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Readopt with amendment Sep 400, effective 10-31-18 (Document #12654), to read as follows:

CHAPTER Sep 400 CONTINUED STATUS

PART Sep 401 RENEWAL OF LICENSE

Sep 401.01 Expirations and Renewals. Pursuant to RSA ~~310-A:215~~ ***310:8***, licenses shall be renewed by written application prior to the expiration date and by payment of the prescribed renewal fee. The ~~board~~ ***licensing bureau*** shall notify each septic system evaluator ~~at least one month~~ ***2 months*** prior to expiration of their license. If properly renewed, a license shall remain in effect ~~continuously from the date of issuance,~~ ***for 2 years from the date of issuance*** unless suspended or revoked ~~by the board.~~

Sep 401.02 Renewal of License.

(a) Any licensee wishing to renew a license shall submit:

(1) A completed ~~“Septic System Evaluator Renewal Application” form, revised September 2018, supplied by the board~~ ***“Universal Application for License Renewal”, dated April 2024, as described in Plc 308.05, that contains the information required in Plc 308.06 and Plc 308.07, that is signed pursuant to Plc 308.08;***

(2) The fee specified in ~~Sep 301.03~~ ***Plc 1002.49;***

(3) ~~If the renewal is not received by the date of expiration, a late fee of 20 percent per month for a period of 12 months;~~

(4) Proof of completion of the continuing education requirements of Sep 403; and

(5) If applicable, a copy of the licensee’s military orders calling them to active duty pursuant to Sep 401.02 (b).

(b) ~~Upon request of the~~ Licensees who ~~is a~~ ***serve*** member ~~of in~~ the armed forces or the reserves or the national guard of the United States that is called to active duty, ***may submit a completed “Request for Inactive Status – Military Activation” form dated March 2024 and provide the information in Plc 307.06*** to the ~~board~~ ***licensing bureau***. ~~shall place the license in inactive status. The license may be reactivated by the licensee. Licensees may submit a “Request for License Reactivation” form dated March 2024 that provides the information specified in Plc 307.07, within one year of the licensee’s release from active status, to reactivate their license. by paying the renewal fee and completing and submitting the “Septic System Evaluator Renewal Application”, unless still within the renewal period~~

Sep 401.03 Renewal Application. The applicant shall supply ~~the following information on the “Septic System Evaluator Renewal Application” form, revised September 2018 and provided by the board,~~ ***the information required by Plc 308.06 on the “Universal Application for License Renewal, dated April 2024, that is signed and attested to as specified in Plc 308.08.***

~~(a) The applicant’s license number and expiration date;~~

~~(b) The applicant’s full name;~~

~~(c) The applicant’s business address and telephone number;~~

~~(d) The applicant’s home address and telephone number;~~

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- ~~— (e) The applicant’s email address;~~
- ~~— (f) Certification that the applicant has complied with the continuing education requirements of Sep 403;~~
- ~~— (g) A statement indicating any disciplinary action brought against the applicant;~~
- ~~— (h) A statement indicating whether the applicant has ever been convicted of any felony, or any misdemeanor, and if so, the name of the court, the details of the offense, and the date of conviction and the sentence imposed;~~
- ~~— (i) A statement indicating that to his or her knowledge the applicant has adhered to the ethical and professional standards of RSA 310-A:205 and Sep 500 and Sep 600;~~
- ~~— (j) Acknowledgment that the provision of materially false information in the application known by the applicant to be untrue is a basis for denial;~~
- ~~— (k) Acknowledgement that, if the applicant provided false information that is discovered after the license is renewed, it is a basis for disciplinary action by the board;~~
- ~~— (l) Evidence of successful completion of 6 hours of board approved education pursuant to RSA 310-A:212;~~
- ~~— (m) The renewal fee as specified in Sep 301.03; and~~
- ~~— (n) The applicant’s signature and date.~~

Sep 401.04 ***Denial of Renewal.*** Renewal shall be denied if, ***after notice and an opportunity for hearing, the board finds:***

- (a) Noncompliance with the continuing education requirements of Sep 403.01;
- (b) Any unethical act for which discipline shall be imposed under RSA 310-A:205;
- (c) Reasons for which an initial application could be denied; ***or***
- (d) Failure to furnish complete or accurate information on an initial or renewal license application. ;
- or***
- (e) Failure to file a renewal application within 12 months of license expiration.

