

Affidavit of Exception

Instructions:

If you believe you meet an exception to Ohio's HME license or certificate of registration requirement, please complete and mail an Affidavit of Exception (found on the next page) to the Ohio Respiratory Care Board office:

**Ohio Respiratory Care Board
77 South High Street, 16th Floor
Columbus, Ohio 43215-6108**

The Board encourages you to review all laws and rules regulating the provision of HME services prior to completing this form.

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Pursuant to ORC 3721.01:

(A) As used in [sections 3721.01](#) to [3721.09](#) and [3721.99](#) of the Revised Code:

- (1) (a) "Home" means an institution, residence, or facility that provides, for a period of more than twenty-four hours, whether for a consideration or not, accommodations to three or more unrelated individuals who are dependent upon the services of others, including a nursing home, residential care facility, home for the aging, and a veterans' home operated under [Chapter 5907](#), of the Revised Code.
- (b) "Home" also means both of the following:
 - (i) Any facility that a person, as defined in [section 3702.51](#) of the Revised Code, proposes for certification as a skilled nursing facility or nursing facility under Title XVIII or XIX of the "Social Security Act," 49 Stat. 620 (1935), 42 U.S.C.A. 301, as amended, and for which a certificate of need, other than a certificate to recategorize hospital beds as described in [section 3702.522](#) [3702.52.2] of the Revised Code or division (R)(7)(d) of the version of [section 3702.51](#) of the Revised Code in effect immediately prior to April 20, 1995, has been granted to the person under [sections 3702.51](#) to [3702.62](#) of the Revised Code after August 5, 1989;
 - (ii) A county home or district home that is or has been licensed as a residential care facility.
- (c) "Home" does not mean any of the following:
 - (i) Except as provided in division (A)(1)(b) of this section, a public hospital or hospital as defined in [section 3701.01](#) or [5122.01](#) of the Revised Code;
 - (ii) A residential facility for mentally ill persons as defined under [section 5119.22](#) of the Revised Code;
 - (iii) A residential facility as defined in [section 5123.19](#) of the Revised Code;
 - (iv) A community alternative home as defined in [section 3724.01](#) of the Revised Code;
 - (v) An adult care facility as defined in [section 3722.01](#) of the Revised Code;
 - (vi) An alcohol or drug addiction program as defined in [section 3793.01](#) of the Revised Code;

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- (vii) A facility licensed to provide methadone treatment under [section 3793.11](#) of the Revised Code;
 - (viii) A facility providing services under contract with the department of mental retardation and developmental disabilities under [section 5123.18](#) of the Revised Code;
 - (ix) A facility operated by a hospice care program licensed under [section 3712.04](#) of the Revised Code that is used exclusively for care of hospice patients;
 - (x) A facility, infirmary, or other entity that is operated by a religious order, provides care exclusively to members of religious orders who take vows of celibacy and live by virtue of their vows within the orders as if related, and does not participate in the medicare program established under Title XVIII of the "Social Security Act" or the medical assistance program established under [Chapter 5111.](#) of the Revised Code and Title XIX of the "Social Security Act," if on January 1, 1994, the facility, infirmary, or entity was providing care exclusively to members of the religious order;
 - (xi) A county home or district home that has never been licensed as a residential care facility.

ii **4761:1-3-02 Home medical equipment defined.**

(A) "Life-sustaining equipment" means equipment prescribed by an authorized health care professional that mechanically sustains, restores, or supplants a vital bodily function, such as breathing, including but not limited to:

- (1) Ventilators;
- (2) Oxygen concentrators;
- (3) Oxygen liquid systems;
- (4) Oxygen compressed gas systems;
- (5) Non invasive ventilator system (i.e. bi-level, iron lungs, rocking beds, diaphragmatic pacers, etc.);

(B) "Technologically-sophisticated" means medical equipment prescribed by an authorized health care professional that requires individualized adjustment or regular maintenance by an HME service provider to maintain a patient's health care condition or the effectiveness of the equipment, including but not limited to:

- (1) Oxygen conservation devices;
- (2) CPAP (continuous positive airway pressure) devices;
- (3) Bi-level airway pressure (BiPAP) devices;

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- (4) Intrapulmonary percussive ventilation (IPV) devices;
 - (5) Intermittent positive pressure breathing (IPPB) devices;
 - (6) Cough-assist mechanical in-exsufflator;
 - (7) Apnea monitors;
 - (8) Percussors for chest physiotherapy;
 - (9) Suction machines;
 - (10) Feeding pumps;
 - (11) Infusion pumps;
 - (12) Continuous passive motion (CPM) devices;
 - (13) Custom seating or positioning systems;
 - (14) Custom rehab equipment (i.e. standers & gait trainers);
 - (15) Vacuum assisted wound closure devices;
 - (16) Drop foot stimulators;
 - (17) Bone growth stimulators;
 - (18) Vision restoration therapy devices;
 - (19) Electric wheelchairs and custom scooters;
 - (20) Auto-titrating airway devices; and
 - (21) In-home patient lifts.

(C) "Other items" means equipment specified by the board under division (B) (3) of section 4752.01 of the Revised Code and division (B) of section 4752.17 of the Revised Code. Other items include, but are not limited to:

- (1) Pulse oximeters;
- (2) Home photo therapy (Bili lights or blankets);
- (3) Individually sized or customized accessories that are an integral part of equipment defined in paragraphs (A), (B), and (C) of this rule; and
- (4) Transcutaneous electronic nerve stimulators (TENS), excluding devices labeled by the federal food and drug administration for over-the-counter use and are identified with the federal food and drug administration product code "NUH.OTC TENS".