

52 N.J.R. 46(a)

VOLUME 52, ISSUE 1, JANUARY 6, 2020

RULE ADOPTIONS

Reporter

52 N.J.R. 46(a)

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Agency

LAW AND PUBLIC SAFETY > DIVISION OF CONSUMER AFFAIRS > STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Administrative Code Citation

Adopted Repeals and New Rules: N.J.A.C. 13:40-2, 15.10, 15.11, 15.12, 15.14, 15.20, and 15.21

Adopted Amendments: N.J.A.C. 13:40-1.3, 3.1, 3.4, 3.5, 5.1, 8.1A, 8.2, 9.1, 10.1, 11.3, 12.2, 15.1, 15.2, 15.6, 15.8, 15.9, 15.13, and 15.15 through 15.19

Adopted Repeal: N.J.A.C. 13:40-15.22

Adopted New Rule: N.J.A.C. 13:40-9.2

Text

Board of Professional Engineers and Land Surveyors Rules

Home Inspection Advisory Committee Rules

Proposed: January 7, 2019, at 51 N.J.R. 29(a).

Adopted: March 21, 2019, by the Board of Professional Engineers and Land Surveyors, Michael J. Kelly, PE, Board President.

Filed: November 26, 2019, as R.2020 d.001, **with non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 45:8-58.c.

Effective Date: January 6, 2020.

Expiration Date: May 1, 2025.

Summary of Public Comments and Agency Responses:

The official comment period ended March 8, 2019. The Board of Professional Engineers and Land Surveyors (Board) received three comments from:

1. Ambrose Gmeiner, PLS, President, New Jersey Society of Professional Land Surveyors;

2. Steve Bayly, New Jersey Association of Licensed Home Inspectors; Martin Mindlin and Laura Gill, International Association of Certified Home Inspectors, New Jersey Chapter; Mike Elko and Carlo Vitale, American Society of Home Inspectors, Southern New Jersey Chapter; and Frank Vodraska, New Jersey Association of Licensed Professional Home Inspectors; and

3. James J. Purcell, PE.

1. COMMENT: One commenter states that the Board of Directors of the New Jersey Society of Professional Land Surveyors supports the proposed rulemaking.

RESPONSE: The Board thanks the Society for its support.

2. COMMENT: A comment was received from the Board of Directors and members of the New Jersey Association of Home Inspectors (NJAHI). The commenter asks the Board to add the word "National" before the term "Home Inspector Examination" at N.J.A.C. 13:40-15.6(a)7. The commenter also requests a change to N.J.A.C. 13:40-15.20(a)1i, the proposed rule concerning determining the substantial equivalence of an out-of-State applicant's education, experience, and examination. The commenter recommends adding language stating that a substantially equivalent examination should be of comparable scope and rigor "to the National Home Inspector Examination, administered by the Examination Board of Professional Home Inspectors (EBPHI) as required for initial licensure in accordance with N.J.A.C. 13:40-15.6(a)7." The commenter states that other jurisdictions do not necessarily have the same requirements for licensure as New Jersey. The commenter believes the inclusion of this language will ensure New Jersey's standards are not interpreted to

allow the State to accept lesser examination standards. Lastly, the commenter suggests changing N.J.A.C. 13:40-15.20(a)1ii to specify that an applicant's experience may be considered by the Committee to compensate for a disparity solely in a person's education compared to New Jersey's standards, not both education and examination standards, as the proposed rule states.

RESPONSE: The Board thanks the commenter for their remarks. With regard to the proposed amendments at N.J.A.C. 13:40-15.6(a)7, and 15.20(a)1i, the Board has determined to make the changes recommended by the commenter.

Regarding the commenter's request to amend N.J.A.C. 13:40-15.20(a)1ii, the Board believes an applicant's experience should be taken into account if there is a disparity in the substantial equivalence between the examination taken by an out-of-State applicant and the New Jersey examination requirement. Even with the clarity provided by the changed language at N.J.A.C. 13:40-15.20(a)1i, the Board believes there could still be an imbalance between examinations. The Board concludes that experience may still be reviewed to determine the ability and knowledge base of an applicant, if such disparity exists.

3. COMMENT: One commenter expressed concern over language in proposed new N.J.A.C. 13:40-2.2(a)4 stating that an applicant for licensure in professional engineering is to demonstrate he or she has professional experience that will "insure the safety of life, health and property." The commenter argues that the use of "insure" could lead to confusion or concern among professional engineers in that it leads engineers, and the public, to believe that the professional engineering community is qualified to insure. The commenter argues that changing it to "ensure" will clarify what is expected of the profession. Additionally, the commenter believes that the phrase "the safety of life, health, and property" makes it unclear as to what the experience requirements are for licensure applicants, as it can be read to mean "the safety of life, the safety of health, and the safety of property." The commenter argues this language can be simplified and suggests changing it to "protecting the health, safety, and welfare."

RESPONSE: The Board thanks the commenter for the remarks. Because the language mirrors the law governing professional engineers at N.J.S.A. 45:8-27, the Board does not believe the commenter's suggested [page=47] amendment is necessary. However, should the Board become aware of additional concerns over this language or if any statutory updates are made, the Board will revisit this issue.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments, new rules, and repeals are State statutory requirements and are not subject to any Federal requirements or standards.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 1. PURPOSE AND SCOPE; DEFINITIONS

13:40-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

"ABET" means the Accreditation Board for Engineering and Technology.

...

"Certificate of Authorization" means a certificate issued by the Board to a general business corporation or a limited liability company to allow the practice of professional engineering and/or professional land surveying pursuant to N.J.S.A. 45:8-56 and N.J.A.C. 13:40-10.

...

"NCEES" means the National Council of Examiners for Engineering and Surveying.

...

SUBCHAPTER 2. LICENSURE REQUIREMENTS AND APPLICATION PROCESSES

13:40-2.1 Engineers-in-training: eligibility requirements and application process

(a) To be eligible for a certificate of registration as an engineer-in-training, an applicant:

1. Shall demonstrate graduation from a program with a bachelor's degree in engineering that is accredited by the Engineering Accreditation Commission of ABET, Inc., or graduation from a program with a bachelor's degree in engineering technology that is accredited by the Technology Accreditation Commission of ABET, Inc.

i. An applicant with a degree from a college or university that is not accredited by ABET shall obtain, at his or her own expense, and submit to the Board, a detailed evaluation of his or her degree from a credential evaluation service approved by the Board or from a credential evaluation service chosen by the applicant, which the Board shall have the discretion to accept;

2. Shall demonstrate passage of Part F--Fundamentals of Engineering, which may be waived by the Board pursuant to N.J.A.C. 13:40-2.5; and

3. Seeking credit for military education, training, or experience shall follow the procedure set forth in N.J.A.C. 13:40-2.6.

(b) An applicant for a certificate of registration as an engineer-in-training shall have the following submitted:

1. A completed and notarized application, which includes:

i. Proof of education verified by the submission of an official transcript, sent to the Board by the institution or institutions at which the applicant studied, indicating that the applicant satisfied the educational requirements in either engineering or engineering technology. An applicant may satisfy this requirement if he or she submits an NCEES record that includes verification of education acceptable to the Board; and

ii. A minimum of three references from persons who have personal knowledge of the applicant's engineering education, experience, or training, one of whom shall be a licensed professional engineer in the United States. References from relatives of the applicant or current Board members shall not be accepted. An applicant may satisfy this requirement by submitting an NCEES record that includes verification of references acceptable to the Board; and

2. The application fee set forth at N.J.A.C. 13:40-6.1(a)1.

(c) The applicant shall be responsible for verifying the receipt by the Board of all required materials listed in (b)1 and 2 above.

13:40-2.2 Professional engineers: eligibility requirements and application process

(a) To be eligible for licensure as a professional engineer, an applicant:

1. Shall demonstrate graduation from a program with a bachelor's degree in engineering that is accredited by the Engineering Accreditation Commission of ABET, Inc., or graduation from a program with a bachelor's degree in engineering technology that is accredited by the Technology Accreditation Commission of ABET, Inc.;

i. An applicant with a degree from a college or university that is not accredited by ABET shall obtain, at his or her own expense, and submit to the Board a detailed evaluation of his or her degree from a credential evaluation service approved by the Board or from a

credential evaluation service chosen by the applicant, which the Board will have the discretion to accept;

2. Shall demonstrate passage of Part F--Fundamentals of Engineering, which may be waived by the Board pursuant to N.J.A.C. 13:40-2.5;

3. Shall demonstrate passage of Part P--Principles and Practice of Engineering;

4. Shall demonstrate four years of professional experience for graduates of engineering programs or six years of professional experience for graduates of engineering technology programs, under the regular and effective supervision of a licensed professional engineer consistent with the requirements of N.J.S.A. 45:8-28(b), two years of which shall be obtained in the United States. Professional experience should demonstrate to the Board that the applicant is competent to design and supervise engineering projects and works to insure the safety of life, health, and property.

i. Experience prior to graduation from a program pursuant to (a)1 above shall be evaluated by the Board on a case-by-case basis, if the experience is gained under the regular and effective supervision of a licensed professional engineer and if the applicant has passed the appropriate technical courses needed to perform the work experience.

ii. An applicant who has completed a master's or doctorate degree in engineering may obtain credit for one year of the required professional experience. An applicant who completed both master's and doctorate degrees may obtain credit for two years of the required professional experience.

