

ABCR *Newsline*

Volume I, Issue III

January 2013



New Alabama Immigration Law as it Effects Licensure

With the numerous news stories covering Alabama’s new Immigration Law, you are probably already well aware of some of the controversy, political aspects, and may even have strong opinions one way or the other on this subject. We now know that this law has a direct impact on licensure in our State. Specifically, professional licensure has been interpreted as a benefit and “therefore” citizenship is required in order to hold professional licensure in Alabama. After much debate (between State departments) regarding the exact implementation process for enforcing this new statute, The ABCR has now been given a clear directive. Before we can issue an initial li-

cence or a renewal license this year, we must first obtain documentation proving that the applicant is a United States Citizen. Therefore, the ABCR has adopted a two-part compliance plan: 1. The application for licensure has been modified to require proof of citizenship before an initial license is ever issued; and 2. For the 2013 Renewal year, all licensees must submit proof of citizenship before the renewal certificate can be issued. This year’s renewal will be the only year this additional renewal documentation will be required (due to now requiring the information prior to future license issuance).

Although, we have always required Social Security

numbers and place of birth on initial applications, we have further been advised that we must request additional specific documents to prove citizenship. The documents that are acceptable to prove citizenship are listed on page two (2) of this issue of ABCR *Newsline*.

We sincerely understand the inconvenience this will place on our licensees for this year’s renewal and in addition, this has become an administrative nightmare; however, we must adhere to the laws of the State of Alabama. We will be working diligently to process this additional paperwork as efficiently as possible and we thank you in advance for your cooperation.

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ABCR Rosters Expanded

In addition to the on-line Licensee and Temporary Licensee Rosters, the ABCR has added five additional and separate rosters for your convenience. We now post a roster for retired, inactive, not practicing/not licensed, revoked, and in memoriam.

After each renewal season, the revoked roster is updated to reflect non-renewals who have not officially notified the office of their intent to not renew and not work in Alabama as a court reporter.

It is the ABCR’s intent to honor licensees who are now deceased by retiring their number and adding the in memoriam roster.

Just go to www.abcr.alabama.gov and click on the “Roster” tab in the top right corner for all ABCR Rosters.

Additional Renewal Documentation Required for 2013

In order to comply with the new Alabama Immigration Law, all licensees must prove citizenship before their renewal can be processed. The ABCR has been advised that any one of the following items will be sufficient to prove citizenship. Therefore, one of the following documents must be mailed to the ABCR office for the 2013 renewal only. Once this is on file, you will not have to resubmit for future renewals.

- A driver's license or non-driver's identification card issued by the Alabama Department of Public Safety or the equivalent agency of another state within the United States, provided that the governmental agency of another state within the United States requires proof of lawful presence in the United States as a condition of issuance
- A birth certificate in the United States or one of its territories.
- Pertinent pages of a United States valid or expired passport identifying the person and the person's passport number, or the person's United States passport.
- United States naturalization documents or the number of the certificate of naturalization.
- Other documents or methods of proof of United States citizenship issued by the federal government pursuant to the Immigration and Nationality Act of 1952, as amended.
- Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number.
- A consular report of birth abroad of a citizen of the United States of America.
- A certificate of citizenship issued by the United States Citizenship and Immigration Services.
- A certification of report of birth issued by the United States Department of State.
- An American Indian card, with KIC classification, issued by the United States Department of Homeland Security.
- Final adoption decree showing the person's name and United States birthplace.
- An official United States military record of service showing the applicant's place of birth in the United States.

How to File an Administrative Complaint with the Board By Ben Albritton, Assistant Attorney General

The primary purpose of any licensing board is to protect the public from persons who have not demonstrated the minimum level of competency established by law to practice a given profession, and to protect the public from those individuals who are licensed but who do not perform their duties competently and in conformance with the profession's established standards. To aid the Board of Court Reporting in fulfilling its duty to protect the public in part, Alabama law has established procedures to allow the public to report behavior that it feels is unacceptable. Alabama law also established rules to allow the Board to properly investigate and potentially prosecute those claims. This law also provides sufficient due pro-

cess to insure that the rights of the person against whom a complaint has been filed are protected, Section 34-8B-6 of the Code of Alabama sets forth the procedure for a member of



the public to file a complaint with the Board. It states that complaint must be in writing, signed by the person making the complaint, and addressed to the Chair of the Board. Because it is mandatory that a complaint must be in writing and

signed by the person making the complaint, Alabama law does not allow the filing of an anonymous complaint with the Board of Court Reporting. This procedure reflects the legal notion that someone accused of wrongdoing has the right to face his or her accuser. The Alabama Board of Court Reporting provides an online link to the form that can be used for a member of the public to file a complaint with the Board (<http://abcr.alabama.gov/pdfs/2012/ConsumerComplaint-Form2012a.pdf>). For this reason and for reasons discussed below, a complaint should also never be presented directly to a Board member individually, but must follow the procedure set out by Alabama law and go through the Board office. (Cont'd p.4)

Proposed Rule and Regulation Amendment

The ABCR is proposing a change to the Board's Rules and Regulations. Specifically, CHAPTER 257-X-4-.02 ABCR Ethics. For your convenience, the proposed rule change in its' entirety is as follows:

