



Newsline

An Official Publication of the Alabama Board of Home Medical Equipment

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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 Board has now been given a clear directive. Before we can issue an initial license or a renewal

license this year, we must first obtain documentation proving that the applicant is a United States Citizen. Therefore, the Board 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 *Newsline*. In addition, the renewal and initial license application will be amended further to comply with this new law.

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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Board Housekeeping Legislation Progressing thru Senate

Senator Greg Reed has kindly agreed to Sponsor our Housekeeping Legislation—Senate Bill 216. Yes, this is the same Bill you have seen many times before (now making our sixth attempt). Although this legislation is badly needed

and without opposition, this Bill has found itself caught in the log jam of Bills all only needing a final vote from the Floor of either the House or the Senate in every Legislative Session. This Session, Senator Reed has given us

a great head start and (at the time of this publication) SB 216 has already received its 1st and 2nd Reading in the Senate. Legislative Updates will be posted to our web site regularly as we proceed and may this be the year for final passage!

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 Board 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 Board 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 of the driver's license or non-driver's identification card.
- 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 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 process 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. This procedure reflects the legal notion that someone accused of wrongdoing has the right to face his or her accuser. The Board 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://homemed.alabama.gov/pdfs/2012/ConsumerComplaintForm2012a.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.

Disciplinary Actions

Medical Necessities and Services, LLC

Date: February 12, 2013

Violation: ALA. CODE § 34-14C-4(a) (1975 as amended) *by engaging in the provisioning of home medical equipment services without having first obtained a license from the Board.

Finding: Fined a total of \$1,000.00 for said violation, in accordance with ALA. CODE § 34-14-C-6 (a) (1975 as amended) (“Violations; penalties.”).**

Custom Healthcare, LLC D/B/A Phoenix Rehab and Mobility/PPS Orthotic and Prosthetic Services

Date: February 12, 2013

Violation: ALA. CODE § 34-14C-4(a) (1975 as amended) *by engaging in the provisioning of home medical equipment services without having first obtained a license from the Board.

Finding: Fined a total of \$2,000.00 for said violation, in accordance with ALA. CODE § 34-14-C-6 (a) (1975 as amended) (“Violations; penalties.”).**

Rehabitat, LLC

Date: February 12, 2013

Violation: ALA. CODE § 34-14C-4(a) (1975 as amended) *by engaging in the provisioning of home medical equipment services without having first obtained a license from the Board.

Finding: Fined a total of \$3,000.00 for said violation, in accordance with ALA. CODE § 34-14-C-6 (a) (1975 as amended) (“Violations; penalties.”).**

National HME, Inc.

Date: January 24, 2012

Violation: Section 34-14C-4 (a) (“Licensure; inspections.”), Code of Alabama 1975 (as amended)* by engaging in the provisioning of home medical equipment services without having first obtained a license from the Board.

Finding: Fined a total of \$2,000.00 for each of the three locations, in accordance with Section 34-14-C-6 (a) (“Violations; penalties.”), Code of Alabama 1975 (as amended).**

ConvaCare Services, Inc.

Date: August 31, 2011

Violation: Section 34-14C-4 (a) (“Licensure; inspections.”), Code of Alabama 1975 (as amended)* by engaging in the provisioning of home medical equipment services without having first obtained a license from the Board.

Finding: Fined a total of \$30,000.00 in accordance with Section 34-14-C-6 (a) (“Violations; penalties.”), Code of Alabama 1975 (as amended).**



Kerley Medical Equipment & Supply, Inc.

Date: August 31, 2011

Violation: Section 34-14C-4 (a) (“Licensure; inspections.”), Code of Alabama 1975 (as amended)* by engaging in the provisioning of home medical equipment services without having first obtained a license from the Board.

Finding: Fined a total of \$2,000.00 in accordance with Section 34-14-C-6 (a) (“Violations; penalties.”), Code of Alabama 1975 (as amended).**

One Coast Medical, Inc.

Date: August 31, 2010

Violation: Section 34-14C-4 (a) (“Licensure; inspections.”), Code of Alabama 1975 (as amended)* and Ala. Admin. Code r. 473-X-6-.01 (c) and (d) 6. (2007) by failing to maintain a physical facility on an appropriate site and engaging in the falsification of records.

Finding: Fined a total of \$15,000.00 in accordance with Section 34-14-C-6 (a) (“Violations; penalties.”), Code of Alabama 1975 (as amended).**

Choice Healthcare, Inc.

Date: April 27, 2010

Violation: Section 34-14C-4 (a) (“Licensure; inspections.”), Code of Alabama 1975 (as amended)* and Ala. Admin. Code r. 473-X-4-.01 (2) (2007) by failing to maintain a physical facility on an appropriate site.

Finding: Fined a total of \$4,750.00 in accordance with Section 34-14-C-6 (a) (“Violations; penalties.”), Code of Alabama 1975 (as amended).**

Omni Diabetes Care, L.L.C.:

Date: July 27, 2009

Violation: Section 34-14C-4(a) (“Licensure; inspections.”), Code of Alabama 1975 (as amended)*

Finding: Fined a total of \$2,500 in accordance with Section 34-14-C-6(a) (“Violations; penalties.”), Code of Alabama 1975 (as amended).**

*Section 34-14C-4(a) (“Licensure, inspections.”), Code of Alabama 1975 states, “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 required to obtain a license on its own merit. Out-of-state home medical equipment services providers are not required to maintain a physical location in state; however, out-of-state applicants must provide a physical location meeting requirements of Section 473-X-4-.01, Subsection a-f, Alabama Administrative Code, or its successors, and may be subject to inspection by the board.”

**Section 34-14C-6 (a) (“Violations; penalties.”), Code of Alabama 1975 states, “An entity or person found providing home medical equipment services without a license as required by this act 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 act shall be allocated to the administration of the program.”

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 et 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.

Board Calendar 2013

Board Meeting Dates

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

May 14th

August 13th

November 12th

The above are the regularly scheduled Board Meetings and are open to the public for observation. The Chairman may call additional Board meetings or reschedule as needed. Any change to the above dates will be advertised in advance of the Board meeting at www.homemed.alabama.gov and on the Secretary of State's web site located at www.sos.alabama.gov in accordance with the Open Meetings Act.

Renewal Dates

June 30th

Renewal Notices Mailed

August 31st

All Alabama HME Licenses Expire

November 1st

Last Day to Renew Late

Renewal notices will be mailed both by USPS and e-mail on June 30th to the licensees' address on record. Also, on this date, the renewal application will be available at www.homemed.alabama.gov. Although, licensees have a late renewal period that extends until November 1, 2013, (with additional late fee), no HME services are to be provided in Alabama with an expired license. Therefore, plan ahead to prevent any interruption in licensure.

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 licensee's actual facts and/or be time sensitive.