

**ADOPTED REGULATION OF THE
STATE CONTRACTORS' BOARD**

LCB File No. R014-02

Effective July 02, 2002

EXPLANATION – Matter in *italics* is new; matter in brackets ~~is omitted material~~ is material to be omitted.

AUTHORITY: §§1-27, NRS 233B.050 and 624.100.

Section 1. Chapter 624 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 21, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 21, inclusive, of this regulation and NAC 624.700 to 624.725, inclusive, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Complaint” means a document issued by the executive officer of the board to a respondent that includes a short and plain statement alleging a violation of a provision of this chapter or chapter 624 of NRS.*

Sec. 4. *“Contested case” has the meaning ascribed to it in NRS 233B.032.*

Sec. 5. *“Notice of hearing” means a document that includes the information required by NRS 233B.121.*

Sec. 6. *“Respondent” means a licensee or an applicant for a contractor’s license who is charged in a complaint with a violation of the provisions of this chapter or chapter 624 of NRS.*

Sec. 7. 1. The provisions of sections 2 to 21, inclusive, of this regulation and NAC 624.700 to 624.725, inclusive, govern practices in any contested case before the board and the board will liberally construe those provisions to determine all matters before the board in a just, speedy and economical manner.

2. The board may allow a deviation from the provisions of sections 2 to 21, inclusive, of this regulation and NAC 624.700 to 624.725, inclusive, if the board determines that the deviation would not have a material adverse effect on the substantial interests of the parties and good cause for the deviation exists. If the board allows such a deviation, it will include in the record the deviation and the reasons for the deviation.

Sec. 8. A written document shall be deemed received by the board if the document is:

1. Filed at the office of the board in Henderson, Nevada, or Reno, Nevada, and addressed to the executive officer of the board; or

2. Presented to the board at a hearing.

Sec. 9. 1. The board will:

(a) Set the date, time and place of a hearing for a contested case; and

(b) At least 21 days before the hearing, send a copy of the complaint and notice of hearing by certified mail, return receipt requested, to the respondent at the address on file with the board, or by personal service in the manner provided in NRS for service in civil actions. The complaint and notice of hearing may be included in the same document. A proof of service must be attached to the original of any document that is served by mail.

2. There is a rebuttable presumption that a complaint and notice of hearing has been received by a respondent 10 days after the date the complaint and notice of hearing is deposited with the United States Postal System.

3. An objection that any notice required by sections 2 to 21, inclusive, of this regulation and NAC 624.700 to 624.725, inclusive, was not provided in the manner set forth in those provisions will be deemed waived unless the objection is raised by the respondent before the introduction of any evidence into the record at a hearing of the board.

Sec. 10. 1. The executive officer of the board may add or dismiss a cause for disciplinary action against a respondent before the board holds a hearing on that cause of action.

2. The board may amend a complaint at any time. Notice of an amended complaint must be given in the same manner as a notice of an original complaint. The board will grant a continuance if an amendment materially alters the complaint in such a way that the respondent will be unable to prepare his case in a timely manner.

3. The executive officer of the board may withdraw a complaint at any time before the board holds a hearing on the complaint. After the hearing is commenced, only the board may withdraw a complaint.

Sec. 11. 1. A respondent or his representative may request a continuance of a hearing upon a showing of good cause. A request for a continuance must be submitted to the executive officer of the board in writing on a form prescribed by the board. The request must be received by the executive officer at least 10 days before the hearing.

2. A request for a continuance must specify the reasons constituting good cause for granting the continuance. A request for a continuance that is received less than 10 days before the hearing must indicate that the request is the result of an emergency which arose less than 10 days before the hearing.

3. The executive officer of the board may grant a continuance before a hearing is held.

The board may grant a continuance at any time after the hearing is commenced.

Sec. 12. *All papers submitted to the board by a party in a contested case must be typewritten on one side only, on white paper that is 8 1/2 by 11 inches in size. The first page of each document must include the names of the parties in the contested case and the number, if any, assigned to the case by the board.*

Sec. 13. *The board may consolidate two or more contested cases if the board determines that the issues are substantially similar and the interests of the parties will not be prejudiced by the consolidation. The presiding officer of the hearing will determine the order of procedure at a consolidated hearing.*

Sec. 14. 1. *A motion, unless made at a hearing, must be made in writing.*

2. A written motion must set forth the nature of the relief requested and the grounds for the relief.

3. A party who wishes to oppose a motion must serve and file a written response to the motion not later than 10 days after his receipt of the motion.

