

CHAPTER 99-189

Committee Substitute for Senate Bill No. 276

An act relating to home medical equipment providers; creating part X of chapter 400, F.S.; providing for regulation of home medical equipment providers by the Agency for Health Care Administration; providing legislative intent; providing definitions; providing for licensure and exemptions; providing unlawful acts; providing penalties; providing for license applications; providing for fees; providing for background screening; providing for provisional licenses and temporary permits; providing for administrative penalties; providing for injunctions, emergency orders, and moratoriums; providing for licensure inspections and investigations; providing minimum standards; providing for agency rules; providing for patient records; providing for notice of toll-free telephone number for the central abuse registry; providing for background screening of home medical equipment provider licensees and personnel; providing penalties; providing screening procedures; providing for agency injunctions; prohibiting patient referrals and rebates; providing for application of the act to existing providers; providing an appropriation; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Part X of chapter 400, Florida Statutes, consisting of sections 400.92, 400.925, 400.93, 400.931, 400.932, 400.933, 400.934, 400.935, 400.94, 400.95, 400.953, 400.955, 400.96, and 400.965, is created to read:

400.92 Legislative intent.—It is the intent of the Legislature to provide for the licensure of home medical equipment providers and to provide for the development, establishment, and enforcement of basic standards that will ensure quality home medical equipment, products, and services.

400.925 Definitions.—As used in this part, the term:

(1) “Accrediting organizations” means the Joint Commission on Accreditation of Healthcare Organizations or other national accreditation agencies whose standards for accreditation are comparable to those required by this part for licensure.

(2) “Affiliated person” means any person who directly or indirectly manages, controls, or oversees the operation of a corporation or other business entity that is a licensee, regardless of whether such person is a partner, shareholder, owner, officer, director, agent, or employee of the entity.

(3) “Agency” means the Agency for Health Care Administration.

(4) “Applicant” means an individual applicant in the case of a sole proprietorship, or any officer, director, agent, managing employee, general manager, or affiliated person, or any partner or shareholder having an owner-

ship interest equal to 5 percent or greater in the corporation, partnership, or other business entity.

(5) “Consumer” or “patient” means any person who uses home medical equipment in his or her place of residence.

(6) “Department” means the Department of Children and Family Services.

(7) “General manager” means the individual who has the general administrative charge of the premises of a licensed home medical equipment provider.

(8) “Home medical equipment” includes any product as defined by the Federal Drug Administration’s Drugs, Devices and Cosmetics Act, any products reimbursed under the Medicare Part B Durable Medical Equipment benefits, or any products reimbursed under the Florida Medicaid durable medical equipment program. Home medical equipment includes, but is not limited to, oxygen and related respiratory equipment. Home medical equipment includes customized wheelchairs and related seating and positioning, but does not include prosthetics or orthotics or any splints, braces, or aids custom fabricated by a licensed health care practitioner.

(9) “Home medical equipment provider” means any person or entity that sells or rents or offers to sell or rent to or for a consumer:

(a) Any home medical equipment and services; or

(b) Home medical equipment that requires any home medical equipment services.

(10) “Home medical equipment provider personnel” means persons who are employed by or under contract with a home medical equipment provider.

(11) “Home medical equipment services” means equipment management and consumer instruction, including selection, delivery, setup, and maintenance of equipment, and other related services for the use of home medical equipment in the consumer’s regular or temporary place of residence.

(12) “Licensee” means the person or entity to whom a license to operate as a home medical equipment provider is issued by the agency.

(13) “Moratorium” means a mandated temporary cessation or suspension of the sale, rental, or offering of equipment after the imposition of the moratorium. Services related to equipment sold or rented prior to the moratorium must be continued without interruption, unless deemed otherwise by the agency.

(14) “Person” means any individual, firm, partnership, corporation, or association.

(15) “Premises” means those buildings and equipment which are located at the address of the licensed home medical equipment provider for the provision of home medical equipment services, which are in such reasonable

proximity as to appear to the public to be a single provider location, and which comply with zoning ordinances.

