



Sunset Report
Alabama
Board of Home
Medical Equipment
Montgomery, Alabama

October 1, 2020 through September 30, 2024

ALABAMA DEPARTMENT OF
EXAMINERS of Public Accounts

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August 20, 2025

Sunset Committee
Alabama State House
Montgomery, Alabama 36130

Dear Committee Members:

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 Board of Home Medical Equipment 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 Board of Home Medical Equipment in addition to information obtained from other sources.

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

Sincerely,

Rachel Laurie Riddle
Chief Examiner

Examiners

Bobby Crawford
Rodney Wagstaff

CONTENTS

PROFILE.....	1
Purpose/Authority	1
Characteristics.....	1
Operations	3
Financial.....	4
Licensure.....	4
SIGNIFICANT ISSUES	6
SIGNIFICANT ISSUES FROM QUESTIONNAIRES.....	8
STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES	8
ORGANIZATION	9
PERSONNEL	10
PERFORMANCE CHARACTERISTICS	11
COMPLAINT HANDLING.....	12
REGULATION IN CONJUNCTION WITH OTHER ENTITIES	12
FINANCIAL INFORMATION	13
Schedule of Fees	13
Schedule of Receipts, Disbursements and Balances.....	14
Operating Receipts vs. Operating Disbursements.....	15
Summary Schedule of Professional Services Disbursements.....	16
Professional Services Disbursements Chart.....	16
QUESTIONNAIRES	17
Board Member Questionnaire	17
Licensee Questionnaire	19
APPENDICES.....	22
Appendix I: Applicable Statutes	23
Appendix II: Professional Services by Vendor.....	30
Appendix III: Board Members	31
Appendix IV: Board’s Response to Significant Issues/Prior Findings	32

PROFILE

Purpose/Authority

The Board of Home Medical Equipment Services Providers (the “Board”) was created by Act Number 2000-739, Acts of Alabama. The Board was renamed the Board of Home Medical Equipment by Act Number 2014-172, Acts of Alabama. The Board operates under the authority of the ***Code of Alabama 1975***, Section 34-14C-1 through 34-14C-8. The Board exercises licensing and regulatory authority over businesses engaged in medical devices usable in a residential setting.

<u>Characteristics</u>	
Members and Selection	<p>A minimum of nine members appointed by the Governor. There are currently nine members serving on the Board. Membership should be comprised of the following:</p> <ul style="list-style-type: none">• A majority of members must be employed in the home medical equipment industry – selected from a list submitted by the Alabama Durable Medical Equipment Association, or its successor.• A consumer of home medical equipment service – selected from a list of names submitted by the Governor’s Office of Disability, or its successor.• A physician – selected from a list of names submitted by the Medical Association of Alabama, or its successor.• A representative from the acute-care hospital community – selected from a list submitted by the Alabama Hospital Association, or its successor.• A representative from the home health agency community – selected from a list of names submitted by the Home Care Association of Alabama, or its successor. <p><i>Code of Alabama 1975</i>, Section 34-14C-2(a)</p>
Term	<p>Appointments are for four-year terms ending on October 1. Members serve until their successors are appointed. No member shall serve more than two consecutive terms.</p> <p><i>Code of Alabama 1975</i>, Section 34-14C-2(b)</p>

Qualifications	<p>A majority of members are required to be employed in the home medical equipment industry, and at least one person from each of the following categories:</p> <ul style="list-style-type: none"> • A consumer of home medical equipment services. • A physician. • A representative from the acute-care hospital community. • A representative from the home health agency community. <p>Members shall each be residents of the state and have no record of sanctions related to fraud under federal or state law.</p> <p><i>Code of Alabama 1975</i>, Section 34-14C-2(a)</p>
Consumer Representation	<p>At least one consumer is required by law.</p> <p>There is currently no consumer member serving on the Board. <i>See Significant Issue 2025-005.</i></p> <p><i>Code of Alabama 1975</i>, Section 34-14C-2(a)</p>
Racial Representation	<p>No specific statutory requirement.</p> <p>One minority member currently serving.</p>
Geographical Representation	<p>No specific statutory requirement.</p>
Other Representation	<p>The membership of the Board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.</p> <p><i>Code of Alabama 1975</i>, Section 34-14C-2(a)</p>
Compensation	<p>Members do not receive compensation but are reimbursed for reasonable travel and meeting expenses.</p> <p><i>Code of Alabama 1975</i>, Section 34-14C-2(c)</p>
Attended Board Member Training	<p>Three Current Board Members Executive Director One staff member of The Austin Group, LLC</p>

<u>Operations</u>	
Administrator	The Board has an administrative services contract with The Austin Group, LLC, to provide administrative, management and facility services. Claire H. Austin, President of The Austin Group, LLC, serves as the Board's Executive Director. The current contract is for twelve months beginning May 1, 2025 for \$6,914.25 per month (\$82,971.00 per year).
Location	60 Commerce Street, Suite 1440 Montgomery, AL 36104 Office Hours: Monday through Friday, 8:00 a.m. to 5:00 p.m.
Real Property Ownership	The Board does not own any real property.
Employees	The Board has one part-time retired state employee who serves as the Board's inspector.
Legal Counsel	Hunter Sims, Assistant Attorney General, an employee of the Attorney General's Office.
Subpoena Power	The Board does not have subpoena power 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	https://homemed.alabama.gov/ The Board's website includes a calendar, news, law and rules, contact information, public records request link, complaint form, disciplinary actions, license forms, and a licensee roster. The Board's meeting minutes are available on the website.

<u>Financial</u>	
Source of Funds	Licensing fees, inspection fees, and penalties.
State Treasury	Yes, Special Treasury Fund 1078. <i>Code of Alabama 1975</i> , Section 34-14C-7
Required Distributions	No statutory requirements.
Unused Funds	Unused funds are retained by the Board at the fiscal year-end.
<u>Licensure</u>	
Licensees	The Board had 441 licensees as of February 25, 2025. <i>Source:</i> Executive Director
Licensure Qualifications	<ul style="list-style-type: none"> • Business that has a principal place of business outside this state shall maintain at least one physical location within the state. • Applicants must provide certification of insurance to include comprehensive liability insurance of at least \$300,000. • Pass initial site inspection. • Proof of proper business license. • Proof of proper permits (pharmacy oxygen permit for oxygen suppliers or elevator contractor's license for lift supplies). • Proof of citizenship or legal presence for all individuals affiliated with ownership of company applying for licensure. <i>Code of Alabama 1975</i> , Section 34-14C-4 <i>Administrative Rules</i> 473-X-3-.01 and 473-X-A2-2
Examinations	No examination requirements for licensure.
Reciprocity	The Board does not have reciprocity agreements with any states. <i>Source:</i> Executive Director
Renewals	<p>All licenses expire August 31 of the year following issuance. A license may be renewed within the 60-day period after August 31 upon payment of both the required fee and a late fee.</p> <p>Renewal is offered online. In Fiscal Year 2024, 90% of licenses were renewed online.</p> <i>Code of Alabama 1975</i> , Section 34-14C-4(d) <i>Source:</i> Executive Director

Licensee Demographics	<p>The following information was collected by the Board:</p> <p>Licensees in each State:</p> <table data-bbox="743 317 1234 888"> <tr> <th>State</th><th># of Licensees</th></tr> <tr><td>Alabama</td><td>406</td></tr> <tr><td>Arkansas</td><td>1</td></tr> <tr><td>Arizona</td><td>2</td></tr> <tr><td>California</td><td>4</td></tr> <tr><td>Florida</td><td>5</td></tr> <tr><td>Illinois</td><td>1</td></tr> <tr><td>Indiana</td><td>1</td></tr> <tr><td>Minnesota</td><td>2</td></tr> <tr><td>Mississippi</td><td>1</td></tr> <tr><td>Pennsylvania</td><td>1</td></tr> <tr><td>Tennessee</td><td>7</td></tr> <tr><td>Texas</td><td>3</td></tr> <tr><td>Virginia</td><td>2</td></tr> <tr><td>Wisconsin</td><td>1</td></tr> </table> <p>Gender of Person in Charge:</p> <table data-bbox="672 997 1304 1113"> <tr> <th>Gender</th><th>% of Licensees</th></tr> <tr><td>Male</td><td>59%</td></tr> <tr><td>Female</td><td>41%</td></tr> </table> <p><i>Source:</i> Executive Director</p>	State	# of Licensees	Alabama	406	Arkansas	1	Arizona	2	California	4	Florida	5	Illinois	1	Indiana	1	Minnesota	2	Mississippi	1	Pennsylvania	1	Tennessee	7	Texas	3	Virginia	2	Wisconsin	1	Gender	% of Licensees	Male	59%	Female	41%
State	# of Licensees																																				
Alabama	406																																				
Arkansas	1																																				
Arizona	2																																				
California	4																																				
Florida	5																																				
Illinois	1																																				
Indiana	1																																				
Minnesota	2																																				
Mississippi	1																																				
Pennsylvania	1																																				
Tennessee	7																																				
Texas	3																																				
Virginia	2																																				
Wisconsin	1																																				
Gender	% of Licensees																																				
Male	59%																																				
Female	41%																																				
Continuing Education	<p>There are no continuing education requirements.</p>																																				

SIGNIFICANT ISSUES

Significant Issue 2025-001: **The Board paid for services that should have been included in the contract with its administrative services provider.** The Board entered into a contract with an administrative services provider for the period of May 1, 2020 through April 30, 2025 to provide administrative, investigative, and logistical support services to include executive and support staff, office space, office equipment, and office furniture at an initial cost of \$5,416.66 per month for the first year with the right to negotiate up to a maximum of five (5%) percent increase or decrease in the contract price for each of the four subsequent years.

