8. "*Durable medical equipment provider personnel*" means
23 persons who are employed by or under contract with a durable
24 medical equipment provider.

25 9. "*Durable medical equipment services*" means equipment
26 management and consumer instruction, including selection,
27 delivery, setup, and maintenance of equipment and other related
28 services for the use of durable medical equipment in the
29 consumer's regular or temporary residence.

30 10. "*General manager*" means the individual who has the
31 general administrative charge of the premises of a licensed
32 durable medical equipment provider.

33 11. "*Licensed health care practitioner*" means a person
34 licensed in this state engaging in a profession or occupation
35 included in section 147.1, subsections 3 and 6.

1 12. "*Licensee*" means the person or entity to whom a license
2 to operate as a durable medical equipment provider is issued
3 by the board.

4 13. "*Moratorium*" means a mandated temporary cessation or
5 suspension of the sale, rental, or offering of durable medical
6 equipment, except that services related to durable medical
7 equipment sold or rented prior to the moratorium shall be
8 continued without interruption, unless ordered otherwise by the
9 board.

10 14. "*Premises*" means those buildings and equipment which
11 are located at the address of the licensed durable medical
12 equipment provider for the provision of durable medical
13 equipment services which are in such reasonable proximity as to
14 appear to the public to be a single provider location.

15 15. "*Residence*" means a consumer's home or place of
16 residence, which may include a nursing home as defined in
17 section 155.1, assisted living program as defined in section
18 231C.2, elder group home as defined in section 231B.1,
19 transitional living facility, or other congregate residential
20 facility.

21 16. "*Retail sale*" means a sale or rental of durable medical
22 equipment directly to a consumer which does not require a
23 prescription or billing of Medicare, Medicaid, or any other
24 third-party insurance.

25 **Sec. 6. NEW SECTION. 154G.2 License required — exemptions.**

26 1. A person shall not do any of the following without
27 obtaining a license from the board under this chapter:

28 *a.* Hold oneself out to the public as providing durable
29 medical equipment or durable medical equipment services or
30 accept physician orders for durable medical equipment or
31 durable medical equipment services.

32 *b.* Hold oneself out to the public as providing durable
33 medical equipment that typically requires durable medical
34 equipment services.

35 *c.* Provide durable medical equipment or durable medical

1 equipment services to consumers in this state.

2 2. A separate license is required for all durable medical
3 equipment providers operating on separate premises, even if
4 the providers are operating under the same management. For
5 each location a provider operates, an initial inspection by the
6 board pursuant to section 154G.9 shall be required to obtain
7 a license.

8 3. The following persons are exempt from durable medical
9 equipment provider licensure unless the person operates a
10 separate company, corporation, or division that is in the
11 business of providing durable medical equipment and services
12 for sale or rent to consumers at their regular or temporary
13 place of residence pursuant to the provisions of this chapter:

14 a. Durable medical equipment providers operated by the
15 federal government.

16 b. Nursing homes as defined in section 155.1.

17 c. Assisted living programs as defined in section 231C.2.

18 d. Home health agencies as defined in 42 C.F.R. pt. 484.

19 e. Hospice programs as defined in section 135J.1.

20 f. Intermediate care facilities for persons with
21 intellectual disabilities or mental illnesses as defined in
22 section 135C.1.

23 g. Homes for special services.

24 h. Transitional living facilities.

25 i. Hospitals licensed pursuant to chapter 135B.

26 j. Ambulatory surgical centers.

27 k. Manufacturers and wholesale distributors when not selling
28 directly to consumers.

29 l. Licensed health care practitioners who utilize durable
30 medical equipment in the course of their practice.

31 m. Pharmacies licensed pursuant to chapter 155A.

32 n. Any durable medical equipment provider who only provides
33 items for retail sale.

34 4. A person shall not offer or advertise durable medical
35 equipment or durable medical equipment services to the public

1 unless such person has a valid license under this chapter or is
2 exempted from licensure under subsection 3. A person holding
3 a license issued under this chapter shall not advertise or
4 indicate to the public that the person holds a durable medical
5 equipment provider license other than the license the person
6 has been issued.

