APA-1

TRANSMITTAL SHEET FOR NOTICE OF INTENDED ACTION

Control No.: 798

Department or Agency: Alabama State Board of Respiratory Therapy

Rule No.: Chapter 798-X-3

Rule Title: Organization and Administration

Intended Action: Amend

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?	No
Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?	Yes
Is there another, less restrictive method of regulation available that could adequately protect the public?	No
Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved?	No

To what degree?: N/A

Is the increase in cost more harmful to the public than the harm that might result from the absence of the proposed rule?	NA
Are all facets of the rule-making process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?	Yes
Does the proposed action relate to or affect in any manner any litigation which the agency is a party to concerning the subject matter of the proposed rule?	No

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Does the proposed rule have an economic impact?	No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer: *Elizabeth Sheehan*

Elizabeth Sheehan

Date: Monday, September 21, 2026

REC'D & FILED

SEP 21, 2026

LEGISLATIVE SVC AGENCY

APA-2

ALABAMA STATE BOARD OF RESPIRATORY THERAPY

NOTICE OF INTENDED ACTION

AGENCY NAME: Alabama State Board of Respiratory Therapy

RULE NO. & TITLE: Chapter 798-X-3 Organization and Administration

INTENDED ACTION: Amend

SUBSTANCE OF PROPOSED ACTION:
Add a consumer member to the rules which was previously added to the statute.

TIME, PLACE AND MANNER OF PRESENTING VIEWS:
Address:
400 South Union Street, Suite 245
Montgomery, AL 36104
334-265-7125 (phone)
board@asbrt.alabama.gov (email)

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
Wednesday, November 4, 2026

CONTACT PERSON AT AGENCY:
Paula Little, Assistant Director

Elizabeth Sheehan

Elizabeth Sheehan

(Signature of officer authorized
to promulgate and adopt
rules or his or her deputy)

ALABAMA STATE BOARD OF RESPIRATORY THERAPY
ADMINISTRATIVE CODE

CHAPTER 798-X-3
ORGANIZATION AND ADMINISTRATION

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798-X-3-.01 Selection And Composition Of The Board.

(1) The Alabama State Board of Respiratory Therapy shall be composed of ~~five~~six members appointed by the Governor. Three of the members shall be respiratory therapists, one member shall be the chief executive officer of a hospital, one member shall be a physician, and one member shall be a ~~physician~~consumer.

(2) 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 selected for subsequent appointments shall be licensed by the state.

(3) The hospital member shall be selected from a list of two names submitted by the Alabama Hospital Association.

(4) 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.

(5) The consumer member appointed by the Governor shall be selected from one of the names submitted by the American Lung Association in Alabama, the Alabama Chapter of the Cystic Fibrosis Foundation, and the Alabama Asthma Coalition. Each entity shall submit one name for consideration.

(6) All Board members shall be residents of Alabama, and the composition of the Board shall reflect ~~the racial,~~diversity of gender, ~~geographic, urban/rural, and economic diversity of the~~race, and geographical areas of this state.

~~(6)~~ (7) 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.

(7) 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.
Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: **New Rule:** Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005. **Amended:** Published _____; effective _____.

798-X-3-.02 Terms Of Office.

(1) The term of office of all members shall be four years.

(2) No member shall be appointed for more than three consecutive full terms.

(3) A vacancy in an unexpired term shall be filled in the manner of the original appointment.
Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.

History: **New Rule**: Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005. **Amended**: Filed October 11, 2007; effective November 15, 2007.

798-X-3-.03 Officers Of The Board.

(1) The Board shall elect a chair and vice chair annually. This election shall take place at the first meeting of a new fiscal year (October 1 or thereafter).

(2) The vice chair shall fill any vacancy in the office of the chair.

(3) The chair may appoint a member to be secretary. The chair's appointment is subject to Board approval.

(4) The duties of the officers shall be as follows:

(a) The chair shall preside at meetings of the Board, appoint members to serve on committees as may be created, serve as ex-officio member of all committees, and determine the rules of order of Board meetings.

(b) The vice chair shall preside in the absence of the president and shall assume the duties of the chair when necessary.

(c) The secretary shall be responsible for the minutes of the meetings and shall assume other duties at the discretion of the chair.

Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: **New Rule**: Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005.

798-X-3-.04 Duties Of The Board.

(1) The Board shall be responsible for:

(a) Developing the Board meeting agenda.