A review of the Board's expenditures made during the examination period indicated the Board expended funds in addition to the monthly contract rate for personnel costs totaling \$3,502.00 in fiscal year 2024 and \$3,107.64 as of July 8, 2025, for an inspector. Unless subsequent authorization was voted on and approved by the Board, the additional expenditures for personnel costs should have been covered under the terms and conditions of the contract as described. Upon notification of these erroneous payments, the Board's administrative services provider reimbursed the Board the combined total of \$6,609.64.

Contracts function as a record of rights, responsibilities, and obligations of the parties who have signed it. The Board is responsible for ensuring contract invoices are properly reviewed and analyzed and the vendor provides all goods and services pursuant to contractual terms and conditions.

Significant Issue 2025-002: **The Board did not properly monitor services received to ensure that contracted services were received as prescribed in its administrative services contract.** The Board's contract with The Austin Group, LLC includes a provision that states, "A base load of a minimum of 144 inspections to be conducted annually." In fiscal year 2022, seventy-four inspections were conducted, and in fiscal year 2023, eighty inspections were conducted.

Contracts function as a record of rights, responsibilities, and obligations of the parties who have signed it. The Board is responsible for ensuring contract invoices are properly reviewed and analyzed and the vendor provides all goods and services pursuant to contractual terms and conditions.

Significant Issue 2025-003: **The Board failed to properly notify the Secretary of State of vacancies occurring on the Board.** The following discrepancies were noted:

- The Board did not post notices for seven vacancies occurring as a result of the expiration of members' terms or resignations.
- The Board did not post a timely notice for vacancies occurring as a result of the expiration of two members' terms at least 45 days before the vacancies occurred. The notices were posted 70 days and 126 days after the vacancies occurred.

Failure to properly notify the Secretary of State of vacancies occurring could result in potential candidates for the vacancies not receiving sufficient notice and cause the Board not to receive input from all interested candidates to fill vacancies.

The *Code of Alabama 1975*, Section 36-14-17(c)(1) states, “The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy scheduled to occur on the Board as a result of the expiration of a term, at least 45 days before the vacancy occurs. Additionally, the *Code of Alabama 1975*, Section 36-14-17(c)(2) states, “The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy occurring for any reason other than the expiration of a term, as soon as possible, and in any case within 15 days after the occurrence of the vacancy.

Significant Issue 2025-004: The Board has not complied with certain provisions of Executive Orders issued by the Governor. The following discrepancies were noted:

- The Board did not provide documentation of its submissions of the Constituent Service Survey to the Office of the Governor that were due on January 31, 2024 and January 31, 2025 as required by Governor Ivey’s *Executive Order 726: Promoting the Faithful Execution of the Laws Within the Executive Branch of State Government*.
- The Board did not provide documentation to demonstrate it had established written policies concerning the disposal of unnecessary state vehicles and the proper use and assignment of state vehicles as required by Governor Ivey’s *Executive Order 728: Promoting Efficiency and Accountability in the Use of State Vehicles*.
- The Board did not provide documentation that it had established administrative rules to set reasonable fees for responding to public records requests as required by Governor Ivey’s *Executive Order 734: Promoting Transparency in State Government Through Enhanced Accessibility to Public Records*.

Executive Order 726, effective January 17, 2023, requires regulatory agencies to semi-annually report to the Office of the Governor their efforts to respond to constituents when they complain about a licensee or other entity regulated by the agency. These reports shall be filed at a time, and in a format prescribed by the Office of the Governor.

Additionally, *Executive Order 728*, effective January 17, 2023, requires each state executive-branch agency, by July 1, 2023, to adopt a written policy concerning the disposal of unnecessary state vehicles and the proper use and assignment of state vehicles. To promote public confidence in the stewardship of state resources, such policies shall provide objective criteria to determine when a vehicle may properly be assigned to an individual state employee to efficiently conduct the agency's official government business.

Further, *Executive Order 734*, effective January 26, 2023, states, “Within 90 days of the issuance of this order, each state executive-branch agency shall revise its public-records policies - including, if necessary, by giving notice of its intention to adopt or amend administrative rules - to ensure that it charges no more than the following reasonable fees for responding to public-records requests. (a) Document retrieval and preparation. Up to \$20.00 per hour, including a standard, minimum fee of \$20.00. (b) Per-page fees. Charge a per-page fee of up to \$0.50. (c) Actual costs. Charge any actual costs incurred while processing or responding to a public-records request.”

Significant Issue 2025-005: Two consumer Board positions are vacant. One has been vacant since May 2024, and the other has been vacant since October 2015.

The *Code of Alabama 1975*, Section 34-14C-2(a) states in part, “The Governor shall appoint a minimum of nine persons to serve on the Board of Home Medical Equipment, such persons to include a majority who are employed in the home medical equipment industry, and *at least one person from each of the following categories: A consumer of home medical equipment services....The consumer member shall be selected from a list of names submitted by the Governor’s Office on Disability, or its successor.*” The most recent consumer member to be appointed to this position resigned in May 2024 and the position has been vacant since that time.

At its January 27, 2009 meeting, the Board unanimously voted to expand the Board by two members, one being a consumer and one from the industry. The consumer was appointed by the Governor to fill that position in 2012. However, the position has been vacant since 2015.

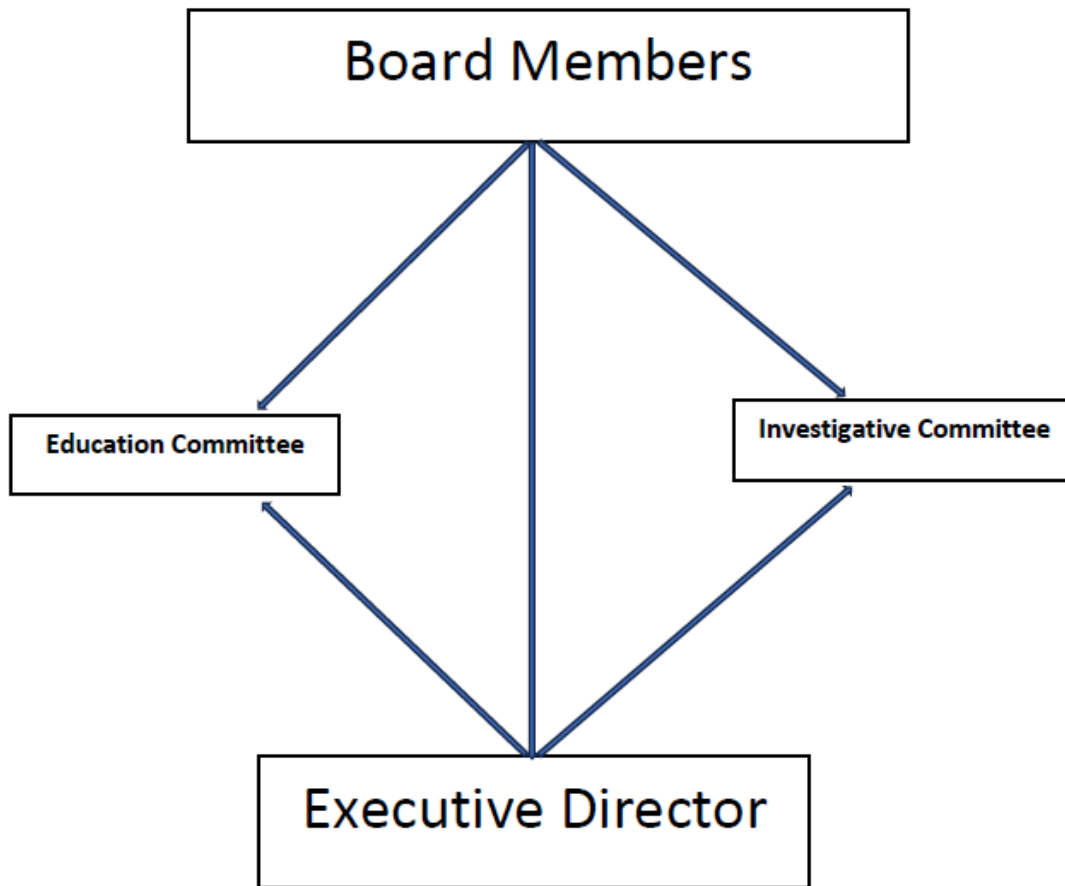
SIGNIFICANT ISSUES FROM QUESTIONNAIRES

There were no significant issues from questionnaires.

