

Report on the

Alabama State Board of Respiratory Therapy

Montgomery, Alabama



Department of Examiners of Public Accounts

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October 2, 2019

Senator Chambliss
Chairman, Sunset Committee
Alabama State House
Montgomery, AL 36130

Dear Senator Chambliss,

This report was prepared to provide information for use by the Sunset Committee in conducting its review and evaluation of the operations of the Alabama State Board of Respiratory Therapy in accordance with the *Code of Alabama 1975*, Section 41-20-9.

The report contains unaudited information obtained from the management, staff, and records of the Alabama State Board of Respiratory Therapy, in addition to information obtained from other sources.

Please contact me if you have any questions concerning this report.

Sincerely,

A handwritten signature in black ink that reads 'Rachel Laurie Riddle'. The signature is written in a cursive style with a large initial 'R'.

Rachel Laurie Riddle
Chief Examiner

Examiner
Charles Bass

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PROFILE

Purpose/Authority

The Alabama State Board of Respiratory Therapy was created by Act No. 518, Acts of Alabama 2004. The Board provides and enforces standards for licensure and regulation of people who serve, act, and practice as respiratory therapists. Respiratory therapists licensed by the Board provide services under the direction of a medical doctor. Current statutory authority for the Board is found in the *Code of Alabama 1975*, Sections 34-27B-1 through 34-27B-14.

There has been no legislation passed since the last sunset review of this agency.

<u>Characteristics</u>	
Members and Selection	<p>Five members appointed by the Governor.</p> <ul style="list-style-type: none">• Three respiratory therapists, each selected from a list of two nominees for each position submitted by the Alabama Society for Respiratory Care.• One Chief Executive Officer of a hospital, selected from a list of two nominees submitted by the Alabama Hospital Association.• One physician, selected from a list of two nominees submitted by the Medical Association of the State of Alabama. <p><i>Code of Alabama 1975</i>, Section 34-27B-5(a)</p>
Term	<p>Four year staggered terms Not more than three consecutive full terms.</p> <p><i>Code of Alabama 1975</i>, Section 34-27B-5(e)</p>
Qualifications	<p>Respiratory Therapist:</p> <ul style="list-style-type: none">• Registered or certified by the National Board for Respiratory Care or its successor organization.• Appointees must be licensed by the State of Alabama. <p>Hospital Member:</p> <ul style="list-style-type: none">• Chief Executive Officer of a hospital. <p>Physician Member:</p> <ul style="list-style-type: none">• Licensed to practice medicine in Alabama.• Member of at least one of the following: The American Thoracic Society, The American College of Chest Physicians, The American Society of Anesthesiologists, or The American Academy of Pediatrics. <p><i>Code of Alabama 1975</i>, Section 34-27B-5(a)</p>

Consumer Representation	No Statutory Requirement
Racial Representation	No statutory requirement One Cherokee Native American member currently serving.
Geographical Representation	No statutory Requirement
Other Representation	The composition of the Board shall reflect the racial, gender, geographic, urban/rural, and economic diversity of the state. <i>Code of Alabama 1975</i> , Section 34-27B-5(b)
Compensation	Board members serve without compensation; however, members are reimbursed for travel expenses incurred in attendance at meetings of the Board and any other expenses incurred on business of Board. Board members also receive a per diem allowance following the guidelines for state employees. <i>Code of Alabama 1975</i> , Section 34-27B-5(g)
Attended Board Member Training	Three Board Members Executive Director
<u>Operations</u>	
Administrator	Paula McCaleb, Executive Director The Board contracts with Leadership Alliance, L.L.C., a private management firm, for administrative, management, and logistical support services as well as facilities and the Board's wellness program. The current annual contract amount is \$132,000.00.
Location	2011 Berry Chase Place Montgomery, AL 36117 Monday – Friday 8:30a.m. – 4:30p.m.
Employees	No direct employees – Administrative and management services are provided under contract with Leadership Alliance, L.L.C.
Legal Counsel	Todd Hughes – Attorney General's Office

Subpoena Power	None except as provided by the Administrative Procedures Act, <i>Code of Alabama 1975</i> , Section 41-22-12 for hearings and contested cases.						
Internet Presence	www.asbri.alabama.gov <ul style="list-style-type: none"> • Board Staff and contact information • Board members • Board minutes • Forms • Administrative Rules • Enabling statutes • Calendar • CE Information • Licensee Roster • Complaint process and forms • Disciplinary actions • News • Links to respiratory therapy associations 						
<u>Financial</u>							
Source of Funds	Licensing fees and fines.						
State Treasury	Yes, Special Revenue Fund 1149.						
Required Distributions	None						
Unused Funds	<p>After the first three full fiscal years from May 17, 2004, and every three years thereafter, if a surplus of funds exists which is greater than two years' operating expense, the funds shall be distributed to the General Fund.</p> <p><i>Code of Alabama 1975</i>, Section 34-27B-6</p>						
<u>Licensee Information</u>							
Licensees	<p>Licensees as of May 1, 2019</p> <table style="margin-left: auto; margin-right: auto;"> <tr> <td>Respiratory Therapists</td> <td style="text-align: right;">2,972</td> </tr> <tr> <td>Temporary Respiratory Therapists</td> <td style="text-align: right;"><u>24</u></td> </tr> <tr> <td>Total</td> <td style="text-align: right;">2,996</td> </tr> </table> <p><i>Source:</i> Executive Director</p>	Respiratory Therapists	2,972	Temporary Respiratory Therapists	<u>24</u>	Total	2,996
Respiratory Therapists	2,972						
Temporary Respiratory Therapists	<u>24</u>						
Total	2,996						