7 Sec. 7. NEW SECTION. **154G.3 Principal place of business**
8 **out of state.**

9 A durable medical equipment provider that provides durable
10 medical equipment or durable medical equipment services
11 to persons in this state and that has a principal place of
12 business outside this state shall maintain an office or place
13 of business within this state unless the principal place of
14 business is located in a bordering state, is within fifty miles
15 of a border with this state, and meets the other requirements
16 of this chapter.

17 Sec. 8. NEW SECTION. **154G.4 Accreditation.**

18 A durable medical equipment provider accredited by an
19 accrediting organization may submit documents to the board
20 evidencing current accreditation and shall be presumed to
21 comply with the licensing requirements of this chapter.
22 Licensing of a durable medical equipment provider that has
23 been accredited by an accrediting organization shall become
24 effective upon written notification from the board that the
25 accreditation meets the standards set out in rules adopted by
26 the board.

27 Sec. 9. NEW SECTION. **154G.5 License application — renewal**
28 **— duplicates — fees.**

29 1. An application for an initial license or for renewal of
30 an existing license shall be made under oath to the board on
31 forms furnished by the board and must be accompanied by the
32 appropriate license fee as established by the board by rule.

33 2. The applicant shall file with the application
34 information demonstrating that the applicant is in compliance
35 with this chapter and applicable rules. Such information shall

1 include the following:

2 *a.* A report specifying by category the durable medical
3 equipment to be provided and indicating the durable medical
4 equipment offered either directly by the applicant or through
5 contractual arrangements with existing durable medical
6 equipment providers. Categories of equipment include but are
7 not limited to the following:

- 8 (1) Respiratory modalities.
- 9 (2) Ambulation aids.
- 10 (3) Mobility aids.
- 11 (4) Sickroom setup.
- 12 (5) Disposables.

13 *b.* A report specifying by category the durable medical
14 equipment services to be provided and indicating those offered
15 either directly by the applicant or through contractual
16 arrangements with existing providers. Categories of services
17 include but are not limited to the following:

- 18 (1) Intake.
- 19 (2) Equipment selection.
- 20 (3) Delivery.
- 21 (4) Setup and installation.
- 22 (5) Patient training.
- 23 (6) Ongoing service and maintenance.
- 24 (7) Retrieval.

25 *c.* A list of those persons with whom the applicant contracts
26 to provide durable medical equipment or durable medical
27 equipment services to its consumers and those persons for whom
28 the applicant provides durable medical equipment or durable
29 medical equipment services.

30 *d.* A description and explanation of any exclusions,
31 permanent suspensions, or terminations of the applicant
32 from the Medicare or medical assistance program. Proof
33 of compliance with the disclosure of ownership and control
34 interest requirements of the Medicare or medical assistance
35 program shall be accepted in lieu of this submission.

1 e. A description and explanation of any felony committed
2 by a member of the board of directors of the applicant, its
3 officers, or any individual owning five percent or more of the
4 applicant. This requirement does not apply to a director of
5 a not-for-profit corporation or organization if the director
6 serves solely in a voluntary capacity for the corporation or
7 organization, does not regularly take part in the day-to-day
8 operational decisions of the corporation or organization,
9 receives no remuneration for such director's services on the
10 corporation's or organization's board of directors, and has
11 no financial interest and no family members with a financial
12 interest in the corporation or organization, provided that the
13 director and the not-for-profit corporation or organization
14 include in the application a statement affirming that the
15 director's relationship to the corporation satisfies the
16 requirements of this paragraph.

17 3. An applicant for initial licensure shall demonstrate
18 financial ability to operate, which may be accomplished by the
19 submission of a surety bond in the amount of fifty thousand
20 dollars to the board. An existing surety bond for Medicare
21 credentialing held by the applicant shall be sufficient in lieu
22 of an additional bond.

23 4. An applicant for license renewal who has demonstrated
24 financial inability to operate shall demonstrate financial
25 ability to operate before the board may renew the applicant's
26 license.

27 5. The board shall initiate a criminal background check of
28 the applicant upon receipt of a completed, signed, and dated
29 application. As used in this subsection, "*applicant*" means the
30 general manager and the financial officer or similarly titled
31 individual who is responsible for the financial operation of
32 the durable medical equipment provider.

