

By: Representative Ford

To: Public Health and Welfare

HOUSE BILL NO. 481

1 AN ACT TO AMEND SECTION 73-21-108, MISSISSIPPI CODE OF 1972,  
2 WHICH REQUIRES ANY PERSON OR BUSINESS THAT SELLS HOME MEDICAL  
3 EQUIPMENT TO OBTAIN A MEDICAL EQUIPMENT SUPPLIER PERMIT, TO EXTEND  
4 THE REPEALER DATE FROM JULY 1, 2001, TO JULY 1, 2002; AND FOR  
5 RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 73-21-108, Mississippi Code of 1972, is  
8 amended as follows:

9 73-21-108. (1) **Definitions.** For the purposes of this  
10 section:

11 (a) "Home medical equipment" means technologically  
12 sophisticated medical equipment and devices usable in a home care  
13 setting, including, but not limited to:

14 (i) Oxygen for human consumption, oxygen  
15 concentrators and/or oxygen delivery systems and equipment;

16 (ii) Ventilators;

17 (iii) Respiratory disease management devices;

18 (iv) Electronic and computer driven wheelchairs  
19 and seating systems;

20 (v) Apnea monitors;

21 (vi) Transcutaneous electrical nerve stimulator  
22 (TENS) units;

23 (vii) Low air loss cutaneous pressure management  
24 devices;

25 (viii) Sequential compression devices;

26 (ix) Neonatal home phototherapy devices;

27 (x) Feeding pumps; and



28 (xi) Other similar equipment as defined in  
29 regulations adopted by the board.

30 The term "home medical equipment" does not include medical  
31 equipment used in the normal course of treating patients by  
32 hospitals, hospices, long-term care facilities or home health  
33 agencies, or medical equipment used or dispensed by health care  
34 professionals licensed by the State of Mississippi if the  
35 professional is practicing within the scope of his or her  
36 professional practice. In addition, the term does not include  
37 items such as upper and lower extremity prosthetics, canes,  
38 crutches, walkers, bathtub grab bars, standard wheelchairs,  
39 commode chairs and bath benches.

40 (b) "Home medical equipment services" means the  
41 delivery, installation, maintenance, replacement, and/or  
42 instruction in the use of home medical equipment, used by a sick  
43 or disabled individual, to allow the individual to be cared for  
44 and maintained in a home or noninstitutional environment.

45 (c) "Medical gas" means those gases and liquid oxygen  
46 intended for human consumption.

47 (d) "Order" means an order issued by a licensed  
48 practitioner legally authorized to order home medical equipment  
49 and/or medical gases.

50 (2) **Permit required.** (a) No person, business or entity  
51 located in this state or outside of this state that is subject to  
52 this section shall sell, rent or provide or offer to sell, rent or  
53 provide directly to patients in this state any home medical  
54 equipment, legend devices, and/or medical gas unless such person,  
55 business or entity first obtains a Medical Equipment Supplier  
56 Permit from the board.

57 (b) The permitting requirements of this section apply  
58 to all persons, companies, agencies and other business entities  
59 that are in the business of supplying home medical equipment to  
60 patients in their places of residence and that bill the patient or



61 the patient's insurance, Medicare, Medicaid or other third party  
62 payor for the rent or sale of that equipment.

63 (c) The board shall require a separate permit for each  
64 facility location directly or indirectly owned or operated in this  
65 state.

66 (d) The application for a permit shall be made to the  
67 board on a form supplied by the board and shall be accompanied by  
68 a fee of not more than Three Hundred Dollars (\$300.00), as  
69 prescribed by the board. Once issued, every permit must be  
70 renewed annually, and the renewal fee shall be not more than One  
71 Hundred Seventy-five Dollars (\$175.00), as prescribed by the  
72 board.

73 (e) All permits issued under this section shall expire  
74 annually on June 30 of each year. Applications for renewal must  
75 be made to the board on or before June 30 and must be accompanied  
76 by the fee as prescribed by the board. A late renewal fee of One  
77 Hundred Dollars (\$100.00) shall be added to all renewal  
78 applications received by the board after June 30 of each renewal  
79 period. The permit shall become void if the renewal application,  
80 renewal fee and the late renewal fee are not received by the board  
81 by September 30 of each year.

82 (3) **Exemptions.** (a) The permitting requirements of this  
83 section do not apply to the following entities or practitioners  
84 unless they have a separate business entity, company, corporation  
85 or division that is in the business of providing home medical  
86 equipment for sale or rent to patients at their places of  
87 residence:

88 (i) Home health agencies;  
89 (ii) Hospitals;  
90 (iii) Wholesalers and/or manufacturers;  
91 (iv) Medical doctors, physical therapists,  
92 respiratory therapists, occupational therapists, speech  
93 pathologists, optometrists, chiropractors and podiatrists who use



94 home medical equipment and/or legend devices in their individual  
95 practices;

96 (v) Pharmacies;

97 (vi) Hospice programs;

98 (vii) Nursing homes and/or long-term care  
99 facilities;

100 (viii) Veterinarians; dentists; and emergency  
101 medical services.

