

Senate Study Bill 1172 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
STATE GOVERNMENT BILL BY
CHAIRPERSON DANIELSON)

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 or
14 orthotics or any splints, braces, or aids custom-fabricated by
15 a licensed health care practitioner.

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

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

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

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

31 11. "*Licensee*" means the person or entity to whom a license
32 to operate as a durable medical equipment provider is issued
33 by the board.

34 12. "*Moratorium*" means a mandated temporary cessation or
35 suspension of the sale, rental, or offering of durable medical

1 equipment, except that services related to durable medical
2 equipment sold or rented prior to the moratorium shall be
3 continued without interruption, unless ordered otherwise by the
4 board.

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

10 14. "*Residence*" means a consumer's home or place of
11 residence, which may include a nursing home as defined in
12 section 155.1, assisted living program as defined in section
13 231C.2, elder group home as defined in section 231B.1,
14 transitional living facility, or other congregate residential
15 facility.

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

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

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

23 a. Hold oneself out to the public as providing durable
24 medical equipment or durable medical equipment services or
25 accept physician orders for durable medical equipment or
26 durable medical equipment services.

27 b. Hold oneself out to the public as providing durable
28 medical equipment that typically requires durable medical
29 equipment services.

30 c. Provide durable medical equipment or durable medical
31 equipment services to consumers in this state.

32 2. A separate license is required for all durable medical
33 equipment providers operating on separate premises, even if
34 the providers are operating under the same management. For
35 each location a provider operates, an initial inspection by the

1 board pursuant to section 154G.9 shall be required to obtain
2 a license.

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

9 a. Durable medical equipment providers operated by the
10 federal government.

11 b. Nursing homes as defined in section 155.1.

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

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

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

15 f. Intermediate care facilities for persons with
16 intellectual disabilities or mental illnesses as defined in
17 section 135C.1.

18 g. Homes for special services.

19 h. Transitional living facilities.

20 i. Hospitals licensed pursuant to chapter 135B.

21 j. Ambulatory surgical centers.

22 k. Manufacturers and wholesale distributors when not selling
23 directly to consumers.

24 l. Licensed health care practitioners who utilize durable
25 medical equipment in the course of their practice, but do not
26 sell or rent durable medical equipment to their patients.

27 m. Pharmacies licensed pursuant to chapter 155A.

28 n. Any durable medical equipment provider who only provides
29 items for retail sale.

30 4. A person shall not offer or advertise durable medical
31 equipment or durable medical equipment services to the public
32 unless such person has a valid license under this chapter or is
33 exempted from licensure under subsection 3. A person holding
34 a license issued under this chapter shall not advertise or
35 indicate to the public that the person holds a durable medical

1 equipment provider license other than the license the person
2 has been issued.

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

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

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

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

23 Sec. 9. NEW SECTION. **154G.5 License application — renewal**
24 **— duplicates — fees.**

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

29 2. The applicant shall file with the application
30 information demonstrating that the applicant is in compliance
31 with this chapter and applicable rules. Such information shall
32 include the following:

33 a. A report specifying by category the durable medical
34 equipment to be provided and indicating the durable medical
35 equipment offered either directly by the applicant or through

1 contractual arrangements with existing durable medical
2 equipment providers. Categories of equipment include but are
3 not limited to the following:

- 4 (1) Respiratory modalities.
- 5 (2) Ambulation aids.
- 6 (3) Mobility aids.
- 7 (4) Sickroom setup.
- 8 (5) Disposables.

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

- 14 (1) Intake.
- 15 (2) Equipment selection.
- 16 (3) Delivery.
- 17 (4) Setup and installation.
- 18 (5) Patient training.
- 19 (6) Ongoing service and maintenance.
- 20 (7) Retrieval.

21 *c.* A list of those persons with whom the applicant contracts
22 to provide durable medical equipment or durable medical
23 equipment services to its consumers and those persons for whom
24 the applicant provides durable medical equipment or durable
25 medical equipment services.

