

Chapter 2. LICENSURE.

001. LICENSE REQUIREMENTS.

In addition to the requirements established in the Act, the following requirements must be met before a license is issued.

001.01 CONTRACTORS. Contractors must:

001.01(a) Furnish to the Department proof that there is in force a policy of public liability and property damage insurance issued to the applicant for at least one hundred thousand dollars in United States currency (\$100,000.00); and

001.01(b) Be at least 19 years of age.

001.02 FINANCIAL RESPONSIBILITY. All applicants must be paid up on all fees associated with the application and licensing processes.

001.03 INITIAL APPLICATION. All initial applicants must fill out and submit an application provided by the Department.

002. LICENSURE EXAMINATION.

002.01 WHEN REQUIRED. Unless otherwise provided in this Chapter, examination is required under the Act for:

002.01(a) Applicants for initial licensure;

002.01(b) Former licensees whose license expired pursuant to 005.02 of this Chapter; and

002.01(c) Persons required to take and pass an examination as a condition of discipline.

002.02 WHEN PROHIBITED. Examinations must not be administered to any individual who within the previous two years:

002.02(a) Was involved in developing an examination; or

002.02(b) Is otherwise prohibited from taking an examination as a condition of discipline.

002.03 FORMAT. All examinations are written unless an examination accommodation has been provided.

002.04 TIME AND PLACE. The Department will hold examinations at least four times each year, with no less than one examination during each calendar quarter, in locations determined by the Department.

002.05 ADDITIONAL SUBJECTS. In addition to the subjects enumerated in the Act, applicants for Water Well Monitoring Technicians, Water Well Contractors, Pump Installation Contractors, Water Well Drilling Supervisors, and Pump Installation Supervisors, must also be tested on the Act, the rules and regulations adopted pursuant to the Act, and other laws and regulations applicable to groundwater and the water well industry.

002.06 EXAMINATION DEVELOPMENT. The Department, with the approval of the Board, may contract with examination development consultants and/or technical experts to prepare the examinations.

002.07 PASSING SCORES. A score of at least 70% on an examination must be considered a passing score.

002.08 BOARD REPRESENTATION AT EXAMINATIONS. Examinations will be administered by at least one Board or a Board-approved proctor.

002.09 REVIEW MATERIALS. The Board must provide applicants with a list of materials necessary for exam preparation. The list must specify that materials listed thereon may not necessarily cover all matters tested.

002.10 EXAMINATION ACCOMMODATIONS.

002.10(a) Any individual in need of an examination accommodation must so indicate in their application or in an attachment thereto. All accommodation requests must clearly state the reason for the accommodation and a description of the accommodation requested.

002.10(b) The Board must notify the Director in writing of all decisions denying a requested accommodation. The Director retains the right to overrule a denial of the Board of a requested accommodation.

002.11 HARDSHIP LICENSING. Upon a finding by the Board that a business is operating under the license of a deceased contractor or for other good cause, the Board may recommend that the Department issue a temporary hardship license without examination if the applicant meets all other qualifications for the requested license.

002.11(a) HARDSHIP LICENSE APPLICATION. An individual seeking a temporary hardship license must submit in writing to the Board a request containing:

002.11(a)(1) A completed license application; and

002.11(a)(2) A written description of the hardship.

002.12 NOTICE TO EXAMINEES. The Department will provide applicants eligible for examination with:

002.12(a) The date, time, and place, of the examination; and

002.12(b) An admission card or receipt.

002.13 EXAMINATION SECURITY.

002.13(a) ADVANCE COPIES. No person will be provided advance copies of or access to current or past examinations or answer keys, except:

002.13(a)(1) Department staff;

002.13(a)(2) Board members;

002.13(a)(3) Legal representatives; or

002.13(a)(4) Designated Department or Board consultants.

002.13(b) EXAMINATION MATERIALS. All examination materials must be kept secured when not:

002.13(b)(1) Under review by:

002.13(b)(1)(i) Department staff;

002.13(b)(1)(ii) Department legal counsel;

002.13(b)(1)(iii) Board members;

002.13(b)(1)(iv) Test consultants; or

002.13(b)(1)(v) An examinee or their legal representative pursuant to the examination review procedures of this Chapter; or

002.13(b)(2) In use during an examination.

002.13(c) EXAM ACCESS. The Department must maintain a log of persons provided access to examination materials.

002.14 EXAMINATION DAY.

002.14(a) PERMITTED MATERIALS. The only materials an examinee is permitted to bring with them to the examination are:

002.14(a)(1) A government-issued photo identification; and

002.14(a)(2) The admission card or receipt referred to in 002.12(b) of this Chapter.

002.14(b) LATE ADMISSIONS PROHIBITED. No late admissions to the examination room will be allowed.

002.14(c) EXAMINATION INSTRUCTIONS. A proctor will provide the instructions for the examination.

002.14(d) ANSWERING QUESTIONS. The proctor will not answer any questions concerning examination content during the examination.

002.14(e) EXAMINATION FLAWS. If an examinee thinks a test item is misprinted or incorrect, the examinee will be told to answer the question as it reads.