4. The moving party may serve and file a written reply only if an opposition to the motion has been served and filed.

5. The board may issue a decision on a motion without oral argument.

Sec. 15. 1. *A party may apply to the board for the issuance of a subpoena pursuant to NRS 624.170. An application for the issuance of a subpoena must:*

(a) Be submitted in writing;

(b) Include a statement of the facts that demonstrate the reasons why the subpoena is necessary; and

(c) Be received by the board at least 10 days before the hearing for which the subpoena is issued.

2. If the board issues a subpoena, the party who requests the subpoena shall:

- (a) Serve a copy of the subpoena on all other parties in the manner prescribed by Rule 45(c) of the Nevada Rules of Civil Procedure;
- (b) File proof of such service with the board; and
- (c) Pay the costs related to the issuance and service of the subpoena. The board may require payment of the costs before the issuance of the subpoena.

Sec. 16. 1. Any party who appears at a hearing may represent himself or may be represented by an attorney licensed to practice law in this state.

2. Each person who appears at a hearing shall comply with the standards of ethical and courteous conduct required in the courts of this state. If a person fails to comply with those standards of conduct, the board may:

- (a) Exclude the person or his representative from the hearing; or
- (b) Terminate the hearing.

3. If a party is represented by an attorney, the board will provide to the attorney any notice, document or other paper that the board is required to provide to the party.

4. An attorney may withdraw from representing a party if he provides written notice of his withdrawal to the board and the party whom he represented.

Sec. 17. 1. The failure of a party to appear at a hearing shall be deemed a waiver of the party's right to present evidence. After presentation to the board of an offer of proof that the absent party was given proper notice, and upon a determination by the board that proper

notice was given to the absent party, the board may hear evidence without the participation of the absent party and may make its decision based on such evidence.

2. The board may limit the time each party is allowed to present evidence.

Sec. 18. 1. Except as otherwise provided in this section, a hearing in a contested case will be conducted in the following order:

- (a) *The hearing will be called to order and the parties will be introduced on the record.*
- (b) *The complaint, notice of hearing and answer may be placed in evidence.*
- (c) *Any preliminary motions or stipulations will be considered.*
- (d) *The board or its attorney will present its case.*
- (e) *The respondent will present his case.*
- (f) *If allowed by the board, rebuttal evidence and closing arguments will be presented.*
- (g) *The board may deliberate the case.*

2. A member of the board may question a witness at any time.

3. The board may waive any provision of this section, including taking witnesses out of order, to expedite or ensure the fairness of the hearing.

Sec. 19. 1. A party may call any other party or witness as an adverse witness. The party may question such a witness as if conducting a cross-examination.

2. A party who is surprised by the testimony of a witness, called in good faith as a witness on his behalf, may question the witness as if conducting a cross-examination.

Sec. 20. Except as otherwise provided by law:

1. A petition for a rehearing or reconsideration of a decision issued by the board must be served on all parties not later than 15 days after the date of service of a copy of the decision.

The petition must state the specific grounds upon which relief is requested.

2. Any responses to a petition must be served not later than 5 days after the receipt of the petition.

3. If a respondent submits a petition for reconsideration of a decision issued by the board, the board will base its decision to grant or deny the petition only upon the evidence that was submitted to the board at a prior hearing.

4. If a respondent submits a petition for a rehearing and wishes to present new evidence, the respondent must provide to the board a statement setting forth the reasons for his failure to introduce the new evidence at the previous hearing and a detailed description of the new evidence proposed to be introduced.

5. The board may designate one of its members to review a petition for a rehearing or reconsideration. A decision concerning the petition will be made not later than 15 days after the petition is filed with the board. If a new hearing is ordered, the decision concerning the petition will include the time, date and place of the hearing and the reasons for ordering a new hearing.

6. Unless a member of the board is designated to review a petition described in subsection 5, the board will review the petition to determine whether there is good cause for a rehearing or reconsideration of its decision. If the board determines that good cause for a rehearing exists, the board will schedule a hearing and notify the respondent, in writing, of the time, date and place of the hearing.

