

By: Zaffirini

S.B. No. 1580

A BILL TO BE ENTITLED

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AN ACT

relating to the regulation of providers of wheeled mobility systems.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The Texas Occupations Code is amended by adding Section 703.001 to read as follows:

703.001 This act shall be known and be known and may be cited as the "Consumer Protection Act for Wheeled Mobility."

SECTION 2. The Texas Occupations Code is amended by adding Section 703.002 to read as follows:

(a) "Assistive Technology Supplier (ATS)" means an individual that has appropriately obtained the designation of ATS, meeting all requirements thereof, as established by the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) and is involved in the sale and service of wheeled mobility systems;

(b) "Assistive Technology Practitioner (ATP)" means an individual that has appropriately obtained the designation of ATP, meeting all requirements thereof, as established by the Rehabilitation Engineering and Assistive Technology Society of North America (RESNA) and is trained in evaluating the consumer's needs and in training consumers on the use of a prescribed wheeled mobility systems;

(c) "Consumer" means an individual for which a wheeled

1 mobility system has been prescribed.

2 (d) "Health Care Professional" means Medical Doctor (MD),
3 Physical Therapist (PT), Occupational Therapist (OT), Assistive
4 Technology Practitioner (ATP), or other credentialed professional
5 that performs Physical Evaluations within their scope of their
6 practice;

7 (e) "Physical Evaluation" means the determination and
8 documentation of the consumer's pathology, history and prognosis,
9 and the physiological, functional, and environmental factors that
10 impact the selection of an appropriate wheeled mobility system;

11 (f) "Qualified Rehabilitation Professional" means: (A) an
12 individual who has appropriately obtained the designation of ATS,
13 ATP, or RET, meeting all requirements thereof, as established by
14 the Rehabilitation Engineering and Assistive Technology Society of
15 North America (RESNA), or (B) an individual who is a member of the
16 National Registry of Rehabilitation Suppliers (NRRTS) designating
17 that he/she has met the following requirements:

18 (1) Provide documentation to prove completion of at
19 least fifteen (15) hours of continuing education (CEC) within the
20 twelve (12) months immediately prior to July 1, 2006, and all other
21 subsequent years thereafter by June 30, in the field of seating and
22 wheeled mobility, which may include, but is not limited to, the
23 following:

- 24 (A) courses by health care professionals,
- 25 (B) courses by health care associations,
- 26 (C) courses by a college or university,
- 27 (D) courses by manufacturers,

1 (E) in-service training by manufacturers, or

2 (F) attendance at symposiums or conferences.

3 Further, all fifteen (15) completed CEC's shall be from at least two
4 separate continuing education programs, services or courses. All
5 contact hours may not come from a sole course.

6 (2) Provide proof of at least one year experience in
7 the field of rehabilitation technology; and

8 (3) Provide three recommendations from health care
9 professionals who can attest to the skills of the provider in
10 seating and wheeled mobility.

11 (g) "Rehabilitation Engineering Technologist" (RET) is an
12 individual that has appropriately obtained the designation of RET,
13 meeting all requirements thereof, as established by the
14 Rehabilitation Engineering and Assistive Technology Society of
15 North America (RESNA) and is a person who applies engineering
16 principles to the design, modification, and/or customization of
17 wheeled mobility systems;

18 (h) "Repair Service Department" is a dedicated area where a
19 wheeled mobility system can be serviced and equipped with tools
20 applicable to the service of wheeled mobility systems.

21 (i) "Technology Assessment" means the process and
22 documentation of matching the pathology, history and prognosis of
23 the consumer, and the contextual physiological, functional and
24 environmental factors identified in the consumer's physical
25 evaluation, to the appropriate wheeled mobility system;

26 (j) "Wheeled Mobility System" means a power or manual
27 mobility system including:

- 1 (1) seated positioning components; or
- 2 (2) powered or manual seating options; or
- 3 (3) electronic drive control; or
- 4 (4) specialty driving controls; or
- 5 (5) multi-adjustment frame; or
- 6 (6) non-standard performance options; or
- 7 (A) other complex or specialized components; and
- 8 1. prescribed by a physician and required
- 9 for use by the consumer for a period of six months or more.

10 SECTION 3. Texas Occupations Code is amended by adding
11 Section 703.003 to read as follows:

12 (a) On or after July 1, 2006, all companies or organizations
13 shall have a Qualified Rehabilitation Professional on staff if they
14 provide any prescribed "wheeled mobility system", as defined above,
15 or any manual or power wheelchair or power operated vehicle to a
16 consumer under the following conditions:

- 17 (1) the consumer is under age 21; or
- 18 (2) the consumer has a diagnosis which results from
- 19 childhood or adult onset injury or trauma; or
- 20 (3) the consumer has a diagnosis which is progressive
- 21 and or degenerative in nature; or
- 22 (4) the consumer has a diagnosis which is
- 23 neuromuscular in nature; or
- 24 (5) the consumer requires seated positioning
- 25 components; or
- 26 (6) the consumer has a pathology that indicates a need
- 27 for other assistive technology such as speech generating devices or

1 environmental controls.

2 (b) On and after July 1, 2006, consumers requiring a wheeled
3 mobility system shall undergo a Physical Evaluation by a health
4 care professional who shall provide a written report of said
5 evaluation to be included in the consumer's medical record and
6 maintained on file by the organization providing the wheeled
7 mobility system to the consumer.

8 (c) On and after July 1, 2006, all organizations making
9 available technology assessments on prescribed wheeled mobility
10 systems shall have on staff a qualified rehabilitation
11 professional.

12 (d) On and after July 1, 2006, qualified rehabilitation
13 professionals shall perform a complete, face-to-face technology
14 assessment of the consumer, based upon the physical evaluation
15 required in Section (3) (2) and document, in writing,
16 recommendations for a wheeled mobility system as appropriate to
17 meet the consumer's needs.

18 (e) On or after July 1, 2006, the delivery and final fitting
19 of a wheeled mobility system to the consumer shall be performed by a
20 qualified rehabilitation professional or other employee determined
21 by the Qualified Rehabilitation Professional on staff with that
22 organization to be appropriately trained to complete the delivery
23 and final fitting.

24 (f) On and after July 1, 2009, a 90 day grace period shall be
25 provided to organizations that provide prescribed wheeled mobility
26 systems if the qualified rehabilitation professional on staff
27 ceases to be employed and the organization has no other qualified

1 rehabilitation professional on staff. During the grace period,
2 2005 qualified rehabilitation professional standards shall apply.

3 (g) On and after July 1, 2009, the qualified rehabilitation
4 professional shall be Rehabilitation Engineering Society of North
5 America certified with the designation of ATS, ATP, or RET.

6 (h) On and after July 1, 2006, all organizations making
7 available prescribed wheeled mobility systems to consumers in the
8 state of Texas, shall have a physical location within the state of
9 Texas or within 200 miles of the consumer's residence, with a
10 working land line telephone, staffed during working hours, and a
11 repair service department on the premises.

12 SECTION 4. The Texas Occupations Code is amended by adding
13 Section 703.004 to read as follows:

14 703.004 This act shall take effect July 1, 2006, the public
15 welfare requiring it.