(1) If any portion of the curriculum completed by the applicant as part of a master's or doctorate degree, or both, is required to be considered by the Board in order for the applicant to meet the minimum education standard required for licensure, the applicant shall not also receive experience credit for such education.

iii. Teaching experience may substitute for up to two years of engineering experience. The teaching experience shall be in engineering or engineering-related courses taught in the junior or senior years or in a graduate program at a college or university offering an engineering program of four years or more acceptable to the Board; and

5. Seeking credit for military education, training, or experience shall follow the procedure set forth in N.J.A.C. 13:40-2.6.

(b) An applicant for the Principles and Practice of Engineering examination or licensure as a professional engineer must have the following submitted:

1. A completed and notarized application, which includes:

i. A description of professional experience pursuant to (a)4 above. An applicant may satisfy this requirement if he or she submits an NCEES record that includes a verification of experience acceptable to the Board;

ii. Proof of education verified by the submission of an official transcript, sent to the Board by the institution or institutions at which the applicant studied, indicating that the applicant satisfied the educational requirements in either engineering or engineering technology. An applicant may satisfy this requirement if he or she submits either an NCEES record that includes verification of education acceptable to the Board or an engineer-in-training certificate issued by the Board pursuant to N.J.A.C. 13:40-2.1;

iii. Proof of passage of Part F--Fundamentals of Engineering, unless the Board approved an applicant's waiver pursuant to N.J.A.C. 13:40-2.5. An applicant may satisfy this requirement if he or she submits either an NCEES record that includes verification of the passage of the examination or an engineering-in-training certificate issued by the Board pursuant to N.J.A.C. 13:40-2.1;

[page=48] iv. An applicant who has passed Part P--the Principles and Practices of Engineering shall submit proof of passage of the examination. An applicant may meet this requirement if he or she submits an NCEES record that includes verification of passage; and

v. A minimum of five references from persons who have personal knowledge of the applicant's experience or training, three of whom shall be licensed professional engineers in the United States. References must be included from professional engineers in responsible charge of the work constituting the minimum experience required for licensure. Special circumstances may be considered by the Board at the time of application in such cases where a licensed professional engineer in responsible charge of the work being claimed by the applicant is not available. An applicant may satisfy this requirement by submitting an NCEES record that includes verification of references acceptable to the Board;

2. The application fee set forth in N.J.A.C. 13:40-6.1(a)1; and

3. The applicant shall be responsible for verifying the receipt by the Board of all required materials listed in (b)1 and 2 above.

13:40-2.3 Surveyors-in-training: eligibility requirements and application process

(a) To be eligible for a certificate of registration as a land surveyor-in-training, an applicant:

1. Shall demonstrate graduation from a program with a bachelor's degree in land surveying that is accredited by the Technology Accreditation Commission of ABET, Inc.

i. An applicant with a degree from a college or university that is not accredited by ABET shall obtain, at his or her own expense, and submit to the Board, a detailed evaluation of his or her degree from a credential evaluation service approved by the Board or from a credential evaluation service chosen by the applicant, which the Board will have the discretion to accept;

2. Shall demonstrate passage of Part F--Fundamentals of Land Surveying; and

3. Seeking credit for military education, training, or experience shall follow the procedure set forth at N.J.A.C. 13:40-2.6.

(b) An applicant for a certificate of registration as a land surveyor-in-training shall have the following submitted:

1. A completed and notarized application, which includes:

i. Proof of education verified by the submission of an official transcript, sent to the Board by the institution or institutions at which the applicant studied, indicating that the applicant satisfied the educational requirements in land surveying. An applicant may satisfy this requirement if he or she submits an NCEES record that includes verification of education acceptable to the Board; and

ii. A minimum of three references from persons who have personal knowledge of the applicant's land surveying education, experience, or training, one of whom shall be a licensed professional land surveyor in the United States. References from relatives of the applicant or current Board members shall not be accepted. An applicant may satisfy this requirement by submitting an NCEES record that includes verification of references acceptable to the Board; and

2. The application fee set forth at N.J.A.C. 13:40-6.1(a)1.

(c) The applicant shall be responsible for verifying the receipt of all required materials listed in (b)1 and 2 above by the Board.

13:40-2.4 Professional land surveyor: eligibility requirements and application process

(a) To be eligible for licensure as a professional land surveyor, an applicant:

1. Shall demonstrate graduation from a program with a bachelor's degree in land surveying that is accredited by the Technology Accreditation Commission of ABET, Inc.

i. An applicant with a degree from a college or university that is not accredited by ABET shall obtain, as his or her own expense, and submit to the Board, a detailed evaluation of his or her degree from a credential evaluation service approved by the Board or from a credential evaluation service chosen by the applicant, which the Board will have the discretion to accept;

2. Shall demonstrate passage of Part F--Fundamentals of Land Surveying;

3. Shall demonstrate passage of Part P--Principles and Practices of Land Surveying;

4. Shall demonstrate three years of professional experience gained in the United States under the regular and effective supervision of a licensed professional land surveyor and consistent with the requirements of N.J.S.A. 45:8-28(e), which shall include land surveying experience that the Board determines has demonstrated increased responsibility and technical expertise over time.

i. Experience prior to graduation from a Board-approved program shall be evaluated by the Board on a case-by-case basis if the experience is gained under the regular and effective supervision of a licensed land surveyor and if the applicant has passed the appropriate technical courses needed to perform the work experience.

ii. An applicant who has completed a master's or doctorate degree in land surveying may obtain credit for one year of the required professional experience. An applicant who completed both master's and doctorate degrees may obtain credit for two years of the required professional experience.

(1) If any portion of the curriculum completed by the applicant as part of a master's or doctorate degree, or both, is required to be considered by the Board in order for the applicant to meet the minimum education standard requirement for licensure, the applicant shall not also receive experience credit for such education.

iii. Teaching experience may substitute for up to two years of land surveying experience. The teaching experience shall be in land surveying or land surveying-related courses taught in the junior or senior year or in a graduate program at a college or university offering a land surveying program of four years or more, acceptable to the Board; and

5. Seeking credit for military education, training, or experience shall follow the procedure set forth at N.J.A.C. 13:40-2.6.

(b) An applicant for licensure as a professional land surveyor shall have the following submitted to the Board:

1. A completed and notarized application, which includes:

i. A description of professional experience pursuant to (a)5 above. An applicant may satisfy this requirement if he or she submits an NCEES record that includes a verification of experience acceptable to the Board;

ii. Proof of education verified by the submission of an official transcript, sent to the Board by the institution or institutions at which the applicant studied, indicating that the applicant satisfied the educational requirements in land surveying. An applicant may satisfy this requirement if he or she submits either an NCEES record that includes verification of education acceptable to the Board or a surveyor-in-training certificate issued by the Board pursuant to N.J.A.C. 13:40-2.3;

iii. Proof of passage of Part F--Fundamentals of Land Surveying. An applicant may satisfy this requirement if he or she submits either an NCEES record that includes verification of the passage of the examination or a surveyor-in-training certificate issued by the Board pursuant to N.J.A.C. 13:40-2.3;

iv. Proof of Passage of Part P--the Principles and Practices of Land Surveying. An applicant may satisfy this requirement if he or she submits an NCEES record that includes verification of passage; and

v. A minimum of five references from persons who have personal knowledge of the applicant's experience or training, three of whom shall be licensed professional land surveyors in the United States. References must be included from professional land surveyors in responsible charge of the work constituting the minimum experience required for licensure. Special circumstances may be considered by the Board at the time of application in such cases where a licensed professional land surveyor in responsible charge of the work being claimed by the applicant is not available. An applicant may satisfy this requirement by submitting an NCEES record that includes verification of references acceptable to the Board;

2. The application fee set forth in N.J.A.C. 13:40-6.1(a)1; and

3. The applicant shall be responsible for verifying the receipt of all required materials listed in (b)1 and 2 above by the Board.

13:40-2.5 Waiver of Fundamentals of Engineering examination

The Fundamentals of Engineering portion of the licensure examination may be waived, provided that, in addition to meeting the education requirements set forth at N.J.A.C. 13:40-2.2, an applicant has an [page=49] additional 15 years or more experience in engineering work that the Board determines is consistent with the requirements of N.J.S.A. 45:8-2.8(b). Eight of those years shall have been gained in the United States or acquired while working for a United States-based firm. Experience shall include engineering design experience demonstrating increased responsibility over time. All experience shall be gained under the regular and effective supervision of a licensed professional engineer.