33 a. The applicant shall supply fingerprint samples or
34 submit to a criminal history records check to be conducted
35 by the division of criminal investigation of the department

1 of public safety. Any costs incurred by the division of
2 criminal investigation of the department of public safety in
3 conducting such investigation of an applicant shall be paid by
4 the potential licensee.

5 *b.* The board may require a criminal background check for a
6 member of the board of directors of the potential licensee or
7 an officer or an individual owning five percent or more of the
8 potential licensee if the board has probable cause to believe
9 that such individual has been convicted of a felony.

10 6. The board shall not issue a license to an applicant if
11 the applicant or an administrator or financial officer of the
12 durable medical equipment provider has been found guilty of or
13 has entered a plea of *nolo contendere* or guilty to any felony.

14 7. Proof of professional and commercial liability insurance
15 shall be submitted with the application. The board shall
16 set the required amounts of liability insurance by rule,
17 but the required amount shall not be less than two hundred
18 fifty thousand dollars per claim. In the case of contracted
19 services, the contractor shall have liability insurance of not
20 less than two hundred fifty thousand dollars per claim.

21 8. Ninety days before the expiration date of a license, the
22 durable medical equipment provider shall submit an application
23 for license renewal to the board under oath on forms furnished
24 by the board. The license shall be renewed if the applicant
25 has met the requirements established under this chapter and
26 applicable rules. The durable medical equipment provider must
27 file with the application satisfactory proof that it is in
28 compliance with this chapter and applicable rules. The durable
29 medical equipment provider must submit satisfactory proof of
30 its financial ability to comply with the requirements of this
31 chapter.

32 9. When a duplicate license is issued, a fee shall be
33 assessed not exceeding the actual cost of duplicating and
34 mailing the duplicate license.

35 10. The license must be displayed in a conspicuous place

1 in the administrative office of the durable medical equipment
2 provider and is valid only while in the possession of the
3 person or entity to which it is issued. The license may
4 not be sold, assigned, or otherwise transferred, voluntarily
5 or involuntarily, and is valid only for the durable medical
6 equipment provider and location for which originally issued.

7 11. All license fees required of a durable medical equipment
8 provider are nonrefundable. The board shall set license
9 renewal fees by rule sufficient to cover its costs in carrying
10 out its responsibilities.

11 12. State, county, or municipal governments applying for
12 licenses under this chapter are exempt from the payment of
13 license fees.

14 13. An applicant for initial licensure, or following a
15 change of ownership as described in section 154G.6, shall pay
16 a license processing fee not to exceed three hundred dollars
17 and an inspection fee not to exceed four hundred dollars to be
18 paid by all applicants except those not subject to licensure
19 inspection by the board.

20 Sec. 10. NEW SECTION. 154G.6 Provisional licenses — change
21 of ownership.

22 1. A provisional license shall be issued by the board
23 to an approved applicant for initial licensure for a period
24 of ninety days. During that time, the board shall conduct
25 an investigation to determine substantial compliance, as
26 determined by the board, with the requirements of section
27 154G.5, including any determination to be made by the board
28 pending the outcome of the criminal background check performed
29 pursuant to section 154G.5, subsection 5. If substantial
30 compliance is demonstrated, a license shall be issued, to
31 expire two years after the effective date of the provisional
32 license.

33 2. A durable medical equipment provider against whom a
34 proceeding by the board for revocation or suspension or for
35 denial of a renewal application is pending may be issued a

1 provisional license effective until final disposition of such
2 proceedings. If judicial relief is sought from the final
3 disposition, the court that has jurisdiction may direct the
4 board to issue a provisional license for the duration of the
5 judicial proceeding.

6 3. *a.* When a change of ownership of a durable medical
7 equipment provider occurs, the prospective owner shall submit
8 an initial application for a license to the board at least
9 fifteen days before the effective date of the change of
10 ownership. An application for change of ownership of a license
11 is required when ownership, a majority of the ownership, or
12 controlling interest of a licensed durable medical equipment
13 provider is transferred or assigned and when the prospective
14 owner agrees to undertake or provide services to the extent
15 that legal liability for operation of the durable medical
16 equipment provider rests with the prospective owner.