Sep 401.05 ***Reinstatement.*** A septic system evaluator on inactive status or whose license to practice in this state has been lapsed for a period of 12 months or more shall: ***apply for initial licensure pursuant to Plc 304.***

— (a) Complete and submit a “Septic System Evaluator Reinstatement” form, revised September 2018, to the board that shall include at least the following:

- (1) The applicant’s full name;
- (2) The date the applicant’s initial license was issued and the license number;
- (3) The applicant’s business address and telephone number;
- (4) The applicant’s home address and telephone number;

Commented [CB1]: If we change this around then we should rework this because they can deny outright, and then the applicant can appeal

Commented [CB2]: I think this should be board or office, since the office will get the first review of the application, and then any denial can be appealed to the board pursuant to Plc 308.12.

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- (5) ~~The applicant's email address;~~
- (6) ~~Documentation that the applicant has complied with the continuing education requirements of Sep 403;~~
- (7) ~~A statement indicating any disciplinary action brought against the applicant;~~
- (8) ~~A statement indicating whether the applicant has ever been convicted of any felony, any misdemeanor, or a violation and if so, the name of the court, the details of the offense, and the date of conviction and the sentence imposed;~~
- (9) ~~A statement indicating that to their knowledge the applicant has adhered to the ethical and professional standards of RSA 310-A:205 and Sep 500;~~
- (10) ~~A representation that the applicant acknowledges that the provision of false information in the application is a basis for disciplinary action by the board; and~~
- (11) ~~The applicant's signature and date; and~~

~~(b) Applicants shall submit the application and reinstatement fees as specified in Sep 301.03.~~

Sep 401.06 ***Denial of Reinstatement.*** ~~Reinstatement shall be denied if, after notice and an opportunity for hearing, the board finds:~~

- (a) Noncompliance with the continuing education requirements of Sep 403.01;
- (b) Any unethical act for which discipline shall be imposed under RSA 310-A:205;
- (c) Reasons for which an initial application could be denied under Sep 302.02; or
- (d) Failure to furnish complete or accurate information on an initial or renewal license application.

Commented [CB3]: Same comments as the above section to be sure we are citing the correct process.

PART Sep 402 DISCIPLINARY MATTERS

Sep 402.01 ~~***Initiation of Disciplinary Action.*** The board shall undertake misconduct investigations, settlements of misconduct allegations, or disciplinary hearings in response to any information which reasonably suggests that a licensee has engaged in professional misconduct. **RESERVED**~~

[Source.](#) #12654, eff 10-31-18

Sep 402.02 ***Disciplinary Sanctions.***

(a) Other than immediate license suspensions authorized by RSA 541-A:30, III the ~~board~~ ***licensing bureau*** shall impose disciplinary sanctions only:

- (1) After prior notice and an opportunity to be heard; or
- (2) Pursuant to a mutually agreed upon settlement or consent decree.

(b) When the board receives notice that a licensee has been subjected to disciplinary action related to professional conduct by the licensing authority of another jurisdiction, ~~where the license was not reinstated,~~ the board shall issue an order ***pursuant to Plc 311.14, as applicable.*** ~~directing the licensee to demonstrate why reciprocal discipline should not be imposed in New Hampshire.~~

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(c) In a disciplinary proceeding brought on the basis of discipline imposed in another jurisdiction the licensee shall be subject to any disciplinary sanction authorized by RSA 310-A:216 after considering the presence of aggravating or mitigating circumstances.

(d) After a finding that misconduct has occurred, the board shall impose one or more of the disciplinary sanctions authorized by RSA ~~310-A:217, V~~ ***310:12*** after considering the presence of aggravating or mitigating circumstances.

(e) The following shall be considered aggravating circumstances:

- (1) The seriousness of the offense;
- (2) Prior disciplinary record;
- (3) Lack of willingness to cooperate with the board; and
- (4) Potential harm to public health and safety.

(f) The following shall be considered mitigating circumstances:

- (1) Absence of a prior disciplinary record;
- (2) Willingness to cooperate with the board;
- (3) Acknowledgment of his or her wrongdoing; and
- (4) The purpose of the rule or statute violated.

(g) No hearing date established in a proceeding conducted under Sep 402.02 shall be postponed at the request of the licensee unless the licensee also agrees to continue the suspension period, if any, pending issuance of the board's final decision.