13:40-2.6 Credit towards licensure or certification for education, training, and experience received while serving as a member of the Armed Forces

(a) An applicant who has served in the Armed Forces of the United States (Armed Forces) and who does not meet all of the training, education, and experience requirements for licensure or certificate of registration under this subchapter may apply to the Board for recognition of the applicant's training, education, or experience received while serving as a member of the Armed Forces, which the Board shall consider, together with any training, education, and experience obtained outside of the Armed Forces, for determining substantial equivalence to the training, education, and experience required for licensure or certificate of registration, as appropriate.

(b) The Board shall issue a license or certificate of registration, as appropriate, to the applicant, if the applicant presents evidence to the Board that:

1. The applicant has been honorably discharged from active military service;

2. The relevant training, experience, and education the applicant has received in the military, together with any education, training, and experience obtained outside of the Armed Forces, is substantially equivalent in scope and character to the training, experience, and education required for licensure or certification under this subchapter.

i. An applicant seeking credit for military training and experience shall submit to the Board, the applicant's Verification of Military Experience and Training (VMET) Document, DD Form 2586.

ii. An applicant seeking credit for education courses and/or training completed while in the military who does not hold a degree from an engineering or land surveying program accredited by the Engineering Accreditation Commission or Technology Accreditation Commission of ABET, Inc. shall submit to a credential evaluation service approved by the Board or to a credential evaluation service chosen by the applicant, which the Board will have the discretion to accept, a Joint Services Transcript of his or her education and training for a determination that the education courses and/or training completed are substantially equivalent in level, scope, and intent to an ABET, Inc. accredited program. For the purpose of determining substantial equivalence of the applicant's military education and/or training, the Board shall consider only those courses and/or training relevant to the practice of engineering or land surveying, as applicable, that have been evaluated by the American Council on Education for substantial equivalence to civilian postsecondary curricula; and

3. The applicant complies with all other requirements for licensure or certification under this subchapter, as appropriate, including, but not limited to, successful completion of any examination or examinations required for licensure or certification.

i. An applicant who formerly served in the Armed Forces may satisfy the requirement for verification of education, examination, and/or experience by submitting to the Board an NCEES record as proof. An applicant may also submit an EIT or LSIT certificate to demonstrate education and/or passage of the Fundamentals of Engineering or Fundamentals in Land Surveying examination.

(c) An applicant shall be responsible for providing timely and complete evidence of the education, training, and experience gained in the military for review and consideration.

(d) If the applicant's military training, education, and experience, or a portion thereof, is deemed not to be substantially equivalent to that required for licensure or certificate of registration, as appropriate, the Board shall credit whatever portion of the military training, education, and experience that is substantially equivalent towards meeting the requirements under this subchapter for the issuance of the license or certificate of registration.

(e) Satisfactory evidence of such education, training, and experience shall be assessed on a case-by-case basis.

13:40-2.7 Application; reapplication

(a) All applications shall be valid for two years from the date the application is received by the Board. If the application process is not complete after two years, the application shall be deemed abandoned.

(b) An applicant whose application has been deemed abandoned may reapply and shall satisfy the eligibility requirements of the rules applicable at the time of the new application.

13:40-2.8 Biennial license renewal

(a) The Board shall send a notice of renewal to each licensee at least 60 days prior to the expiration of the license. The notice of renewal shall explain inactive renewal and advise the licensee of the option to renew as inactive. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew provided that the licensee is renewed within 60 days from the date the notice is sent or within 30 days following the date of license expiration, whichever is later.

(b) A licensee shall renew his or her license for a period of two years from the last expiration date. The licensee shall submit a renewal application to the Board, along with the renewal fee set forth in N.J.A.C. 13:40-6.1, prior to the date of license expiration.

(c) A licensee may renew his or her license by choosing inactive status. A licensee electing to renew his or her license as inactive shall not engage in the practice of professional engineering or professional land surveying, or hold themselves out as eligible to engage in the practice of professional engineering or professional land surveying, in New Jersey until such time as the license is returned to active status.

(d) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration, by submitting a renewal application, a renewal fee, and a late fee as set forth in N.J.A.C. 13:40-6.1. During this 30-day period, the license shall be valid and the licensee shall not be deemed practicing without a license.

(e) A licensee who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.

(f) A licensee who continues to engage in the practice of professional engineering or professional land surveying with a suspended license shall be deemed to be engaging in the unauthorized practice of professional engineering or professional land surveying and

shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

13:40-2.9 Reactivation of license

(a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:40-2.8(c) may apply to the Board for reactivation of the inactive license. A licensee seeking reactivation of an inactive license shall submit:

1. A renewal application;

2. A certification of employment listing each job held during the period the license was inactive, which shall include the name, address, and telephone number of each employer;

3. The renewal fee for the biennial period for which reactivation is sought, as set forth in N.J.A.C. 13:40-6.1 or, in the discretion of the Board, a prorated fee if there is less than one year remaining in the biennial renewal period; and

4. Evidence of having completed all continuing competency credits that were required to be completed during the biennial period immediately prior to the renewal period for which reactivation is sought, consistent with the requirements set forth in N.J.A.C. 13:40-12 or 13.

i. An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of professional engineering or professional land surveying and submits proof of having satisfied that state's continuing competency requirements for that license shall be deemed to have satisfied the requirements of this paragraph. If the other state does not have any continuing competency requirements, the requirements of this paragraph shall apply.

ii. To the extent that specific courses are required to satisfy the continuing competency requirement for, or are required to have been satisfied prior to, the biennial period for which reactivation is sought, the [page=50] Board will allow applicants to take the courses within 12 months following reactivation. If the Board concludes, in accordance with (b) below, that there are practice deficiencies in need of remediation, (b) below shall apply.

(b) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Board may require the applicant to submit to and successfully pass an examination or an assessment of skills, a refresher course, or other requirements as determined by the Board prior to reactivation of licensure to take and successfully

complete any education or training or to submit to any supervision, monitoring, or limitations as the Board determines is necessary to assure that the applicant practices with reasonable skill and safety. The Board, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:

1. Length of time license was inactive;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any licensing body;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of professional engineering, land surveying, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdictions;
6. Pending proceedings against a professional or occupational license issued to the licensee by a professional licensing body in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to the practice of professional engineering, land surveying, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:40-2.10 Reinstatement of suspended license

(a) A licensee who has had his or her license suspended pursuant to N.J.A.C. 13:40-2.8 may apply to the Board for reinstatement. A licensee applying for reinstatement shall submit:

1. A reinstatement application;
2. A certification of employment listing each job held during the period of suspended license, which includes the names, addresses, and telephone numbers of each employer;
3. The renewal fee for the biennial period for which reinstatement is sought;

4. The unpaid renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;

5. The reinstatement fee set forth in N.J.A.C. 13:40-6.1; and

6. Evidence of having completed all continuing competency credits that were required to be completed during the biennial period immediately prior to the renewal period for which reinstatement is sought, consistent with the requirements set forth in N.J.A.C. 13:40-12 or 13.

i. An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of professional engineering or professional land surveying and submits proof of having satisfied that state's continuing competency requirements for that license, shall be deemed to have satisfied the requirements of this paragraph. If the other state does not have any continuing competency requirements, the requirements of this paragraph shall apply.

ii. To the extent that specific courses are required to satisfy the continuing competency requirement for, or are required to have been satisfied prior to, the biennial period for which reinstatement is sought, the Board will allow applicants to take the courses within 12 months following reinstatement. If the Board concludes, in accordance with (b) below, that there are practice deficiencies in need of remediation, (b) below shall apply.