17 *b.* A provisional license shall be issued to the new owner
18 for a period of ninety days during which time all required
19 documentation must be submitted and an investigation must
20 be conducted demonstrating substantial compliance with this
21 section. If substantial compliance is demonstrated a license
22 shall be issued, to expire two years after the issuance of the
23 provisional license.

24 4. *a.* When a change of the general manager of a durable
25 medical equipment provider occurs, the licensee shall notify
26 the board of the change within forty-five days and shall
27 provide evidence of compliance with the background check
28 requirements in section 154G.5, subsection 5.

29 *b.* A general manager who has met the standards for the abuse
30 registry background check and the criminal background check,
31 but for whom background screening results from the division of
32 criminal investigation of the department of public safety have
33 not yet been received, may be employed pending receipt of the
34 division of criminal investigation of the department of public
35 safety background screening report.

1 5. When a change is reported which requires issuance of a
2 license, the board shall assess a fee. The fee must be based on
3 the actual cost of processing and issuing the license.

4 Sec. 11. NEW SECTION. 154G.7 **Standards.**

5 The following standards shall govern the manner in which a
6 licensed durable medical equipment provider operates:

7 1. A licensed durable medical equipment provider must be in
8 compliance with all applicable federal and state licensure and
9 regulatory requirements.

10 2. A licensed durable medical equipment provider must honor
11 all warranties under applicable law.

12 3. A licensed durable medical equipment provider must
13 maintain a physical facility on an appropriate site and must
14 maintain a visible sign with posted hours of operation. The
15 location must be accessible to the public and staffed during
16 posted hours of business. The location must be at least two
17 hundred square feet and contain space for storing records.

18 4. A licensed durable medical equipment provider must
19 maintain a primary business telephone number listed under
20 the name of the business in a local directory or a toll-free
21 telephone number available through directory assistance.
22 The exclusive use of a beeper, answering machine, answering
23 service, or cell phone during posted business hours is
24 prohibited.

25 5. A licensed durable medical equipment provider shall
26 furnish the board any information required under state law.

27 6. A licensed durable medical equipment provider must
28 notify the accrediting organization for the durable medical
29 equipment provider when a new location is opened.

30 7. All durable medical equipment provider locations,
31 whether owned or subcontracted, must adhere to the standards
32 established pursuant to this section and be separately
33 accredited in order to comply with licensure requirements.

34 8. A licensed durable medical equipment provider must
35 disclose to the board upon application for a license all

1 products and services, including the addition of new product
2 lines for which the durable medical equipment provider is
3 seeking accreditation.

4 9. A licensed durable medical equipment provider must
5 remain open to the public for at least thirty hours per week.

6 Sec. 12. NEW SECTION. 154G.8 Duties.

7 A licensed durable medical equipment provider shall do all
8 of the following:

9 1. Offer and provide durable medical equipment to consumers
10 and offer and provide durable medical equipment services, as
11 necessary, to consumers who purchase or rent equipment that
12 requires such services.

13 2. Provide at least one category of durable medical
14 equipment directly by filling orders from its own inventory.

15 3. Respond to orders received for durable medical equipment
16 by filling those orders from its own inventory or inventory
17 from other companies with which it has contracted to fill such
18 orders, or customizing or fitting items for sale from supplies
19 purchased under contract.

20 4. Maintain trained durable medical equipment provider
21 personnel to coordinate order fulfillment and schedule timely
22 durable medical equipment and durable medical equipment service
23 delivery.

24 5. As necessary in relation to the sophistication of
25 the durable medical equipment and durable medical equipment
26 services being provided:

27 a. Ensure that delivery personnel are appropriately
28 trained to conduct an environment and equipment compatibility
29 assessment.

30 b. Appropriately and safely set up the durable medical
31 equipment.

32 c. Instruct patients and caregivers in the safe operation
33 and client maintenance of the durable medical equipment.

34 d. Recognize when additional education or follow-up patient
35 compliance monitoring is appropriate.

