

AGENDA ITEM

DATE: May 5, 2003

TO: Members, Board Planning, Program Development and Budget Committee

FROM: Office of Certification

SUBJECT: Proposed Amendments to the Rules and Regulations of the State Bar of California to Require Authentication of Member Name or Address Change and to Authorize a Period of Public Comment on Proposed Amendments

ATTACHMENTS:

1. Business & Professions Code Section 6064
2. Business & Professions Code Section 6002.1
3. Rules and Regulations of the State Bar of California, article 1, section 1
4. Proposed Changes to Rules and Regulations of the State Bar of California, article 1, section 1

EXECUTIVE SUMMARY

Identity theft is a growing problem throughout the United States and has now become a problem for the State Bar. Unscrupulous non-attorneys have stolen the identity of Bar members by making false name and address changes. In order to protect our members and the public from non-attorneys that misappropriate the identity and bar number of a member, the Office of Certification (OC), which is responsible for overseeing the Membership Records function, is recommending heightened security measures for name and address changes as well as requests for a replacement bar card and wall certificate.

Currently, the requirement for a name and/or address change is a signed written request. The OC requests the Board Planning, Program Development and Budget Committee to recommend adoption of amendments to the rules and regulations to require submission of additional documentation evidencing the identity of the person making a request for a name change, an address change or a replacement bar card or wall certificate.

Questions on this item should be directed to Phyllis Culp at phyllis.culp@calbar.ca.gov or 415-538-2118.

BACKGROUND

The State Bar of California is the administrative arm of the California Supreme Court and it is charged with maintaining the official “roll” of attorneys in California. ¹ (Attach. 1)

The Bar maintains this information for use in performing other State Bar functions, as required by statute, rule and regulation. The information is part of the permanent membership record of the Bar, is a matter of public record and appears on the State Bar’s website.² (Attach. 2-3)

Recently the State Bar of California has been made aware of two public instances of member Identity Theft. Ms. Susi Schor, a non-attorney started practicing law using the name of an attorney named Susan Schorr, an inactive member living in Switzerland. Ms. Schor changed the member’s official address of record and attempted to change the member’s name before being discovered. Mr. Harold Goldstein, a non-attorney started practicing law using the name of Mr. David Goldstein, a member. Mr. Harold Goldstein opened a law practice, hired two associates and accepted appointed work while using the member’s name.

ISSUES FOR DISCUSSION

- 1. Should the Rules and Regulations of the State Bar of California be amended to require a member to provide additional documentation to verify his or her identity when making a request for the following:**
 - a. A name change**
 - b. An “address change”**
 - c. A request for a replacement bar card or wall certificate?**

- 2. What additional documentation should be required in each of these cases?**

¹“Upon certification by the examining committee that an applicant has fulfilled the requirements for admission to practice law, the Supreme Court may admit such applicant as an attorney at law in all the courts of this State and may direct an order to be entered upon its records to that effect.” (Bus. & Prof. Code §6064.)

² Article I, section 1 of the Rules and Regulations of the State Bar of California requires a member to provide the State Bar with a registration card which contains, in part, a member’s surname and given name or names, places and dates of admission and date and place of birth. Article I, section 1 also, in substance, requires the member to provide the State Bar of California with the information specified in Business and Professions code section 6002.1.

A. CURRENT REQUIREMENT FOR MEMBER NAME AND ADDRESS CHANGE

To sit for the bar examination under a name other than that listed on the application, the Office of Admissions requires that an applicant submit evidence of a legal name change, such as a court order, marriage certificate, etc.

To register with the Bar under a name different from the one on the "Notice of Results Letter," a successful bar applicant is instructed that he/she must fill out the Registration Card with the new name, include a brief letter informing the State Bar of the name change, sign the letter with both old and new name and return it with a copy of the Notice of Results letter and the Registration Card. Address changes may be submitted on the Bar's address change form or by a signed written request.

Once registered, a bar member who wishes to change his/her name or address on the Roll of Attorneys must either submit the appropriate, signed form to the Bar, or send a signed written request for a change to his/her name and/or address. The Bar makes the change upon receipt of the signed written request without additional proof of the identity of the person making the request. In 2002, the Bar processed 1,096 name change requests and 47,781 changes to address, phone and fax numbers. Two FTE positions were devoted to making the changes. Approximately 37,000 were address changes.

B. REPLACEMENT BAR CARD AND/OR WALL CERTIFICATE

A non-attorney can pose as a member by acquiring a Bar Card and/or a Wall Certificate.

Member Billing replaces a lost or stolen bar card. A written request and a \$10 fee is all that is currently required. The replacement card will be sent only to the address of record for the member.

For a replacement wall certificate, a member must send \$54 and a declaration, signed under penalty of perjury, to the Office of Admissions, stating that his/her Wall Certificate has been lost or destroyed. Upon receipt, the Office of Admissions will send a replacement Wall Certificate to the address of record. Upon special request, the Office of Admissions will mail the replacement Wall Certificate to an address other than the address of record. Prior to mailing to an alternate address, the Office of Admissions confirms with the member the member's bar number and his/her address of record.