002.14(f) LEAVING THE EXAMINATION ROOM.

002.14(f)(1) TEMPORARY LEAVE. Examinees may be permitted to go to the restroom unescorted one at a time. A proctor must hold the examinee's cell phone, test book, sheet, and/or answer sheet during the examinee's absence. No additional testing time will be allowed.

002.14(f)(2) PERMANENT LEAVE. If an examinee must leave the examination because of an emergency or illness, the examinee's test materials will be collected. To ensure proper security of test materials, examinees are discouraged from leaving during the last 10 minutes of the testing time.

002.14(g) COMMUNICATIONS. Examinees must not communicate with anyone other than the proctor after the examination questions have been distributed.

002.14(h) OBSERVERS. No persons are allowed in the examination room other than the examinees, Board members, Department staff, designated proctors, or their representatives administering the examination.

002.14(i) DISRUPTIVE BEHAVIOR PROHIBITED. An examinee who exhibits disruptive behavior or interferes with testing for other examinees will be removed from the examination room after failure to comply with one warning.

002.14(j) IRREGULAR BEHAVIOR PROHIBITED. An examinee who is suspected of giving, copying, or otherwise receiving, unauthorized information about the contents of the examination will be removed from the examination room and have their application returned as unaccepted.

002.15 ACCESS TO EXAMINATIONS. All persons who fail an examination may review their answers subject to the following conditions:

002.15(a) Examinee review may take place only after examination results have been issued by the Department.

002.15(b) An examinee must show a government-issued photo identification before being allowed to review their examination.

002.15(c) Review must take place in the offices of the Department during regular business hours.

002.15(d) Review may take place only in the presence of a Board member or approved representative.

002.15(e) The answer sheet may not be taken from the site designated for review.

002.15(f) Answers may not be copied. Notes may be made but must be limited to the question number and any objections, challenges, or questions concerning the examination. The Department will review notes and may

confiscate them if the notes are likely to compromise the integrity of the examination.

002.15(g) No question may be asked of or answered by the Board or approved representative during review. Questions, objections, or challenges can be submitted to the Board in writing for its consideration.

002.15(h) The examinee may have legal counsel present during review or authorize, in writing, legal counsel to review the examination and answer sheet in the examinee's absence. Review by counsel is subject to the same conditions and terms as those for the examinee.

002.16 DISCOVERY DURING APPEALS. No copies of examination materials will be provided except upon written order of the Director or a court of competent jurisdiction. The Director may place reasonable restrictions on records provided under this Section to safeguard examination integrity and prevent unauthorized distribution of an examination.

003. CONTINUING COMPETENCY.

003.01 GENERAL. On or before December 31 of each even-numbered year, individuals holding an active license in Nebraska must complete at least 12 hours of approved continuing education during the preceding 24-month period.

003.02 EXCEPTIONS. Continuing education hours are not required for individuals who were first licensed within the 24-month period immediately preceding the renewal date.

003.03 APPROVAL AND REAPPROVAL OF CONTINUING EDUCATION PROGRAMS.

003.03(a) BOARD APPROVAL.

003.03(a)(1) POWER OF THE BOARD. The Board will evaluate applications from licensees and providers for approval of continuing education programs. The Board will grant approval for a specific number of hours

of continuing education and will indicate to which occupational activities the program applies.

003.03(a)(2) ADVERTISEMENT OF APPROVALS. After the Board has granted written approval of an application, the provider is entitled to state upon its publications: “This program is approved for [number of credit hours] hours of continuing education credit under the Nebraska Water Well Standards and Contractors’ Practice Act.”

003.03(b) PROGRAM APPLICATION.

003.03(b)(1) APPLICATION CONTENT. To obtain approval of a continuing education program, a provider/licensee must submit a written application to the Department containing:

003.03(b)(1)(i) The name, address, and telephone number of the applicant;

003.03(b)(1)(ii) The name, address, and telephone number of the provider;

003.03(b)(1)(iii) A detailed description of the program content;

003.03(b)(1)(iv) A description of the program objectives;

003.03(b)(1)(v) A description of the qualifications of the presenter(s);

003.03(b)(1)(vi) The number of continuing education hours for which approval is requested; and

003.03(b)(1)(vii) A description of how attendance will be verified and records of attendance maintained.

003.03(b)(2) WHEN TO SUBMIT. The Board must receive a completed application at least 65 days prior to the date on which the program is to

be presented. Board action on applications submitted less than 65 days prior to the date on which the program is to be presented may be deferred until the next regularly scheduled Board meeting.

003.03(b)(3) PROGRAM CONTENT. Continuing education program content must relate directly to ground water or the water well industry. Examples of permitted content include standards for water wells and water well pumps; geologic characteristics of the State; state groundwater laws and regulations; the practices and techniques of water well construction and pump installation; water well monitoring; inspection of chemigation devices; and the inspection or repair of flow meters.

003.03(c) PROGRAM REAPPROVAL.