1 **Sec. 13. NEW SECTION. 154G.9 Inspections.**

2 1. The board shall make or cause to be made such inspections
3 and investigations of a durable medical equipment provider as
4 it considers necessary, including:

5 *a.* Licensure inspections.

6 *b.* Inspections directed by the centers for Medicare and
7 Medicaid services of the United States department of health and
8 human services.

9 *c.* Licensure complaint investigations, including
10 full licensure investigations with a review of all
11 licensure standards as outlined in rules adopted by the
12 board. Complaints received by the board from individuals,
13 organizations, or other sources are subject to review and
14 investigation by the board.

15 2. The board shall accept, in lieu of its own periodic
16 inspections for licensure, submission of a survey or inspection
17 of an accrediting organization, provided the accreditation
18 of the licensed durable medical equipment provider is not
19 provisional and provided the licensed durable medical equipment
20 provider authorizes release of, and the board receives the
21 report of, the accrediting organization.

22 **Sec. 14. NEW SECTION. 154G.10 License denial, revocation,**
23 **or suspension.**

24 1. The board may deny, revoke, or suspend a license, or
25 impose a civil penalty not to exceed five thousand dollars per
26 violation per day in accordance with this section.

27 2. Either of the following actions by a durable medical
28 equipment provider or any of its employees is grounds for
29 administrative action or imposition of civil penalties by the
30 board:

31 *a.* Violation of this chapter or rules adopted pursuant to
32 this chapter.

33 *b.* An intentional, reckless, or negligent act that
34 materially affects the health or safety of a patient.

35 3. The board may deny licensure to an applicant or revoke

1 the license of a licensee who does any of the following:

2 *a.* Makes or previously made a false representation or
3 omission of any material fact in an application, including the
4 submission of an application that conceals the applicant's
5 controlling or ownership interest, or any officer, director,
6 agent, managing employee, affiliated person, partner, or
7 shareholder who may not be eligible to participate.

8 *b.* Has been previously found by any board created under
9 chapter 147 to have violated the standards or conditions
10 relating to licensure or certification or the quality of
11 services provided.

12 *c.* Has been or is currently excluded, suspended, or
13 terminated from, or has involuntarily withdrawn from,
14 participation in any state Medicaid program, the Medicare
15 program, or any other governmental or private health care or
16 health insurance program.

17 4. The board may issue an emergency order immediately
18 suspending or revoking a license when it determines that any
19 condition within the responsibility of the durable medical
20 equipment provider presents a clear and present danger to
21 public health and safety.

22 5. The board may impose an immediate moratorium on the
23 license of a licensed durable medical equipment provider
24 when the board determines that any condition within the
25 responsibility of the durable medical equipment provider
26 presents a threat to public health or safety.

27 Sec. 15. NEW SECTION. 154G.11 Penalties.

28 1. The following penalties shall be imposed for operating as
29 a durable medical equipment provider without a license under
30 this chapter:

31 *a.* A person who operates as a durable medical equipment
32 provider without a license under this chapter commits a class
33 "D" felony.

34 *b.* For any person who has received government reimbursement
35 for services provided by an unlicensed durable medical

1 equipment provider, the board shall make a fraud referral to
2 the appropriate government reimbursement program.

3 2. If the board discovers that a licensee is concurrently
4 operating licensed and unlicensed provider locations, the
5 board may impose a civil penalty of not more than five hundred
6 dollars per violation or suspend any of the licensee's existing
7 licenses.

8 3. A durable medical equipment provider found to be
9 operating without a license may apply for licensure but shall
10 cease operations until a license is issued by the board.

11 Sec. 16. Section 272C.1, subsection 6, Code 2015, is amended
12 by adding the following new paragraph:

13 NEW PARAGRAPH. *ag.* The board of durable medical equipment
14 providers created pursuant to chapter 147.

15 Sec. 17. INITIAL APPOINTMENTS. Notwithstanding any
16 provision to the contrary in this Act, the initial appointees
17 to the board of durable medical equipment providers established
18 pursuant to this Act shall hold accreditation from an
19 accrediting organization, as defined in section 154G.1, as
20 enacted in this Act.