7. The board will provide notice of its order approving or denying the petition to all parties at least 5 days before the expiration of the period for filing a petition for judicial review.

8. If the board orders a rehearing, the board may require the respondent to pay the costs of the rehearing.

Sec. 21. Except as otherwise provided by law, in computing periods for the purposes of carrying out the provisions of sections 2 to 21, inclusive, of this regulation, and NAC 624.700 to 624.725, inclusive, the first day on which any act occurs that causes a period to begin to run is not counted, and the last day of the period is counted, unless the last day is a Saturday, Sunday or legal holiday. If the last day is a Saturday, Sunday or legal holiday, the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

Sec. 22. NAC 624.030 is hereby amended to read as follows:

624.030 1. The executive officer shall:

- (a) Execute the provisions of chapter 624 of NRS and the regulations and general orders of the board;
- (b) Oversee the office and personnel of the board;
- (c) Keep in the office of the board a complete file of the pleadings, recorded evidence and exhibits of the board;
- (d) Inform, at convenient intervals, all architects and awarding bodies of the State of Nevada of the licensed contractors in this state;
- (e) Make a quarterly report to the board giving a summary of the activities of the board during the past quarter, including:
 - (1) The actions taken by the board upon the contested matters that came before it;
 - (2) The number and types of licenses issued;
 - (3) The applications received during the quarter; and
 - (4) A complete financial statement of the income and expenditures of the board; and

- (f) Sign decisions and orders in contested and uncontested matters on behalf of the board.
2. ~~[The]~~ Except as otherwise provided in section 10 of this regulation, the executive officer shall not decide any contested matter.

Sec. 23. NAC 624.700 is hereby amended to read as follows:

- 624.700 1. Any aggrieved person may file with the board ~~a complaint~~ **an allegation** against any licensee. ~~[Such a complaint]~~ **The allegation** must:
- (a) Be written and signed;
 - (b) Describe the specific grievance; and
 - (c) Include any related documentation.
2. If the board finds that an investigation is necessary, the board's staff shall commence the investigation within 10 days after the date the ~~a complaint~~ **allegation** was filed.
3. If it appears from the investigation that a licensee may have violated the provisions of **this chapter or** chapter 624 of NRS, ~~, or these regulations,~~ the executive officer may:
- (a) Request the licensee to take appropriate corrective action;
 - (b) Request the licensee to meet informally with the board's staff and the complainant; and
 - (c) Require the licensee to appear before the board and show cause why disciplinary action should not be taken against him.

Sec. 24. NAC 624.710 is hereby amended to read as follows:

- 624.710 1. The address of an applicant or licensee which is on file with the board shall be deemed to be his correct address. An applicant or licensee shall provide to the board, **within 30 days**, written notice of any change of his address.
2. ~~Before taking disciplinary action against a licensee, the board will provide reasonable notice of the action contemplated. The notice will be sent by certified mail, return receipt~~

~~requested, to the licensee at the address on file with the board and include the information set forth in NAC 624.713.~~

~~—3.]~~ If the board has grounds to suspend or revoke a contractor's license or otherwise discipline a contractor, the board may place him on probation until he completes his existing contracts and may thereafter suspend or revoke his license or otherwise discipline him.

Sec. 25. NAC 624.713 is hereby amended to read as follows:

624.713 **1.** A notice that the board provides to a licensee pursuant to ~~[NAC 624.710]~~ **section 9 of this regulation** will include:

~~[1.]~~ **(a)** A copy of the complaint;

~~[2.]~~ **(b)** The date by which the licensee is required to submit an answer or responsive pleading and any supporting documents to the board;

~~[3.]~~ **(c)** A statement that the licensee is entitled to a hearing only if he complies with the provisions set forth in ~~[subsection 2; and~~

~~—4.] paragraph (b); and~~

(d) A statement that the failure of the licensee to comply with the provisions of subsection 2 may cause the board to enter a default order against the licensee.