(b) Facilitating evaluation of the Executive Director.

(c) Assuring Board representation at legislative hearings, meetings, sunset reviews and requested public presentations.

(d) Participation in orientation of newly appointed Board members.

(2) The Board shall perform the following functions:

(a) Set respiratory therapy licensure fees, including, but not limited to, application, initial, renewal, and reinstatement fees.

(b) Establish standards of continuing education of respiratory therapy in accordance with those standards developed and accepted by the profession.

(c) Examine for, approve, deny, suspend, and renew licensure of duly qualified applicants.

(d) Promulgate and publish rules in accordance with the Administrative Procedure Act to administer Sections 34-27B-1, et seq., Code of Alabama (1975).

(e) Conduct hearings on charges calling for the denial, suspension, revocation, or refusal to renew a license.

(f) Maintain an up-to-date list of every person licensed to practice respiratory therapy pursuant to Section 34-27B-4(6), Code of Ala. 1975. The list shall include the last known place of residence and the state license number of the licensee. This list shall be available for public inspection in the Board office during normal business hours.

(g) Maintain an up-to-date list of persons whose license have been suspended, revoked, or denied pursuant to Section 34-27B-4(7), Code of Ala. 1975. 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 normal business.

Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: **New Rule:** Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005.

798-X-3-.05 Meetings Of The Board.

(1) The Board shall comply with the Alabama Open Meetings Act.

(2) A minimum of two regular meetings shall be held each year. The annual meeting shall be the first meeting of the fiscal year.

(3) A majority of the members of the Board shall constitute a quorum for the transaction of business.

(4) The chair shall, in accordance with these rules, rule upon all questions of procedure and, in the event that evidence is taken, on the admissibility of that evidence. The decision of the chair shall be final.

(5) All members of the Board, including the chair, are entitled to vote and to make or second motions. A majority of those members on the Board present and voting on any matter shall decide that matter before the Board, except on procedural and evidentiary matters which are provided for in 798-X-3-.05(4).

(6) Special meetings may be called by the chair or by a quorum of the Board.

(7) Notice of a meeting shall be given to all Board members at least seven days in advance of the meeting, unless all Board members agree to waive the seven day notice.

(8) Requests to present information to the Board during a regularly scheduled Board meeting shall be in writing to the Executive Director at least fourteen days prior to the meeting. Exceptions may be made in extraordinary circumstances at the direction of the Chair. All requests are subject to review and approval by the Chair. The usual time limitation for presentations will be five minutes with exceptions made by permission of the Chair. Written requests should include:

(a) Contact information of the designated spokesperson; and

(b) Summary of information to be presented.

(9) The secretary or designee shall keep a record of all regular meetings. The minutes shall be transcribed and presented for approval or amendment at the next regular meeting. The minutes or a true copy thereof, approved by the Board, shall be open to public inspection. The minutes shall reflect:

(a) The time and place of each regular meeting of the Board;

(b) Names of the Board members present;

(c) Names of guests present;

(d) Date meeting notices were sent to the newspapers;

(e) All official acts of the Board;

(f) The vote of the Board except when the votes are unanimous;

(g) When requested by a dissenting Board member, specific reasons shall be recorded; and

(h) A roll call vote may be taken upon the request of a Board member;

(10) All regular meetings of the Board shall be open and public except for executive sessions as provided by the Alabama Open Meetings Act.
Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: **New Rule:** Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005.

798-X-3-.06 Employment Of Personnel.

The Board may employ an executive director, investigators, inspectors, attorneys and any other agents and employees and assistants as may from time-to-time be necessary to establish and maintain administration and enforcement of the Respiratory Therapy Practice Act and rules and regulations established by the Board.
Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: **New Rule:** Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005.

798-X-3-.07 Use Of Forms.

Applications shall be made on the prescribed forms approved by the Board. Copies of instructions and forms are available from the office of the Board.
Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: **New Rule:** Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005.

798-X-3-.08 Maintenance And Inspection Of Board Records.

(1) The Board shall maintain its records in accordance with the Alabama Open Meetings Act.

(2) Public records maintained by the Board shall be subject to public disclosure pursuant to the Alabama Open Meetings Act and the Alabama Open Records Act.

(3) Upon request to the Executive Director, public records maintained by the Board shall be available for inspection and duplication at the office of the Board during regular business hours. The inspection and duplication of public records shall be under the supervision of the Executive Director or an authorized designee.

