

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

LCB File No. R190-03

December 2, 2003

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

AUTHORITY: §§1-9, NRS 624.100.

Section 1. NAC 624.700 is hereby amended to read as follows:

624.700 1. Any aggrieved person may file with the Board an allegation against any licensee. 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 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, 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]~~

to resolve the issue;

- (c) Require the licensee to appear before the Board and show cause why disciplinary action should not be taken against him ~~[-]~~ *and;*

- (d) Take such other actions as he deems appropriate under the circumstances.*

Sec. 2. 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 624.7256, the licensee is entitled to a hearing only if he complies with the provisions of paragraph (b) of subsection 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 624.7256;
- (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 *or its designee* will review the request to determine whether there is good cause for reconsideration of the order. If the Board *or its designee* determines that good cause for reconsideration exists, the Board *or its designee* will schedule a hearing and notify the licensee, in writing, of the time and place of the hearing.

Sec. 3. NAC 624.7259 is hereby amended to read as follows:

624.7259 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 *or the Executive Officer of 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. 4. NAC 624.7273 is hereby amended to read as follows:

624.7273 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.

6. If the Board wishes to oppose a motion, the Board is not required to serve or file a written response to the motion.

Sec. 5. NAC 624.7279 is hereby amended to read as follows:

624.7279 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.

5. The Board may refuse to consider any documentary evidence or exhibit presented by a party at a hearing if the evidence or exhibit was not provided to the staff of the Board at least 10 calendar days before the date of the hearing.

Sec. 6. NAC 624.7286 is hereby amended to read as follows:

624.7286 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 *and the file of the Board that relates to the complaint* 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. 7. NAC 624.7289 is hereby amended to read as follows:

624.7289 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.

3. *All testimony to be considered at a hearing must be taken under oath.*

Sec. 8. NAC 624.7293 is hereby amended to read as follows:

624.7293 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 *calendar* 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}~~ *15 calendar* 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 *or its designee* will ~~{base its decision to grant or deny the petition only upon the~~

~~evidence that was submitted to the Board at a prior hearing.]~~ *review the petition to determine whether there is good cause for a reconsideration of the decision.*

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]~~ *or its designee will* review a petition for a rehearing or reconsideration. A decision concerning the petition will be made not later than 15 *calendar* 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. *The hearing will be conducted not later than 90 calendar days after the final decision of the Executive Officer.*

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 *or its designee* 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,]~~

7. *If a rehearing is conducted,* the Board may require the respondent to pay the costs of the rehearing.