102 (b) Although community pharmacies are exempt from the  
103 permitting requirements of this section, they shall be subject to  
104 the same regulations that are applicable to permitted businesses  
105 or entities for the sale or rental of home medical equipment  
106 covered by this section.

107 (c) Nothing in this section shall prohibit trained  
108 individuals from using oxygen, liquid oxygen and/or legend devices  
109 in emergencies.

110 (d) Nothing in this section shall prohibit the  
111 prehospital emergency administration of oxygen by licensed health  
112 care providers, emergency medical technicians, first responders,  
113 fire fighters, law enforcement officers and other emergency  
114 personnel trained in the proper use of emergency oxygen.

115 (4) **Order required.** Home medical equipment suppliers shall  
116 not provide any home medical equipment to a patient without a  
117 valid order from an authorized licensed practitioner.

118 (5) **Regulations.** The board shall adopt regulations for the  
119 distribution and sale or rental of home medical equipment, legend  
120 devices and medical gases that promote the public health and  
121 welfare and comply with at least the minimum standards, terms and  
122 conditions of federal laws and regulations. The regulations shall  
123 include, without limitation:

124 (a) Minimum information from each home medical  
125 equipment, legend device and medical gas supplier required for  
126 permitting and renewal permits;



127 (b) Minimum qualifications of persons who engage in the  
128 distribution of home medical equipment;

129 (c) Appropriate education, training or experience of  
130 persons employed by home medical equipment suppliers;

131 (d) Minimum standards for storage of home medical  
132 equipment;

133 (e) Minimum requirements for the establishment and  
134 maintenance of all records for the sale, rental and servicing of  
135 home medical equipment; and

136 (f) Minimum standards of operation and professional  
137 conduct.

138 (6) **Medical Equipment Advisory Committee to the board.**

139 (a) A Medical Equipment Advisory Committee (MEAC),  
140 composed of three (3) members selected by the Mississippi  
141 Association of Medical Equipment Suppliers and approved by the  
142 board, shall review and make recommendations to the board  
143 regarding all regulations dealing with home medical equipment,  
144 legend devices and medical gases that are proposed by the board  
145 and before they are adopted by the board.

146 (b) All MEAC members must have been actively involved  
147 in the home medical equipment business for a minimum of five (5)  
148 years before the selection to the committee and shall hold and  
149 maintain, in good standing, a permit issued by the board under  
150 this section.

151 (c) The MEAC members shall meet at least quarterly and  
152 review all home medical equipment suppliers' inspection reports.  
153 All complaints and reports of investigations of violations of law  
154 or regulations regarding home medical equipment, legend devices  
155 and medical gases shall first be reviewed by the MEAC. After  
156 review, the MEAC may make recommendations to the board's  
157 Investigations Review Committee regarding further administrative  
158 action by the board.



159 (d) The MEAC shall keep and maintain minutes of all  
160 meetings of the MEAC and shall provide copies of the minutes to  
161 the board on a quarterly basis.

162 (7) Revocation, Suspension or Restriction of Permit and  
163 Penalties.

164 (a) The board may revoke, suspend, restrict or refuse  
165 to issue or renew a permit or impose a monetary penalty, in  
166 accordance with Section 73-21-103 except that the monetary penalty  
167 shall not exceed Ten Thousand Dollars (\$10,000.00) per violation,  
168 if the business or holder of a permit or applicant for a permit  
169 issued under this section has committed or is found guilty by the  
170 board of any of the following:

171 (i) Violation of any federal, state or local law  
172 or regulations relating to home medical equipment, legend devices  
173 or medical gases.

174 (ii) Violation of any of the provisions of this  
175 section or regulations adopted under this section.

176 (iii) Commission of an act or engaging in a course  
177 of conduct that constitutes a clear and present danger to the  
178 public health and safety.

179 (iv) Filing a claim or assisting in the filing of  
180 a claim for reimbursement for home medical equipment or home  
181 medical equipment services that were not provided or that were not  
182 authorized to be provided.

183 (v) Failure to comply with any lawful order of the  
184 board.

185 (b) Disciplinary action by the board against a business  
186 or any person holding a permit under this section shall be in  
187 accordance with Section 73-21-99.

188 (8) **Repealer.** This section shall stand repealed on July 1,  
189 2002.

190 SECTION 2. This act shall take effect and be in force from  
191 and after July 1, 2001.