<p>Qualifications</p>	<ul style="list-style-type: none"> • At least 18 years of age • High School Diploma or equivalent • A citizen of the United States or legally present • Must meet one of the following: <ul style="list-style-type: none"> ➤ Holds credentials as a registered respiratory therapist (RRT) or a certified respiratory therapist (CRT). ➤ Holds a temporary license and passes the examination leading to the CRT or RRT credential. ➤ Valid therapist license from another state. ➤ Has been approved by the Board as otherwise qualified by special training and has passed the licensure examination established by the Board. <p><i>Code of Alabama 1975, Section 34-27B-3</i></p>
<p>Examinations</p>	<p>Applicants for licensure must pass a national computerized examination developed by the National Board of Respiratory Care (NBRC). Applicants who pass the examination will earn the Certified Respiratory Therapist (CRT) credential.</p> <p>The exam is administered on a daily basis by Applied Measurement Professionals, Inc. (AMP). Testing centers are located in Athens, Birmingham (2), Huntsville, Mobile, and Montgomery.</p> <p>Applicants pay examination fees directly to NBRC.</p> <p>Examination pass/fail rates by fiscal year were not available.</p> <p><i>Code of Alabama 1975, Section 34-27B-3</i></p> <p><i>Source:</i> Executive Director</p>
<p>Reciprocity</p>	<p>The Board’s statutes allow reciprocal agreements with any state, the District of Columbia, or a territory of the United States whose requirements for licensure are considered substantially similar to those of Alabama and who otherwise meets the reciprocity requirements established by the Board.</p> <p>The Board does not have any formal reciprocal agreements.</p> <p><i>Code of Alabama 1975, Section 34-27B-3(b)(3)</i></p>

<p>Renewals</p>	<p>Licenses expire on November 1 of odd numbered years (biennial renewal). A late fee of \$50.00 is assessed if renewed after November 1. Any license not renewed within 90 days following the expiration date shall lapse.</p> <p>The six-month temporary license is renewable only once for an additional six-month period if applicant fails the NBRC CRT examination.</p> <p>All renewals are processed online except license renewals audited for continuing education units and temporary licenses</p> <p><i>Code of Alabama 1975</i>, Section 34-27B-7(c) <i>Code of Alabama 1975</i>, Section 34-27B-7(d)(1) <i>Administrative Rule</i> 798-X-5-.08</p>
<p>Licensee Demographics</p>	<p>The Board has demographic information on licensed respiratory therapists based on age and city.</p> <p><i>Source:</i> Executive Director</p>
<p>Continuing Education</p>	<p>Licensee must complete twenty-four contract hours of continuing education over the two-year licensure period. In the cases of an abbreviated license period, the applicant for renewal shall validate continuing education prorated to the equivalence of one contact hour for each month of the current licensure period.</p> <p><i>Code of Alabama 1975</i>, Section 34-27B-4(2) <i>Administrative Rule:</i> 798-X-5-.08(2)</p>

SIGNIFICANT ISSUES

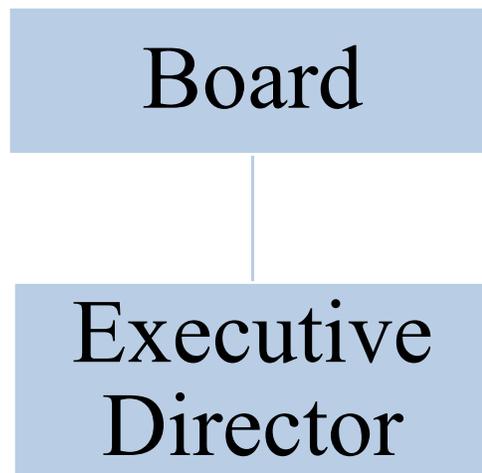
Significant Issue 2019-01 - One board member has exceeded the maximum amount of terms for serving as a member of the board. The member was appointed to a fourth consecutive full term in office, and according to the *Code of Alabama 1975*, Section 34-27B-5(e), no member shall be appointed for more than three consecutive full terms.

Board's Response – I can assure your office and the Members of the Joint Legislative Sunset Review Committee that this Board and I will make sure this issue is resolved. Specifically, term limits will be pointed out to all nominating and appointing authorities in the future. Again, thank you for this opportunity to respond to this matter.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

All prior findings/significant issues have been resolved.

ORGANIZATION



PERSONNEL

The Board of Respiratory Therapy employs no personnel. The Board contracts with Leadership Alliance, L.L.C. of Montgomery, AL to provide administrative and management services, including an executive director. The current contract compensates Leadership Alliance, L.L.C. \$132,000.00 annually to be paid in monthly installments. The contract expires on December 31, 2019.

Legal Counsel

Legal counsel provided by Todd Hughes, an Assistant Attorney General, employed by the Attorney General's Office.

PERFORMANCE CHARACTERISTICS

Number of Persons per Licensee in Alabama and Surrounding States

	Population (estimate)*	Number of Licensees	Persons Per Licensee
Alabama	4,888,949	2,996	1,632
Florida	21,312,211	12,590	1,693
Georgia	10,545,138	5,604	1,882
Mississippi	2,982,785	2,629	1,135
Tennessee	6,782,564	4,941	1,373
*Source: U.S. Census, July 1, 2018 Population Estimates			

Operating Disbursements per Licensee (FY2018) - \$68.18

Fines/Penalties as a Percentage of Operating Receipts

	FY2018	FY2017	FY2016	FY2015
Total Receipts less Fines	\$190,275.00	\$80,295.21	\$208,448.00	\$40,376.50
Total Fines	0.00	300.00	2,400.00	400.00
Percentage	0.00%	0.37%	1.15%	0.99%

Notification of Board decisions to Amend Administrative Rules

The Board complied with notification procedures prescribed in the Administrative Procedure Act, which includes publication of proposed rules in the Administrative Monthly, and public hearings on proposed rules. The Board also notified licensees of proposed rule changes on its website.

COMPLAINT HANDLING

The *Code of Alabama 1975*, Section 34-27B-8 and **Administrative Rules** 798-X-7-.01 through 798-X-7-.11 provide procedures for receipts, documentation, and investigation of complaints against licensees and disciplinary actions.

Initial Contact/Documentation	The Board requests that all complaints be filed in writing, addressed to the Chair of the Board, and signed on a form prescribed by the Board. The complaint may be submitted in person, by fax, or mailed to the Board's office. Upon receipt, the complainant is notified by mail, verifying receipt of the complaint and explaining the investigative process.
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Anonymous Complaints Accepted	No
Investigative Process / Probable Cause Determination	The Executive Director determines if there is merit or if sufficient evidence exists to warrant further proceedings. If an investigation is warranted, an investigative committee composed of the Board's Executive Director, Legal Counsel, and one Board member performs an initial review of the complaint.
Negotiated Settlements	Yes
Notification of Resolution to the Complainant	The Board notifies the complainant of the resolution of the complaint in writing. The resolution is also posted on the Board's website under Disciplinary Actions.

