

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation: 201 KAR 21:035

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(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 309.406(1)(a) authorizes the Kentucky Board of Durable Medical Equipment Suppliers (the Board) to promulgate administrative regulations consistent with KRS Chapter 309, relating to manufacturers and wholesale distributors of home medical equipment and home medical equipment and services providers in this state. KRS 309.406(1)(d) authorizes the Board to investigate complaints and violations of the home medical equipment laws and the administrative regulations promulgated by the board. KRS 309.406(2) authorizes the Board to seek recoupment of the cost of its investigations and prosecutions. KRS 309.418(2) authorizes the Board to refuse to issue or renew a license, suspend, temporarily suspend, revoke, fine, place on probation, reprimand, reasonably restrict, or take any combination of these actions against any licensees for reasons set forth by the statute. KRS 309.422 establishes the penalty for unlicensed practice. This administrative regulation establishes the process by which the Board investigates complaints and violations, including the opportunity for the investigated party to respond to allegations, and the opportunity for a complainant to reply to the investigated party's response. The regulation also sets forth the appeal process to appeal a Board action taken following the Board's investigation.

(b) The necessity of this administrative regulation: This administrative regulation is permitted by KRS 309.406(1)(a), (1)(d), and (2), and by KRS 309.418. It is necessary to establish a complaint process to ensure effective Board oversight and clarify the Board's obligations and a licensee's rights and responsibilities in accordance with KRS Chapter 13B.

(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 and control matters set forth in KRS 309.400 to 309.422. KRS 309.406(1)(a), (1)(d), and (2), KRS 309.418, and KRS 309.422 authorize the Board to take administrative action regarding complaints and investigations and sets forth the range of penalties the Board may impose. This administrative regulation establishes the process by which the Board investigates complaints and violations as authorized by statute.

(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 309.400 through 309.422 by establishing a complaint and investigation process so that licensees and the public understand and may avail themselves of the Board process, and ensures that the Board has a clear process to address complaints as they arise.

(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: This is a new regulation and is not an amendment.

(b) The necessity of the amendment to this administrative regulation: This is a new regulation and is not an amendment.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new regulation and is not an amendment.

(d) How the amendment will assist in the effective administration of the statutes: This is a new regulation and is not an amendment.

(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 members of the public and public businesses and organizations that may seek to file complaints. In calendar year 2020, the Board received 0 complaints. 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. In the event a regulated entity seeks to respond to a complaint or appeal a Board action, the regulation will guide the entity to the applicable timeframe and process.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: There is no cost to the regulated entities other than the *de minimis* cost of an entity's correspondence with the Board.

(c) As a result of compliance, what benefits will accrue to the entities: This regulation establishes an informal and formal complaint process, as well as appeal process, so that entities may avail themselves of their rights and fulfill their responsibilities regarding Board investigations.

(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 did not establish any fees.

(9) TIERING: Is tiering applied? This regulation does not distinguish between similarly situated individuals on the basis of any factor.

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 state or local government.

(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? This regulation will not generate revenue for state or local government.

(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