

## Please Support Durable Medical Equipment Providers “Clean Up” Bill and the Amendments L007 and L008 for HB15-1211

Sponsored by Rep. Dave Young and Sen. Jerry Sonnenberg

**HB15-1211 is a necessary clean-up of the Licensing Program for Durable Medical Equipment Providers in Colorado.**

In 2014 the Durable Medical Equipment Provider community in Colorado was compelled to pursue a bill, HB14-1369, that created a business attestation license. The license requires companies that would like to bid on these Medicare proposals to be located in or near Colorado to service the bids appropriately. The licensure is like other business licenses offered through the Secretary of State’s office. More info on HB14-1369 is included below.

Colorado needed to implement the licensure requirement established through HB14-1369 so that Colorado Medicare beneficiaries and Colorado businesses would be protected from the unintended negative consequences of Medicare’s flawed Competitive Bidding program for DME.

**HB15-1211 makes needed adjustments to the requirements established in HB14-1369:**

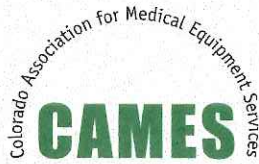
- A. Needed exemptions from licensing:**
  - a. Small rural pharmacies that provide a very limited amount of DME products
  - b. Mail-order diabetic suppliers
  - c. Physicians that dispense small amounts of DME in the course of their practice
  - d. Amendment L.008 clarifies language about these needed exemptions
  
- B. The requirement that the provider have a physical presence in Colorado has raised questions regarding the “Commerce Clause.” In an attempt to remedy that concern we removed that requirement in the introduced version of HB15-1211 and replaced it with a requirement that the providers should be capable of servicing the products they sell on a timely basis in Colorado. Amendment L.007 amends this part of the bill in committee as we do not believe the introduced language provides adequate protection for our Colorado Medicare beneficiaries.**

### **Previous History Regarding Last Year’s Legislation - HB14-1369:**

There are many, many problems with Medicare’s Competitive Bidding program for the acquisition of Durable Medical Equipment (“DME”- Wheelchairs, Oxygen, Walkers, etc.).

CMS (Medicare) is violating their own rules in the implementation of their Competitive Bidding program for Denver and Colorado Springs, Colorado:

1. Over half of the Medicare DME bid winners in Denver and over 75% of the bid winners in Colorado Springs, do NOT have a physical presence in those locations.
  - a. Most of the bid winners are located out of state, most over 500 miles away from Colorado.



- b. The majority of these providers have not delivered even one product to a Medicare patient under their contracts since inception of Medicare's Competitive Bidding program on July 1, 2013.
  - c. This is creating hardships on patients finding access to products and not allowing them to use their provider of choice.
  - d. This is creating hardships on Hospitals trying to coordinate discharges to patients who need DME products and services, causing delays in hospital discharges.
2. The Medicare Competitive Bidding program has excluded most Colorado-based providers from providing products and services to Colorado Medicare patients, putting these providers at risk for business failure. Many of these small businesses count on Medicare business for over half of their revenue.

In order to protect Colorado Medicare Beneficiaries and Colorado businesses, HB14-1369 was passed to ensure patients have access to necessary durable medical equipment they need and that Colorado provider businesses are protected.

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