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

32 *e.* A description and explanation of any felony committed
33 by a member of the board of directors of the applicant, its
34 officers, or any individual owning five percent or more of the
35 applicant. This requirement does not apply to a director of

1 a not-for-profit corporation or organization if the director
2 serves solely in a voluntary capacity for the corporation or
3 organization, does not regularly take part in the day-to-day
4 operational decisions of the corporation or organization,
5 receives no remuneration for such director's services on the
6 corporation's or organization's board of directors, and has
7 no financial interest and no family members with a financial
8 interest in the corporation or organization, provided that the
9 director and the not-for-profit corporation or organization
10 include in the application a statement affirming that the
11 director's relationship to the corporation satisfies the
12 requirements of this paragraph.

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

19 4. An applicant for license renewal who has demonstrated
20 financial inability to operate shall demonstrate financial
21 ability to operate before the board may renew the applicant's
22 license.

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

29 a. The applicant shall supply fingerprint samples or
30 submit to a criminal history records check to be conducted
31 by the division of criminal investigation of the department
32 of public safety. Any costs incurred by the division of
33 criminal investigation of the department of public safety in
34 conducting such investigation of an applicant shall be paid by
35 the potential licensee.

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

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

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

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

28 9. When a duplicate license is issued, a fee shall be
29 assessed not exceeding the actual cost of duplicating and
30 mailing the duplicate license.

31 10. The license must be displayed in a conspicuous place
32 in the administrative office of the durable medical equipment
33 provider and is valid only while in the possession of the
34 person or entity to which it is issued. The license may
35 not be sold, assigned, or otherwise transferred, voluntarily

1 or involuntarily, and is valid only for the durable medical
2 equipment provider and location for which originally issued.

3 11. All license fees required of a durable medical equipment
4 provider are nonrefundable. The board shall set license
5 renewal fees by rule sufficient to cover its costs in carrying
6 out its responsibilities.

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

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

16 Sec. 10. NEW SECTION. 154G.6 Provisional licenses — change
17 of ownership.

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

29 2. A durable medical equipment provider against whom a
30 proceeding by the board for revocation or suspension or for
31 denial of a renewal application is pending may be issued a
32 provisional license effective until final disposition of such
33 proceedings. If judicial relief is sought from the final
34 disposition, the court that has jurisdiction may direct the
35 board to issue a provisional license for the duration of the

1 judicial proceeding.

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

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

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

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

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

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

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

3 1. A licensed durable medical equipment provider must be in
4 compliance with all applicable federal and state licensure and
5 regulatory requirements.

6 2. A licensed durable medical equipment provider must honor
7 all warranties under applicable law.

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

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

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

23 6. A licensed durable medical equipment provider must
24 notify the accrediting organization for the durable medical
25 equipment provider when a new location is opened.

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

30 8. A licensed durable medical equipment provider must
31 disclose to the board upon application for a license all
32 products and services, including the addition of new product
33 lines for which the durable medical equipment provider is
34 seeking accreditation.

35 9. A licensed durable medical equipment provider must

1 remain open to the public for at least thirty hours per week.

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

3 A licensed durable medical equipment provider shall do all
4 of the following:

5 1. Offer and provide durable medical equipment to consumers
6 and offer and provide durable medical equipment services, as
7 necessary, to consumers who purchase or rent equipment that
8 requires such services.

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

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

16 4. Maintain trained durable medical equipment provider
17 personnel to coordinate order fulfillment and schedule timely
18 durable medical equipment and durable medical equipment service
19 delivery.

20 5. As necessary in relation to the sophistication of
21 the durable medical equipment and durable medical equipment
22 services being provided:

23 a. Ensure that delivery personnel are appropriately
24 trained to conduct an environment and equipment compatibility
25 assessment.

26 b. Appropriately and safely set up the durable medical
27 equipment.

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

30 d. Recognize when additional education or follow-up patient
31 compliance monitoring is appropriate.

32 Sec. 13. NEW SECTION. 154G.9 Inspections.

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

1 *a.* Licensure inspections.

2 *b.* Inspections directed by the centers for Medicare and
3 Medicaid services of the United States department of health and
4 human services.