(b) If a Board review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Board may require the applicant to submit to, and successfully pass, an examination or an assessment of skills, a refresher course, or other requirements, as determined by the Board, prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Board may require the applicant as a condition of reinstatement of licensure to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations, as the Board determines is necessary to assure that the applicant practices with reasonable skill and safety. The Board, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Board following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Board shall consider the following non-exhaustive issues:

1. Length of time license was suspended;

2. Employment history;

3. Professional history;

4. Disciplinary history and any action taken against the applicant's license by any licensing body;

5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of professional engineering, land surveying, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;

6. Pending proceedings against a professional or occupational license issued to the licensee by a professional licensing body in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and

7. Civil litigation related to the practice of professional engineering, land surveying, or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:40-2.11 Licensure by comity

(a) Upon receipt of a completed application and application fee, the Board shall issue a license to any person who documents that the person holds a valid, current corresponding license in good standing by another state, if:

1. The Board determines the state that issued the license has, or had at the time of issuance, education, training, and examination requirements for licensure substantially equivalent to current Board standards.

i. "Substantially equivalent" examination need not be identical to the current examination requirements for professional engineers or land surveyors licensed in New Jersey but such examination shall be nationally recognized and of comparable scope and rigor.

ii. An applicant's experience may be considered by the Board to compensate for disparity in substantial equivalence in education and examination requirements. However, the applicant must have either an undergraduate or graduate degree in engineering, engineering technology, or land surveying;

2. The applicant practiced as a professional engineer or professional land surveyor or the equivalent in another state within five years prior to the date of the application; and

3. The requirements of (b) below have been satisfied.

(b) Prior to issuing a license, the Board shall have received or obtained the following:

1. Documentation reasonably satisfactory to the Board demonstrating the applicant's license from each state in which the applicant is licensed is in good standing.

i. "Good standing" means the following:

(1) No action has been taken against the applicant's license by any licensing board;

(2) No action adversely affecting the applicant's privileges to practice as a professional engineer or professional land surveyor has been taken by any out-of-State institution, organization, or employer;

(3) No disciplinary proceeding is pending that could affect the applicant's privileges to practice professional engineering or professional land surveying;

(4) All fines levied by any out-of-state board have been paid; and

(5) There is no pending or final action by any criminal authority for violation of law, rule, or regulation, or any arrest or conviction for any criminal or quasi-criminal offense under the laws of the United States, this [page=51] State, or any other state, including, but not limited to: criminal homicide; aggravated assault; sexual assault, criminal sexual contact, or lewdness; or an offense involving any controlled dangerous substance or controlled dangerous substance analog; and

2. Designation of an agent in New Jersey for service of process, if the applicant does not reside nor have an office in this State.

(c) If the education and examination requirements in the state in which the applicant is licensed are not substantially equivalent to the Board's current standards as required in (a) above, the Board shall consider an applicant's individual experience to compensate for such disparity. In making a determination whether an applicant's experience would compensate for such disparity in substantial equivalence in education or examination, the Board shall consider the following:

1. The applicant's length of experience;

2. Whether the experience was supervised by another individual;

3. The applicant's professional engineering or professional land surveying history;

4. The applicant's employment history; and

5. The applicant's education.

(d) An applicant shall satisfy, or shall have satisfied, all applicable prerequisites required for initial licensure in this State.

(e) Not later than six months after the issuance of a license, an applicant shall provide the Board with evidence reasonably satisfactory to the Board verifying an applicant's education, training, and examination results. An applicant may satisfy the requirement for verification of education, examination, and experience by submitting to the Board an NCEES record as proof.

(f) The Board, after the licensee has been given notice and an opportunity to be heard, may revoke any license based on a license issued by another state obtained through fraud, deception, or misrepresentation.

(g) The Board may grant a license to an applicant seeking reciprocity who holds a license from another state who does not meet the good standing requirements of (a) above due to a pending action by a licensing board; a pending action by an out-of-State institution, organization, or employer affecting the applicant's privileges to practice, a pending disciplinary proceeding; or a pending criminal charge or arrest for a crime, provided the alleged conduct of the applicant that is the subject of the action, proceeding, charge, or arrest, assuming it is true, does not demonstrate a serious inability to practice professional engineering or professional land surveying; adversely affect public health, safety, and welfare; or result in economic or physical harm to a person; or create a significant threat of such harm.

SUBCHAPTER 3. PROHIBITED ACTIONS; EXEMPTIONS; STANDARDS OF PRACTICE; MISCONDUCT

13:40-3.1 Prohibited actions; issuance and display of certificate; advertising

(a) - (h) (No change.)

13:40-3.4 Release of project records

(a) As used in this section, the term "records" whether electronic, digital, or in written form, shall include, but not be limited to, any plans, reports, documents, field notes, computer-aided drafting files, or other items of work product generated for an engineering or land surveying project as contractually defined, which would be reasonably necessary to the completion of the project for which the professional engineer or professional land surveyor was originally retained.

(b) - (d) (No change.)

13:40-3.5 Enumeration of prohibited acts

(a) Misconduct in the practice of professional engineering or professional land surveying shall include, without limitation:

1.-3. (No change.)

4. Engaging in any activity that involves him or her in a conflict of interest, including without limitation:

i. A licensee shall inform his or her client or employer of any business connection, interest, or circumstance that might be deemed as influencing his or her judgment or the quality of his or her services to the client or employer.

ii. When in public service as a member, advisor, or employee of a governmental agency, a licensee shall not participate in the deliberations or actions of such agency with respect to services rendered, or to be rendered, by the licensee or any firm or organization with which he or she is associated in private practice.

iii. A licensee shall not solicit or accept a professional contract from a governmental agency upon which a principal, officer, or employee of his or her firm or organization serves as a member, advisor, or employee.

iv. (No change.)

v. A licensee shall not accept compensation or remuneration, financial or otherwise, from service, material, or equipment suppliers for specifying their services or products.

vi. A licensee shall not compensate or remunerate, financially or otherwise, any party for specifying that licensee's services to the exclusion of other licensees.

vii. (No change in text.)

5.-14. (No change.)

SUBCHAPTER 5. PROFESSIONAL LAND SURVEYORS; PREPARATION OF LAND SURVEYS

13:40-5.1 Professional land surveyors; preparation of land surveys

(a) (No change.)

(b) Prior to conducting a survey, the licensed professional land surveyor shall obtain all pertinent information and documentation in

the client's possession relative to the property to be surveyed. Such information may include, but not be limited to, earlier surveys, record deeds, title reports, original tract maps, public records, and State, county, or municipal maps. When such information provided is not sufficient to meet the owner's needs, the surveyor shall make all reasonable efforts to obtain all information and documentation needed to render an accurate survey, but shall not rely on a tax map for purposes of defining metes and bounds.

(c) (No change.)

(d) Appropriate corner markers, such as stakes, iron pipes, cut crosses, monuments, and such other markers as may be authorized under (d)2 below, shall be set either by the licensed professional land surveyor or under the supervision of the licensed professional land surveyor. Such markers shall be set at each property corner not previously marked by a property marker, unless the actual corner is not accessible, or unless a written waiver signed by the ultimate user and witnessed by a person other than a professional land surveyor is obtained as set forth in N.J.A.C. 13:40-5.2. The failure to obtain a waiver when corner markers are not set shall be considered professional misconduct. Any violation of this subsection shall subject the licensee to a penalty of not more than \$ 2,500 for each violation.

1.-3. (No change)

4. In all cases listed in (d)2 above, the marker shall be identified with a durable cap, disc, shiner, or other appropriate identifier, bearing the full name of the surveyor or firm responsible for setting the corner.

5.-6. (No change.)

7. Monuments, where required to be set pursuant to the "Recordation Act" at N.J.S.A. 46:26B-3, shall be:

i.-ii. (No change.)

iii. Identified with a durable cap, disc, or shiner bearing the full name of the surveyor or firm responsible for setting the monument.

8.-10. (No change.)

(e) (No change.)

(f) The items that must always be shown are:

1.-6. (No change.)

7. Street and street names and location and widths of the traveling way, when such streets abut or adjoin the property in question. If the street is not open, the survey should so indicate;

8.-10. (No change.)

(g) Notwithstanding any other provisions of this subchapter to the contrary, the following items may be omitted where contractual agreements with the client so provide:

1.-5. (No change.)

[page=52] 6. Metes and bounds description of the property, except when the survey is being prepared for the purpose of conveyance of real property (title transfer, creation of easement, or mortgage).

(h) (No change.)

(i) Upon completing the plat or plan of survey, the licensed professional land surveyor shall provide the client an agreed upon number of prints of the survey drawing. Such print copies of the plat or plan of survey shall bear the signature and impression seal of the license professional land surveyor. Certification by the licensed professional land surveyor may be given when requested by the client.

1. The licensed professional land surveyor shall also supply a description of the property surveyed when the survey is to be used for conveyancing (title transfer, creation of easement, or mortgage). This description must be suitable for use in a deed. The description shall be by metes and bounds or by reference to a filed plan, block, and lot. If a filed plan, block, and lot is utilized, the entire title of the filed plan shall be set forth along with, the filed plan number and the date on which the plan was recorded in the office of the County Recording Officer. If there is any deviation from the filed plan to the completed survey, a description by filed plan, block, and lot, shall not be utilized. The deed description shall be consistent with both the survey provided and the documentation upon which the survey was based and shall be written in such a manner as to define the boundary lines of real property unambiguous and sufficient for a surveyor to lay it out on the ground. This description may be reproduced on the survey plat itself or may be by separate document. If the deed description is provided on the survey plat, it must be titled "Deed Description." If a separate document is provided, the description shall be signed and sealed by the licensed professional land surveyor responsible for its preparation.

2. (No change.)

(j) (No change.)

(k) Tax assessment maps for submission to and approval by the New Jersey Division of Taxation must be prepared and revised by a licensed professional land surveyor, who is obligated to prepare and revise such maps in full compliance with the legal requirements pertaining to such maps.