STATUS OF PRIOR FINDINGS/SIGNIFICANT ISSUES

All prior findings/significant issues have been resolved.

ORGANIZATION



Source: Executive Director

PERSONNEL

Employees

The Board employs one white, male, retired state employee with an hourly rate of \$35.72 as the Board's inspector.

The Board contracts with The Austin Group, LLC for administrative, management, and facility services. Claire H. Austin, President of The Austin Group, LLC, serves as the Board's Executive Director. The current contract compensates The Austin Group, LLC, \$82,971.00 annually to be paid in monthly installments of \$6,914.25. The current contract is for twelve months and will expire April 30, 2026 with the option to renew for four additional twelve-month periods. Renewals must be submitted to the Chief Procurement Officer and Contract Review Legislative Oversight Committee in a timely manner to prevent lapses and are not automatic.

Legal Counsel

The Board has an agreement with the Attorney General's Office for Hunter Sims, Assistant Attorney General to provide legal assistance for the day-to-day issues presented for review. The current agreement effective October 1, 2024 through March 31, 2028. The pay rate is \$150.00 per hour for attorneys and \$50.00 per hour for paralegal services for all time spent providing legal services to or on behalf of the Board. The agreement also stipulates the Board agrees to compensate the Attorney General's Office for travel at the same rate as state employees.

PERFORMANCE CHARACTERISTICS

Number of Licensees for the Past Four Fiscal Years

Type of License	Fiscal Year			
	2021	2022	2023	2024
Home Medical Equipment Service Provider	397	406	424	438

Operating Disbursements per Licensee (FY 2024) – \$216.81

Fines/Penalties as a Percentage of Operational Receipts

There were no fines or penalties assessed by the Board during this Sunset Review period.

Notification to Licensee 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. Licensees are not specifically notified of proposed changes. If the Board proposes an agency administrative rule change, the Board will notify the licensees on the website, by mass email, or by paper mail. In addition, at renewal all licensees receive a notice regarding the possible change in the administrative rules to receive input from the licensees.

Inspections

The Board is authorized by the *Code of Alabama 1975*, Sections 34-14C-4(f) and 34-14C-4(g) to inspect all license applicants to determine compliance with the requirements of this chapter prior to the issuance of a license. The Board may conduct random inspections upon application for renewal of a license, for cause, and as necessary to ensure the integrity and effectiveness of the licensing process. The inspector collects appropriate data to ensure the applicant seeking licensure is in compliance with the Board's statutes. The inspector conducts a walkthrough of the facility and asks the individual in-charge a series of questions. A signed copy of the inspection form is left with the licensee. The Board's inspection standards can also be found in *Administrative Rule* 473-X-4-.01.

Schedule of Inspections Fiscal Years 2021 through 2024				
Inspections	2021	2022	2023	2024
Pass	123	52	57	128
Fail ¹	38	22	23	24
Total	161	74	80	152
<i>Source:</i> Executive Director				

¹ Upon notice of a failure to pass an inspection and obtain a license, a provider shall have 30 days to appeal the inspection results or be subject to penalties pursuant to the *Code of Alabama 1975*, Section 34-14C-6. Upon appeal, a provider shall have the right to an inspection review or a new inspection in accordance with procedures promulgated by the Board.

COMPLAINT HANDLING

The *Code of Alabama 1975*, Section 34-14C-6 and *Administrative Rule* 473-X-6-.01 provide for a written complaint with the Board for the denial, suspension, or revocation of an application for licensure or license issued by the Board or the investigation of any unlicensed person or entity providing home medical equipment.

Initial Contact/Documentation	Complaints can be received by paper or electronically. The Board may institute a hearing for denial, suspension, or revocation of a license or any person may file a written complaint with the Board. A specific form is required and can be downloaded from the website or emailed to an individual which must be signed. The complainant is sent a letter via U.S. Mail that the complaint has been received by the Board.
Anonymous Complaints Accepted	No, anonymous complaints are not accepted.
Investigative Process / Probable Cause Determination	The Board's inspector investigates the complaints. Board members are removed from further involvement in the complaint if they are involved in the investigation. The Board's disciplinary committee reviews the allegations. This committee is made up of a Board member, the Executive Director, the investigator, and the Board's attorney. The Committee will present a full report to the Board if probable cause is found.
Negotiated Settlements	Yes.
Notification of Resolution to the Complainant	All parties are sent, via U.S. Mail, the notification of the resolution of complaints.

Source: Executive Director

Complaint Data

The Board had no complaints filed during the Sunset period.

REGULATION IN CONJUNCTION WITH OTHER ENTITIES

The Board does not coordinate regulation, licensing, or permitting with any other state or federal agency.

FINANCIAL INFORMATION

Source of Funds

Licensing fees, inspection fees, and penalties are deposited into the Board of Home Medical Equipment's Special Revenue Fund maintained in the State's Treasury.

Schedule of Fees

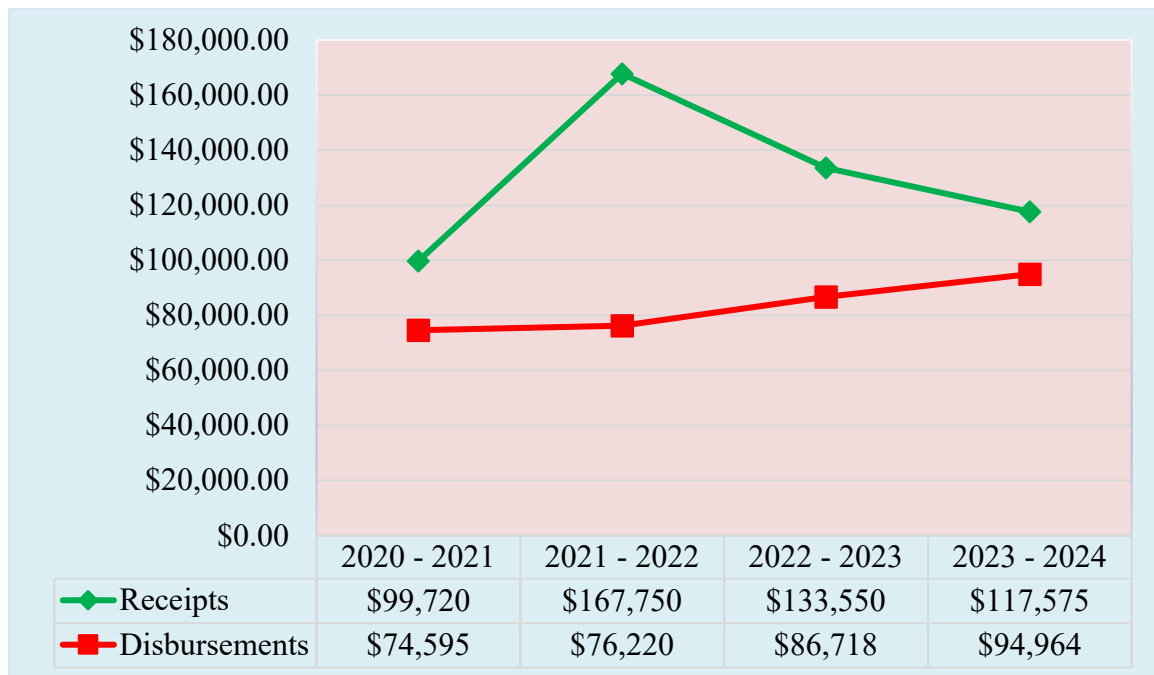
Fee Type/Purpose	Statutory Authority	Administrative Rule	Amount Authorized	Amount Collected
License/Renewal Fee	34-14C-4(b)	473-X-A1-1 473-X-8-.01(1)	Set by Board	\$250.00
Initial Inspection Fee	34-14C-4.1	473-X-A1-1	Set by Board	\$500.00
Reinspection Fee	34-14C-4(e)	473-X-A1-1 473-X-4-.01(8)	\$300.00	\$250.00
Site Inspection Fee upon Change of Physical Location	34-14C-4.1	473-X-A1-1	Set by Board	\$275.00
Late Renewal Fee	34-14C-4(d)	473-X-A1-1 473-X-8-.01(1)	Set by Board	\$150.00
Processing Fee Per Out of State Corporate Branch or Location Providing Services on Behalf of the Licensed Location	34-14C-2(i) 34-14C-4(b)	473-X-A1-1	Set by Board	\$1,000.00