Source: Executive Director

Schedule of Resolved Complaints						
October 1, 2014 through September 30, 2018						
Year/Number Received	Fiscal Year/Number Resolved					Pending
	2015	2016	2017	2018	2019	
2015/6	3	3	-	-	-	
2016/4		1	3	-	-	
2017/3			2	1	-	
2018/4				0	4	
2019/4*					1	3

*As of May 1, 2019

Average Time to Resolve Complaints – 127 business days

Disposition of Resolved Complaints

# of Complaints	Resolution
10	Consent Agreements
5	No Substantiated Evidence
3	Case Dismissed

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

No other state or federal agency licenses or regulates respiratory therapists.

FINANCIAL INFORMATION

Source of Funds – Licensing fees and fines.

Fund - The Board operates from Special Revenue Fund 1149 in the State Treasury. After the first three full fiscal years from May 17, 2004, and every three years thereafter, if a surplus of funds exists which is greater than two years' operating expense, the funds shall be distributed to the General Fund.

Schedule of Fees

Fee Type/Purpose	Statutory Authority	Amount Authorized	Administrative Rule	Amount Charged
Application Fee	34-27B-4	Determined by Board	Appendix I	\$25.00
License Fee ¹	34-27B-4	Determined by Board	Appendix I	\$100.00
Temporary License Application Fee	34-27B-7 34-27B-4	Determined by Board	Appendix I	\$25.00
Temporary License Fee	34-27B-7 34-27B-4	Determined by Board	Appendix I	\$50.00
Renewal Fee ¹	34-27B-4	Determined by Board	Appendix I	\$100.00
Reinstatement Fee	34-27B-4	Determined by Board	Appendix I	\$200.00
Administrative Fine	34-27B-8	≤ \$500.00 per violation	798-X-7-.09	≤ \$500.00 per violation
Late Renewal Fee	34-27B-4	Determined by Board	Appendix I	\$75.00
Replacement License Fee	34-27B-4	Determined by Board	Appendix I	\$25.00
License Verification Fee	34-27B-4	Determined by Board	Appendix I	\$25.00
Change of Information Fee	34-27B-4	Determined by Board	798-X-5-.11	\$25.00
Bad Check Charge	8-8-15	≤ \$30.00	798-X-5-.15	\$30.00

¹Biennial license

Schedule of Receipts, Disbursements and Balances

October 1, 2014 through September 30, 2018

	<u>2017-2018</u>	<u>2016-2017</u>	<u>2015-2016</u>	<u>2014-2015</u>
<u>Receipts</u>				
License Fees	\$190,275.00	\$ 80,295.21	\$ 208,448.00	\$ 40,376.50
Fines	-	300.00	2,400.00	400.00
Total	<u>190,275.00</u>	<u>80,595.21</u>	<u>210,848.00</u>	<u>40,776.50</u>
<u>Disbursements</u>				
Travel, In State	3,139.94	1,833.87	2,822.68	1,662.12
Rentals & Leases	91.96	93.60	57.60	24.00
Utilities & Communications	5,581.81	2,205.74	6,575.44	1,447.97
Professional Services	175,614.41	162,958.00	146,625.70	136,045.06
Supplies, Materials, & Operating Expenses	19,849.86	4,413.49	6,893.41	5,048.41
Total	<u>204,277.98</u>	<u>171,504.70</u>	<u>162,974.83</u>	<u>144,227.56</u>
Excess (Deficiency) of Receipts over Disbursements	(14,002.98)	(90,909.49)	47,873.17	(103,451.06)
Cash Balances at Beginning of Year	<u>50,449.96</u>	<u>141,359.45</u>	<u>93,486.28</u>	<u>196,937.34</u>
Cash Balances at End of Year	36,446.98	50,449.96	141,359.45	93,486.28
Reserved for Unpaid Obligations	<u>(20,601.05)</u>	<u>(47,230.66)</u>	<u>(34,601.00)</u>	<u>(475.00)</u>
Unreserved Cash Balances at End of Year	<u>\$ 15,845.93</u>	<u>\$ 3,219.30</u>	<u>\$ 106,758.45</u>	<u>\$ 93,011.28</u>

Operating Receipts vs. Operating Disbursements (Chart)