(4) Any person wishing to obtain copies of public records shall submit a written request to the office of the Board and will be supplied copies upon payment of the cost of copying, handling and postage.

(5) Public records maintained by the Board that are available for inspection and duplication include, but are not limited to:

(a) Board minutes, except those minutes recorded during an executive session that are prohibited from disclosure by the Alabama Open Meetings Act;

(b) Names and addresses of current licensees;

(c) Names of persons whose licenses have been suspended, revoked, or denied, including the type, date, infraction, the penalty incurred, and length of the penalty;

(d) Rules and regulations of the Board, as promulgated and published in accordance with the, Sections 41-22-1, et seq., Administrative Procedures Act, Code of Ala. 1975;

(e) Other written statements of policy or interpretations formulated, adopted, or used by the Board in the discharge of its duties and functions; and

(f) Final orders, decisions, declaratory rulings, and opinions issued by the Board.

Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.

History: New Rule: Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005.

798-X-3-.09 Rules And Regulations.

All rules and regulations of the Board shall be adopted, amended or repealed in accordance with the Sections 41-22-1 et seq., Alabama Administrative Procedures Act, Code of Ala. 1975.
Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: New Rule: Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005.

798-X-3-.10 Petition For Adoption, Amendment Or Repeal Of A Rule.

(1) Any interested person may petition the Board requesting the adoption of a new rule or the amendment or repeal of an existing rule. The petition shall be in writing and shall include:

(a) The name and address of the petitioner;

(b) An exact statement of the proposed additional rule or amendment or identification of the rule to be repealed; and

(c) The pertinent facts, data, opinions or arguments in support of the petitioner's position.

(2) Upon submission of a petition, the Board shall initiate rule-making proceedings or deny the petition in writing on the merits, stating its reasons for the denial at its next regularly scheduled meeting.

(3) A petition requesting adoption, amendment, or repeal of a rule may not be considered by the Board if the subject of the petition is the same or similar to the subject presented in another petition considered by the Board within the previous twelve months.
Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: New Rule: Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005.

798-X-3-.11 Declaratory Rulings.

Any person substantially affected by a rule may petition the Board for a declaratory ruling with respect to the validity of a rule or the applicability to any person, property or state of facts of any rule or statute enforceable by it or with respect to the meaning and scope of any order of the Board.

(1) The petition shall be in writing and shall include:

(a) The name and address of the petitioner;

(b) A statement of facts sufficient to show that the person seeking relief is substantially affected by the rule; and

(c) The rule, statute or order and the reasons for the questions.

(2) Failure of the Board to issue a declaratory ruling at its next regularly scheduled meeting following receipt of request shall constitute a denial of the request. The Board shall provide the petitioner written notification of its decision to deny the request and shall state therein the reason for denial.

(3) Circumstances in which rulings shall not be issued include but are not necessarily limited to:

(a) Lack of jurisdiction.

(b) Lack of clarity of the issue presented.

(c) No clear answer determinable.

Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: New Rule: Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005.

798-X-3-.12 Board Member Compensation.

(1) Each member of the Board shall serve without compensation, but shall be reimbursed for travel expenses incurred in attendance at meetings of the Board and any other business of the

Board at its discretion. Mileage rates shall be the same as established for state employees.

(2) Board members shall also receive a per diem allowance following the guidelines for state employees.

(3) The reimbursement for expenses shall be paid from funds derived from the Alabama State Board of Respiratory Therapy Fund.
Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: **New Rule:** Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005.

798-X-3-.13 Board Of Respiratory Therapy Fund.

(1) A special trust fund is established in the State Treasury 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 act. No monies shall be withdrawn or expended from this fund for any purpose unless the monies have been appropriated by the Legislature and allocated pursuant to Sections 34-27B-1, et seq., Code of Ala. 1975. 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.

(2) 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 the highest two years' operating expense, the funds shall be distributed to the general fund. (Pursuant to Section 34-27B-6, et seq., Code of Ala. 1975).
Author: The Alabama State Board of Respiratory Therapy
Statutory Authority: Code of Ala. 1975, §§34-27B-1 thru 34-27B-17.
History: **New Rule:** Filed May 16, 2005; refilled August 10, 2005; effective September 14, 2005. **Amended:** Filed October 6, 2009; effective November 10, 2009. **Amended:** Filed June 10, 2011; effective July 15, 2011.