(16) "Residence" means the consumer's home or place of residence, which may include nursing homes, assisted living facilities, transitional living facilities, adult family-care homes, or other congregate residential facilities.

400.93 Home medical equipment providers to be licensed; expiration of license; exemptions; unlawful acts; penalties.—

(1) Any person or entity that holds itself out to the public as providing home medical equipment and services or accepts physician orders for home medical equipment and services is subject to licensure under this part.

(2) Any person or entity that holds itself out to the public as providing home medical equipment that typically requires home medical services is subject to licensure under this part.

(3) A home medical equipment provider must be licensed by the agency to operate in this state or to provide home medical equipment and services to consumers in this state. A standard license issued to a home medical equipment provider, unless sooner suspended or revoked, expires 2 years after its effective date.

(4) A separate license is required of all home medical equipment providers operating on separate premises, even if the providers are operated under the same management.

(5) The following are exempt from home medical equipment provider licensure, unless they have a separate company, corporation, or division that is in the business of providing home medical equipment and services for sale or rent to consumers at their regular or temporary place of residence pursuant to the provisions of this part:

(a) Providers operated by the Federal Government.

(b) Nursing homes licensed under part II.

(c) Assisted living facilities licensed under part III, when serving their residents.

(d) Home health agencies licensed under part IV.

(e) Hospices licensed under part VI.

(f) Intermediate care facilities, homes for special services, and transitional living facilities licensed under part VIII.

(g) Hospitals and ambulatory surgical centers licensed under chapter 395.

(h) Manufacturers and wholesale distributors when not selling directly to consumers.

(i) Licensed health care practitioners who utilize home medical equipment in the course of their practice, but do not sell or rent home medical equipment to their patients.

(j) Pharmacies licensed under chapter 465.

(6)(a) It is unlawful for any person to offer or advertise home medical equipment and services to the public unless he or she has a valid license under this part or is exempted from licensure under subsection (5). It is unlawful for any holder of a license issued under this part to advertise or indicate to the public that it holds a home medical equipment provider license other than the one it has been issued.

(b) A person who violates paragraph (a) is subject to an injunctive proceeding under s. 400.96. A violation of paragraph (a) is a deceptive and unfair trade practice and constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act.

(c) A person who violates paragraph (a) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Each day of continuing violation constitutes a separate offense.

(d) The following penalties shall be imposed for operating an unlicensed home medical equipment provider:

1. Any person or entity who operates an unlicensed provider commits a felony of the third degree.

2. For any person or entity who has received government reimbursement for services provided by an unlicensed provider, the agency shall make a fraud referral to the appropriate government reimbursement program.

3. For any licensee found to be concurrently operating licensed and unlicensed provider premises, the agency may impose a fine or moratorium, or revoke existing licenses of any or all of the licensee's licensed provider locations until such time as the unlicensed provider premises is licensed.

(e) A provider found to be operating without a license may apply for licensure, and must cease operations until a license is awarded by the agency.

400.931 Application for license; fee; provisional license; temporary permit.—

(1) Application for an initial license or for renewal of an existing license must be made under oath to the agency on forms furnished by it and must be accompanied by the appropriate license fee as provided in subsection (12).

(2) The applicant must file with the application satisfactory proof that the home medical equipment provider is in compliance with this part and applicable rules, including:

(a) A report, by category, of the equipment to be provided, indicating those offered either directly by the applicant or through contractual arrangements with existing providers. Categories of equipment include:

1. Respiratory modalities.
2. Ambulation aids.
3. Mobility aids.
4. Sickroom setup.
5. Disposables.

(b) A report, by category, of the services to be provided, indicating those offered either directly by the applicant or through contractual arrangements with existing providers. Categories of services include:

1. Intake.
2. Equipment selection.
3. Delivery.
4. Setup and installation.
5. Patient training.
6. Ongoing service and maintenance.
7. Retrieval.