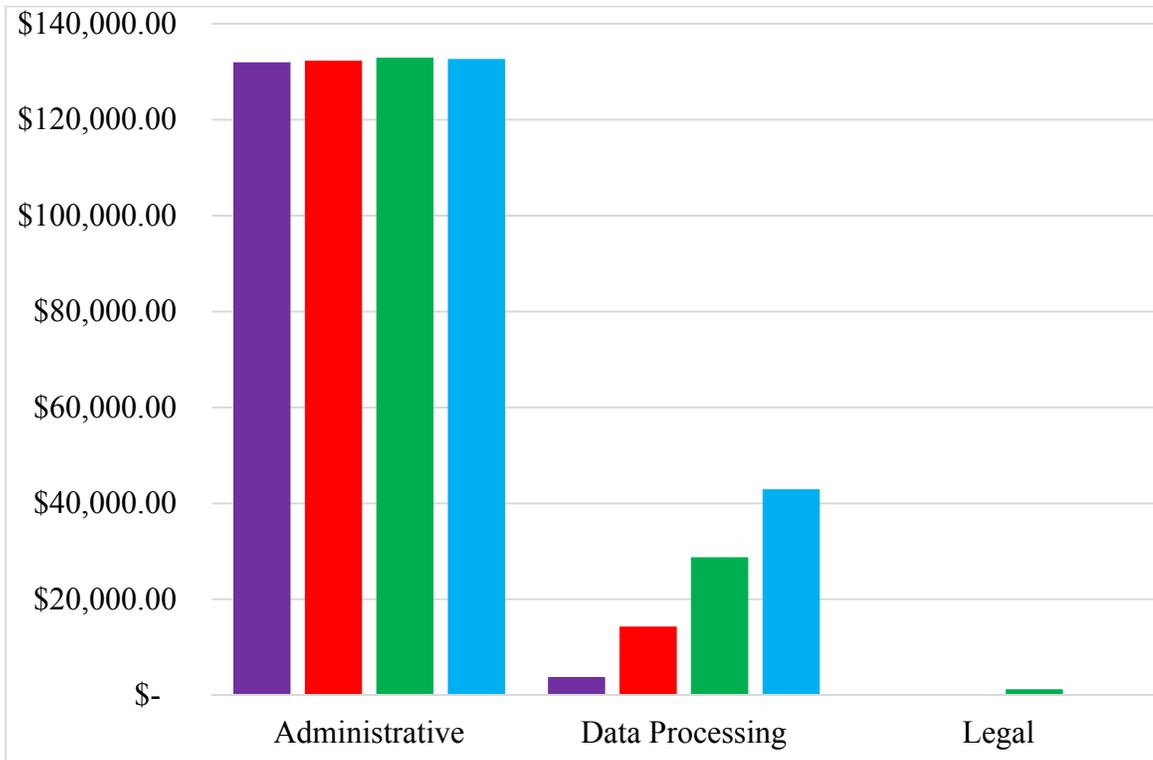


Note: Licenses are issued biennially

SUMMARY SCHEDULE OF PROFESSIONAL SERVICE DISBURSEMENTS*				
As of September 30 th				
Type of Service	FY 2015	FY 2016	FY 2017	FY 2018
Administrative	\$132,000.00	\$132,306.49	\$132,958.50	\$132,693.20
Data Processing	\$3,803.16	\$14,319.21	\$28,779.61	\$42,921.21
Legal	\$241.90	\$0.00	\$1,219.89	\$0.00
Total	\$136,045.06	\$146,625.70	\$162,958.00	\$175,614.41

*Detailed information presented in the appendix

Professional Service Disbursements Chart



QUESTIONNAIRES

Board Member Questionnaire

A letter was sent to all five members of the Alabama Respiratory Therapy Board requesting participation in our survey. Four participated in the survey. The percentages, where shown, are based on the number who responded to the question.

1. What are the most significant issues currently facing the Board of Respiratory Therapy and how is the Board addressing these issues?

Board Member #1 - "Appropriate licensure for our RT Monitoring quality of state RTs Yes the board is addressing."

Board Member #2 - "Types of CEUs accepted for licensure"

Board Member #3 - "Making sure all new and current Respiratory Therapists understand the rules and regulations as they relate to the application process and renewals. We have instituted a email newsletter that is sent to all Alabama Licensed Respiratory Therapists, have included updates with question and answer session at the Alabama Respiratory Therapy Society's State meeting, and have provided information and speakers for respiratory education programs through out the state."

Board Member #4 - "We are handling it through a new eblast system to quickly share information and we shared the information at our state society's annual conference."

2. What changes to the Board's law are needed?

Board Member #1 - "None"

Board Member #2 - "Notifying everyone as to what CEUs are accepted."

Board Member #3 - "The ability to subpoena people or documents for investigative purposes."

Board Member #4 - "none that I am aware of"

3. Is the Board adequately funded?

Yes	3	75%
No	1	25%

4. Is the Board adequately staffed?

Yes	4	100%
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Board Member Questionnaire

5. What is the purpose of the Board's Fiscal year-end balance of unobligated funds?

Board Member #1 - "I do not have answer for that question"

Board Member #2 - "?"

Board Member #3 - "Licensure renewal in every two years. There must be enough money at the year-end to sustain the Board operations between renewal periods."

Board Member #4 - "No Opinion"

6. Has the Board experienced any significant changes to its operations?

No	4	100%
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7. Does the Board plan any significant changes in its operations?

No	3	75%
Unknown	1	25%

Licensee Questionnaire

A letter was sent to one hundred licensees requesting participation in our survey. Ten participated in the survey. The percentages, where shown, are based on the number who responded to the question.

1. Do you think regulation of your profession by the Board of Respiratory Therapy is necessary to protect the public welfare?

Yes	8	80%
No	1	10%
No Opinion	1	10%

Respondent #6 - “It is ineffective in its current form because modification to allow for on the job training with testing could be extremely beneficial in areas where qualified candidates are sparse.”

2. Do you think any of the Board’s Laws, rules, and policies are an unnecessary restriction on the practice of your profession?

Yes	1	10%
No	8	80%
No Opinion	1	10%

3. Are you adequately informed by the Board of changes to and interpretations of the Board’s positions, policies, rules and laws?

Yes	3	30%
No	3	30%
Unknown	3	30%
No Opinion	1	10%

Respondent #6 - “I received no notification of a reduction in ceu hours on a specific lifesaving course.”

4. Do you think any of the Board’s requirements are irrelevant to the competent practice of your profession?

Yes	2	20%
No	6	60%
Unknown	1	10%
No Opinion	1	10%

5. Has the Board performed your licensing and renewal in a timely manner?

Yes	10	100%
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6. Do you consider mandatory continuing education necessary for competent practice?

Yes	7	70%
No	1	10%
Unknown	1	10%
No Opinion	1	10%

Respondent #3 - "We should be able to get all 24 ceus online."

7. Has the Board approved sufficient providers of continuing education to ensure your reasonable access to necessary continuing education hours?

Yes	7	70%
No	2	20%
Unknown	1	10%

Respondent #4 - "Room for improvement"

8. What do you think is the most significant issue(s) currently facing your profession in Alabama and what is the Board is doing to address the issue(s)?

Respondent #1 - "I think in a lot of hospitals Respiratory Therapy is not recognized as highly important. I think in the State we should be allowed to do our entire scope of practice, not just giving breathing treatments. I have no idea what the Board is actually doing about it."

Respondent #2 - "I wish the cities bordering another state could come up with a combination license. Alabama & Georgia for me.. but I'm sure there is too much red tape involved!"

Respondent #3 - "There appears to be a shortage of therapists"

Respondent #4 - "The future of Respiratory Therapy's role."

Respondent #5 - "CAN'T THINK OF ANY SIGNIFICANT ISSUES AT THE PRESENT TIME."

Respondent #6 - "Our profession isn't utilized as to our level of education. In other states resp therapist work with swan Ganz catheters,art lines and ballon pumps. Other states have programs to allow therapist to work in anesthesia. Other states utilize therapist driven protocols. Alabama doesn't utilize any of these. Nurses are overwhelmed with the amount of work and staffing problems. Respiratory therapist could be used to alleviate some of their burden. Our state licensing department hasn't attempted to promote our profession to doctors and hospitals. We are not getting the support from our licensing board that we deserve as healthcare professionals. I feel this should be addressed because it would benefit the current healthcare crisis."

Licensee Questionnaire

Respondent #7 - “There is a huge shortage of therapist in my area. There are two schools in the state that even have a respiratory therapist education”

Respondent #8 - “I feel like there should be more education about the profession prior to graduation from a respiratory therapy program. Students in high schools have the option to shadow many medical professionals now, but respiratory therapy is often forgotten in this. There always seems to be a shortage of RTS. Also, bonus opportunities for RTS seem to be lacking compared to RNS. Oftentimes, this can make RTS feel under appreciated or undervalued. The pay for RTS is not as competitive either and many are underpaid.”

