

State of Arkansas  
92nd General Assembly  
Regular Session, 2019

# A Bill

HOUSE BILL 1964

By: Representative Gonzales

## For An Act To Be Entitled

AN ACT TO REGULATE DURABLE MEDICAL EQUIPMENT  
AGREEMENTS; AND FOR OTHER PURPOSES.

### Subtitle

TO REGULATE DURABLE MEDICAL EQUIPMENT  
AGREEMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4, Chapter 88, Subchapter 1, is amended to add an additional section to read as follows:

4-88-117. Durable medical equipment.

(a) As used in this section, "durable medical equipment" means a good that qualifies for insurance reimbursement and requires a referral or prescription of a licensed physician or a licensed advanced practice registered nurse.

(b) A person shall not represent or advertise that a consumer's health insurance, health benefit plan, Medicare, or Medicaid will cover any portion of the cost of durable medical equipment unless a licensed physician or a licensed advanced practice registered nurse has made a referral for or prescribed the durable medical equipment for the consumer before an agreement to purchase durable medical equipment is executed between a consumer and seller of the durable medical equipment.

(c) Notwithstanding any provision of this section, a provision in an agreement to purchase durable medical equipment does not violate this section if the consumer has signed a conspicuous waiver that contains no other information or agreements and clearly states that the consumer understands



that Medicare, Medicaid, a health benefit plan, a health insurance plan, or any other insurance plan may only cover the cost of the durable medical equipment upon approval by the consumer's licensed physician or licensed advanced practice registered nurse.

(d)(1) If an agreement to purchase durable medical equipment contains a provision that violates this section, the agreement to purchase durable medical equipment is void.

(2) If an agreement to purchase durable medical equipment is voided under subdivision (d)(1) of this section, a consumer may receive full reimbursement for the durable medical equipment.

(3) If a consumer seeks reimbursement for a transaction, the consumer shall return the durable medical equipment upon the request of the seller of the durable medical equipment and at the expense of the seller of the durable medical equipment.

(e)(1) A transaction for durable medical equipment shall have a thirty-day return policy.

(2) Durable medical equipment may be returned for any reason.

(3) Notification of a return of durable medical equipment:

(A) Shall be given by the consumer within thirty (30) days of the agreement to purchase durable medical equipment; and

(B) May be given to the seller of the durable medical equipment in writing or over the telephone.

(4)(A) A seller of durable medical equipment shall not deny a reimbursement for durable medical equipment because the durable medical equipment has not been returned.

(B) However, a consumer shall be permitted to return the durable medical equipment at the expense of the seller of the durable medical equipment within a reasonable amount of time after notification of the return.

APPROVED: 4/16/19