



HME Board Newsline

Introductions Are In Order

Introducing the first publication of the HME Board *Newsline*. This is an official publication of the Alabama Board of Home Medical Equipment Services Providers designed to provide Board information to licensees on a regular basis.

During a recent survey conducted by the Alabama Board of Examiners of Public Accounts, Licensees voiced a desire to be updated on Board events, law, rules and regulations, and policy and procedures. The Board has been planning to launch a regular Newsletter as soon as funds allowed for this expense. Now, the Board is adequately funded to provide these services in addition to regular Web Site updates. Therefore, it is our pleasure to provide a regular newsletter for licensees; and accomplish the Board's long term goal of providing an avenue for communication to licensees. In our first issue, you will find out what The Alabama Board of Home Medical Equipment Services Providers has done in the first five years of operation; pro-



Meet the Alabama Board of Home Medical Equipment Services Providers

cedure for complaints and investigations, licensees responsibility to report, and Board meeting policies for public attendance under the new Open Meetings Act.

The benefit of this publication to licensees is very important to the Board. Therefore, your suggestions for topics to be addressed in future articles are welcomed. Please forward these suggestions in writing to paulascout@aol.com Now, that introductions are out of the way, let's begin building communication between the Board and licensees.

A Time of Board Genesis

The Alabama Board of Home Medical Equipment Services Providers has completed its time of genesis. Meaning, the Board has completed its first five years of operation. During this time, the Board has addressed many issues that are actually very common to new Boards. Issues like lack of funding, set up of accurate budgets, numerous audits, hiring Board staff,

adoption of Rules and Regulations under which to operate, enforcement of the statute and discovering the true strengths and weaknesses in the enabling act. The Board has been busy addressing these issues. The Board has a sound structure for further development. Find out what direction the Board is taking now on Page 3, "Looking Ahead".

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Special points of interest:

- *What has your State Board been doing?*
- *How are consumer complaints filed and processed?*
- *When are Change of Address and ownership notification required?*
- *Find out where and when Board Meetings are conducted and who may attend.*

Common Questions regarding the Investigative Process

The investigative process has probably been the area most misunderstood about the Board. The Investigative Procedure Outlined (parallel article) explains the steps in the investigation from opening to closing a case as advised by the Office of the Attorney General and the Examiners of Public Accounts. The Alabama Administrative Procedure Act governs all Boards in many areas, but especially in the investigative and disciplinary procedure. The most common question asked is, "Why can't you shut businesses down who are operating illegally". The answer is two-fold. First, we must receive a written complaint in order to investigate. Assumptions are sometimes made that the Board knows about all entities operating without a license or otherwise illegally when in fact chances are very good that the allegation has never been reported to the Board. The Board has to prove that it hasn't acted in "renegade" fashion and just decided to investigate someone for any reason whatsoever. This is why the law requires written

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complaints and can not take anonymous complaints. Also, the complainant must be willing to testify. Second, the Board does not have police power or the authority to shut a business down or arrest.

Very few licensing boards are given these powers by the State Legislature. What the Board can do upon receipt of a written complaint by an individual willing to testify is to send an investigator to collect information. The investigative committee uses the evidence collected by the investigator to find probable cause to proceed to a hearing. If probable cause is met the Board will hold a disciplinary hearing. The Administrative Law Judge and the Board agree on the final order and the respondent is notified. After the hearing process has been completed, the Board can take the matter to circuit court if the respondent has not complied with the Board's Order. There is certainly a mechanism for stopping businesses who operate illegally. Although, not as quick or dramatic as a police arrest it is legal and effective in the long run. One of the continuing duties of licensees is to report

Duty to Report Changes in Licensee Information

any change in the name, address, control, ownership, manager, or person in control of a licensee. The Rules and Regulations CHAPTER 473-X-3.01 (h) requires that any change of information shall be reported to the office of the Board within thirty (30) days of such change. The change should be documented by filing a new application (available at www.homemed.state.al.us). In addition, a change of address will require passing a new site inspection. At least two weeks should be allowed for the site in-

Investigative Procedure Outlined

1. A complete complaint form must be received in the board office.
2. An investigative file is then opened establishing a case number and investigative committee consisting of one Board Member, Legal Counsel, Investigator, and Executive Director. The complainant is written verifying receipt of complaint.
3. The committee reviews and actively pursues an investigation to a legal and logical conclusion.
4. Once probable cause has been met, a hearing will be scheduled and the parties notified at least 21 days in advance. If the complaint is not substantiated by the evidence the case is then closed. The respondent and complainant are both notified of the investigative conclusion.
5. For Cases progressing to hearing the investigative committee does have the option of entering into a consent agreement with the respondent once the investigation has been concluded and the allegation(s) supported by the evidence. The Committee makes a recommendation as to what punishment and/or fines to impose on the respondent. The respondent can then agree by signing the consent order. If the respondent chooses not to agree to the arrangements proposed by the Board, the respondent can chose to continue with a hearing before the entire Board.