Schedule of Receipts, Disbursements and Balances

October 1, 2020 through September 30, 2024

	<u>2020-2021</u>	<u>2021-2022</u>	<u>2022-2023</u>	<u>2023-2024</u>
<u>Receipts</u>				
License Fees	\$99,720.40	\$167,750.00	\$133,550.00	\$117,575.00
Total	\$99,720.40	\$167,750.00	\$133,550.00	\$117,575.00
<u>Disbursements</u>				
Personnel Costs				3,502.00
Travel, In-State	1,804.72	2,488.68	4,801.43	7,075.12
Rentals & Leases				27.90
Utilities & Communications	1,770.41	1,873.91	2,091.97	1,823.05
Professional Services	68,430.80	69,126.56	77,181.15	78,832.39
Supplies, Materials, & Operating Expenses	2,589.35	2,730.77	2,643.79	3,703.49
Total	74,595.28	76,219.92	86,718.34	94,963.95
Excess of Receipts over Disbursements	25,125.12	91,530.08	46,831.66	22,611.05
Cash Balance at Beginning of Year	281,447.28	306,572.40	398,102.48	444,934.14
Cash Balance at End of Year	306,572.40	398,102.48	444,934.14	467,545.19
Reserved for Year-End Obligations	(58,000.00)	(19,471.88)		(46,584.00)
Unobligated Cash Balance at End of Year	\$248,572.40	\$378,630.60	\$444,934.14	\$420,961.19

Operating Receipts vs. Operating Disbursements

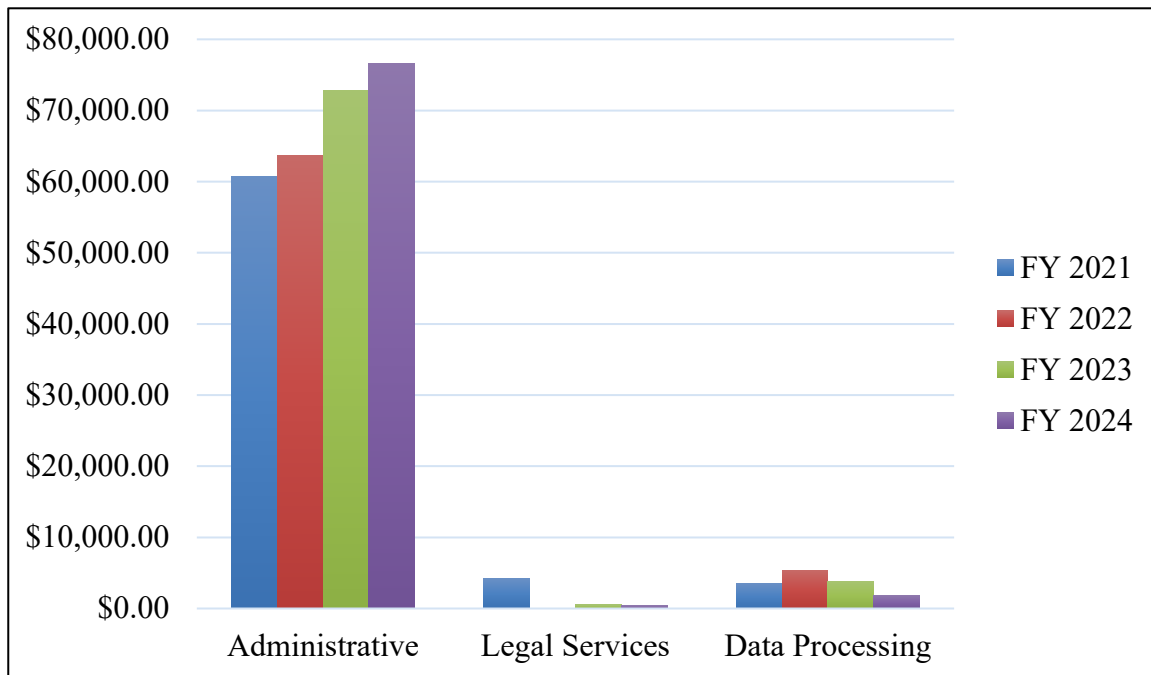


Summary Schedule of Professional Services Disbursements*

As of September 30th				
Type of Service	FY 2021	FY 2022	FY 2023	FY 2024
Administrative	\$ 60,684.17	\$ 63,715.62	\$ 72,870.90	\$ 76,539.28
Legal	4,226.16		510.00	405.00
Data Processing	3,520.47	5,410.94	3,800.25	1,888.11
Total	\$ 68,430.80	\$ 69,126.56	\$ 77,181.15	\$ 78,832.39

*Detailed information presented in Appendix II of this report.

Professional Services Disbursements



QUESTIONNAIRES

Board Member Questionnaire

A letter was sent to all nine members of the Board of Home Medical Equipment requesting participation in our survey. Three participated in our survey. The percentages are based on the number who responded to the question.

1. What do you consider the most significant issue(s) currently facing the Board of Home Medical Equipment and how is the Board addressing these issues?

Board Member #1 – "I don't see any major issues other than the time it takes for an RFP to be processed."

Board Member #2 – "Opposed to SB193 while will roll up this board under all board ED's who are not equipped with the knowledge required by a license holder. Any licensed HME supplier sends staff into senior citizen homes. Homes where they could be alone and fragile. We do not need to put our constituents in harm's way by licensing someone who doesn't meet the minimum standards."

Board Member #3 – "Medicare Advantage Plans only allowing a small amount of providers in-network causing lack of access to rural communities. The Board is working on an educational piece for the public and working with agencies that help clients choose plans on education so they can keep services and stay out of the hospital."

2. What, if any, changes to the Board's laws are needed?

Board Member #1 – "We probably need to eliminate exemptions for mail order companies and start paying board members who go to the meetings."

Board Member #2 – "Remove exemptions that allow mail order companies to service constituents of Alabama. This would eliminate much of the fraudulent activities that take advantage of our Alabama elderly."

Board Member #3 – "So, The Pharmacy Board has to license Oxygen Providers. It would be nice if the Home Medical Equipment Board could do both. Most Providers of home oxygen also provide home medical equipment. The Home Medical Board is run much more efficient and on top of the medical equipment industry."

3. Do you think the Board is adequately funded?

Yes	3	100%
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4. Do you think the Board is adequately staffed?

Yes	3	100%
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5. Does the Board receive regular reports on its operations from the Executive Director?

Yes	3	100%
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6. Has the Board experienced any significant changes to its operations?

No	3	100%
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7. Does the Board plan to make any significant changes to its operations?

No	2	67%
Unknown	1	33%

8. Do you have any additional comments you would like to make?

Board Member #1 – “I think our board and our exec director do a great job of enforcing the rules as written to help ensure patients are not being taken advantage of and criminals are not in our state doing business.”

Board Member #2 – “No.”

Board Member #3 – “If you need to call me to discuss my answers or want any other feedback, I do not mind discussing. [REDACTED]-[REDACTED]-[REDACTED]”

Licensee Questionnaire

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

1. What do you consider the most significant issue(s) facing your profession in Alabama?

Respondent #1 – “When moving or opening a new location, the time it takes for the board to inspect, before we can do business.”

Respondent #2 – “Cost of product, expenses and very reduced reimbursement.”

Respondent #3 – “unlicensed people providing devices”

Respondent #4 – “The expansion of Medicare Advantage plans and the failure of these plans to follow CMS guidelines.”