C. CALIFORNIA NAME CHANGE BACKGROUND

In California an adult may use any first, middle and last name of his/her choice (with some limitation) and may change it at any time using one of the following methods:

- 1. Court Order**
- 2. Court Petition**
- 3. Usage**

In the case of marriage, divorce or annulment, a court order typically is issued. Under Code of Civil Procedure sections 1275-1279.6(b), a person may change his/her name by filing with the court. A person also has a common law right to change his or her name without filing a court petition.³

D. REQUIREMENTS OF OTHER AGENCIES FOR NAME CHANGES

In researching this issue, we looked at the criteria other agencies use when they receive requests for documents in a new name. Pertinent examples include:

1. The Social Security Administration (SSA) will issue a “corrected” card (same number, different name) upon receiving “acceptable identity documents” that identify the applicant by the old name on their records and the new name. SSA requires a document recently issued and prefers a document with a photograph. A non-photo identity document is acceptable if it has enough information to identify the applicant. Acceptable documents include: 1) Driver’s license, 2) Employer ID card, 3) Passport, 4) Marriage or divorce certificate, 5) Adoption certificate, 6) Health insurance card, 7) Military identification card, 8) Life insurance policy, and 9) School ID card.

2. The Medical Board of California will issue a corrected license upon receiving “acceptable identity documents” that identify the applicant by the old name found in the Board’s records and the new name. The Medical Board requires a photograph attached to a “Notification of Name Change” form signed under penalty of perjury and

³⁴ Witkin Sum. Cal. Law Pers Prop § 16. See also: Code of Civil Procedure sections 1275-1279.6; Code of Civil Procedure section 1279.5(a) (acknowledges the common law right of any person to change his or her name); and *In re Marriage of Banks*, 42 Cal App 3d 631 (1974) (a person may change his name at any time without initiating legal proceedings).

notarized. The form requires the applicant to list the prior name, the requested name and an affirmative statement that the new name is for all purposes and has not been made for fraudulent purposes. "Acceptable identity documents" include the following: Court order, Marriage certificate, Naturalization certificate, Dissolution of Marriage certificate.

3. The Department of Justice (DOJ) will issue a passport in a new name upon receiving "acceptable identity documents" that identify the applicant by the old name on DOJ's records and the new name. DOJ requires a photograph attached to a Passport Amendment/Validation Application. The form requires the applicant to submit a certified copy of a Marriage certificate, Name Change order, or Court decree.

4. The Department of Motor Vehicles will issue a corrected license upon receiving "acceptable identity documents" that identify the applicant by the old name on their records and the new name. "Acceptable identity documents" include the following: Adoption certificate, Name Change order, Marriage certificate, or Dissolution of Marriage certificate.

E. PASSWORD PROTECTED SYSTEMS

Many financial institutions and government agencies allow electronic access to information through password-protected online systems. To obtain a password, users typically provide several pieces of authenticating information. Electronic password-protected systems provide a high level of security and a cost-effective way to manage a high volume of information. They also provide a way to store and manage the data that is collected.

This type of protective mechanism will be available to the bar in the near future when the Information Technology Department implements a password-protected electronic system for members to use to access their information. Members could use this system to make changes to their name, address, telephone, fax and e-mail information. The system could also be used to request a replacement bar card and wall certificate.

F. IMPACT OF PROPOSED CHANGES ON MEMBERS

Heightened documentation requirements will provide members and the public more protection. Additional paper documentation will require some time and effort to make a name or address change, or request a replacement bar card or wall certificate. Members who seek to change their name based on usage, rather than by a court

proceeding, may find it difficult to provide the required documentation.

FISCAL AND PERSONNEL IMPACT

The fiscal cost of implementing heightened procedures will depend on the procedures implemented; when they are implemented; and, whether the Bar must maintain parallel systems.

A password-protected electronic system is the most cost-effective manner for the Bar to implement additional safeguards for address and other information changes. The front-end cost of a password protected system eventually should be offset by savings in staff time, as more members input their own changes.

Heightened procedures that require or allow members to submit paper documents, which require additional staff time, can be offset if they are implemented concurrent with a password-protected electronic system.

PROPOSED REQUIREMENT

The below proposal and the proposed rule change (see Attachment 3) offers method for authenticating name and address changes and requests for replacement bar cards and wall certificates. The proposal also offers an electronic method for authenticating requests for address changes and for replacement bar cards and wall certificates. The OC proposes that the heightened requirements be implemented at the time the password-protected electronic system is implemented.

Name Change: In order to protect the public and members of the State Bar of California OC recommends adoption of the attached proposed amendment to enact procedures requiring acceptable identity documentation when a request for a name change is submitted.

For name changes, "acceptable identity documents" identify the applicant by the old name and the new name and should be recently issued. The following identity documents are acceptable for a name change: Driver's license, Passport, Marriage or divorce certificate, Adoption certificate, Military identification card, or Court Order.

Address Change, For an address change, replacement bar card or wall certificate,

Bar Card &
Wall Cert:

OC recommends adoption of the attached proposed amendment to enact procedures requiring acceptable identity documentation.

For address changes, replacement bar cards and wall certificates, "acceptable identity documents" include the documents that are acceptable for a name change. The password-protected system will also be acceptable when available.

RECOMMENDATION / RESOLUTION

Should the Board Planning, Program Development, and Budget Committee concur with the recommendation of the Office of Certification, it would be appropriate to adopt the following resolution:

RESOLVED, upon the recommendation of staff, that the Board Planning, Program Development, and Budget Committee hereby directs the publication of proposed amendments to Article I, section 1 of the Rules and Regulations of the State Bar of California, in the form attached hereto and made a part of these minutes, for a 90-day public comment period.

FURTHER RESOLVED, that publication of the foregoing is not, and shall not be construed as, a recommendation by the Board Committee.