003.03(c)(1) WHEN NOT REQUIRED. Once the Board has approved an application for a continuing education program, reapproval is not required if the program or program requirements have not changed. Each time an approved continuing education program is presented, the program provider must send to the Department a written notification containing:

003.03(c)(1)(i) The program date(s);

003.03(c)(1)(ii) The number of hours presented; and

003.03(c)(1)(iii) A statement that the program presented was not changed.

003.03(c)(2) WHEN REQUIRED. If a program approved by the Department has changed, then the provider must reapply for approval of the new program pursuant to the regular approval process provided in 003.03(b).

003.04 CONTINUING EDUCATION PROGRAM PROVIDERS.

003.04(a) PROVIDER QUALIFICATIONS. Continuing education program providers must be qualified by education, experience, or Board-approved training.

003.04(b) PROOF OF COMPLETION.

003.04(b)(1) REPORTING ATTENDANCE. Unless issuing Certificates of Completion pursuant to 134 NAC 2-003.04(b)(2), continuing education providers must report to the Department no later than 30 days after the completion of a continuing education program each piece of information required under 134 NAC 2-003.04(b)(2)(i)–(vii).

003.04(b)(2) CERTIFICATE OF COMPLETION. If a continuing education provider chooses not to report continuing education program attendance to the Department, then the continuing education provider must issue to each attendee a certificate of completion containing the:

003.04(b)(2)(i) Name of the attendee;

003.04(b)(2)(ii) License number of the attendee;

003.04(b)(2)(iii) Program name;

003.04(b)(2)(iv) Name of program provider;

003.04(b)(2)(v) Program location;

003.04(b)(2)(vi) Date(s) of the program; and

003.04(b)(2)(vii) Number of credits the attendee earned.

003.04(b)(3) WHEN ISSUED. Continuing education providers must provide attendees with the certificate of completion prescribed in 003.04(b)(2) after the completion of a continuing education program.

003.04(c) EARNING CONTINUING EDUCATION CREDITS AS A PROGRAM PROVIDER. A licensee who serves as a program provider for a continuing education program may receive continuing education credits only for their initial presentation during a single renewal period, regardless of the number of times a program is presented.

003.05 PROOF OF COMPLETION. Licensees must submit to the Department a copy of a certificate of completion.

003.06 RECORDKEEPING. All program providers and attendees must maintain for at least three years copies of all attendance documentation.

003.07 AUDIT. The Board has the right to audit the continuing education filing(s) of any program provider by requesting production of documentary and/or testimonial evidence.

003.08 LOSS OF APPROVAL.

003.08(a) Program providers are subject to the same disciplinary standards as licensees.

003.08(b) The Board has the authority to withdraw or suspend approval of a program if the Board determines the program provider failed to comply with the Act, failed to comply with the rules or regulations promulgated under the Act, or engaged in dishonest conduct.

004. LICENSE RENEWAL.

004.01 RENEWAL APPLICATION. Applicants seeking renewal must fill out and submit a renewal application provided by the Department.

004.02 WAIVER PROVISIONS.

004.02(a) MILITARY SERVICE. A licensee who has served in the regular armed forces of the United States during part of the licensing period immediately preceding the renewal date, or is actively engaged in military

service, is not required to pay the renewal fee or to meet the continuing competency requirements if acceptable documentation proving such service is submitted to the Department.

004.02(b) WAIVER OF CONTINUING COMPETENCY REQUIREMENTS. The Department may fully or partially waive continuing competency requirements upon a licensee's submission of documentation that circumstances beyond the licensee's control prevented completion of these requirements.

005. LICENSE EXPIRATION.

005.01 WHEN EXPIRATION OCCURS. Unless otherwise provided in this Chapter, a license expires at midnight on the expiration date listed on the face of the license.

005.02 AUTOMATIC EXPIRATION. A license automatically expires without further notice or opportunity for hearing if a licensee fails by the license expiration date to:

005.02(a) Submit documentation of continuing competency;

005.02(b) Complete the required number of continuing competency hours;

005.02(c) Submit a renewal application;

005.02(d) Pay the required renewal fee; or

005.02(e) If a contractor, submit liability insurance.

005.03 EFFECT OF EXPIRATION. Upon expiration:

005.03(a) The licensee will have 60 days to renew their license, during which a licensee may still practice, but after which the license will be considered invalid.

005.03(b) A licensee whose license has become invalid must meet and complete all of the requirements of an initial licensee.

005.04 EFFECT OF DISCIPLINARY ACTION. Upon denial, suspension, revocation, or other disciplinary action:

005.04(a) The licensee may reapply 30 days after denial.

005.04(b) The licensee may reapply after the terms of the suspension have been met. If the suspension term exceeds 24 months, the licensee must meet and complete all of the requirements of an initial licensee.

005.04(c) The licensee may reapply two years after revocation and must meet and complete all of the requirements of an initial licensee.

005.04(d) The licensee may reapply after the terms of other disciplinary action have been met. If the disciplinary term exceeds 24 months, then the licensee must meet and complete all of the requirements of an initial licensee.