Respondent #5 – “The ability of the customer who needs the products will be able to pay their 20% so that the insurance company can pay their 80%.”

Respondent #6 – “Unnecessary Regulations and hurdles. Also finding the right employees who are actually willing to work.”

Respondent #7 – “Pharmacy Benefit Manager (PBMs)”

Respondent #8 – “Medicare Advantage Plans not allowing in-network participation for home medical equipment providers and it is increasing access issues to all residents, especially in rural areas.”

Respondent #9 – “insurance reimbursement”

Respondent #10 – “None at this time.”

Respondent #11 – “State legislation regarding licensure. HME should not be governed by the state who has no inclination as to the requirements to confirm a licensed HME is meeting all requirements. We provide care in the home and therefore are held to strict requirements. State will not have the capabilities to handle all of the necessary elements. It’s not as simple as granting a license.”

Respondent #12 – “Reimbursement versus cost”

Respondent #13 – “accessibility. Due to Medicare advantage insurance reimbursement dme provider are going out of business. They pay less than cost on so many items.”

Respondent #14 – “Provider assistance”

Respondent #15 – “We are an out of state business that ships a prescribed medical device to patients across the country and the in-state presence is very troublesome. Our unique device is only supplied by a handful of providers, all are out of state and ship directly from company to patient. I understand the requirement, however there should be an exemption clause for certain DME products.”

Respondent #16 – “Poor reimbursement by insurers and PBMs”

Respondent #17 – “Recognition that our devices are unique and effective.”

Respondent #18 – “PBM over reach”

2. Do you think regulation of your profession by the Board of Home Medical Equipment is necessary to protect the public welfare?

Yes	15	83%
No	3	17%

3. Do you think any of the Board's laws, rules, or policies are an unnecessary restriction on the practice of your profession?

Yes	3	17%
No	13	72%
Unknown	2	11%

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

Yes	11	61%
No	2	11%
Unknown	5	28%

5. Does the Board respond to your inquiries in a timely manner?

Yes	13	72%
No	1	6%
Unknown	4	22%

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

Yes	18	100%
-----	----	------

7. Do you have any additional comments you would like to make?

Respondent #1 – “Not at this time.”

Respondent #2 – “No”

Respondent #3 – “no thank you”

Respondent #4 – “I have been in the HME industry since 1980, and I believe that the ABHMESP is critical to maintaining a high degree of ethical practices in Alabama. I thank them for their service.”

Respondent #5 – “None at this time”

Respondent #6 – “In our business you have to be accredited by other agencies such as the Joint Commission, ACHC, or BOC. I believe that if you have passed and maintain that accreditation (which is more strenuous than the state licensing board) then you should be exempt from the state Home Medical Equipment Board. I feel that this board is completely unnecessary and redundant.”

Respondent #7 – “n/a”

Respondent #8 – “I believe the Board is necessary to help with the assistance to prevent fraud in our State.”

Respondent #9 – “no”

Respondent #10 – “Not at this time”

Respondent #11 – “See question 1.”

Respondent #12 – “NA”

Respondent #13 – “none”

Respondent #14 – “Need more staff and better assistance/help/resources/communication from the board to licensees”

Respondent #15 – “I would like to see the ability to apply for an exemption to the in-state requirement.”

Respondent #16 – “No comments”

Respondent #17 – “My company pays to be accredited by the Joint Commission and is surveyed in person every three years, this includes our site in Alabama.”

Respondent #18 – “no”

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APPENDICES

Appendix I: Applicable Statutes

Section 34-14C-1 Definitions.

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

- (1) BOARD. The Board of Home Medical Equipment as established by this chapter.
- (2) HOME MEDICAL EQUIPMENT. Medical devices usable in a residential setting, as defined in regulations established by the board.
- (3) HOME MEDICAL EQUIPMENT SERVICES. The advertisement, sale, rental, delivery, installation, maintenance, replacement of, or instruction in the use of medical equipment and related supplies used by a sick or disabled individual to allow that individual to obtain care or treatment and be maintained in a residential setting.
- (4) HOME MEDICAL EQUIPMENT SERVICES PROVIDER. A corporation, other business entity, or person engaged in the business of providing home medical equipment services, either directly or through a contractual arrangement, to an unrelated sick or disabled individual in the residence of that individual.

(Act 2000-739, p. 1619, §1; Act 2014-172, p. 489, §1.)

Section 34-14C-2 Board of Home Medical Equipment.

(a) The Governor shall appoint a minimum of nine persons to serve on the Board of Home Medical Equipment, such persons to include a majority who are employed in the home medical equipment industry, and at least one person from each of the following categories: A consumer of home medical equipment services, a physician, a representative from the acute-care hospital community, and a representative from the home health agency community. Those persons employed in the home medical equipment industry shall be selected from a list submitted by the Alabama Durable Medical Equipment Association, or its successor. The consumer member shall be selected from a list of names submitted by the Governor's Office on Disability, or its successor. The physician member shall be selected from a list of names submitted by the Medical Association of Alabama, or its successor. The acute-care hospital community member shall be selected from a list submitted by the Alabama Hospital Association, or its successor. The home health agency community member shall be selected from a list of names submitted by the Home Care Association of Alabama, or its successor. All lists submitted for nominations shall include at least two names for each appointed position to be filled. Board members shall each be citizens of this state and shall have no record of sanctions related to fraud under federal or state law. The membership of the board shall be inclusive and reflect the racial, gender, geographic, urban/rural, and economic diversity of the state.

(b) The initial members appointed to the board shall serve for terms of three to five years, with one-third of the board being replaced each year, beginning in year four. Thereafter, subsequent appointments shall be for a term of four years. No member shall serve more than two consecutive terms of office. An appointment shall end on October 1, four years from the date of the last term, and each member shall hold office until his or her successor is appointed by the Governor.

(c) Members of the board shall not be entitled to compensation for service, but shall be reimbursed for reasonable travel and meeting expenses, according to a budget developed and approved by the board.

(d) The board shall have the responsibility for creating, establishing, maintaining, and enforcing regulations governing the operation of home medical equipment services providers, including the qualifications of inspectors, the nature of inspections, and the process for appeals.

(e) Whenever a vacancy occurs on the board due to the death or resignation of a currently appointed board member, or other like cause, the vacancy shall be filled by appointment by the Governor for the remainder of the unexpired term of the member, as provided under subsection (b). If a vacancy occurs among those members who are employed in the home medical equipment industry, the appointment shall be made from a list submitted by the Alabama Durable Medical Equipment Association or its successor.

(f) At the request of the board, the Governor may remove a member for failing to attend three consecutive and properly noticed meetings. The Governor may also remove a board member for any of the following reasons:

(1) Misfeasance.

(2) Malfeasance.

(3) Neglect of duty.

(4) Conviction of a felony.

(5) Permanent inability to perform official duties.

(g) The board may hire personnel necessary to carry out the provisions of this chapter. With the exception of the executive director, all personnel shall be subject to the provisions of the state Merit System Act.

(h) The board shall adopt a seal, which shall be affixed to all licenses issued by the board, and shall have all other powers necessary and proper for performing official duties.

(i) The board may establish and charge reasonable fees relating to the administration and enforcement of this chapter including, but not limited to, application, processing, copying, mailing, filing, and other fees as necessary to offset costs.

(j) Absent negligence, recklessness, wantonness, or deliberate misconduct, members of the board are immune from liability for all good faith acts performed in the exercise of their duties as members of the board.

(Act 2000-739, p. 1619, §2; Act 2010-148, §3; Act 2014-172, p. 489, §1.)

Section 34-14C-3 Duties of board; requirements of providers.

(a) The board shall adopt regulations that specify the medical equipment to be included in this chapter, set standards for the licensure of entities which provide home medical equipment services, and govern the safety and quality of home medical equipment service providers.

(b) All home medical equipment services providers shall:

(1) Comply with all applicable federal and state laws and regulations governing the safety of home medical equipment services provider facilities and delivery vehicles, the safety and quality of home medical equipment, and the safety, quality, and effectiveness of home medical equipment service procedures.

(2) Comply with any additional standards and testing requirements, as duly promulgated by the board and required for licensure.

(Act 2000-739, p. 1619, §3; Act 2014-172, p. 489, §1.)

Section 34-14C-4 Licensure; inspections.