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

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

18 Sec. 14. NEW SECTION. 154G.10 License denial, revocation,
19 or suspension.

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

23 2. Either of the following actions by a durable medical
24 equipment provider or any of its employees is grounds for
25 administrative action or imposition of civil penalties by the
26 board:

27 *a.* Violation of this chapter or rules adopted pursuant to
28 this chapter.

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

31 3. The board may deny licensure to an applicant or revoke
32 the license of a licensee who does any of the following:

33 *a.* Makes or previously made a false representation or
34 omission of any material fact in an application, including the
35 submission of an application that conceals the applicant's

1 controlling or ownership interest, or any officer, director,
2 agent, managing employee, affiliated person, partner, or
3 shareholder who may not be eligible to participate.

4 *b.* Has been previously found by any board created under
5 chapter 147 to have violated the standards or conditions
6 relating to licensure or certification or the quality of
7 services provided.

8 *c.* Has been or is currently excluded, suspended, or
9 terminated from, or has involuntarily withdrawn from,
10 participation in any state Medicaid program, the Medicare
11 program, or any other governmental or private health care or
12 health insurance program.

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

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

23 Sec. 15. NEW SECTION. 154G.11 **Penalties.**

24 1. The following penalties shall be imposed for operating as
25 a durable medical equipment provider without a license under
26 this chapter:

27 *a.* A person who operates as a durable medical equipment
28 provider without a license under this chapter commits a class
29 "D" felony.

30 *b.* For any person who has received government reimbursement
31 for services provided by an unlicensed durable medical
32 equipment provider, the board shall make a fraud referral to
33 the appropriate government reimbursement program.

34 2. If the board discovers that a licensee is concurrently
35 operating licensed and unlicensed provider locations, the

1 board may impose a civil penalty of not more than five hundred
2 dollars per violation or suspend any of the licensee's existing
3 licenses.

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

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

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

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

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

20 1. The sections of this Act amending sections 147.13,
21 147.14, and 272C.1, and the section relating to initial
22 appointments to the board of durable medical equipment
23 providers.

24 Sec. 19. EFFECTIVE DATE AND IMPLEMENTATION. The following
25 provision or provisions of this Act take effect January 1,
26 2016, except that the board of durable medical equipment
27 providers may begin implementation prior to January 1, 2016, to
28 the extent necessary to transition to full implementation of
29 these provisions of this Act:

30 1. The sections of this Act amending sections 147.1 and
31 147.2, and enacting sections 154G.1 through 154G.11.

32 EXPLANATION

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

35 This bill establishes a licensing procedure and standards of

1 practice for durable medical equipment providers.

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

9 Under the bill, persons or entities who hold themselves out
10 to the public as providers of durable medical equipment must
11 have a license issued by the board. To operate as a durable
12 medical equipment provider, a person or entity must have a
13 place of business open to the public at least 30 hours per
14 week. If the person or entity has multiple locations, it must
15 have a license for each location. If the person or entity's
16 principal place of business is located out of state but within
17 50 miles of the state and does business in the state, it need
18 not maintain a location in Iowa.

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

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

32 An applicant for a durable medical equipment provider
33 license must complete the form made available by the board.
34 The applicant must also provide a report specifying by category
35 the equipment and services to be provided and indicating those

1 offered either directly by the applicant or through contractual
2 arrangements with existing providers. An applicant must
3 provide a list of entities with whom it contracts for the
4 provision of equipment and services. An initial applicant
5 must provide proof of professional and commercial liability
6 insurance as well as financial stability in the form of a
7 \$50,000 surety bond or an existing surety bond for Medicare
8 credentialing.

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

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

32 The board may investigate or inspect an applicant or
33 licensee as it considers necessary. The board shall accept
34 a survey or inspection of an accrediting organization if
35 the accreditation of the licensed durable medical equipment

S.F. _____

1 provider is not provisional and the provider authorizes the
2 release of the organization's report, which is received by the
3 board.

4 The provisions of the bill that create the board, allow for
5 initial board appointments, and grant the board rulemaking
6 authority shall be effective upon enactment. The remaining
7 provisions shall take effect on January 1, 2016.