(h) Copies of board orders imposing disciplinary sanctions and copies of all settlement agreements or consent decrees shall be sent to the licensing body of each state in which the licensee is licensed and to such other entities, organizations, associations, or boards as are required to be notified under applicable state or federal law.

[Source.](#) #12654, eff 10-31-18

Sep 402.03 ***Administrative Fines.***

(a) Adjudicative procedures seeking the assessment of an administrative fine shall be commenced against any person subject to such fines under any provision of RSA 310-A when the board possesses evidence indicating that a violation has occurred.

(b) When persons subject to the board's disciplinary authority are directed to pay fines pursuant to Sep 402.03(c), such fines shall be assessed in accordance with the factors stated in Sep 402.02(e) and (f) and the following additional financial considerations:

- (1) As an aggravating factor, the cost of any investigation or hearing conducted by the board; and
- (2) As a mitigating factor, the licensee's ability to pay a fine assessed by the board.

(c) Administrative fines shall not exceed the ~~following~~ amounts ***specified in RSA 310:12, I(e).*** :

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~~(1) When no violation of the same type has occurred during a period of licensure within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$200.00 per day or \$1,000.00 per offense, whichever is greater;~~

~~(2) When a single disciplinary infraction of the same type has occurred during a period of licensure within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$200.00 per day or \$1,500.00 per offense whichever is greater; and~~

~~(3) When more than one disciplinary infraction of the same type has occurred during a period of licensure within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$200.00 per day or \$2,000.00 per offense whichever is greater.~~

~~— (d) In the case of continuing violations, a separate fine shall be assessed for each day the violation continues.~~

~~— (e) A single course of continuing conduct shall be treated as a single violation for purposes of Sep 402.03 (e), (1), (2), and (3).~~

[Source.](#) #12654, eff 10-31-18

Sep 402.04 Procedures for Assessing and Collecting Fines.

~~(a) Payment of a fine shall be included among the options available for settling disciplinary allegations, and shall be included among the types of disciplinary sanctions imposed after notice and hearing.~~

~~(b) In cases where the board initially intends to limit disciplinary sanctions to an administrative fine, the board shall issue a "notice of apparent liability" describing the alleged offense, stating the amount of the assessed fine, and notifying the alleged offender that he or she shall pay or compromise the fine by a certain date or request that an administrative hearing be held. If a hearing is requested, the notice of apparent liability shall be withdrawn and a notice of hearing shall be issued. In such hearings, the board's disciplinary options shall not be limited to the assessment of an administrative fine.~~

~~(c) Nonpayment of a fine by a licensee or respondent in contravention of an order, agreement, or promise to pay, shall be a separate ground for discipline by the board, a basis for denying a subsequent license and renewal application, and a basis for judicial action seeking to collect the fine.~~

[Source.](#) #12654, eff 10-31-18

PART Sep 403 CONTINUING EDUCATION

Sep 403.01 Renewal Requirements.

(a) Continuing education hours shall be earned pursuant to RSA 310-A:212.

(b) A renewal application shall not be accepted for filing unless the licensee indicates on the renewal application, and under penalty of unsworn falsification, that he or she has completed the minimum required hours of approved continuing education hours required pursuant to RSA 310-A:212.

(c) Each licensee shall obtain at least 6 continuing education hours of approved continuing education courses during the biennial renewal period as a condition of license renewal.

(d) Continuing education courses taken in the armed services, to be creditable, shall be of a character equivalent to that which would have been gained in the civilian sector doing similar work.

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[Source.](#) #12654, eff 10-31-18

Sep 403.02 Continuing Education Hour Requirements. Continuing education hours shall meet the following criteria:

(a) Continuing education activities shall be relevant to the practice of septic system evaluations or no credit shall be awarded. Such continuing education activities may include technical, ethical, or managerial content; and

(b) Education may be earned in one of the following categories:

- (1) Wetlands science;
- (2) Safety, including dig safe;
- (3) Ethics;
- (4) Soil science;
- (5) Septic components, design, and installation; and
- (6) Septic system evaluations.