Respondent #9 - “Some healthcare facilities allowing non-licensed staff to perform respiratory care for patients.”

Respondent #10 - “Lack of Bachelor Degree Respiratory programs in Alabama.”

9. Do you think the Board and its staff are satisfactorily performing their duties?

Yes	7	70%
No	1	10%
No Opinion	2	20%

Respondent #6 - “The efficiency of receiving audited therapist’s paperwork needs to be improved. A fellow RT sent their documentation via certified mail and the therapist was informed by a representative of the board that documentation was not received even though she received proof of signature.”

10. Has any member of the Board or its staff for money (other than normal fees), services, or any other thing of value in return for performing a Board service for you?

No	10	100%
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Complainant Questionnaire

A letter was sent to eight complainants whose complaint had been resolved within the past two years requesting participation in our survey. Three participated in the survey. The percentages, where shown, are based on the number who responded to the question.

1. How was your complaint filed with the Board of Respiratory Therapy?

Mail	3	100%
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2. Was receipt of your complaint acknowledged?

Yes	2	67%
No	1	33%

3. If you answer to Question 2 was “YES”, how long after you filed your complaint were you contacted by the board?

Within 10 days	1	33%
Unknown	1	33%
No Response	1	33%

4. Was the Board employee who responded to your complaint knowledgeable and courteous?

Courteous	1	33%
Both	1	33%
No Response	1	33%

Complainant #2 - “XXXXXXXXXX Investigator”

5. Did the Board communicate the results of the investigation into your complaint to you?

Yes	1	33%
No	2	67%

Complainant #2 - “By mail”

Complainant Questionnaire

6. Do you think the Board did everything it could to resolve your complaint?

Yes	2	67%
No	1	33%

Complainant #1 - “If they failed to contact me regarding the complaint, why would I expect them to fully utilize all of the resources available to them to resolve the complaint?”

7. Were you satisfied with your dealings with the Board?

Yes	2	67%
No	1	33%

Complainant #1 - “Absolutely not. The therapist worked several months without a license. A therapist would make, on average more than \$9K in that time. Money that was made illegally. However, she was penalized the equivalent of thirty community service hours. The board has proved time and time again that they are not fair in handing out penalties, as well as adopting an “everyone’s guilty until proven innocent” attitude.”

Complainant #2 - “I am satisfied with the investigator [REDACTED]. The person who I reported has been reported since my complaint and is currently under investigation. She's been allowed to continue to practice and be in a leadership role for the last three years since my complaint. That is disheartening considering she makes decisions regarding time, money, insurance, billing, and skill of workers assigned to take care of patients.”

APPENDICES

Applicable Statutes

Section 34-27B-1 Legislative findings.

The Legislature finds and declares that the practice of respiratory therapy in Alabama affects the public health, safety, and welfare of the citizens of Alabama. It, therefore, should be subject to regulation and control, in the public interest to protect the citizenry against the unauthorized, unqualified, and improper administration of respiratory therapy and from unprofessional or unethical conduct by persons licensed to practice respiratory therapy.

(Act 2004-518, p. 1038, §1.)

Section 34-27B-2 Definitions.

As used in this chapter, the following terms shall have the following meanings:

- (1) BOARD. The Alabama State Board of Respiratory Therapy.
- (2) DIRECT CLINICAL SUPERVISION. A situation where a licensed respiratory therapist or physician is available for the purpose of communication, consultation, and assistance.
- (3) HEALTHCARE FACILITY. The definition shall be the same as in Section 22-21-260.
- (4) MEDICALLY APPROVED PROTOCOL. A detailed plan for taking specific diagnostic or treatment actions, or both, authorized by the treating physician of the patient, all of which actions shall be:
 - a. In a hospital or other inpatient health care facility, approved by the supervising physician of the respiratory therapist or in an outpatient treatment setting approved by the supervising physician of the respiratory therapist.
 - b. Except in cases of medical emergency, instituted following an evaluation of the patient by a physician or otherwise directed by the supervising physician of the respiratory therapist.
 - c. Consistent with the definition of the scope of practice of respiratory therapy, as established by this chapter.
- (5) PHYSICIAN. A person who is a doctor of medicine or a doctor of osteopathy licensed to practice in this state.
- (6) RESPIRATORY THERAPIST. A person licensed by the board to administer respiratory therapy and who has the knowledge and skills necessary to administer respiratory therapy, monitor patient responses, modify respiratory therapy based upon patient response, provide information and education to patients about deficiencies or disorders of the cardiopulmonary system, and supervise others in the delivery of appropriate respiratory therapy procedures.
- (7) RESPIRATORY THERAPY OR CARE. Therapy, management, rehabilitation, diagnostic evaluation, and care of patients with deficiencies and abnormalities of the cardiopulmonary system and associated aspects of other systems' functions, given by a health care professional under the direction of a physician. The term includes, but is not limited to, the following activities conducted upon written prescription, verbal order, or medically approved protocol:
 - a. Direct and indirect pulmonary care services that are safe, aseptic, preventive, or restorative to the patient.
 - b. Direct and indirect respiratory therapy services, including, but not limited to, the administration of pharmacologic, diagnostic, and therapeutic agents related to respiratory therapy procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a physician.