2. *The answer required by paragraph (b) of subsection 1 must be in writing, signed by the respondent or his representative, and include a specific response to each allegation in the complaint. The response must admit or deny the allegation, or state that the respondent has insufficient information to admit or deny the allegation.*

Sec. 26. NAC 624.716 is hereby amended to read as follows:

624.716 **1.** If a licensee receives a notice from the board pursuant to ~~[NAC 624.710]~~ **section 9 of this regulation**, the licensee is entitled to a hearing only if he complies with the

provisions of ***paragraph (b) of*** subsection **[2] 1** of NAC 624.713. If the licensee fails to comply with those provisions, the board will hold a hearing to determine whether it will enter a default order against the licensee.

2. The board may consider at the hearing:

- (a) The complaint and any amended complaints provided to the licensee;
- (b) Any notices provided to the licensee pursuant to **[NAC 624.710;]** ***section 9 of this regulation;***
- (c) Any communication between the board and the licensee; and
- (d) Any other evidence relating to the allegations set forth in the complaint or amended complaints.

3. The board may:

- (a) Include evidence presented at the hearing in its findings of fact and conclusions of law; and
- (b) Enter a default order against the licensee.

4. If the board enters a default order against the licensee, the board will:

- (a) Send to the licensee by certified mail, return receipt requested, a copy of the default order, including any findings of fact and conclusions of law, not later than 10 days after the board enters its order; and
- (b) Take such disciplinary action against the licensee as it deems appropriate.

5. A licensee against whom a default order is entered may submit to the board a written request for reconsideration of the order not later than 15 days after he receives a copy of the order. The written request must set forth the reasons for reconsideration by the board.

6. The board will review the request to determine whether there is good cause for reconsideration of the order. If the board determines that good cause for reconsideration exists, the board will schedule a hearing and notify the licensee, in writing, of the time and place of the hearing.

Sec. 27. NAC 624.110 is hereby repealed.

TEXT OF REPEALED SECTION

624.110 Hearings.

1. The board will give at least 20 days' notice of a hearing to the licensee or other person who requested the hearing by:
 - (a) Personal service; or
 - (b) Certified mail.
2. All hearings of the board will be conducted in an informal manner.
3. At the time set for the hearing, or as soon thereafter as the matter can be heard, the chairman of the board shall read the charges, if any, set forth in the notice of the hearing.
4. If the parties can agree upon any of the facts or questions to be presented to the board, appropriate stipulations may be submitted, and the applicant or licensee may stipulate that the matter be disposed of informally.

5. The board's staff shall present evidence and witnesses in support of the charges set forth in the notice of hearing. Thereafter, the applicant or licensee may present evidence and witnesses in response thereto. Rebuttal evidence may be offered and the board may question the witnesses.

6. If a hearing cannot be completed within the time allotted, it may be continued to a subsequent meeting.

NOTICE OF ADOPTION OF PROPOSED REGULATION

LCB File No. R014-02

The State Contractors' Board adopted regulations assigned LCB File No. R014-02 which pertain to chapter 624 of the Nevada Administrative Code on May 21, 2002.

Notice date: 1/25/2002 & 3/18/2002

Hearing date: 4/19/2002

Date of adoption by agency: 5/21/2002

Filing date: 7/2/2002

INFORMATIONAL STATEMENT

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

A workshop and hearing were noticed on January 25, 2002 by posting at the Washoe County Court House; Washoe County Library; Reno City Hall; Las Vegas City Hall; Sawyer State Building; Clark County Library and Offices of the Contractors' Board in Reno and Las Vegas. The workshop was held on March 1, 2002. Based on comments received at the workshop, the hearing scheduled for March 1 was rescheduled. The hearing was noticed on March 18 and held on April 19, 2002. The notice was posted on the agency's website and mailed to approximately 135 interested individuals.

2. The number of persons who:

- | | |
|---|---|
| (a) Attended each hearing: | 3 |
| (b) Testified at each hearing: | 2 |
| (c) Submitted to the agency written comments: | 1 |

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notice posting, website and direct mail. Comments were received and incorporated into the proposed regulation.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted by the Nevada State Contractors Board at its May 21, 2002.

5. The estimated economic effect of the adopted regulation on the business which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects: and
- (b) Both immediate and long-term effects.

(a) The proposed revisions are expected to have a minimal economic impact on the regulated industry and the public. The regulation provides clear and concise rules for disciplinary matters before the Board.

(b) The revisions should provide contractors with a clear understanding of conduct required in matters heard by the Board.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The cost of enforcement of the proposed regulation will be minimal.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations which the proposed amendments duplicate.