(c) A listing of those with whom the applicant contracts, both the providers the applicant uses to provide equipment or services to its consumers and the providers for whom the applicant provides services or equipment.

(3) The applicant for initial licensure must demonstrate financial ability to operate, which may be accomplished by the submission of a \$50,000 surety bond to the agency.

(4) An applicant for renewal who has demonstrated financial inability to operate must demonstrate financial ability to operate.

(5) Each applicant for licensure must comply with the following requirements:

(a) Upon receipt of a completed, signed, and dated application, the agency shall require background screening of the applicant, in accordance with the level 2 standards for screening set forth in chapter 435. As used in this subsection, the term "applicant" means the general manager and the financial officer or similarly titled individual who is responsible for the financial operation of the licensed facility.

(b) The agency may require background screening for a member of the board of directors of the licensee or an officer or an individual owning 5

percent or more of the licensee if the agency has probable cause to believe that such individual has been convicted of an offense prohibited under the level 2 standards for screening set forth in chapter 435.

(c) Proof of compliance with the level 2 background screening requirements of chapter 435 which has been submitted within the previous 5 years in compliance with any other health care licensure requirements of this state is acceptable in fulfillment of paragraph (a).

(d) Each applicant must submit to the agency, with its application, a description and explanation of any exclusions, permanent suspensions, or terminations of the applicant from the Medicare or Medicaid programs. Proof of compliance with disclosure of ownership and control interest requirements of the Medicaid or Medicare programs shall be accepted in lieu of this submission.

(e) Each applicant must submit to the agency a description and explanation of any conviction of an offense prohibited under the level 2 standards of chapter 435 by a member of the board of directors of the applicant, its officers, or any individual owning 5 percent or more of the applicant. This requirement does not apply to a director of a not-for-profit corporation or organization if the director serves solely in a voluntary capacity for the corporation or organization, does not regularly take part in the day-to-day operational decisions of the corporation or organization, receives no remuneration for his or her services on the corporation's or organization's board of directors, and has no financial interest and has no family members with a financial interest in the corporation or organization, provided that the director and the not-for-profit corporation or organization include in the application a statement affirming that the director's relationship to the corporation satisfies the requirements of this provision.

(f) A license may not be granted to any potential licensee if any applicant, administrator, or financial officer has been found guilty of, regardless of adjudication, or has entered a plea of nolo contendere or guilty to, any offense prohibited under the level 2 standards for screening set forth in chapter 435, unless an exemption from disqualification has been granted by the agency as set forth in chapter 435.

(g) The agency may deny or revoke licensure to any potential licensee if any applicant:

1. Has falsely represented a material fact in the application required by paragraphs (d) and (e), or has omitted any material fact from the application required by paragraphs (d) and (e); or

2. Has had prior Medicaid or Medicare action taken against the applicant as set forth in paragraph (d).

(h) Upon licensure renewal, each applicant must submit to the agency, under penalty of perjury, an affidavit of compliance with the background screening provisions of this section.

(i) The home medical equipment provider must also obtain and maintain professional and commercial liability insurance. Proof of liability insurance,

as defined in s. 624.605, must be submitted with the application. The agency shall set the required amounts of liability insurance by rule, but the required amount must not be less than \$250,000 per claim. In the case of contracted services, it is required that the contractor have liability insurance not less than \$250,000 per claim.

(7) A provisional license shall be issued to an approved applicant for initial licensure for a period of 90 days, during which time a survey must be conducted demonstrating substantial compliance with this section. A provisional license shall also be issued pending the results of an applicant's Federal Bureau of Investigation report of background screening confirming that all standards have been met. If substantial compliance is demonstrated, a standard license shall be issued to expire 2 years after the effective date of the provisional license.