- c. Observation and monitoring of signs and symptoms, general behavior, and general physical response to respiratory therapy treatment and diagnostic testing and determination of whether such signs, symptoms, reactions, behavior, or general responses exhibit abnormal characteristics and implementation, based on observed abnormalities, of appropriate reporting or referral practices or prescribed and medically approved respiratory therapy protocols or appropriate changes in a treatment regimen, pursuant to a prescription by a physician, or the initiation of emergency procedures.
- d. The diagnostic and therapeutic use of any of the following, in accordance with the prescription of a physician:
 1. Administration of medical gases, exclusive of general anesthesia.
 2. Aerosols.
 3. Humidification.
 4. Environmental control systems and hyperbaric therapy.
 5. Pharmacologic agents related to respiratory therapy procedures.
 6. Mechanical or physiological ventilatory support.
 7. Bronchopulmonary hygiene.
 8. Cardiopulmonary resuscitation.
 9. Maintenance of the natural airways.
 10. Insertion without cutting tissues and maintenance of artificial airways.
 11. Diagnostic and testing techniques required for implementation of respiratory therapy protocols.
 12. Collections of specimens of blood and other body fluids including specimens from the respiratory tract.
 13. Collection of inspired and expired gas samples.
 14. Analysis of blood, gases, and respiratory secretions.
 15. Measurements of ventilatory volumes, pressures, and flows.
 16. Pulmonary function testing.
 17. Hemodynamic and other related physiologic measurements of the cardiopulmonary system.
 18. Respiratory telecommunications.
 19. Cardiopulmonary disease management.
 20. Tobacco cessation.
- e. The transcription and implementation of the written and verbal orders of a physician pertaining to the practice of respiratory therapy.
- f. Institution of known and medically approved protocols relating to respiratory therapy in emergency situations in the absence of immediate direction by a physician and institution of specific procedures and diagnostic testing related to respiratory therapy as ordered by a physician to assist in diagnosis, monitoring, treatment, and medical research.
- g. Delivery of respiratory therapy procedures, instruction, and education of patients in the proper methods of self-care and prevention of cardiopulmonary diseases and other conditions requiring the use of respiratory therapy equipment or techniques.

(Act 2004-518, p. 1038, §2.)

Section 34-27B-3 License requirements; examination.

- (a) Except as provided in Section 34-27B-7, no person shall hold himself or herself out to be, or function as, a respiratory therapist in this state unless licensed in accordance with this chapter.
- (b) In order to obtain a respiratory therapist license, an applicant shall demonstrate to the board that he or she is a citizen of the United States or, if not a citizen of the United States, a person

who is legally present in the United States with appropriate documentation from the federal government, at least 18 years of age, is a high school graduate, or has the equivalent of a high school diploma, and meets one of the following requirements:

- (1) Holds credentials as a registered respiratory therapist (RRT) or a certified respiratory therapist (CRT), as granted by the National Board for Respiratory Care or its successor organization.
- (2) Holds a temporary license issued under subsection (d) of Section 34-27B-7 and passes the examination leading to the CRT or RRT credential.
- (3) Has a valid respiratory therapist license from another state, the District of Columbia, or a territory of the United States, whose requirements for licensure are considered by the board as substantially similar to those of Alabama and who otherwise meets the reciprocity requirements established by the board.
- (4) Meets the requirements of subdivision (2) of subsection (d) of Section 34-27B-7.
- (5) Has been approved by the board as otherwise qualified by special training and has passed the licensure examination established by the board in subsection (c).

(c) The board shall arrange for the administration of a licensure examination administered by the state or a national agency approved by the board. The examination shall be validated and nationally recognized as testing respiratory care competencies. The board may enter into agreements or contracts, consistent with state law, with outside organizations for the purpose of developing, administering, grading, and reporting the results of licensure examinations. Such organizations shall be capable of meeting the standards of the National Commission for Health Certifying Agencies, or its equivalent or successor organization. The board shall establish criteria for satisfactory performance on the examination.

(Act 2004-518, p. 1038, §3; Act 2008-137, p. 208, §3.)

Section 34-27B-4 State Board of Respiratory Therapy - Functions.

The board shall perform the following functions:

- (1) Set respiratory therapy licensure fees, including, but not limited to, application, initial, renewal, and reinstatement fees.
- (2) Establish and publish minimum standards of continuing education of respiratory therapy in accordance with those standards developed and accepted by the profession.
- (3) Examine for, approve, deny, revoke, suspend, and renew licensure of duly qualified applicants.
- (4) Promulgate and publish rules in accordance with the Administrative Procedure Act to administer this chapter.
- (5) Conduct hearings on charges calling for the denial, suspension, revocation, or refusal to renew a license.
- (6) Maintain an up-to-date list of every person licensed to practice respiratory therapy pursuant to this chapter. The list shall include the last known place of residence and the state license number of the licensee.
- (7) Maintain an up-to-date list of persons whose licenses have been suspended, revoked, or denied. The list shall include the name, Social Security number, type, date, and cause of action, penalty incurred, and the length of the penalty. The information on the list, except for Social Security numbers, shall be available for public inspection during reasonable business hours and the information may be shared with others as deemed necessary and acceptable by the board.

(Act 2004-518, p. 1038, §4.)

Section 34-27B-5 State Board of Respiratory Therapy - Created; composition; liability of members; terms; meetings; expense reimbursement and per diem allowance.

(a) The Alabama State Board of Respiratory Therapy is created to implement and administer this chapter and shall be composed of five members appointed by the Governor. Three of the members shall be respiratory therapists, one member shall be the chief executive officer of a hospital, and one member shall be a physician. The respiratory therapist members of the board appointed by the Governor shall be selected from a list of names submitted by the Alabama Society for Respiratory Care. The list shall include two names for each appointed position to be filled. The respiratory therapist members appointed to the board shall be registered or certified by the National Board for Respiratory Care or its successor organization. Respiratory therapists appointed to the initial board must be eligible to obtain a license under this chapter. Respiratory therapists selected for subsequent appointments must be licensed by the state. The hospital member shall be selected from a list of names submitted by the Alabama Hospital Association. The physician member appointed shall be duly licensed to practice medicine in Alabama and shall be a member of at least one of the following: The American Thoracic Society, the American College of Chest Physicians, the American Society of Anesthesiologists, or the American Academy of Pediatrics. The physician member of the board appointed by the Governor shall be selected from a list of names submitted by the Medical Association of the State of Alabama. Such lists shall include two names for the position.

(b) All board members shall be residents of Alabama and the composition of the board shall reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(c) The Governor shall make the appointments for all positions for members of the board within 90 days of the date the position becomes available, including initial appointments, vacancies, and replacements at the end of the term of service.

(d) Members of the board shall have the same immunities from personal liability as state employees for actions taken in the performance of their official duties.

(e) The term of office of those members first appointed shall be as follows: Two respiratory therapists and the hospital member, as determined by the Governor, shall serve for terms of two years, and one respiratory therapist and the physician member shall serve for terms of four years. Thereafter, the term of all members shall be for four years. No member shall be appointed for more than three consecutive full terms. A vacancy in an unexpired term shall be filled in the manner of the original appointment. The board shall elect a chair and vice chair annually.

(f) The board shall meet at least twice each year at a time and place determined by the chair. A majority of the members of the board shall constitute a quorum for the transaction of business.