(l) (No change.)

(m) Subdivision plats, whether classified as major or minor, preliminary or final, shall be prepared by a licensed professional land surveyor and shall be based on a new or existing current and accurate survey of the property being subdivided.

1. The licensee shall provide appropriate survey information, including monumentation, as set forth above, to permit a subsequent licensed professional land surveyor to accurately lay out newly described lots.

2. (No change.)

3. In all instances, including where deeds are used to record minor subdivisions and/or where an existing plat or plan of survey is used, only the licensee who prepared the boundary map on which the subdivision is based may provide the certification on the subdivision plat that the boundary survey is accurate and was prepared under his or her supervision, as required by the Recordation Act, N.J.S.A. 46:26A, 26B, and 26C, and in accordance with N.J.A.C. 13:40-9, Responsible Charge of Engineering or Land Surveying Work.

(n) Maps prepared to show hydrographic, bathymetric, topographic data, or planimetric data shall be prepared by a licensed professional land surveyor and shall identify the vertical datum and include reference to a benchmark on the site. Such survey information may be transferred to construction plans or other drawings if duly noted as to the date of the survey, by whom, and for whom it was prepared.

(o) Existing flood elevations shall only be certified by a professional land surveyor.

SUBCHAPTER 8. SEALING AND TITLE BLOCK REQUIREMENTS FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

13:40-8.1A Digital signatures and seals

(a) A digital signature and seal shall carry the same weight, authority, and effect as a handwritten signature and impression-type seal, when the following criteria are met:

1. The digital signing and sealing process satisfies the requirements of the Digital Signature Standard (DSS) established by the National Institute of Standards and Technology, FIPS PUB 186-4, Digital Signature Algorithm Validation System, (2013), which is incorporated herein by reference, as amended and supplemented. This standard may be obtained at the following website: <http://www.NIST.gov/>. The digital signature and seal must be:

i. (No change.)

ii. Verifiable by a trusted third party or some other approved process as belonging to the licensee; and

iii. Under the licensee's direct and exclusive control; or

2. A digital signature and seal must be linked to a document in such a manner that it is evident if the document has been modified after the digital signature and seal have been applied.

(b) A licensee who digitally signs and seals a document shall maintain an electronic copy of the electronically transmitted document that has also been digitally signed and sealed for future verification purposes in accordance with N.J.A.C. 13:40-3.4(b).

(c)-(d) (No change.)

13:40-8.2 Title block on drawings; forms; removal

(a)-(e) (No change.)

(f) A licensee shall not place his or her title block on any drawing, report, or other document that contains a title block of an individual, firm, or corporation that is not authorized to practice professional engineering or professional land surveying in the State.

SUBCHAPTER 9. RESPONSIBLE CHARGE OF ENGINEERING OR LAND SURVEYOR WORK

13:40-9.1 Professional engineers: supervision of subordinates; maintaining records of adequate supervision; acts reflecting inadequate supervision

(a) A licensee in responsible charge of an engineering project shall be a competent professional engineer who provides regular and effective supervision through personal direction to, and quality control over, the efforts of subordinates of the licensee that directly and materially affect the quality and competence of engineering work rendered by the licensee.

(b) A licensee shall maintain such records as are reasonably necessary to establish that the licensee provided regular and effective supervision by personally directing, and having quality control over, the efforts of subordinates of the licensee of which he or she was in responsible charge.

(c) A licensee engaged in any of the following acts or practices shall be deemed not to have rendered the regular and effective supervision required if:

1. (No change in text.)

2. The rendering of a limited, cursory, or perfunctory review of plans or projects in lieu of providing sufficient direction to, and quality control over, the efforts of subordinates of the licensee; and

3. (No change in text.)

13:40-9.2 Professional land surveyor: supervision of subordinates; maintaining records of adequate supervision; acts reflecting inadequate supervision

(a) A licensee in responsible charge of a land surveying project shall render regular and effective supervision to those individuals performing services that directly and materially affect the quality and competence of land surveying work rendered by the licensee.

(b) A licensee shall maintain such records as are reasonably necessary to establish that the licensee exercised regular and effective supervision of a land surveying project of which he or she was in responsible charge.

[page=53] (c) A licensee engaged in any of the following acts or practices shall be deemed not to have rendered the regular and effective supervision required if:

1. The regular and continuous absence from principal office premises from which professional services are rendered; except for performance of field work or presence in a field office maintained exclusively for a specific project;

2. The failure to personally inspect or review the work of subordinates where necessary and appropriate;

3. The rendering of a limited, cursory, or perfunctory review of plans or projects in lieu of an appropriate detailed review; and

4. The failure to personally be available, on a reasonable basis or with adequate advance notice, for consultation and inspection, where circumstances require personal availability.

SUBCHAPTER 10. CERTIFICATES OF AUTHORIZATION

13:40-10.1 Issuance of certificates of authorization

(a) - (c) (No change.)

(d) The LLC or corporation that has been issued a certificate of authorization and its licensees who are in responsible charge of the professional engineering and/or professional land surveying activities and decisions of the LLC or corporation have a continuing duty to inform the Board within 30 days of any change in the information that was provided to the Board as required pursuant to (b) above, including a copy of each annual report filed with the Division of Revenue.

(e) - (f) (No change.)

SUBCHAPTER 11. LAND SURVEYORS; CONTINUING COMPETENCY

13:40-11.3 Credit-hour requirements; dual licensees

(a) - (c) (No change.)

(d) Each person who is licensed as both a professional engineer and a professional land surveyor shall have completed at least 27 CPC credits relating to the practices of professional engineering and professional land surveying. At least 12 of the required 27 credits shall have been completed in professional land surveying, and at least 12 credits shall have been completed in professional engineering, of which two shall have been in professional practice ethics. The remaining three credits may have been completed in either professional engineering or professional land surveying.

SUBCHAPTER 12. RETIRED LICENSE AND NO-FEE RETIRED LICENSE STATUS

13:40-12.2 Retired licensee: application; entitlement

(a) - (b) (No change.)

(c) Each retired licensee shall be entitled to the following:

1. A retired licensee when using the titles "Professional Engineer" or "Professional Land Surveyor" or any substantial equivalent shall use the designation "Retired" following his or her name;

2.-4. (No change.)

(d) (No change.)

SUBCHAPTER 15. HOME INSPECTION ADVISORY COMMITTEE

13:40-15.1 Purpose; scope; applicability

(a)-(c) (No change.)

(d) This subchapter shall not apply to:

1.-6. (No change.)

7. Any person performing home inspections in the presence of and under the direct supervision of a licensee for the purpose of meeting the training requirements of N.J.A.C. 13:40-15.6(a)4.

13:40-15.2 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Additional inspection services" does not encompass repairs or improvements. "Additional inspection services" means:

1. Tests performed by a licensee that are not part of a home inspection but which, in the opinion of the licensee, are warranted or which the client requests. Such tests include, but are not limited to, radon, asbestos, lead paint, carbon monoxide, or urea-formaldehyde testing. Such testing may be performed providing the licensee has the relevant experience, education, training, and/or licensing, and/or certification to perform such additional tests as set forth in N.J.A.C. 13:40-15.22;

2. Inspecting systems and components that the licensee is not required to inspect, but is not prohibited from inspecting, pursuant to the standards of practice, N.J.A.C. 13:40-15.16;

3.-4. (No change.)

...

"Client" means any current or prospective homeowner who engages, or seeks to engage, the services of a licensee for the purpose of obtaining an inspection of, and written report regarding, the condition of a residential building.

"Client's representative" means an attorney licensed in the State of New Jersey who has been retained by the client and identified to the licensee in writing. For the purposes of this subchapter, a real estate broker or agent is not the client's representative.

...

"Direct supervision" means that a licensee is physically present at, and monitors, the entire home inspection and prepares and signs the home inspection report.

...

"Home inspection report" means a written report prepared for a fee or any other consideration by a licensee, which:

1.-5. (No change.)

"Home inspection training report" means a written report prepared by a trainee pursuant to N.J.A.C. 13:40-15.6(a)4, which:

1.-5. (No changes.)

"Home inspector" means any person licensed as a home inspector pursuant to N.J.S.A. 45:8-61 et seq., and this subchapter who practices as a home inspector and inspects the condition of a residential building on behalf of a client for which the client is charged a fee.

...

13:40-15.6 Requirements for initial licensure as ***a*** home inspector

(a) An applicant for licensure as a home inspector shall complete and submit to the Committee an application that will require information that the applicant:

1.-6. (No change.)

7. Has passed the ***National*** Home Inspector Examination, administered by the Examination Board of Professional Home Inspectors (EBPHI); and

8. (No change.)

13:40-15.8 Insurance requirement

(a) All licensees engaged in the profession of home inspection shall maintain an errors and omissions insurance policy in the minimum amount of \$ 500,000 per occurrence and file proof of the policy with the Committee.