(8) Ninety days before the expiration date, an application for license renewal must be submitted to the agency under oath on forms furnished by the agency, and a license shall be renewed if the applicant has met the requirements established under this part and applicable rules. The home medical equipment provider must file with the application satisfactory proof that it is in compliance with this part and applicable rules. The home medical equipment provider must submit satisfactory proof of its financial ability to comply with the requirements of this part.

(9) When a change of ownership of a home medical equipment provider occurs, the prospective owner must submit an initial application for a license at least 15 days before the effective date of the change of ownership. An application for change of ownership of a license is required when ownership, a majority of the ownership, or controlling interest of a licensed home medical equipment provider is transferred or assigned and when a licensee agrees to undertake or provide services to the extent that legal liability for operation of the home medical equipment provider rests with the licensee. A provisional license shall be issued to the new owner for a period of 90 days, during which time all required documentation must be submitted and a survey must be conducted demonstrating substantial compliance with this section. If substantial compliance is demonstrated, a standard license shall be issued to expire 2 years after the issuance of the provisional license.

(10) When a change of the general manager of a home medical equipment provider occurs, the licensee must notify the agency of the change within 45 days thereof and must provide evidence of compliance with the background screening requirements in subsection (5); except that a general manager who has met the standards for the abuse registry background check and the Department of Law Enforcement background check, but for whom background screening results from the Federal Bureau of Investigation have not yet been received, may be employed pending receipt of the Federal Bureau of Investigation background screening report. An individual may not continue to serve as general manager if the Federal Bureau of Investigation background screening report indicates any violation of background screening standards.

(11) All licensure fees required of a home medical equipment provider are nonrefundable. The agency shall set the fees in an amount that is sufficient

to cover its costs in carrying out its responsibilities under this part. However, state, county, or municipal governments applying for licenses under this part are exempt from the payment of license fees. All fees collected under this part must be deposited in the Health Care Trust Fund for the administration of this part.

(12) An applicant for initial licensure, renewal, or change of ownership shall pay a license processing fee not to exceed \$300, to be paid by all applicants, and an inspection fee not to exceed \$400, to be paid by all applicants except those not subject to licensure inspection by the agency as described in s. 400.933(2).

(13) When a change is reported which requires issuance of a license, a fee must be assessed. The fee must be based on the actual cost of processing and issuing the license.

(14) When a duplicate license is issued, a fee must be assessed, not to exceed the actual cost of duplicating and mailing.

(15) When applications are mailed out upon request, a fee must be assessed, not to exceed the cost of the printing, preparation, and mailing.

(16) The license must be displayed in a conspicuous place in the administrative office of the home medical equipment provider and is valid only while in the possession of the person or entity to which it is issued. The license may not be sold, assigned, or otherwise transferred, voluntarily or involuntarily, and is valid only for the home medical equipment provider and location for which originally issued.

(17) A home medical equipment provider against whom a proceeding for revocation or suspension, or for denial of a renewal application, is pending at the time of license renewal may be issued a provisional license effective until final disposition by the agency of such proceedings. If judicial relief is sought from the final disposition, the court that has jurisdiction may issue a temporary permit for the duration of the judicial proceeding.

400.932 Administrative penalties; injunctions; emergency orders; moratoriums.—

(1) The agency may deny, revoke, or suspend a license, or impose an administrative fine not to exceed \$5,000 per violation, per day, or initiate injunctive proceedings under s. 400.96.

(2) Any of the following actions by a home medical equipment provider or any of its employees is grounds for administrative action or penalties by the agency:

(a) Violation of this part or of applicable rules.

(b) An intentional, reckless, or negligent act that materially affects the health or safety of a patient.

(3) The agency may deny or revoke the license of any applicant that:

(a) Made a false representation or omission of any material fact in making the application, including the submission of an application that conceals the controlling or ownership interest or any officer, director, agent, managing employee, affiliated person, partner, or shareholder who may not be eligible to participate;

(b) Has been previously found by any professional licensing, certifying, or standards board or agency to have violated the standards or conditions relating to licensure or certification or the quality of services provided. "Professional licensing, certifying, or standards board or agency" shall include, but is not limited to, practitioners, health care facilities, programs, or services, or residential care, treatment programs, or other human services; or

(c) Has been or is currently excluded, suspended, or terminated from, or has involuntarily withdrawn from, participation in Florida's Medicaid program or any other state's Medicaid program, or participation in the Medicare program or any other governmental or private health care or health insurance program.

