

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 201 KAR 47:010

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(1) Provide a brief summary of:

(a) What this administrative regulation does: This administration clarifies the requirements for a reciprocal license and the fees charged for each type of license. It also adds an inspection fee.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to clarify the requirements for a reciprocal license and the fees charged and to add an inspection fee.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 309.406(1)(a) authorizes the Board to promulgate regulations to regulate matters set forth in KRS 309.400 to 309.422. KRS 309.406(1)(a), KRS 309.406(1)(f), KRS 309.414(1), and KRS 309.416(4) permit the Board to set a reasonable fee schedule. This administrative regulation clarifies the requirements for a reciprocal license and the fees charged and adds an inspection fee.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the effective administration of KRS Chapter 309 by clarifying the requirements for a reciprocal license and the fees charged and adding an inspection fee.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment makes minor changes to the fee schedule: it increases the cost of duplicate licenses from \$15 to \$25; it removes fees charged for a discipline history and discs and for paper copies of documents; and it establishes a license verification fee of \$10. It establishes inspection fees to cover the Board's costs in sending inspectors, a flat fee of \$350 within the Commonwealth, and the cost of the inspection, including inspector's hourly rate, mileage, and travel expenses, outside of the Commonwealth. The amendment does not change the current licensing and renewal fees, although it does recodify those fees into one section, at Section 9.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to cover the cost of sending inspectors to inspect licensees and prospective licensees and to ensure fiscally responsible use of the Board's revolving fund in accordance with KRS 309.404(9) and 309.408. The regulation is being amended to address the situation where the Board conducts an investigation as requested by an entity in accordance with Section 2(1)(b)2., Section 2(2)(a)2., and Section 2(2)(b), and the inspection identifies such deficiencies that the entity does not qualify for licensure. Under the current regulation, in such an instance, the costs

of the investigation are born by the Board, rather than the entity. With this amendment, the Board will be able to recoup the cost of investigation. Additionally, the cost for charging minor fees for discs and copy paper was administratively cumbersome and there is now the option of secure digital transfer by email. Finally, the amendment is necessary to set a fee for license verification.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 309.406(1)(a) authorizes the Board to promulgate regulations to regulate matters set forth in KRS 309.400 to 309.422. KRS 309.406(1)(a), KRS 309.406(1)(f), KRS 309.414(1), and KRS 309.416(4) permit the Board to set a reasonable fee schedule. This administrative regulation establishes a reasonable fee schedule and clarifies the requirements for a reciprocal license.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of KRS Chapter 309 by carrying out the legislative mandate for the Board to set reasonable fees.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect the Board, 814 licensees of the Board, as well as an unknown number of businesses that may request inspections for licensure in accordance with Section 2(1)(b)2., Section 2(2)(a)2., and Section 2(2)(b). The Board is an independent state agency and state and local governments are unlikely to be affected by this regulation.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: No action is required of the regulated entities to comply with this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is no regular cost to the regulated entities. For entities that do not maintain an accreditation by a national accreditation organization approved by the Centers for Medicare and Medicaid Services that accredits suppliers of durable medical equipment, and therefore require an inspection by the Board in order to obtain licensure in accordance with Section 2(1)(b)2., Section 2(2)(a)2., and Section 2(2)(b), the entity shall now pay a fee for the cost of inspection as set forth in Section 9(2).

(c) As a result of compliance, what benefits will accrue to the entities: This regulation will ensure that inspections that do not result in licensure will not deplete Board funds necessary to fulfill its other duties to licensed entities in ensuring effective oversight of manufacturers and wholesale distributors of home medical equipment and home medical equipment and services providers.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: This administrative regulation does not create a cost for the administrative body.

(b) On a continuing basis: This administrative regulation does not create a cost for the administrative body.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Board is self-funded through the fees paid by licensees. No additional funding is necessary for the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increases in fees or funding is necessary to implement the amendment to this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This regulation indirectly increases the cost of licensure where applicants require an inspection, by requiring the applicant to pay for the Board's inspection. This applies to those licensees that do not maintain an accreditation by a national accreditation organization approved by the Centers for Medicare and Medicaid Services that accredits suppliers of durable medical equipment.

(9) TIERING: Is tiering applied? Tiering is not applied because it only affects the Board of Durable Medical Equipment Suppliers and its licensees.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Board of Durable Medical Equipment Suppliers (the “Board”).

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS Chapter 309.400 to 309.422.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate revenue for the Board of Durable Medical Equipment Suppliers, but be used to pay the inspector.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? All revenue generated will be used to pay the inspector.

(c) How much will it cost to administer this program for the first year? There will be no additional cost to the agency.

(d) How much will it cost to administer this program for subsequent years? There will be no additional cost to the agency.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None

## **SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE**

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“Form 1, Application for Licensure or Renewal,” June 2021, is a two (2) page form used by new applicants seeking licensure by the Kentucky Board of Durable Medical Equipment Suppliers (the Board) and licensees seeking renewal of their licenses. It amends the “Application for Home Medical Equipment License or Renewal,” December 2016.

The proposed amendment to this form makes the following changes: (1) simplifies the title of the form; (2) clarifies that the applicant must provide a home office physical location as well as business premises and contact information; (3) requests the applicant provide personal telephone and email addresses; (4) renumbers the questions on the form; (5) inserts the term, “contiguous,” to the term, “states” in the question at section C.; (6) adds a question asking for the statutory basis for the reciprocity claimed by the applicant; (7) adds a statement above the signature block that the applicant’s certification is under penalty of perjury; and (8) removes the revision designation, “December 2016,” and replaces it with the revision as reviewed by the Board, “June 2021.”