(b) (No change.)

(c) Both the licensee and the insurance company shall provide written notification to the Committee at least 10 days prior to the discontinuation of the errors and omissions policy.

13:40-15.9 Identification cards

(a) All licensees shall, during the performance of a home inspection, carry an identification card issued by the Committee. The identification card shall contain the name, photograph, license number, and signature of the person to whom the identification card has been issued.

(b) (No change.)

13:40-15.10 License renewal

(a) The Committee shall send a notice of renewal to each licensee, at least 60 days prior to the expiration of the licensee. The notice of renewal shall explain inactive renewal and advise the licensee of the option to renew as inactive. If the notice to renew is not sent 60 days prior to the expiration date, no monetary penalties or fines shall apply to the holder for failure to renew, provided that the licensee is renewed within 60 days [page=54] from the date the notice is sent or within 30 days following the date of license expiration, whichever is later.

(b) A licensee shall renew his or her license for a period of two years from the last expiration date. The licensee shall submit a renewal application to the Committee, along with the renewal fee set forth in N.J.A.C. 13:40-15.22, prior to the date of license expiration.

(c) A licensee may renew his or her license by choosing inactive status. A licensee electing to renew his or her license as inactive shall not engage in the practice of home inspecting, or hold themselves out as eligible to engage in the practice of home inspecting, in New Jersey, until such time as the license is returned to active status.

(d) If a licensee does not renew the license prior to its expiration date, the licensee may renew the license within 30 days of its expiration by submitting a renewal application, a renewal fee, and a late fee as set forth in N.J.A.C. 13:40-15.23. During this 30-day period, the license shall be valid and the licensee shall not be deemed practicing without a license.

(e) A licensee who fails to submit a renewal application within 30 days of license expiration shall have his or her license suspended without a hearing.

(f) A licensee who continues to engage in the practice of home inspecting with a suspended license shall be deemed to be engaging in the unauthorized practice of home inspecting and shall be subject to action consistent with N.J.S.A. 45:1-14 et seq., even if no notice of suspension has been provided to the individual.

13:40-15.11 Change of license status: inactive to active

(a) A licensee who holds an inactive license pursuant to N.J.A.C. 13:40-15.10(c) may apply to the Committee for reactivation of the inactive license. A licensee seeking reactivation of an inactive license shall submit:

1. A renewal application;

2. A certification of employment, listing each job held during the period the license was inactive, which shall include the names, addresses, and telephone numbers of each employer;

3. The renewal fee for the biennial period for which reactivation is sought as set forth in N.J.A.C. 13:40-15.22 or, in the discretion of the Committee, a prorated fee, if there is less than one year remaining in the biennial renewal period; and

4. Evidence of having completed all continuing education credits that were required to be completed during the biennial period immediately prior to the renewal period for which reactivation is sought, consistent with the requirements set forth in N.J.A.C. 13:40-15.14.

i. An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of home inspecting and submits proof of having satisfied that state's continuing education requirements for that license shall be deemed to have satisfied the requirements of (a)4 above. If the other state does not have any continuing education requirements, the requirements of (a)4 above shall apply.

ii. To the extent that specific courses are required to satisfy the continuing education requirement for, or are required to have been satisfied prior to, the biennial period for which reactivation is sought, the Committee will allow applicants to take the courses within 12 months following reactivation. If the Committee concludes, in accordance with (b) below, that there are practice deficiencies in need of remediation, (b) below shall apply.

(b) If a Committee review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reactivation, the Committee may require the applicant to submit to, and successfully pass, an examination or an assessment of skills, a refresher course, or other requirements as determined by the Committee prior to reactivation of the license. If that examination or assessment identifies deficiencies or educational needs, the Committee may require the applicant, as a condition of reactivation of licensure, to take and successfully complete any

education or training or to submit to any supervision, monitoring, or limitations as the Committee determines is necessary to assure that the applicant practices with reasonable skill and safety. The Committee, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Committee following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Committee shall consider the following non-exhaustive issues:

1. Length of time license was inactive;
2. Employment history;
3. Professional history;
4. Disciplinary history and any action taken against the applicant's license by any licensing body;
5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of home inspecting or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;
6. Pending proceedings against a professional or occupational license issued to the licensee by a professional licensing body in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and
7. Civil litigation related to the practice of home inspecting or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:40-15.12 Reinstatement of suspended license

(a) A licensee who has had his or her license suspended pursuant to N.J.A.C. 13:40-15.10(e) may apply to the Committee for reinstatement. A licensee applying for reinstatement shall submit:

1. A reinstatement application;
2. A certification of employment listing each job held during the period of suspended license, which includes the names, addresses, and telephone numbers of each employer;
3. The renewal fee for the biennial period for which reinstatement is sought;

4. The past due renewal fee for the biennial period immediately preceding the renewal period for which reinstatement is sought;

5. The reinstatement fee set forth in N.J.A.C. 13:40-15.22; and

6. Evidence of having completed all continuing education credits that were required to be completed during the biennial period immediately prior to the renewal period for which reinstatement is sought, consistent with the requirements set forth in N.J.A.C. 13:40-15.14.

i. An applicant who holds a valid, current license in good standing issued by another state to engage in the practice of home inspecting and submits proof of having satisfied that state's continuing education requirements for that license, shall be deemed to have satisfied the requirements of (a)6 above. If the other state does not have any continuing education requirements, the requirements of (a)6 above shall apply.

ii. To the extent that specific courses are required to satisfy the continuing education requirements for, or are required to have been satisfied prior to, the biennial period for which reinstatement is sought, the Committee will allow applicants to take the courses within 12 months following reinstatement. If the Committee concludes, in accordance with (b) below, that there are practice deficiencies in need of remediation, (b) below shall apply.

(b) If a Committee review of an application establishes a basis for concluding that there may be practice deficiencies in need of remediation prior to reinstatement, the Committee may require the applicant to submit to, and successfully pass, an examination or an assessment of skills, a refresher course, or other requirements as determined by the Committee prior to reinstatement of the license. If that examination or assessment identifies deficiencies or educational needs, the Committee may require the applicant, as a condition of reinstatement of licensure, to take and successfully complete any education or training or to submit to any supervision, monitoring, or limitations, as the Committee determines is necessary, to assure that the applicant practices with reasonable skill and safety. The Committee, in its discretion, may restore the license subject to the applicant's completion of the training within a period of time prescribed by the Committee following the restoration of the license. In making its determination whether there are practice deficiencies requiring remediation, the Committee shall consider the following non-exhaustive issues:

1. Length of time license was suspended;

2. Employment history;

3. Professional history;

4. Disciplinary history and any action taken against the applicant's license by any licensing body;

[page=55] 5. Actions affecting the applicant's privileges taken by any institution, organization, or employer related to the practice of home inspecting or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction;

6. Pending proceedings against a professional or occupational license issued to the licensee by a professional licensing body in New Jersey, any other state, the District of Columbia, or in any other jurisdiction; and

7. Civil litigation related to the practice of home inspecting or other professional or occupational practice in New Jersey, any other state, the District of Columbia, or in any other jurisdiction.

13:40-15.13 Change of address provision; service of process

(a) A licensee shall notify the Committee in writing of any change of address from that registered with the Committee and shown on the most recently issued certificate. Such notice shall be sent to the Committee by *[e-mail] *email*, facsimile, or certified mail, return receipt requested, not later than 30 days following the change of address. Failure to notify the Committee of any change of address may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).

(b) - (c) (No change.)

13:40-15.14 Continuing education requirements

(a) Pursuant to N.J.S.A. 45:8-78, a licensee shall complete 40 continuing education units each biennial licensure renewal period, consistent with the following:

1. Four units shall be on report writing and four units shall be on ethics and the rules governing the practice of home inspection in New Jersey. These eight units shall be taken in-person through a Committee-approved continuing education program or course.

(b) A person receiving initial licensure as a home inspector shall complete continuing education requirements prorated as follows:

1. Any person receiving initial licensure as a home inspector in the first year of a biennial licensure renewal period shall complete a minimum of 40 continuing education units before the end of that biennial renewal period consistent with the requirements of (a) above;

2. Any person receiving initial licensure as a home inspector in the second year of a biennial licensure renewal period shall complete a minimum of 20 continuing education units before the end of that biennial licensure renewal period, four units of which shall be on report writing and four units of which shall be on ethics and the rules governing the practice of home inspection. These eight units of required continuing education must be taken in-person through a Committee-approved continuing education program or course.

3. Any person receiving initial licensure as a home inspector within 90 days of the next biennial licensure renewal period shall not be required to fulfill the continuing education requirements of the current renewal period.

(c) A licensee who completes more than the 40 minimum continuing education units during a biennial licensure renewal period may carry over no more than 10 of the additional units into the succeeding biennial period, but only if the units were earned in the last six months of the preceding biennial period.