[Source.](#) #12654, eff 10-31-18

Sep 403.03 Continuing Education Hour Credits. Continuing education hours shall be credited as follows:

(a) A maximum of 2 continuing education hours per renewal cycle shall apply to activity on a state or national board of licensure;

(b) Successful completion of college courses in one of the topics outlined in Sep 403.02(b) shall count towards a maximum of 3 continuing education hours per renewal cycle;

(c) Credit shall be awarded for one hour of continuing education in course work, seminars, or professional technical presentations made at meetings, conventions, or conferences for each hour of attendance. Attendance at qualifying programs presented at professional or technical society meetings shall earn continuing education hour units for the actual time of each program;

(d) Teaching or instructing qualifying courses or seminars or making presentations at technical meetings shall earn continuing education hours credit at twice that of participants, up to 3 hours per renewal cycle. Teaching credit shall be valid for teaching a course or seminar for the first time only. Teaching credit shall not apply to full-time faculty;

(e) Continuing education credits shall not be recognized for any repeat program attended or completed; and

(f) Successful completion of all requirements necessary for initial licensure by the New Hampshire department of environmental services shall count towards a maximum of 3 continuing education hours in the renewal cycle during which such licensure was obtained.

[Source.](#) #12654, eff 10-31-18

Sep 403.04 Record Keeping.

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(a) The responsibility of maintaining records to be used to support credits claimed shall be the responsibility of the licensee.

(b) Records shall contain at least the following documentation:

(1) A log showing the type of activity claimed, sponsoring organization, location, instructor's or speaker's name, and continuing education hour credits earned; and

(2) Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance such as:

a. Signed attendance receipts;

b. Paid receipts; or

c. A copy of a listing of attendees signed by a person sponsoring the course or program or the course/program provider.

(c) The licensee shall retain attendance verification records for a period of at least 4 years. Such documentation shall be made available to the board for random audit and verification purposes. Documentation shall support continuing education hours claimed. Failure to provide documentation for audit verification shall result in disciplinary action.

(d) Not less than ~~5~~**10**% of the licensees shall be randomly selected by the board for audit in each renewal cycle for compliance with Sep 403.01.

[Source.](#) #12654, eff 10-31-18

Sep 403.05 Exemptions.

(a) A licensee shall be exempt from the continuing education requirements for any of the following reasons:

(1) A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a year shall be exempt from obtaining the continuing education hours required during that year; or

(2) Licensees experiencing disability, illness, or other extenuating circumstances which would prevent the licensee from completing the required continuing education hours shall apply in writing to the board for a waiver pursuant to Sep ~~219.01.~~**201.02 and contains the information required in Plc 211.04.**

(b) Relevant supporting documentation shall be furnished to the board when necessary for a fair and informed determination by the board.

[Source.](#) #12654, eff 10-31-18

Sep 403.06 Waiver of Continuing Education Deadline. ~~A waiver of continuing education deadlines shall be granted provided that a petition to that effect is filed at least 30 days before the expiration of the biennial renewal period in question or that late filing is justified by a showing of good cause. Good cause shall include accident, illness, or other circumstances beyond the control of the licensee. No waiver petition shall be granted which does not propose a specific timetable for completing specific courses which will meet the petitioner's continuing education deficiency.~~

[Source.](#) #12654, eff 10-31-18

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Rule	Specific State Statute the Rule Implements
Sep 401.01	RSA 310-A:207, I (d); RSA 310-A:215
Sep 401.02	RSA 310-A:207, I (d), (e); RSA 310-A:215
Sep 401.03	RSA 310-A:207, I (d)
Sep 401.04	RSA 310-A:207, I (d); RSA 541-A:16, I (b), intro.
Sep 401.05	RSA 310-A:207, I (d)
Sep 401.06	RSA 310-A:207, I (d); RSA 541-A:16, I (b), intro.
Sep 402.01	RSA 310-A:207, I (g); RSA 310-A:216
Sep 402.02	RSA 310-A:207, I (i); RSA 310-A:216
Sep 402.03	RSA 310-A:207, I (i), RSA 310-A:216, RSA 312-I(e)
Sep 402.04	RSA 310-A:207, I (g); RSA 310-A:216
Sep 403.01	RSA 310-A:207, I (c), (f), RSA 310-A:212
Sep 403.02	RSA 310-A:207, I (c), (f); RSA 310-A:212
Sep 403.03	RSA 310-A:207, I (c), (f); RSA 310-A:212
Sep 403.04	RSA 310-A:207, I (c), (f); RSA 310-A:212
Sep 403.05	RSA 310-A:207, I (c), RSA 310-A:212
Sep 403.06	RSA 310-A:207, I (d); RSA 310-A:212; RSA 541-A:16, I (b), intro.