(a) Except as otherwise provided in this chapter, a home medical equipment services provider shall be licensed annually by the board before the provider may engage in the provision of home medical equipment services. In Alabama, when a single business entity provides home medical equipment services from more than one location within the state, each such location shall be licensed. A provider of home medical equipment services that has a principal place of business outside this state shall maintain at least one physical location within this state, each of which shall be licensed.

(b) A license applicant shall submit the application for licensing or renewal to the board on a form promulgated and required by the board. Applicants shall pay a reasonable nonrefundable fee established by the board at the time the application is submitted. The board shall have the authority to set reasonable fees for applicants to obtain a license. Upon satisfaction of all applicable standards and requirements for licensure, the board shall issue a license certificate permitting the licensee to engage in providing home medical equipment services. The certificate shall be displayed prominently at each licensed location. No person, partnership, corporation, or other legal entity that is not otherwise exempted under this chapter shall provide home medical equipment services without first obtaining a license issued by the board.

(c) Accreditation by the Joint Commission on Accreditation of Healthcare Organizations, the Community Health Accreditation Program, or other accrediting entities shall not be substituted for compliance with this chapter.

(d) Commencing on June 1, 2014, licenses issued pursuant to this chapter shall expire on August 31 of the year following issuance. A license may be renewed within the 60-day period after August 31 upon payment of both the required fee and a late fee as established by rule of the board. Any license that is not renewed before the end of the 60-day grace period shall lapse. A lapsed license may not be renewed unless the holder reapplies and satisfies then current requirements for initial licensure.

(e) License applicants who, upon initial inspection, are found not to comply with applicable licensing standards, shall be notified by the board of the areas of noncompliance and shall be reinspected for compliance upon application and payment of a reasonable reinspection fee established by the board of up to three hundred dollars (\$300).

(f) Except as provided in this chapter, the board may inspect all license applicants to determine compliance with the requirements of this chapter prior to the issuance of a license.

(g) The board may conduct random inspections upon application for renewal of a license, for cause, and as necessary to ensure the integrity and effectiveness of the licensing process.

(h) At any time upon the filing of a substantive, relevant complaint of a consumer of services or other qualified source as identified by the board, the board may inspect the operations of the provider to determine compliance with the requirements of this chapter.

(i) The board shall adopt and maintain standards for the individuals charged with conducting the inspections for the purpose of determining compliance with the requirements of this chapter. Board employees or contractors may conduct inspections.

(j) Upon notice of a failure to pass an inspection and obtain a license, a provider shall have 30 days to appeal the inspection results or be subject to penalties pursuant to Section 34-14C-6. Upon appeal, a provider shall have the right to an inspection review or a new inspection in accordance with procedures promulgated by the board.

(Act 2000-739, p. 1619, §4; Act 2004-441, p. 777, §1; Act 2014-74, p. 121, §3; Act 2014-172, p. 489, §1.)

Section 34-14C-4.1 Inspection fees.

The Board of Home Medical Equipment may establish by rule, and charge and collect, reasonable inspection fees pursuant to the Alabama Administrative Procedure Act.

(Act 2002-95, p. 308, §3; Act 2014-172, p. 489, §1.)

Section 34-14C-5 Exemptions.

The licensure requirements of this chapter do not apply to the following entities or practitioners:

(1) Home health agencies certified by the State of Alabama to participate in the Medicare and Medicaid programs.

(2) Hospital based home medical equipment services, whether or not the services are provided through a separate corporation or other business entity.

(3) Health care practitioners legally eligible to order or prescribe home medical equipment, or who use home medical equipment to treat patients in locations other than the patient's residence, including, but not limited to, physicians, nurses, physical therapists, respiratory therapists, speech therapists, occupational therapists, optometrists, chiropractors, and podiatrists, except for those practitioners, other than a licensed physician practicing medicine, who provide home medical equipment services in a patient's residence.

Nothing in this chapter shall be construed as prohibiting or restricting a licensed physician who is practicing medicine, nor shall anything in this chapter be construed as requiring a physician practicing medicine, to be licensed as a home medical equipment services provider.

(4) Manufacturers and wholesale distributors, when not selling directly to a patient.

(5) Retail community pharmacies, including providers of home infusion therapy services.

(6) Hospice programs, except programs which provide home medical equipment services, including delivery to a patient's residence.

(7) Skilled nursing facilities, except facilities which provide home medical equipment services, including delivery to a patient's residence.

(8) Governmental agencies, including fire districts which provide emergency medical services, and contractors to governmental agencies whose business deals only with the contracted agency.

(9) Mail order companies, as defined by rule of the board.

(10) Out-of-state providers of home medical equipment and services provided in accordance with state or federal law or regulation to Alabama Medicaid recipients.

(11) A provider of home medical equipment or services that manufactures and distributes its own company-branded power operated or durable insulin infusion pumps or continuous glucose monitors and related supplies.

(Act 2000-739, p. 1619, §5; Act 2014-172, p. 489, §1; Act 2015-372, §1; Act 2015-445, §1.)

Section 34-14C-6 Denial, suspension, or revocation of license; hearing; notice, penalties; appeal.

(a) The board may deny, suspend, or revoke a license as provided in this section.

(b) A license may not be denied, suspended, or revoked except by majority vote of the board and with prior notice and opportunity for hearing in accordance with this chapter and the Alabama Administrative Procedure Act.

(c) The board may institute a hearing for denial, suspension, or revocation of a license or any person may file a written complaint with the board seeking the denial, suspension, or revocation of an application for licensure or license issued by the board or the investigation of any unlicensed person or entity providing home medical equipment services. The complaint shall be in a form prescribed by the board.

(d) A copy of the charges, including notice of the time and place of hearing, shall be served by certified mail, return receipt requested, at least 21 days before the scheduled hearing date to the most recent address of the applicant or licensee on file with the board, or to the last known address of any unlicensed person or entity providing home medical equipment services. If the notice and opportunity for hearing is refused or the return receipt has not been received by the board within 10 days before the scheduled hearing, the applicant, licensee, or unlicensed person or entity may be served by mailing the charges and notice by first class mail, at least seven days before the hearing date, to the most recent address on file with the board, or to the last known address of the unlicensed person or entity providing home medical equipment services.

(e) The board may invoke disciplinary action as outlined in subsection (f) whenever it is established to the satisfaction of the board, after a hearing held in accordance with this chapter and the Alabama Administrative Procedure Act, that any person is guilty of any of the following acts:

- (1) Violation of this chapter or a rule of the board.
- (2) Making a material misrepresentation in furnishing information to the board.
- (3) Making a misrepresentation to obtain licensure or to otherwise violate this chapter.
- (4) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States, or any state or territory of the United States, or to any crime that is a misdemeanor, if an essential element of the crime is dishonesty or is directly related to providing home medical equipment services.
- (5) Gross negligence or gross misconduct in providing home medical equipment services.
- (6) Aiding, assisting, or willingly permitting another person to violate any provision of this chapter or rule of the board.
- (7) Failing, within 30 days, to provide information in response to a written request of the board.
- (8) Failing to cooperate with an inspection or with an investigation conducted by the board.
- (9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.
- (10) Denial, revocation, suspension, or restriction of a license in another state or jurisdiction to provide home medical equipment services for a reason other than failure to renew the license.
- (11) Directly or indirectly giving to or receiving from any person, partnership, corporation, or other legal entity any fee, commission, rebate, or other form of compensation for services not actually or personally rendered.
- (12) A finding that a licensee on probationary status has violated the terms of the probation.
- (13) Willfully making or filing false records, reports, or billings in the course of providing home medical equipment services including, but not limited to, false records, reports, or billings filed with state or federal agencies or departments.
- (14) The use of any words, abbreviations, figures, or letters with the intention of indicating practice as a home medical equipment services provider without having first obtained a license from the board.
- (15) Failure to comply with state or federal laws and regulations concerning home medical equipment services providers.
- (16) Solicitation of home medical equipment services using false or misleading advertising.
- (17) Failure to display a license in accordance with this chapter.
- (18) Failure to report a change of name, address, control, ownership, or administration to the board within 30 days after the date of change.

(f) When the board finds any person guilty of any of the grounds set forth in subsection (e), the board may enter an order imposing one or more of the following penalties:

(1) A letter of reprimand.

(2) Imposition of probation for a period of time and subject to such conditions as may be prescribed by the board.

(3) Denial of an application for an initial or renewal license.

(4) Suspension of a license for a period of time established by the board, with or without automatic reinstatement.

(5) Revocation of a license.

(6) Payment of restitution to each consumer negatively affected by the prohibited act. Proof of such restitution shall be a signed and notarized release executed by the consumer or the estate of the consumer.

