

APA-1
07/04

**TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION**

Control No. _____ Department or Agency The Board of Home Medical Equipment

Rule No. 473-X-7-01

Rule Title: Appeal to the Board

_____ New X Amend _____ Repeal _____ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? Yes

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? Yes

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? No

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? Yes

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer Brandy L. Benham
Date 4-23-14

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07/04

Board of Home Medical Equipment
NOTICE OF INTENDED ACTION

AGENCY NAME:

Board of Home Medical Equipment

RULE NO. & TITLE:

473-X-7-.01 Appeal to the Board

INTENDED ACTION:

To amend Rules and Regulations.

SUBSTANCE OF PROPOSED ACTION:

The Board of Home Medical Equipment proposes to adopt an Administrative Code or Rules and Regulations under which to operate.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

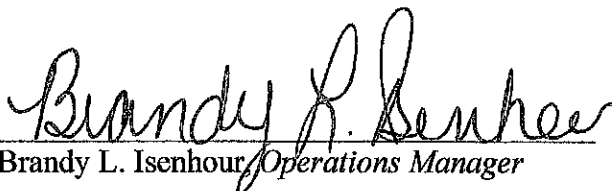
Written comments, views, or arguments will be received by the Board of Home Medical Equipment until 4:30 p.m. on July 3, 2014. Comments should be directed to Paula McCaleb, Executive Director, at Post Office Box 240636, Montgomery, AL 36124-0636, or via fax at 334-215-3457.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

July 3, 2014

CONTACT PERSON AT AGENCY:

Brandy L. Isenhour
334.215.3474


Brandy L. Isenhour, *Operations Manager*

473-X-7-.01. ~~Appeal to the Board.~~

(1) Any entity or person against whom an administrative fine has been levied by the Bboard for providing home medical equipment services without a license as required under Section 34-14C-4, Code of Ala. 1975, or who has been administratively enjoined from providing home medical equipment services without such a license, shall be entitled to pursue an appeal through the Bboard for reconsideration of such decisions rendered after a contested case proceeding. This rule shall also govern appeals of inspection results from any entity or person to whom a written notice of failure to pass inspection has been issued by the Bboard.

(2)The Bboard shall entertain written requests for reconsideration of inspection results or of its decision in a contested case proceeding as set forth in paragraph (1) above in an appeal hearing by either party thereto if timely submitted within thirty (30) days from the rendition of said decision in a written final order adopted by the Bboard.

(3)The request should be based upon newly discovered evidence which would justify relief from the decision rendered.

(4)Such requests should include, by written memorandum or brief, the detailed basis for such reconsideration. The opposing party shall have the opportunity to present a written reply memorandum or brief challenging such basis within thirty (30) days from the submission of the request for reconsideration.

(5)The Bboard shall review the written arguments of the parties at its next regular or special meeting and, based upon such review, determine in its discretion by a majority vote of a quorum of its members whether to sustain its previous decision or grant such relief from the decision as may be appropriate. In reviewing the request, the Bboard may, at its sole discretion, hear further oral argument or new sworn testimony or suggest supplemental responses. The Bboard shall render a written order setting forth the determination of the Bboard within thirty (30) days of the vote reflecting the determination of the Bboard.

(6)The filing of the request for reconsideration shall be at the option of the parties and should not be deemed as a prerequisite to, or hindrance of, either party's right to judicial review of a Bboard decision in accordance with the procedures provided under the Alabama Administrative Procedure Act, Chapter 22, Title 41, Code of Ala. 1975.

HISTORY:

New Rule: Filed July 10, 2006; effective August 14, 2006.