21 Sec. 18. EFFECTIVE UPON ENACTMENT. The following
22 provision or provisions of this Act, being deemed of immediate
23 importance, take effect upon enactment:

24 1. The sections of this Act amending sections 147.13,
25 147.14, and 272C.1, and the section relating to initial
26 appointments to the board of durable medical equipment
27 providers.

28 Sec. 19. EFFECTIVE DATE AND IMPLEMENTATION. The following
29 provision or provisions of this Act take effect January 1,
30 2016, except that the board of durable medical equipment
31 providers may begin implementation prior to January 1, 2016, to
32 the extent necessary to transition to full implementation of
33 these provisions of this Act:

34 1. The sections of this Act amending sections 147.1 and
35 147.2, and enacting sections 154G.1 through 154G.11.

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EXPLANATION

The inclusion of this explanation does not constitute agreement with the explanation's substance by the members of the general assembly.

This bill establishes a licensing procedure and standards of practice for durable medical equipment providers.

The bill creates a new licensing board, the board of durable medical equipment providers. The board shall be responsible for administering the licensing procedure and regulating durable medical equipment providers. The bill makes Code chapters 147 and 272C, including penalty and other regulatory provisions, applicable to the practice of durable medical equipment providing.

Under the bill, persons or entities who hold themselves out to the public as providers of durable medical equipment must have a license issued by the board. To operate as a durable medical equipment provider, a person or entity must have a place of business open to the public at least 30 hours per week. If the person or entity has multiple locations, it must have a license for each location. If the person or entity's principal place of business is located out of state but within 50 miles of the state and does business in the state, it need not maintain a location in Iowa.

If a durable medical equipment provider is accredited by an organization recognized by the centers for Medicare and Medicaid services of the United States department of health and human services and provides proof of such accreditation to the board, the board shall grant the provider a license. Licenses shall be issued for two years. An inspection is required before a license can be issued. The board shall establish the fees for new licenses and for renewals. The bill enumerates a list of groups who are not required to meet the licensure requirements.

Any person operating as a durable medical equipment provider without a license commits a class "D" felony and shall cease operation until a license is issued by the board.

1 An applicant for a durable medical equipment provider
2 license must complete the form made available by the board.
3 The applicant must also provide a report specifying by category
4 the equipment and services to be provided and indicating those
5 offered either directly by the applicant or through contractual
6 arrangements with existing providers. An applicant must
7 provide a list of entities with whom it contracts for the
8 provision of equipment and services. An initial applicant
9 must provide proof of professional and commercial liability
10 insurance as well as financial stability in the form of a
11 \$50,000 surety bond or an existing surety bond for Medicare
12 credentialing.

13 An applicant's general manager and senior financial officer
14 must submit to and pay for the costs of a criminal background
15 check conducted by the division of criminal investigation
16 of the department of public safety. The board may require
17 background checks of any board of director members or of owners
18 who hold at least a 5 percent stake in an applicant entity.
19 The applicant must disclose information regarding felonies
20 committed by a member of the board of directors, its officers,
21 or any individual owning 5 percent or more of the applicant
22 entity.

23 The board may deny, revoke, or suspend a license, or impose
24 a civil penalty not to exceed \$5,000 per violation per day if
25 a durable medical equipment provider or any of its employees
26 violates the bill or rules or commits an intentional, reckless,
27 or negligent act that materially affects the health or safety
28 of a patient. The board may deny or revoke the license of any
29 applicant that made a false representation or omission of any
30 material fact on its application, has been previously found by
31 any professional licensing, certifying, or standards board or
32 agency to have violated its standards or conditions, or has
33 been excluded, suspended, or terminated or has involuntarily
34 withdrawn from participation in any governmental or private
35 health care or health insurance program.

1 The board may investigate or inspect an applicant or
2 licensee as it considers necessary. The board shall accept
3 a survey or inspection of an accrediting organization if
4 the accreditation of the licensed durable medical equipment
5 provider is not provisional and the provider authorizes the
6 release of the organization's report, which is received by the
7 board.

8 The provisions of the bill that create the board, allow for
9 initial board appointments, and grant the board rulemaking
10 authority shall be effective upon enactment. The remaining
11 provisions shall take effect on January 1, 2016.