(4) The agency may issue an emergency order immediately suspending or revoking a license when it determines that any condition within the responsibility of the home medical equipment provider presents a clear and present danger to public health and safety.

(5) The agency may impose an immediate moratorium on any licensed home medical equipment provider when the agency determines that any condition within the responsibility of the home medical equipment provider presents a threat to public health or safety.

400.933 Licensure inspections and investigations.—

(1) The agency shall make or cause to be made such inspections and investigations as it considers necessary, including:

(a) Licensure inspections.

(b) Inspections directed by the federal Health Care Financing Administration.

(c) Licensure complaint investigations, including full licensure investigations with a review of all licensure standards as outlined in the administrative rules. Complaints received by the agency from individuals, organizations, or other sources are subject to review and investigation by the agency.

(2) The agency shall accept, in lieu of its own periodic inspections for licensure, submission of the following:

(a) The survey or inspection of an accrediting organization, provided the accreditation of the licensed home medical equipment provider is not provisional and provided the licensed home medical equipment provider authorizes release of, and the agency receives the report of, the accrediting organization; or

(b) A copy of a valid medical oxygen retail establishment permit issued by the Department of Health, pursuant to chapter 499.

400.934 Minimum standards.—As a requirement of licensure, home medical equipment providers shall:

(1) Offer and provide home medical equipment and services, as necessary, to consumers who purchase or rent equipment that requires such services.

(2) Provide at least one category of equipment directly, filling orders from its own inventory.

(3) Respond to orders received for other equipment by filling those orders from its own inventory or inventory from other companies with which it has contracted to fill such orders; or customizing or fitting items for sale from supplies purchased under contract.

(4) Maintain trained personnel to coordinate order fulfillment and schedule timely equipment and service delivery.

(5) As necessary in relation to the sophistication of the equipment and services being provided, ensure that delivery personnel are appropriately trained to conduct an environment and equipment compatibility assessment; appropriately and safely set up the equipment; instruct patients and caregivers in the safe operation and client maintenance of the equipment; and recognize when additional education or followup patient compliance monitoring is appropriate.

(6) Ensure that patients are made aware of service hours and emergency service procedures.

(7) At the time of the initial delivery, set up an appropriate followup home medical equipment service schedule as needed for such times as, but not limited to, periodic maintenance, supply delivery, and other related activities.

(8) Arrange for emergency service after normal business hours; provide refresher and review training for appropriate personnel; establish a system for resolution of complaints and service problems; and provide for timely replacement or delivery of disposable or consumable equipment supplies.

(9) Honor all warranties expressed and implied under applicable state law.

(10) Answer any questions or complaints a consumer has about an item or the use of an item that the consumer purchases or rents.

(11) Maintain and repair directly, or through a service contract with another company, items rented to consumers.

(12) Accept returns of substandard or unsuitable items from consumers. As used in this subsection, the term “substandard” means less than full

quality for the particular item and the term “unsuitable” means inappropriate for the consumer at the time it was fitted or sold.

(13) Disclose consumer information to each consumer who rents or purchases items, including all applicable warranty information. This information consists of the provider standards to which the item must conform.

(14) Maintain patient payment and service records in accordance with the requirements of this part.

(15)(a) Designate appropriate staff as intake coordinators, and ensure that order intake personnel are appropriately trained in the types of equipment and products, commonly occurring medical conditions, service procedures, third-party billing, and insurance requirements and coverage.

(b) Train intake coordinators in a basic understanding of the following areas: dealing with patient and caregiver needs; other, nonhome medical equipment provider services as they relate to home medical equipment services and home care patient crisis management.