(d) Any continuing education units completed by the licensee in compliance with an order or directive from the Committee as set forth in (k) below may not be used to satisfy the minimum continuing education requirements as set forth in this section.

(e) A licensee may obtain continuing education units from the following:

1. Successful completion of continuing education courses or programs approved by the Committee pursuant to (i) below. The Committee shall maintain a list of all approved programs, courses, and lecturers at the Board office and shall furnish this information to licensees upon request;

2. Developing curriculum for an approved program or course and/or teaching an approved program or course, provided the program or course is directly related to the practice of home inspection in the State of New Jersey;

3. Authorship of a textbook or manual directly related to the practice of home inspection in the State of New Jersey, provided the textbook or manual, as published, is at least 7,500 words in length;

4. Authorship of a published article related to the practice of home inspection in the State of New Jersey, provided the article, as published, is at least 250 words in length; and

5. Direct supervision of trainees during home inspections used for training purposes. To qualify for continuing education credit, a home

inspector affiliated with a New Jersey Department of Education-approved course shall conduct a home inspection used for training purposes. The inspection shall require at least one hour to complete and shall not be attended by more than one trainee.

(f) Credit for continuing education shall be granted as follows for each biennial licensure renewal period:

1. In-person attendance at continuing education programs approved by the Committee: one unit for each hour of attendance at an approved course. Credit shall not be granted for courses that are less than one instructional hour long. Completion of an entire course or segment of course instruction shall be required in order to receive any continuing education units.

2. In-person attendance at a course approved by the Committee: one unit for each hour of attendance at an approved course. Credit shall not be granted for courses that are less than one instructional hour long. Completion of an entire course or segment of course instruction is required in order to receive any continuing education units.

3. Successful completion of correspondence, Internet, or other distance learning courses approved by the Committee: one continuing education unit per hour of course instruction as determined by the Committee to a maximum of 32 units per biennial renewal period;

4. Development of curriculum pursuant to (e)2 above: one continuing education unit per hour of program or course instruction to a maximum of 16 units per biennial renewal period;

5. Authorship of a textbook or manual directly related to the practice of home inspection in the State of New Jersey, provided the textbook or manual, as published, is at least 7,500 words in length;

6. Authorship of a published article related to the practice of home inspection in the State of New Jersey, provided the article, as published, is at least 250 words in length; and

7. Direct supervision of trainees during training home inspections pursuant to (c)5 above: one continuing education unit per home inspection used for training purposes to a maximum of 16 units per biennial renewal period.

(g) The Committee shall perform audits of randomly selected licensees to determine compliance with continuing education requirements. A licensee shall maintain the following documentation for a period of five years after completion of the continuing education units and shall submit such documentation to the Committee upon request:

1. Certificate of completion from sponsor for attendance at courses or programs approved by the Committee;

2. The published item for publication of manual, textbook, or article;

3. Documentation, including copy of curriculum; location, date, and time of course; duration of course by hour; and letter from sponsor, confirming that the licensee developed or taught the course or program, including those for realtors and/or civic groups; and

4. Documentation, including the location, date, and time; duration; a list of participants; and copies of all completed home inspection training reports for each training home inspection directly supervised by the licensee.

(h) Waiver, extension, or other modification of the continuing education requirements may be granted as follows:

1. The Committee, upon receipt of a request for waiver, extension, or other modification received at least 90 days prior to license renewal, may waive, extend, or otherwise modify the continuing education requirements of this section on an individual basis for reasons of hardship, such as severe illness, disability, or military service; and

2. A licensee seeking a waiver, extension, or other modification of the continuing education requirements shall apply to the Committee in writing, which must be received at least 90 days prior to license renewal and set forth in specific detail the reasons for the request. The licensee shall provide the Committee with such supplemental materials as will support the request.

(i) All sponsors of continuing education courses or program shall:

[page=56] 1. Obtain Committee approval prior to representing that any course, seminar, or program fulfills the requirements of this section;

2. Submit for evaluation by the Committee, the following for each course, seminar, or program offered:

i. A detailed description of course content and estimated hours of instruction; and

ii. The curriculum vitae of each lecturer, including specific background that qualifies the individual as a lecturer of repute in the area of instruction;

3. Monitor the attendance at each approved course, seminar, or program and furnish to each enrollee a verification of attendance, which shall include at least the following information:

i. The title, date, and location of course, seminar, or program offering;

ii. The name and license number of attendee;

iii. The number of hours attended; and

iv. The name and signature of the officer or responsible party;

4. Solicit course, seminar, or program evaluations from both the participants and the instructors; and

5. Submit a fee pursuant to N.J.A.C. 13:40-15.22 for each biennial period during which a course(s), seminar(s), or program(s) is offered.

(j) The Committee shall approve only such continuing education courses and programs as are available and advertised on a reasonable nondiscriminatory basis to all persons practicing home inspecting in the State and are directly related to the practice of home inspection in the State of New Jersey.

(k) The Committee may direct or order a licensee to complete continuing education units:

1. As part of a disciplinary or remedial measure; or

2. To correct a deficiency in the licensee's continuing education requirements.

13:40-15.15 Pre-inspection agreements

(a) A licensee shall send a pre-inspection agreement to a client or client's representative, by mail, facsimile, *[e-mail] ***email***, or other means of delivery, no later than one business day after the appointment for the home inspection is made. The pre-inspection agreement shall be executed prior to the start of the home inspection. The pre-inspection agreement shall contain, at a minimum, the following information:

1.-8. (No change.)

(b) (No change.)

(c) The pre-inspection agreement shall indicate whether the licensee will return at a later date to inspect any systems or components that are not inspected because of unforeseen circumstances or weather conditions at the initial home inspection and whether any additional fee will be charged for such subsequent inspection, and the amount of such fee, if any.

(d) A pre-inspection agreement shall be retained for a period of five years once the agreement has been finalized by the licensee and client and/or client representative.

13:40-15.16 Standards of practice

(a) All licensees shall comply with the standards of practice contained in this section when conducting home inspections. The scope of home inspection services performed in compliance with the standards set forth in this section shall provide the client with objective information regarding the condition of the systems and components of the home as determined at the time of the home inspection.

(b) Nothing in this section shall be construed to require a licensee to:

1. Enter any area or perform any procedure that is, in the opinion of the licensee, unsafe and likely to be dangerous to the inspector or other persons;

2. Enter any area or perform any procedure that will, in the opinion of the licensee, likely damage the property or its systems or components;

3.-13. (No change.)

14. Identify the presence of, or determine the effectiveness of, any system installed or method utilized to control or remove suspected hazardous substances;

15.-20. (No change.)

21. Inspect, identify, or disclose ancillary electrical devices and/or systems, such as, but not limited to, Arc Fault Circuit Interrupters (AFCIs), standby generators, and photovoltaic (solar) panels;

Recodify existing 21.-22. as 22.-23. (No change in text.)

(c) Licensees shall:

1. (No change.)

2. Prepare a home inspection report, which shall:

i. (No change.)

ii. Disclose systems and components as set forth in (c)1 above that were present at the time of the home inspection, but were not inspected, and the reason(s) they were not inspected:

(1) If a system and/or component was present at the time of inspection, but not inspected at the request of the client or because the system or component could not be observed, the report must note this.

iii. Describe the systems and components specified in (c)1 above;

iv. State material defects found in systems or components specified in (c)1 above;

v. (No change.)

vi. Provide recommendations where material defects were found to repair, replace, or monitor a system or component specified in (c)1 above or to obtain examination and analysis by a qualified professional, tradesman, or service technician without determining the methods, materials, or cost of corrections; and

3. (No change.)

(d) Subsection (c) above is not intended to limit licensees from:

1. Inspecting or reporting observations and conditions observed in systems and components in addition to those required in (c)1 above and inspecting systems and components other than those mandated for inspection in (c)1 above, as long as the inspection and reporting is based on the licensee's professional opinion, prior work experience, education, and training, unless these standards of practice prohibit the licensee from inspecting such systems or components.

2. Contracting with the client to provide, for an additional fee, additional inspection services provided the licensee is educated, trained, certified, registered, or licensed, pursuant to the provisions of N.J.A.C. 13:40-15.21 and other applicable statutes and rules; and

3. Excluding systems and components from the inspection pursuant to N.J.A.C. 13:40-15.15(b) and (c)2ii above.

(e) When conducting the inspection of the structural components, the licensee shall:

1.-4. (No change.)

(f) When conducting the inspection of the exterior components, a licensee shall:

1.-2. (No change.)

(g) When inspecting the roof of a residential building, the licensee shall:

1. (No change.)

2. Describe:

i. (No change.)

ii. Deficiencies of the roof drainage systems;

iii. Deficiencies in the flashing;

iv.-v. (No change.)

