

1 **SENATE FLOOR VERSION**

2 March 28, 2012

3 As Amended

4 ENGROSSED HOUSE

5 BILL NO. 2616

6 By: Johnson and Pittman of the
7 House

8 and

9 Sykes of the Senate

10 [revenue and taxation - sales tax on medical
11 products - modifying scope of exemption - outpatient
12 medical devices]

13 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

14 SECTION 1. AMENDATORY 68 O.S. 2011, Section 1357.6, is
15 amended to read as follows:

16 Section 1357.6 A. ~~Effective July 1, 1992, there~~ As used in
17 this section:

18 1. "Durable medical equipment" means equipment, including
19 repair and replacement parts for same, which:

20 a. can withstand repeated use,

21 b. is primarily and customarily used to serve a medical
22 purpose,

23 c. generally is not useful to a person in the absence of
24 illness or injury, and

d. is not worn in or on the body.

1 Provided, the term durable medical equipment shall not include
2 mobility-enhancing equipment as defined in this section;

3 2. "Mobility-enhancing equipment" means equipment, including
4 repair and replacement parts for same, which:

5 a. is primarily and customarily used to provide or
6 increase the ability to move from one place to another
7 and which is appropriate for use either in a home or a
8 motor vehicle,

9 b. is not generally used by persons with normal mobility,
10 and

11 c. does not include any motor vehicle or equipment on a
12 motor vehicle normally provided by a motor vehicle
13 manufacturer.

14 Provided, the term mobility-enhancing equipment shall not
15 include durable medical equipment as defined in this section;

16 3. "Outpatient medical devices" means devices that are
17 installed in an outpatient procedure and include the following:

18 a. high-dose-rate brachytherapy,

19 b. pacemakers,

20 c. catheters, and

21 d. capsules used in capsule endoscopy;

22 4. "Practitioner" means a physician, osteopathic physician,
23 surgeon, podiatrist, chiropractor, optometrist, pharmacist,
24 psychologist, ophthalmologist, nurse practitioner, audiologist or

1 hearing aid dealer or fitter who is licensed by the state as
2 required by law; and

3 5. "Prosthetic device" means a replacement, corrective or
4 supportive device, including repair and replacement parts for same,
5 worn on or in the body to:

6 a. artificially replace a missing portion of the body,

7 b. prevent or correct physical deformity or malfunction,

8 or

9 c. support a weak or deformed portion of the body.

10 Provided, the term prosthetic device shall not include
11 corrective eyeglasses, contact lenses or hearing aids.

12 B. There are hereby exempted from the tax levied by Section
13 1351 et seq. of ~~7~~ this title sales of drugs for the treatment of
14 human beings, medical appliances, medical devices and other medical
15 equipment including but not limited to corrective eyeglasses,
16 contact lenses, hearing aids, prosthetic devices, ~~as defined in~~
17 ~~subsection C of this section,~~ durable medical equipment, ~~as defined~~
18 ~~in subsection D of this section,~~ and mobility-enhancing equipment
19 and outpatient medical devices, as defined in subsection E of this
20 ~~section,~~ when administered or distributed by a practitioner, ~~as~~
21 ~~defined in subsection B of this section,~~ who is authorized by law to
22 administer or distribute such items or when purchased or leased by
23 or on behalf of an individual for use by such individual under a
24 prescription or work order of a practitioner who is authorized by

1 law to prescribe such items and when the cost of such items will be
2 reimbursed under the Medicare or Medicaid Program.

3 ~~B. The term "practitioner" means a physician, osteopathic~~
4 ~~physician, surgeon, podiatrist, chiropractor, optometrist,~~
5 ~~pharmacist, psychologist, ophthalmologist, nurse practitioner,~~
6 ~~audiologist or hearing aid dealer or fitter who is licensed by the~~
7 ~~state as required by law.~~

8 ~~C. The term "prosthetic device" means a replacement, corrective~~
9 ~~or supportive device, including repair and replacement parts for~~
10 ~~same, worn on or in the body to:~~

- 11 ~~1. Artificially replace a missing portion of the body;~~
- 12 ~~2. Prevent or correct physical deformity or malfunction; or~~
- 13 ~~3. Support a weak or deformed portion of the body.~~

14 ~~Provided, the term shall not include corrective eyeglasses,~~
15 ~~contact lenses or hearing aids.~~

16 ~~D. The term "durable medical equipment" means equipment,~~
17 ~~including repair and replacement parts for same, which:~~

- 18 ~~1. Can withstand repeated use;~~
- 19 ~~2. Is primarily and customarily used to serve a medical~~
20 ~~purpose;~~
- 21 ~~3. Generally is not useful to a person in the absence of~~
22 ~~illness or injury; and~~
- 23 ~~4. Is not worn in or on the body.~~

24

1 ~~The term "durable medical equipment" shall not include "mobility~~
2 ~~enhancing equipment" as defined in subsection E of this section.~~

3 ~~E. The term "mobility enhancing equipment" means equipment,~~
4 ~~including repair and replacement parts for same, which:~~

5 ~~1. Is primarily and customarily used to provide or increase the~~
6 ~~ability to move from one place to another and which is appropriate~~
7 ~~for use either in a home or a motor vehicle;~~

8 ~~2. Is not generally used by persons with normal mobility; and~~

9 ~~3. Does not include any motor vehicle or equipment on a motor~~
10 ~~vehicle normally provided by a motor vehicle manufacturer.~~

11 ~~The term "mobility enhancing equipment" shall not include~~
12 ~~"durable medical equipment" as defined in subsection D of this~~
13 ~~section.~~

14 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-27-12 - DO PASS,
15 As Amended.

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