

Alabama law may be blocking legal immigrants from licenses

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MONTGOMERY — A catch-22 in Alabama's immigration law may be preventing some legal immigrants from getting state licenses to work in a wide range of professions, from nursing to general contracting.

The immigration law, passed in 2010, says that non-U.S. residents must be cleared through a federal database called Systematic Alien Verification for Entitlements, or SAVE, before they can conduct transactions with government agencies.

But few, if any, of the state's dozens of professional licensing boards have been cleared to use the SAVE system, said a state official who is tracking those boards' compliance with the law.

"The applications are filed, but it's taken a considerable amount of time to get this cleared," said John Norris, director of the operational division at the state Examiners of Public Accounts.

Alabama's 2010 immigration law, widely considered to be one of the toughest in the nation, added a proof-of-residency requirement to a number of transactions, including applications for professional licenses.

Those licenses are granted by a gaggle of independent licensing boards, governing everything from dentistry to cosmetology to heating and air conditioning repair. On some boards, staff say, it's not at all clear how the law is supposed to be implemented, given the legal challenges that have held up or struck down some portions of the law.

"We've been told one thing, but tomorrow the Supreme Court could tell us something else," said Joe Rogers, executive secretary of the Licensing Board of General Contractors.

Rogers said his board has added a question to its forms that asks license applicants if they're U.S. citizens. He said the applicants could face a perjury charge if they lie on the application.

If applicants say they're not citizens, Rogers said, they're asked to provide proof that they're legally in the U.S.

"The burden of proof is on them," he said.

Asked what that proof would be, Rogers said that's one of the things that's still being hashed out in court.

Since the law took effect, he said, two applicants were sent away for proof of residency because they weren't U.S. citizens. They haven't come back, Rogers said.

But even if those non-citizen applicants brought proof of legal residence, they might not have been able to get a license. According to the law, non-residents must be vetted through SAVE before a license can be issued, Norris said.

Norris said he didn't know of any licensing board that had approval for SAVE, though he said the Alabama Board of Nursing was probably closest to getting it.

Nursing board director Genell Lee said she applied for SAVE approval in October 2011, and got a letter earlier this month saying the board had been approved to use the system.

She said there's still some paperwork to be done before the state can use the system. While she waits, Lee said, she's been holding on to foreign nurses' license applications.

"I've got a couple of applications from nurses who aren't citizens," she said. "I'm not permitted by law to determine whether they're legal, so I'm waiting for SAVE."

She said those nurses are working in other states now.

"But they want to work here," she said.

Asked why the applications take so long, she said that's a question for federal officials.

The Department of Homeland Security's Division of Citizenship and Immigration Services runs SAVE. Ana Santiago, a spokeswoman for the agency, said agency officials likely wouldn't be able to reply to The Star's questions about the program until early next week due to the volume of questions about the program.

State Sen. Scott Beason, R-Gardendale, said he believed the federal government was dragging its feet on approval of SAVE.

"They won't let us have it," said Beason, the Senate sponsor of the immigration law.

Beason said legislators chose SAVE as the verification program because earlier attempts to set up a statewide residency verification system had failed in the Legislature.

"I wanted to create a system of state verification for workers, but the argument was that it was duplicative because the federal government already had one," he said.

Jamie Durham, general counsel for the Alabama Homebuilders Licensure Board, said the board applied for SAVE approval months ago, but isn't approved yet.

“We’ve done what we’re required to do, which is sign up to use SAVE,” Durham said.

Even if there weren’t the SAVE requirement, she said, selecting documents to prove legal residency has its pitfalls.

“You could be here on a 30-day student visa and be a legal resident,” she said. “I’m not sure that’s someone you want to give a license to.”

Norris said that under the courts’ most recent interpretation of the law, licensing boards should be asking citizens for proof of citizenship, not just taking their word that they’re citizens. Still, he said, he understands why there’s inconsistency.

“The boards are confused about what they should do,” he said. “This law has been in litigation for a long time, and they’ve seen a lot of changes.”

Lee, of the nursing board, said her agency will likely ask more than 80,000 licensed nurses to submit proof of their citizenship sometime next year. It’s a one-time requirement, but she expects to hire additional staff to process the paperwork.

“One problem we have is that the nursing profession is largely made up of women,” she said. “So the name on the birth certificate isn’t always the name on the application.”

That process will likely slow down new nursing license applications in the future, she said.

In past nursing shortages, some hospitals have brought in foreign nurses to tend patients. Lee said there’s no shortage in Alabama now, largely because older nurses are less likely to retire in hard economic times.

Charlene Roberson, of the Alabama State Nurses Association, said that nurses who come to the U.S. to work usually have their immigration paperwork before they enter the licensing process. Many come at the invitation of hospitals, she said, through an international vetting process that can take more than a year.

“It’s easier for me to go work as a nurse in Germany than it is for a foreign nurse to come here,” she said.

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