(16) Establish procedures for maintaining a record of the employment history, including background screening as required by s. 400.953, of all home medical equipment provider personnel. A home medical equipment provider must require its personnel to submit an employment history to the home medical equipment provider and must verify the employment history for at least the previous 5 years, unless through diligent efforts such verification is not possible. There is no monetary liability on the part of, and no cause of action for damages arising against a former employer, a prospective employee, or a prospective independent contractor with a licensed home medical equipment provider, who reasonably and in good faith communicates his or her honest opinions about a former employee’s job performance. This subsection does not affect the official immunity of an officer or employee of a public corporation.

(17) Upon request by the consumer or as otherwise required by state law and rules, or federal law and regulations, assist consumers with meeting the necessary filing requirements to obtain third-party payment to which a consumer may be entitled.

(18) Maintain safe premises.

(19) Comply with all other state and federal laws.

400.935 Rules establishing minimum standards.—The agency shall adopt, publish, and enforce rules to implement this part, which must provide reasonable and fair minimum standards relating to:

(1) The qualifications and minimum training requirements of all home medical equipment provider personnel.

(2) License application and renewal.

(3) License and inspection fees.

(4) Financial ability to operate.

(5) The administration of the home medical equipment provider.

(6) Procedures for maintaining patient records.

(7) Ensuring that the home medical equipment and services provided by a home medical equipment provider are in accordance with the plan of treatment established for each patient, when provided as a part of a plan of treatment.

(8) Contractual arrangements for the provision of home medical equipment and services by providers not employed by the home medical equipment provider providing for the consumer's needs.

(9) Physical location and zoning requirements.

(10) Home medical equipment requiring home medical equipment services.

400.94 Patient records.—

(1) The home medical equipment provider must maintain, for each patient, a patient record that includes the home medical equipment and services the home medical equipment provider has provided. Such records must contain:

(a) Any physician's order or certificate of medical necessity, if the equipment was ordered by a physician.

(b) Signed and dated delivery slips verifying delivery.

(c) Notes reflecting all services and maintenance performed, and any equipment exchanges.

(d) The date on which rental equipment was retrieved.

(e) Such other information as is appropriate to specific patients in light of the particular equipment provided to them.

(2) Such records are considered patient records under s. 455.667, and must be maintained by the home medical equipment provider for 5 years following termination of services. If a patient transfers to another home medical equipment provider, a copy of his or her record must be provided to the other home medical equipment provider, upon request.

400.95 Notice of toll-free telephone number for central abuse registry.— On or before the first day home medical equipment is delivered to the patient's home, any home medical equipment provider licensed under this part must inform the consumer and his or her immediate family, if appropriate, of the right to report abusive, neglectful, or exploitative practices. The statewide toll-free telephone number for the central abuse registry must be provided to consumers in a manner that is clearly legible and must include the words: "To report abuse, neglect, or exploitation, please call toll-free 1-

800-962-2873.” Home medical equipment providers shall establish appropriate policies and procedures for providing such notice to consumers.

400.953 Background screening of home medical equipment provider personnel.—The agency shall require employment screening as provided in chapter 435, using the level 1 standards for screening set forth in that chapter, for home medical equipment provider personnel.

(1) The agency may grant exemptions from disqualification from employment under this section as provided in s. 435.07.

(2) The general manager of each home medical equipment provider must sign an affidavit annually, under penalty of perjury, stating that all home medical equipment provider personnel hired on or after July 1, 1999, who enter the home of a patient in the capacity of their employment have been screened and that its remaining personnel have worked for the home medical equipment provider continuously since before July 1, 1999.