(g) Each member shall serve without compensation, but shall be reimbursed for travel expenses incurred in attendance at meetings of the board and any other expenses incurred on business of the board at its discretion. Board members shall also receive a per diem allowance following the guidelines for state employees. The reimbursement for expenses and per diem shall be paid from funds derived from the Alabama State Board of Respiratory Therapy Fund.

(Act 2004-518, p. 1038, §5.)

Section 34-27B-6 Trust fund.

There is established a separate special trust fund in the State Treasury to be known as the Alabama State Board of Respiratory Therapy Fund. All funds received by the board shall be deposited into the fund and shall be expended only to implement and administer this chapter. No monies shall be withdrawn or expended from the fund for any purpose unless the monies

have been appropriated by the Legislature and allocated pursuant to this chapter. Any monies appropriated shall be budgeted and allocated pursuant to the Budget Management Act in accordance with Article 4, commencing with Section 41-4-80, of Chapter 4 of Title 41, and only in the amounts provided by the Legislature in the general appropriations act or other appropriations act. Funds shall be disbursed only upon a warrant of the state Comptroller upon itemized vouchers approved by the chair. After the first three full fiscal years from May 17, 2004, and every three years thereafter, if a surplus of funds exists which is greater than two years' operating expense, the funds shall be distributed to the General Fund.
(Act 2004-518, p. 1038, §6; Act 2008-137, p. 208, §3.)

Section 34-27B-7 Issuance, use, renewal of license; temporary license.

- (a) The board shall issue a respiratory therapist license to any person who meets the qualifications required by this chapter and who pays the license fee established herein.
- (b) Any person who is issued a license as a respiratory therapist under this chapter may use the words "licensed respiratory therapist" or the letters "LRT" in connection with his or her name to denote his or her license.
- (c) A license issued under this chapter shall be subject to biennial renewal.
- (d)(1) The board may issue a six-month temporary license as a respiratory therapist to persons who have graduated from a respiratory therapy educational program accredited by the Council on Allied Health Education Programs (CAHEP) in collaboration with the Committee on Accreditation for Respiratory Care (CoARC), or their successor organizations, and who have applied for and are awaiting competency examination. The temporary license shall be renewable only once for an additional six-month period if the applicant fails the examination. Exceptions may be made at the discretion of the board based upon an appeal identifying extenuating circumstances. The holder of a temporary license may only provide respiratory therapy or care activities, services, and procedures as defined in Section 34-27B-2 under the direct clinical supervision of a licensed respiratory therapist or physician.
- (2) The board shall grant a license as a respiratory therapist to other persons who do not meet the qualifications for licensure pursuant to Section 34-27B-3, but who, on the effective date of the adoption of the rules and regulations of the board, are currently employed in the administration of respiratory therapy under the direction of a physician in the State of Alabama. The opportunity to apply for a respiratory therapy license issued under this subdivision shall expire 365 days after implementation of the rules of the board. Holders of these licenses shall be eligible to renew their licenses as are any other licensed respiratory therapists under this chapter.

(Act 2004-518, p. 1038, §7; Act 2006-291, p. 581, §1 (b)(2).)

Section 34-27B-8 Disciplinary actions for unprofessional conduct; hearings; expiration of suspended license.

- (a) The board may refuse to renew a license, may suspend or revoke a license, may impose probationary conditions, or may impose an administrative fine not to exceed five hundred dollars (\$500) per violation, as disciplinary actions if a licensee or applicant for licensure has been found guilty of unprofessional conduct that has endangered, or is likely to endanger, the health, welfare, or safety of the public. Unprofessional conduct includes, but is not limited to, the following:
 - (1) Obtaining a license by means of fraud, misrepresentation, or concealment of material facts.

(2) Being found guilty of unprofessional conduct as defined by the rules established by the board, or violating the code of ethics adopted and published by the American Association for Respiratory Care or its successor organization.

(3) Conviction of a crime, other than a minor offense, in any court if the offense has a direct bearing on whether the person should be entrusted to serve the public in the capacity of a respiratory therapist.

(b) The board, after a hearing, may exercise the disciplinary actions authorized in subsection (a). The board shall adopt policies for the conduct of the hearings. One year after the date of the revocation of a license, application may be made to the board for reinstatement. The board shall hold a hearing to consider any application for reinstatement.

(c) The board may establish rules regarding the disciplinary actions authorized in subsection (a) in accordance with the Administrative Procedure Act.

(d) A suspended license is subject to expiration during the suspension period.

(Act 2004-518, p. 1038, §8.)

Section 34-27B-9 Representation as "respiratory therapist," etc.

(a) A person who does not hold a license or a temporary license as a respiratory therapist or whose license or temporary license has been suspended or revoked may not do any of the following:

(1) Use in connection with the person's practice the words "respiratory care professional," "respiratory therapist," "respiratory care practitioner," "certified respiratory care practitioner," "licensed respiratory therapist," "inhalation therapist," or "respiratory therapy technician"; or use the letters "R.C.P." or "L.R.T."; or use any other words, letters, abbreviations, or insignia indicating or implying that the person is a respiratory therapist.

(2) Directly or by implication represent in any way that the person is a respiratory therapist.

(b) A person who holds a license or a temporary license to practice respiratory therapy under this chapter may use the title "respiratory therapist" and the abbreviation "L.R.T."

(Act 2004-518, p. 1038, §9.)

Section 34-27B-10 Violations.

Any person who violates this chapter, upon conviction, shall be guilty of a Class B misdemeanor.

(Act 2004-518, p. 1038, §10.)

Section 34-27B-11 Additional activities permitted under chapter.

Nothing in this chapter shall be construed as preventing or restricting the practice, services, or activities of any of the following:

(1) Any person who is licensed in Alabama or certified by an organization accredited by the National Commission for Certifying Agencies and acceptable to the state from engaging in the profession or occupation for which the person is licensed or certified.

(2) Any person employed by the United States government who provides respiratory therapy solely under the direction or control of the United States government agency or organization.

(3) Any person receiving clinical training while pursuing a course of study leading to registry or certification in a respiratory therapy educational program accredited by the Council on Allied Health Education Programs in collaboration with the Committee on Accreditation for Respiratory Care or their successor organizations. This person will be under direct supervision and be designated by a title clearly indicating his or her status as a student or trainee.

(4) Any emergency medical technician licensed by the Alabama State Board of Health who is providing care to a patient at the scene of an emergency, or during transport of the patient in a licensed ground ambulance, provided that such care may not exceed the scope of care permissible under the rules of the Alabama State Board of Health.