"257-X-4-.02 ABCR ETHICS

The mandatory Code of Professional Ethics defines the ethical relationship the public, the bench, and the bar have a right to expect from a Licensee. The Code sets out the conduct of the member when dealing with the user of reporting services and acquaints the user, as well as the Member, with the guidelines established for professional behavior. The Guidelines for Professional Practice, on the other hand, are goals which every Member should strive to attain and maintain. Members are urged to comply with the Guidelines and must adhere to local, state and federal rules and statutes. It should be noted that these guidelines do not exhaust the moral and ethical considerations with which the Member should conform, but provide the framework for the practice of reporting. Not every situation a Member may encounter can be foreseen, but a Member should always adhere to fundamental ethical prin-

ciples. By complying with the Code of Professional Ethics and Guidelines for Professional Practice, Members maintain their profession at the highest level. A member shall:

- 1) Be fair and impartial toward each participant in all aspects of reported proceedings, and always offer to provide comparable services to all parties in a proceeding.
- 2) Be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest. If a conflict or a potential conflict arises, the Member shall disclose that conflict or potential conflict.
- 3) Guard against not only the fact but the appearance of impropriety.
- 4) Preserve the confidentiality and ensure the security of information, oral or written, entrusted to the Member by any of the parties in a proceeding.
- 5) Be truthful and accurate when making public statements or when advertising the Member's qualifications or the services

provided.

- 6) Refrain, as an official reporter, from freelance reporting activities that interfere with official duties and obligations.
- 7) Determine fees independently, except when established by statute or court order, entering into no unlawful agreements with other reporters on the fees to any user.
- 8) Refrain from giving, directly or indirectly, any gift or anything of value to attorneys or their staff, other clients or their staff, or any other persons or entities associated with any litigation, which exceeds \$100 in the aggregate per recipient each year. Nothing offered in exchange for future work is permissible, regardless of its value. Pro bono services as defined by the NCRA Guidelines for Professional Practice or by applicable state and local laws, rules and regulations are permissible in any amount.
- 9) Maintain the integrity of the reporting profession.
- 10) Abide by the ABCR Rules and Regulations and Statutes.

Public Comment Procedure for Proposed Rule and Regulation Amendment

The ABCR will receive written comments regarding the proposed Rule and Regulation change (see above article) thru **February 5, 2013**. Please mail to:

ABCR

P.O. Box 241565

Montgomery, AL 36124

A public hearing will be held at 9:00 a.m. on **February 1, 2013**, at the ABCR office located at:

2011 Berry Chase Place

Montgomery, AL 36117

Any new rule that is adopted (either with or without) changes will be posted on the Board web site and e-mailed to all licensees (to the licensee's e-mail on record) on or before the new rule's effective date.

How to File an Administrative Complaint with the Board (Continued from p. 2)

Once a complaint is filed, and once the Executive Director of the Board determines that the complaint is not simply frivolous, the complaint goes through an investigative process to determine if there is probable cause to move forward with a hearing or other discipline. Pursuant to the rules established by the Board, the investigation is performed by a committee consisting of one Board member, the Board attorney, and the Executive Director of the Board. This investigation and subsequent disciplinary process is performed in accordance with the Alabama Administrative Procedures Act, Sections 41-22-1 of the Code of Alabama, to insure fairness to the licensee against whom a complaint has been filed while at the same time enabling complaints to be thoroughly investigated.

If a complaint proceeds past the investigative stage, the full Board is tasked with deciding the final outcome and any formal discipline that

should be imposed. Because the Board could potentially sit and hear or review all of the evidence presented by both sides during a formal hearing or other final disposition of the case, the Board as a whole never investigates a case and the Board member who serves on the investigative committee for a case never participates in the hearing or votes on the final outcome of that case. This reflects the fundamental due process right of persons charged with wrongdoing to have a fair and impartial decision by the Board. It is for these reasons also that Board members, just like juries or judges, are instructed that they cannot discuss any disciplinary matter that is or potentially could be before the Board. To make sure that Alabama law is followed and everyone's rights are protected, it cannot be stressed enough that a complaint should never be presented directly to a Board member individually, but must follow the procedure set out by Alabama law and go

through the Board office.

Licensees or other public members should not take offense if a Board member states that they cannot discuss specific instances of wrongdoing with anyone and refers the person to the Board office to file a complaint. It is not because the Board member is disinterested or feels that the claim is without merit. It is because the Board member is duty bound to follow the law, rules and procedures established in these matters. By not following the rules established by Alabama law, a complainant runs the risk of having his or her complaint and any resulting discipline by the Board reversed by a Circuit Court Judge on an appeal of the Board's decision. In order for the Board to adequately protect the public and to order discipline that will stand where it is warranted, the rules insuring fairness to all in the disciplinary process must always be followed.

ABCR 2013 Calendar

Board Meeting Dates

(meetings convene at 10:00 a.m. at the Board office in Montgomery)

February 1st

November 1st

The above are ABCR's regularly scheduled Board Meetings and are open to the public for observation. The Chairman may call additional Board meetings or re-schedule as needed. Any change to the above dates will be advertised in advance of the Board meeting at www.abcr.alabama.gov and on the Secretary of State's web site located at www.sos.alabama.gov in ac-

Renewal Dates

July 1st

Renewal notices mailed

September 30th

Last day to renew (without penalty)

October 1st

Cease & desists mailed to all non-renewals (not placed on inactive status)

November 1st

Public advertisement of non-renewals (not placed on inactive status)

November 15th

Injunctions filed for non-renewals (not placed on inactive status)

November 29th—Last day to renew late (with late fee)

ABCR *Newsline* is an official publication of the Alabama Board of Court Reporting. 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 licensee's actual facts.