(3) Proof of compliance with the screening requirements of s. 110.1127, s. 393.0655, s. 394.4572, s. 397.451, s. 402.305, s. 402.313, s. 409.175, s. 464.008, or s. 985.407 or this part must be accepted in lieu of the requirements of this section if the person has been continuously employed in the same type of occupation for which he or she is seeking employment without a breach in service that exceeds 180 days, the proof of compliance is not more than 2 years old, and the person has been screened through the central abuse registry and tracking system of the department and by the Department of Law Enforcement. An employer or contractor shall directly provide proof of compliance to another employer or contractor, and a potential employer or contractor may not accept any proof of compliance directly from the person requiring screening. Proof of compliance with the screening requirements of this section shall be provided, upon request, to the person screened by the home medical equipment provider.

(4) There is no monetary liability on the part of, and no cause of action for damages arising against, a licensed home medical equipment provider that, upon notice of a confirmed report of adult abuse, neglect, or exploitation under chapter 415, terminates the employee against whom the report was issued, whether or not the employee has filed for an exemption with the agency and whether or not the time for filing has expired.

(5) The costs of processing the statewide correspondence criminal records checks and the search of the department’s central abuse registry must be borne by the home medical equipment provider or by the person being screened, at the discretion of the home medical equipment provider.

(6) Neither the agency nor the home medical equipment provider may use the criminal records, juvenile records, or central abuse registry information of a person for any purpose other than determining whether that person meets minimum standards of good moral character for home medical equipment provider personnel.

(7)(a) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

1. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any application for paid employment a material fact used in making a determination as to the person's qualifications to be an employee under this section;

2. Operate or attempt to operate an entity licensed under this part with persons who do not meet the minimum standards for good moral character as contained in this section; or

3. Use information from the criminal records or central abuse registry obtained under this section for any purpose other than screening that person for employment as specified in this section, or release such information to any other person for any purpose other than screening for employment under this section.

(b) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use information from the juvenile records of a person obtained under this section for any purpose other than screening for employment under this section.

400.955 Procedures for screening of home medical equipment provider personnel.—

(1) A person employed by a home medical equipment provider shall, within 5 working days after starting to work, submit to the home medical equipment provider a complete set of information necessary to conduct a screening under this section. The person must sign an affidavit stating whether he or she meets the minimum standards for good moral character under this section. The home medical equipment provider shall submit the information to the Department of Law Enforcement and to the department's central abuse registry and tracking system for processing. If disposition information is missing on a criminal record, it is the responsibility of the person being screened to obtain and supply the missing information within 30 days. Failure to supply the missing information or to show reasonable efforts to obtain such information will result in automatic disqualification for employment.

(2) Home medical equipment provider personnel hired on or after July 1, 1999, must be placed on probationary status pending a determination of compliance with minimum standards for good moral character.

(3) The home medical equipment provider must automatically terminate the employment of any of its personnel found to be in noncompliance with the minimum standards for good moral character under this section, unless such person has obtained an exemption under s. 400.953(1).

(4) The general manager of each home medical equipment provider must sign an affidavit annually, under penalty of perjury, stating that all personnel hired on or after July 1, 1999, have been screened and that its remaining personnel have worked for the home medical equipment provider continuously since before July 1, 1999.

400.96 Injunction proceedings.—The agency may institute injunction proceedings in a court of competent jurisdiction when violation of this part or of applicable rules constitutes an emergency affecting the immediate health and safety of a patient or consumer.

400.965 Prohibited acts.—Compliance with state and federal laws regarding prohibited patient referrals and rebates shall be a condition of licensure.

Section 2. Home medical equipment providers in existence on the effective date of this act who are subject to licensure under part X of chapter 400, Florida Statutes, as created in this act, shall submit an application and applicable fees for licensure by December 31, 1999. Those existing providers that submit applications and fees prior to December 31, 1999, shall be deemed to meet licensure requirements until the agency acts to deny or grant the initial licensure application. After December 31, 1999, applicants for licensure may not operate until they are approved and obtain a license.

Section 3. There is hereby appropriated from the Health Care Trust Fund to the Agency for Health Care Administration 13 full-time-equivalent staff positions and \$701,370 to implement the provisions of this act.

Section 4. This act shall take effect July 1, 1999.

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.