(5) The delivery of respiratory therapy of sick or disabled persons by family members or domestic servants or the care of non-institutionalized persons by a surrogate family member as long as the persons do not represent themselves as, or hold themselves out to be, respiratory therapists.

(6) Any individual who has demonstrated competency in one or more areas covered by this chapter as long as the individual performs only those functions that he or she is qualified by examination to perform. The standards of the National Commission for Certifying Agencies, or its equivalent, shall serve as a standard with which to evaluate those examinations and examining organizations.

(7) Any person performing respiratory services or care not licensed as a respiratory therapist in accordance with this chapter who is employed in a diagnostic laboratory, physician's office, clinic, or outpatient treatment facility and whose function is to administer treatment or perform diagnostic procedures confined to that laboratory, office, clinic, or outpatient facility under the direction of a licensed physician.

(8) Any respiratory therapy student who performs limited respiratory therapy procedures as an employee of any health care provider organization while enrolled in a respiratory therapy educational program accredited by the Council on Allied Health Education Programs in collaboration with the Committee on Accreditation for Respiratory Care or their successor organizations. The employee shall be designated by title as a student or trainee and shall work under direct supervision.

(9) Any individual employed by a durable medical equipment or home medical equipment company who delivers, sets up, or maintains respiratory equipment, but not including assessment or evaluation of the patient.

(10) Any individual employed as a polysomnographic technologist working in a sleep center or diagnostic sleep clinic.

(11) Any licensed respiratory therapist performing advances in the art and techniques of respiratory therapy learned through special training acceptable to the board.

(Act 2004-518, p. 1038, §11.)

Section 34-27B-12 Notice provided to respiratory therapists.

(a) The board shall provide notification to all respiratory therapists employed as such or practicing respiratory therapy in Alabama on May 17, 2004. The notification shall summarize the requirements of this chapter and provide information on procedures for obtaining a license. Publication of the notification shall be accompanied by complying with all of the following requirements:

(1) A letter containing the notice shall be directed to all persons registered or certified by the National Board for Respiratory Care who reside in the State of Alabama, based on the most current mailing list of the National Board for Respiratory Care.

(2) Notice shall be published in all major state trade or professional journals relating to respiratory therapy for not less than three consecutive months.

(3) Notice shall be published in all daily newspapers in this state at least once per month for three consecutive months.

(b) The board shall cause the notices required by this section to commence within 30 days from the effective date of adoption of rules and regulations by the board.
(Act 2004-518, p. 1038, §12.)

Section 34-27B-13 Rules and regulations.

The board shall promulgate rules necessary to implement and administer the provisions of this chapter. Rules shall be issued pursuant to the Administrative Procedure Act.
(Act 2004-518, p. 1038, §13.)

Section 34-27B-14 Sunset provision.

The board shall be subject to the Alabama Sunset Law, as provided in Chapter 20, Title 41, as an enumerated agency as provided in Section 41-20-3, and shall have a termination date of October 1, 2008, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.
(Act 2004-518, p. 1038, §14.)

Professional Services by Vendor

	2015	2016	2017	2018
Administrative Services				
Leadership Alliance LLC	\$ 132,000.00	\$ 132,000.00	\$ 132,000.00	\$ 132,000.00
Department of Finance	-	22.99	8.50	293.20
Legislative Service Agency	-	-	-	400.00
Legislative Reference Service	-	-	800.00	-
Henderson and Associates Court	-	133.50	-	-
Al Assoc of Regulatory Boards	-	150.00	150.00	-
Total Administrative	132,000.00	132,306.49	132,958.50	132,693.20
Data Processing Services				
American Databank LLC	345.00	-	-	-
Department of Finance	3,458.16	13,794.19	14,379.61	24,976.46
Department of Homeland Security	-	75.02	-	75.00
Office of Information Tech	-	-	-	1,069.75
Alabama Interactive	-	450.00	-	-
IGOV Solutions	-	-	14,400.00	16,800.00
Total Data Processing	3,803.16	14,319.21	28,779.61	42,921.21
Legal Services				
Wilkerson & Bryan PC	241.90	-	1,219.89	-
Total Legal Services	241.90	-	1,219.89	-
Total Professional Services	\$ 136,045.06	\$ 146,625.70	\$ 162,958.00	\$ 175,614.41

Board Members



ALABAMA STATE BOARD OF RESPIRATORY THERAPY

P.O. Box 241386 • Montgomery, AL 36124-1386

Phone: (334) 396-2332 • Fax: (334) 396-2384

Web Site: www.asbrt.alabama.gov

May 7, 2019

Mr. Charles Bass
Examiner of Public Accounts
P.O. Box 302251
Montgomery, AL 36130-2251

Dear Mr. Bass:

This letter lists the name, position, city, zip code, and term for each current Board member.

Vernon Johnson, Chairman

Ozark, AL 36360

Term: 08/05/18 to 08/04/22

William S. Roberts, Jr., Vice-Chairman

Mobile, AL 36618

Term: 07/18/17 to 08/05/20

Ed Goodwin, Member

Munford, AL 36268

Term: 08/06/18 to 08/05/22

Ronda Hood, Member

Sheffield, AL 35660

Term: 08/06/18 to 08/05/22

Dr. William P. Saliski, Jr., Member

Montgomery, AL 36111

Term: 07/18/17 to 08/05/20

Please advise if anything further is needed. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Paula McCaleb".

Paula McCaleb
Executive Director

Board's Response to Significant Issue



ALABAMA STATE BOARD OF RESPIRATORY THERAPY

P.O. Box 241386 • Montgomery, AL 36124-1386

Phone: (334) 396-2332 • Fax: (334) 396-2384

Web Site: www.asbrt.alabama.gov

August 21, 2019

Ms. Maria L. Catledge, Director Operational Division

Department of Examiners of Public Accounts

P.O. Box 302251

Montgomery, AL 36130-2251

Dear Ms. Catledge:

Thank you for the opportunity to respond to Significant Issue 2019-01 on behalf of the Alabama State Board of Respiratory Therapy. I can assure your office and the Members of the Joint Legislative Sunset Review Committee that this Board and I will make sure this issue is resolved. Specifically, term limits will be pointed out to all nominating and appointing authorities in the future. Again, thank you for this opportunity to respond to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Paula McCaleb", is written over the word "Sincerely".

Paula McCaleb

Executive Director