(7) Assessment of the costs of the disciplinary proceedings.

(g) Failure to comply with any final order of the board is also cause for suspension or revocation of a license. The board may suspend or revoke any license which has been issued based on false or fraudulent representations.

(h) The board may informally resolve any alleged violation of this chapter or rule of the board by stipulation, agreed settlement, or consent order, in lieu of an administrative hearing.

(i) Any entity or person found to be providing home medical equipment services without a license as required by this chapter shall be subject to an administrative fine of up to one thousand dollars (\$1,000) per day that services were provided without a license. Funds collected pursuant to this chapter shall be allocated to the administration of the program.

(j) Any entity or person found to be providing home medical equipment services without a license as required by this chapter may be administratively enjoined by the board from providing services until such time as the entity or person complies with this chapter.

(k) In addition to any other disciplinary action authorized by this chapter, the board may levy and collect administrative fines for violations of this chapter or the rules or standards of the board in an amount of up to one thousand dollars (\$1,000) for each violation.

(l) Any person or entity violating this chapter, upon conviction, shall be guilty of a Class A misdemeanor, and subject to fine or imprisonment, or both.

(m) Any entity or person subject to the penalties prescribed by subsections (i) and (j) may pursue an appeal through the board according to rules promulgated by the board.

(n) Any hearings related to matters before the board shall be conducted in Montgomery County.

(o) In addition to any other penalty or disciplinary action authorized by this chapter, the board may seek an injunction against any person or entity found in violation of this chapter. In an action for an injunction, the board may demand and recover a civil penalty of fifty dollars (\$50) per day for each violation, reasonable attorney fees, and court costs. No civil penalty shall be awarded to the board if an administrative fine is assessed pursuant to subsection (i).

(p) Upon the revocation or suspension of a license, the licensee shall immediately surrender the license to the board, and if the licensee fails to do so, the board may seize the license.

(q) Any person aggrieved by an adverse action of the board may appeal the action to the Circuit Court of Montgomery County in accordance with the Alabama Administrative Procedure Act.

(Act 2000-739, p. 1619, §6; Act 2004-441, p. 777, §1; Act 2014-172, p. 489, §1.)

Section 34-14C-7 Home Medical Equipment Fund.

There is hereby established a separate special revenue trust fund in the State Treasury to be known as the Home Medical Equipment Fund. All receipts collected by the board under the provisions of this chapter are to be deposited into this fund and shall be used only to carry out the provisions of this chapter. The receipts shall be disbursed only by warrant of the state Comptroller upon the State Treasury, upon itemized vouchers approved by the executive director. No funds shall be withdrawn or expended except as budgeted and allotted according to Sections 41-4-80 to 41-4-96, inclusive, and 41-19-1 to 41-19-12, inclusive, and only in amounts as stipulated in the general appropriations bill or other appropriations bills.

(Act 2000-739, p. 1619, §7; Act 2004-441, p. 777, §1; Act 2014-172, p. 489, §1.)

Section 34-14C-8 Sunset provision.

The board shall be subject to the Alabama Sunset Law as an enumerated agency as provided in Section 41-20-3, and shall have a termination date of October 1, 2002, and every four years thereafter, unless continued pursuant to the Alabama Sunset Law.

(Act 2000-739, p. 1619, §8; Act 2014-172, p. 489, §1.)

Appendix II: Professional Services by Vendor

	FY2021	FY2022	FY2023	FY2024
<u>Administrative Services</u>				
<i>Accounting and Auditing</i>				
The Austin Group, LLC	\$ 60,666.62	\$ 63,700.02	\$ 72,856.92	\$ 76,499.76
<i>Mailing Services</i>				
Department of Finance	17.55	15.60	13.98	39.52
Total Administrative Services	60,684.17	63,715.62	72,870.90	76,539.28
<u>Legal Services</u>				
Office of the Attorney General			510.00	405.00
Board of Funeral Services	4,226.16			
Total Legal Services	4,226.16		510.00	405.00
<u>Data Processing Services</u>				
<i>Department of Finance</i>				
SBS Billing				49.00
Interfund Contract Services - Federal	825.00			
Comptroller Services	793.47	869.19	942.00	948.00
<i>Office of Information Technology</i>				
Data Processing	1,902.00	4,541.75	2,858.25	871.09
Finance and IT Planning/Oversight				20.02
Total Data Processing	3,520.47	5,410.94	3,800.25	1,888.11
Total Professional Services	\$68,430.80	\$69,126.56	\$77,181.15	\$78,832.39

Appendix III: Board Members

ALABAMA BOARD OF HOME MEDICAL EQUIPMENT

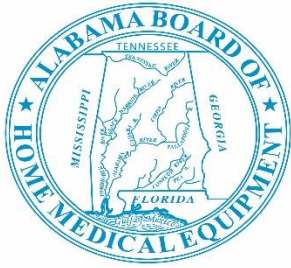
60 Commerce Street Suite 1440

Montgomery, AL 36104

Phone: 334-801-9578

Fax: 334-801-9579

www.homemed.alabama.gov



March 18, 2025

Mr. Rodney Wagstaff
Examiners of Public Accounts
401 Adams Avenue – Suite 280
Montgomery, AL 36104

The Following Board Members:

Mrs. Lisa Wells
Appointed: 10/21/2020
Expiration: 10/01/2024
Jasper – Walker Co.

Mr. Jason Jones
Appointment: 12/21/2017
Expiration: 10/31/2020
Troy, AL Pike Co.

Mrs. Jennifer Weathers
Appointment: 01/26/2022
Expiration: 10/31/2025
Decatur, AL – Morgan, Co.

Mr. Don Jones
Appointment: 12/21/2017
Expiration: 10/31/2019
Warrior, AL
Cullman, AL - business

Dr. Danielle Powell, MD
Appointed: 01/10/2025
Expiration: 10/31/2025
Pelham, AL – Shelby Co.

Mr. Vernon Johnson
Appointed: 04/05/2021
Expiration: 10/31/2025
Ozark – Dale County

Mr. Robert Beard
Appointment: 3/11/2021
Expiration: 10/31/2023
Livingston, AL Sumpter

Ashley Lauderdale
Appointment: 01/10/2025
Expiration: 09/28/2027
Tuscaloosa, AL

Mr. Michael Hadden
Appointment 01/13/2023
Expiration: 10/01/2024
Pelham, AL – Shelby Co.

Sincerely Yours,

Claire Austin
Executive Director

APPENDIX IV: Board's Response

ALABAMA BOARD OF HOME MEDICAL EQUIPMENT

60 Commerce Street, Suite 1440 • Montgomery, AL 36104

Phone: (334) 215-3474 • Fax: (334) 801-9579

www.homemed.alabama.gov

July, 24 2025

Mrs. Dixie B. Thomas
Director of Operational Audits
Examiners of Public Accounts
State of Alabama
P.O. Box 302251
Montgomery, AL 36130

Dear Dixie,

Please find the following response to the significant issues outlined in your letter dated July 11, 2025.

SIGNIFICANT ISSUES

Significant Issue 2025-001: The Board paid for services that should have been included in the contract with its administrative services provider. The Board entered into a contract with an administrative services provider for the period of May 1, 2020 through April 30, 2025 to provide administrative, investigative, and logistical support services to include executive and support staff, office space, office equipment, and office furniture at an initial cost of \$5,416.66 per month for the first year with the right to negotiate up to a maximum of five (5%) percent increase or decrease in the contract price for each of the four subsequent years.

A review of the Board's expenditures made during the examination period indicated the Board expended funds in addition to the monthly contract rate for personnel costs totaling \$3,502.00 in fiscal year 2024 and \$3,107.64 as of July 8, 2025, for an inspector. Unless subsequent authorization was voted on and approved by the Board, the additional expenditures for personnel costs should have been covered under the terms and conditions of the contract as described. Upon notification of these erroneous payments, the Board's administrative services provider reimbursed the Board the combined total of \$6,609.64.

Contracts function as a record of rights, responsibilities, and obligations of the parties who have signed it. The Board is responsible for ensuring contract invoices are properly reviewed and analyzed and the vendor provides all goods and services pursuant to contractual terms and conditions.

Significant Issue 2025-001 Response:

Once notified of this error, the Austin Group, LLC immediately reimbursed the Board with the full amount of \$6,609.64 after the exit interview with the examiners. After notification of this error by the Austin Group, LLC, the Board voted on May 13th, 2025, unanimously, to allow the inspector to do inspection with a limited yearly cap of \$4,000. There was no intent from the Austin Group, LLC, all service was done in service to the state of Alabama, documented and recorded in STAARS. This issue has now been resolved.