DISCIPLINARY HEARINGS

1. Hearings are conducted at the Board Headquarters in the Conference Room. This process is subject to the Open Meetings Act which provides for the forum to be open to the public.
2. An Administrative Law Judge conducts the hearing as argued by Legal Counsel for the Board and the Respondent's Attorney.
3. Once the hearing is concluded the Administrative law Judge will write a Final Order of the case which is then voted on by the Board to accept, amend, or reject the Judge's findings. The Board Member serving on the Investigative Committee abstains from voting in order to guarantee due process.
4. The order is then sent to the respondent and the case is closed.
5. Disciplinary Actions are then published in the Newsletter and on the Web Site.

pection to be conducted (after the application is complete). **Planning ahead is essential in order to avoid any lapse in licensure.**

It is important to make note of this duty to report especially since these type of changes are very common.

Timeline of Board Events

2000

The Board was created by Act #2000-739 (HB 419 of the 2000 Regular Session).

The Governor made the first appointments to the Board on November 1, 2000.

2001

The Board held its first meeting on January 19, 2001. At this Board Meeting, the first Board Members took their Oath of Office and began meeting once a month to write the Rules and Regulations, adopt application forms and procedures, hire staff and locate an office.

Rules and Regulations of the Board became effective on May 25, 2001.

Implemented a temporary licensure application and completed first renewal cycle. The Board initially had 264 Licensees.

Completed first Sunset Review Audit conducted by the Alabama Board of Examiners of Public Accounts.

2002

Board launches Web Site with Board Information, Law, Rules and Regulations, and forms available for licensees and consumers.

Introduced Legislation in 2002 (HB 580) that would provide the Board to have flexibility in the administrative fine of \$1,000 per day allowing the Board to enforce a lesser fine on a case by case basis; and address the prob-

lem of lack of funding and limited fee authority. Legislation was unsuccessful.

The Board contracts with an Investigator/Inspector on an as-needed basis for processing complaints.

2003

Legislation is further drafted to also address language for out-of-state inspections.

The Board issues 360 Licenses for Home Medical Equipment Services Providers.

Completes second Sunset Review Audit.

2004

With the Alabama Durable Medical Equipment Association's assistance, Legislation passes providing language for

administrative fine and out-of-state inspections as advised by the Examiners of Public Accounts and the Attorney General's Office; and the Board is allowed to charge appropriate fees to fund the Board.

2005

January 12, 2005—The Board contracts with a separate Investigator and Inspector on an as-needed basis.

A supplemental appropriation bill is passed in order to pay for the increased number of inspections.

Application is revised and made available on the Board Web Site. A Licensee Roster is also made available on the Web Site.

Board issues 433 Home Medical Equipment Services Providers Licenses.



Looking Ahead

It's the beginning of a new era for the Alabama Board of Home Medical Equipment Services Providers. We begin 2006 with a strong foundation on which to build. In addition to this Newsletter, the building blocks we will be placing this year are:

- Contract with private legal counsel to pursue disciplinary hearings;
- Draft Legislation to address general housekeeping issues and language

suggested by the Examiners of Public Accounts;

- Further Web Site development by utilizing e-govt. technology to provide on-line license renewal and other on-line applications;
- To administer prompt investigations and disciplinary hearings to the relief of the consumer;
- To ensure that only qualified companies enter the profession.

ABHMESP

Alabama Board of Home Medical Equipment Services Providers

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ABHMESP *Newsline* is an official publication of the Alabama Board of Home Medical Equipment Services Providers. This publication is intended for a wide audience to alert licensees to matters of possible procedural, legal, legislative, and regulatory interest. It should not be relied upon, nor is it intended to provide legal, insurance, or accounting advice. Licensees should consult their lawyers, insurance agents, and accountants before taking any action in response to this newsletter, as the opinions expressed herein may be completely altered by the licensees' actual facts.

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HME Board *Newsline*

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**License Roster
on Web Site
(Bi-monthly
updates with
any new
information)**

Board Meetings

The next Board Meeting is scheduled for **March 28, 2006** and will convene at 10:00 a.m. All Board Meetings are held at Board headquarters located at 7245 Halcyon Summit Drive in Montgomery. Meetings are open to the public. Meetings are subject to change, but will always be advertised on the Secretary of State's Web Site

(www.sos.state.al.us) at least seven days in advance and also on the Board Web Site (www.homemed.state.al.us) in accordance with the Open Meetings Act.

The Open Meetings Act ensures that the public is notified of Board Meetings in a timely and convenient manner. The OMA also provides that all meetings are open to the public except discussion for closed session. Items for

closed session are strictly defined in the OMA to ensure that no Board action is taken without the opportunity for the public to be present and witness actions of the Board.

Approved Board Meeting Minutes are posted on the Board Web site as soon as practicable after each meeting. Minutes record all Board actions and now with posting Minutes on the Web Site, it is more convenient to keep abreast of Board actions.

Take advantage of the opportunity to read Board Meeting Minutes on a regular basis or attend the Board Meetings to observe the decision making process for the Alabama Board of Home Medical Equipment Services Providers.



Mark your Calendar