3. Employ reasonable, practicable, and safe methods to inspect the roof, such as:

i. (No change.)

ii. Observation from a ladder at roof level;

iii. Visual examination with binoculars from ground level; or

iv. Through the use of a drone or similar unmanned aircraft systems (consistent with applicable State or Federal laws, rules, and regulations on licensure or certification requirements for the commercial use of drones or similar unmanned aircraft systems); and

4. (No change.)

(h) When inspecting the plumbing system, a licensee shall:

1. (No change.)

2. Describe:

i. Predominant interior water supply and distribution piping materials, including the presence of lead water service and/or supply piping;

ii.-iii. (No change.)

(i) When inspecting the electrical system, a licensee shall:

1.-2. (No change.)

(j) When inspecting the heating system, a licensee shall:

1.-2. (No change.)

(k) When inspecting the cooling system, a licensee shall:

[page=57] 1.-2. (No change.)

(l) When inspecting the interior of a residential building, a licensee shall:

1. (No change.)

(m) When inspecting the insulation components and ventilation system of a residential building, the licensee shall:

1.-2. (No change.)

(n) When inspecting fireplaces and solid fuel burning appliances, a licensee shall:

1.-2. (No change.)

13:40-15.17 Mandatory tools and equipment

(a) All licensees shall, during the performance of a home inspection, be equipped with the following minimum tools and equipment:

1. (No change.)

2. A flashlight or other equivalent light source;

3.-8. (No change.)

9. Binoculars or equivalent magnification device;

10.-12. (No change.)

(b) This section is not intended to establish an exclusive list of tools and equipment to be used during the performance of a home inspection. Licensees may utilize any other tools or equipment that, in his or her professional judgment, he or she believes is necessary to adequately perform a home inspection.

13:40-15.18 Advertising; identification of licensee

(a) (No change.)

(b) All radio and television advertising by a licensee shall include the name and license number of the licensee.

(c) All advertising by a licensee, other than the advertising referred to in (b) above, shall include:

1. The name of the licensee;

2. The words "Home Inspector License Number" or "Home Inspector Lic. #," followed by the license number of the licensee, which may be either the entire "GI" number (for example, 24GI000xxx00 or 24GI00XXXX00) or

"GI" followed by the licensee's three- or four-digit license number (for example, GIxxx or GIxxxx); and

3. The business address of the licensee, including the street name and number. Post office box numbers shall not be used as a form of business address.

(d) (No change.)

(e) A licensee whose name, business address, or license number appears or is mentioned in any advertisement shall be presumed to have caused, permitted, or approved the advertising and shall be personally responsible for its content.

(f) All commercial vehicles used by a licensee shall be marked on both sides with the following information:

1. The name of the licensee in lettering at least one inch in height;

2. The words "Home Inspector License Number" or "Home Inspector Lic. #," followed by the license number of the licensee, which may be either the entire "GI" number (for example, 24GI000xxx00 or 24GI 00XXXX00) or "GI" followed by the licensee's three- or four-digit license number (for example, GIxxx or GIxxxx) in lettering at least one inch in height; and

3. (No change.)

(g) All business correspondence and stationery, such as letterhead, business cards, pre-inspection agreements, and home inspection reports, of a licensee shall display:

1. The name of the licensee;

2. The words "Home Inspector License Number" or "Home Inspector Lic. #," followed by the license number of the licensee, which may be either the entire "GI" number (for example, 24GI000xxx00 or 24GI00XXXX00) or "GI" followed by the licensee's three- or four-digit license number (for example, (GIxxx or GIxxxx); and

3. The business address of the licensee, including the street name and number. Post office box numbers shall not be used as a form of business address.

13:40-15.19 Prohibited practices

(a) It is a prohibited practice for a licensee to do any of the following:

1. Perform, or offer to perform, for an additional fee, any repairs, renovations, additions, or alterations to a structure on which the licensee or the licensee's company has prepared a home inspection report;

2.-5. (No change.)

6. Provide a copy of the home inspection report or disclose any information concerning the results of the inspection, including confidential client contact information, without the written approval of the client or the client's representative, except when the licensee discovers a health or safety condition that would not be readily detectable by the occupant or homeowner and which poses an imminent risk of injury;

7.-16. (No change.)

17. Fail to inspect the systems and components required by the standards of practice as set forth in N.J.A.C. 13:40-15.16 without a documented reason from the licensee explaining the exclusion of a system and/or component from an inspection;

18.-21. (No change.)

22. Pay or accept a finder's fee or referral fee to any person in connection with a home inspection; or

23. (No change.)

(b) (No change.)

13:40-15.20 Requirements for licensure as a home inspector by comity

(a) Upon receipt of a completed application and application fee, the Committee shall issue a license to any person who documents that the person holds a valid, current corresponding license in good standing by another state, if:

1. The Committee determines the state that issued the license has, or had at the time of issuance, education, training, and examination requirements for licensure substantially equivalent to the then-current Committee standards;

i. "Substantially equivalent" examination need not be identical to the current examination requirements for home inspectors licensed in New Jersey, but such examination shall be nationally recognized and of comparable scope and rigor ***to the National Home Inspector Examination, administered by the Examination Board of Professional Home Inspectors (EBPHI), as required for initial licensure pursuant to N.J.A.C. 13:40-15.6(a)7*.**

ii. An applicant's experience may be considered by the Committee to compensate for disparity in substantial equivalence in education and examination requirements;

2. The applicant practiced as a home inspector or the equivalent in another state within five years prior to the date of the application; and

3. The requirements of (b) below have been satisfied.

(b) Prior to issuing a license, the Committee shall have received, or obtained, the following:

1. Documentation, reasonably satisfactory to the Committee, demonstrating the applicant's license from each state in which the applicant is licensed is in good standing.

i. "Good standing" means the following:

(1) No action has been taken against the applicant's license by any licensing board;

(2) No action adversely affecting the applicant's privileges to practice as a home inspector has been taken by any out-of-State institution, organization, or employer;

(3) No disciplinary proceeding is pending that could affect the applicant's privileges to practice home inspection;

(4) All fines levied by any out-of-State board have been paid; and

(5) There is no pending or final action by any criminal authority for violation of law, rule, or regulation, or any arrest or conviction for any criminal or quasi-criminal offense under the laws of the United States, this State, or any other state, including, but not limited to: criminal homicide; aggravated assault; sexual assault, criminal sexual contact, or lewdness; or an offense involving any controlled dangerous substance or controlled dangerous substance analog; and

2. Designation of an agent in New Jersey for service of process if the applicant does not reside nor have an office in this State.

(c) If the education and examination requirements in the state in which the applicant is licensed are not substantially equivalent to the Committee's current standards as required in (a) above, the Committee will consider an applicant's individual experience to compensate for such [page=58] disparity. In making a determination whether an applicant's experience would compensate for such disparity in substantial equivalence in education or examination, the Committee shall consider the following:

1. Length of experience;
2. Whether the experience was supervised by another individual;
3. The applicant's home inspection history;
4. The applicant's employment history; and
5. The applicant's education.

(d) An applicant shall satisfy, or shall have satisfied, all applicable prerequisites required for initial licensure in this State.

(e) Not later than six months after the issuance of a license, an applicant shall provide the Committee with evidence, reasonably satisfactory to the Committee, verifying an applicant's education, training, and examination results.

(f) The Committee, after the licensee has been given notice and an opportunity to be heard, may revoke any license based on a license issued by another state obtained through fraud, deception, or misrepresentation.

(g) The Committee may grant a license to an applicant seeking reciprocity who holds a license from another state who does not meet the good standing requirement of (h) below due to a pending action by a licensing board; a pending action by an out-of-State institution, organization, or employer affecting the applicant's privileges to practice; a pending disciplinary proceeding; or a pending criminal charge or arrest for a crime, provided the alleged conduct of the applicant that is the subject of the action, proceeding, charge, or arrest, assuming it is true, does not demonstrate a serious inability to practice home inspection; adversely affect public health, safety, and welfare; or result in economic or physical harm to a person or create a significant threat of such harm.

13:40-15.21 Additional inspection services

(a) A licensee may perform inspection services in addition to those set forth at N.J.A.C. 13:40-15.16 if the licensee has the requisite experience, education, training, and/or required license or certification. Such additional services include, but are not limited to, the following:

1. Determining the presence of wood-destroying insects;
2. Determining the presence of rodents, pests, and/or insects (other than wood-destroying insects);
3. Determining the presence of asbestos;

4. Determining the presence of lead paint;
5. Determining the presence of radon;
6. Determining the presence of hazardous waste;
7. Inspecting wells, well pumps, water-storage related equipment, or sampling well water;
8. Inspecting private waste water disposal systems including on-site individual waste disposal systems, septic systems, and/or cesspools;
9. Inspecting installed or free-standing warning devices, including carbon monoxide detectors, flue gas, and other spillage detectors; and
10. Inspecting fire alarm systems, smoke detection systems, burglar alarms, and security equipment.

13:40-15.22 (No change in text.)

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