Significant Issue 2025-002: The Board did not properly monitor services received to ensure that contracted services were received as prescribed in its administrative services contract. The Board's contract with The Austin Group, LLC includes a provision that states, "A base load of a minimum of 144 inspections to be conducted annually." In fiscal year 2022, seventy-four inspections were conducted, and in fiscal year 2023, eighty inspections were conducted.

Contracts function as a record of rights, responsibilities, and obligations of the parties who have signed it. The Board is responsible for ensuring contract invoices are properly reviewed and analyzed and the vendor provides all goods and services pursuant to contractual terms and conditions.

Significant Issue 2025-002 Response:

To date for the fiscal year 2025, the Board has done over 110 random inspections and will complete the 144 inspections by year end. This inspection rate represents a total of 27% of all licenses. The total number of inspections (144) was a base load that has not been adjusted since the original administrative service contract was executed at the Boards inception. This base load number was before the passage of Act. No. 172, Acts of Alabama 2014 requiring home medical equipment service providers with a principal place of business outside the state to maintain at least one physical location in the state, per the last examiners report the Boards number of licensees had decreased.

The Board does inspect all facilities prior to licensing and any complaints. However, Alabama Code § 34-14C-4. Licensure; inspections, states:

(f) Except as provided in this chapter, the board may inspect all license applicants to determine compliance with the requirements of this chapter prior to the issuance of a license

(g) The board may conduct random inspections upon application for renewal of a license, for cause, and as necessary to ensure the integrity and effectiveness of the licensing process.

There was a question regarding the interpretation of the statute for the 144 random inspections throughout the year, since the statute as read applies to “prior to issuance of a license,” “renewal of a license,” “for cause,” and as “necessary to ensure the integrity and effectiveness of the licensing process.”

The renewal period for the board is July to August. Moving forward the Board will complete all 144 random inspections each physical year.

Significant Issue 2025-003: The Board failed to properly notify the Secretary of State of vacancies occurring on the Board. The following discrepancies were noted:

- The Board did not post notices for seven vacancies occurring as a result of the expiration of members’ terms or resignations.
- The Board did not post a timely notice for vacancies occurring as a result of the expiration of two members’ terms at least 45 days before the vacancies occurred. The notices were posted 70 days and 126 days after the vacancies occurred.

Failure to properly notify the Secretary of State of vacancies occurring could result in potential candidates for the vacancies not receiving sufficient notice and cause the Board not to receive input from all interested candidates to fill vacancies.

The ***Code of Alabama 1975***, Section 36-14-17(c)(1) states, “The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy scheduled to occur on the Board as a result of the expiration of a term, at least 45 days before the vacancy occurs. Additionally, the ***Code of Alabama 1975***, Section 36-14-17(c)(2) states, “The chair of an existing board shall notify the Secretary of State by electronic means of a vacancy occurring for any reason other than the expiration of a term, as soon as possible, and in any case within 15 days after the occurrence of the vacancy.

Significant Issue 2025-003 Response:

The Board will continue to correct this issue and notify the Secretary of State of the vacancies occurring in a timely manner. A vacancy scheduled to occur on the Board because of the expiration of a term, at least 45 days before the vacancy occurs. For a vacancy occurring for any reason other than the expiration of a term, as soon as possible and in any case within 15 days after the occurrence of the vacancy.

Significant Issue 2025-004: The Board has not complied with certain provisions of Executive Orders issued by the Governor. The following discrepancies were noted:

- The Board did not provide documentation of its submissions of the Constituent Service Survey to the Office of the Governor that were due on January 31, 2024 and January 31, 2025 as required by Governor Ivey's ***Executive Order 726***: Promoting the Faithful Execution of the Laws Within the Executive Branch of State Government.
- The Board did not provide documentation to demonstrate it had established written policies concerning the disposal of unnecessary state vehicles and the proper use and assignment of state vehicles as required by Governor Ivey's ***Executive Order 728***: Promoting Efficiency and Accountability in the Use of State Vehicles.
- The Board did not provide documentation that it had established administrative rules to set reasonable fees for responding to public records requests as required by Governor Ivey's ***Executive Order 734***: Promoting Transparency in State Government Through Enhanced Accessibility to Public Records.

Executive Order 726, effective January 17, 2023, requires regulatory agencies to semi-annually report to the Office of the Governor their efforts to respond to constituents when they complain about a licensee or other entity regulated by the agency. These reports shall be filed at a time, and in a format prescribed by the Office of the Governor.

Significant Issue 2025-004: Response: The Board will make sure all Constituent Service Surveys are submitted. The Board has submitted the Constituent Service Surveys report to the Governor's office for 2025. In addition, every quarter the Board submits to the Alabama Department of Examiners of Public Accounts a quarterly statement or corrections to outstanding findings and issues.

Additionally, **Executive Order 728**, effective January 17, 2023, requires each state executive branch agency, by July 1, 2023, to adopt a written policy concerning the disposal of unnecessary state vehicles and the proper use and assignment of state vehicles. To promote public confidence in the stewardship of state resources, such policies shall provide objective criteria to determine when a vehicle may properly be assigned to an individual state employee to efficiently conduct the agency's official government business.

Response: The Board will continue to make sure a written policy concerning the disposal of unnecessary state vehicles and the proper use of state vehicles. Please note the Board does not have any state vehicles. The Board has no plan to acquire a vehicle.

Further, **Executive Order 734**, effective January 26, 2023, states, "Within 90 days of the issuance of this order, each state executive-branch agency shall revise its public-records policies - including, if necessary, by giving notice of its intention to adopt or amend administrative rules - to ensure that it charges no more than the following reasonable fees for responding to public records requests. (a) Document retrieval and preparation. Up to \$20.00 per hour, including a standard, minimum fee of \$20.00. (b) Per-page fees. Charge a per-page fee of up to \$0.50. (c) Actual costs. Charge any actual costs incurred while processing or responding to a public-records request."

Response: The Board will revise its public-records policies - including adopting or amending administrative rules - to ensure that it charges no more than the following reasonable fees for responding to public records requests. (a) Document retrieval and preparation. Up to \$20.00 per hour, including a standard, minimum fee of \$20.00. (b) Per-page fees. Charge a per-page fee of up to \$0.50. (c) Actual costs. Charge any actual costs incurred while processing or responding to a public-records request." The Board has not had any request for public records.

Significant Issue 2025-005: Two consumer Board positions are vacant. One has been vacant since May 2024, and the other has been vacant since October 2015.

The **Code of Alabama 1975**, Section 34-14C-2(a) states in part, "The Governor shall appoint a minimum of nine persons to serve on the Board of Home Medical Equipment, such persons to include a majority who are employed in the home medical equipment industry, and **at least one person from each of the following categories: A consumer of home medical equipment services....The consumer member**

shall be selected from a list of names submitted by the Governor's Office on Disability, or its successor. The most recent consumer member to be appointed to this position resigned in May 2024 and the position has been vacant since that time.

At its January 27, 2009 meeting, the Board unanimously voted to expand the Board by two members, one being a consumer and one from the industry. A consumer was appointed by the Governor to fill that position in 2012. However, the position has been vacant since 2015.

Response: Significant Issue 2025-005

Section 34-14C-2(a) of the Alabama Code governs the composition of the Board of Home Medical Equipment. The Governor shall appoint a minimum of nine members, with a majority of members from the home health industry. The board also must have one member from each of the following categories: "A consumer of home medical equipment services, a physician, a representative from the acute-care hospital community, and a representative from the home health agency community." The Board voted in 2009 to expand the number of members by two, including one additional member from consumers and one from industry. A second consumer member was appointed in 2012, but the position has been vacant since 2015. Section 34-14C-2(a), as described above, governs the board composition and the Governor's appointing authority. Per the statute, only one member who is a consumer of home medical equipment is required. The Board's lawyer will review this issue at the next Board meeting on July 23, 2025, and give advice on the appropriate composition of the Board. The Board is working with the Governor's office on disability and has two candidates submitted to the Governor's office. The Board is waiting for approval from the Governor's office for the consumer position. Per the Board Attorney, at the 7/23/2025 Board meeting, the Board voted unanimously to resend all prior Board member votes to expand the number of Board members.

Please don't hesitate to contact me if I can provide any further information on this matter.

Respectfully Submitted,


Claire H. Austin
Executive Director