

ALABAMA ONSITE WASTEWATER BOARD



ADMINISTRATIVE CODE

Code of Ala. 1975, §34-21A

Amended: MARCH 21, 2013

Adopted: APRIL 30, 2013

Effective Date: JULY 9, 2013

CHAPTER 628-X-1 DEFINITIONS

628-X-1-.01 Definition Of Terms

(1) Code of Ala. 1975, §34-21A-1, provides for definitions of the following terms: Alternative Onsite Wastewater System, Board, Conventional Onsite Wastewater System, Good Standing with Local Health Authorities or Officials, Individual, Installation, License, Licensee, Licensing Procedure, Local Health Authority of Officials, Manufacturer, Onsite Wastewater System, Responsible Charge, Servicing.

(2) Act. The term "Act" as used in these rules shall mean Title 34, Chapter 21A of the Code of Ala. 1975.

(3) Alabama Administrative Procedures Act. The term "Alabama Administrative Procedures Act" refers to the act codified at Title 41, Chapter 22 of the Code of Ala. 1975.

(4) Board. The term "Board" as used in these rules shall mean the Alabama Onsite Wastewater Board. The Board is a 9 member Board of which three members shall be appointed by the Governor, three members shall be appointed by the Lieutenant Governor, and three members shall be appointed by the Speaker of the House of Representatives of the Alabama Legislature. The referenced statute describes the organization, general course, method of operation and method of public information. The public may make submission and request to the Board in writing through the mailing address: P.O. Box 303552 Montgomery, Alabama 36130.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

History: Amended: Filed July 15, 2004;

CHAPTER 628-X-2 ORGANIZATION, ADMINISTRATION AND PROCEDURES OF THE BOARD

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628-X-2-.01 Purpose The Alabama Onsite Wastewater Board was created to examine, license and regulate persons engaged in manufacturing, installation or servicing of onsite wastewater systems, including portable toilets, in Alabama. This Board was also created to establish the qualification levels for those engaged in the manufacture, installation, servicing, cleaning or pumping of onsite wastewater systems and equipment in Alabama and promote the proper manufacture, installation and servicing of onsite wastewater systems.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

History: Amended: Filed July 15, 2004;

628-X-2-.02 Records Of The Board All records maintained by the Board, unless protected by state statute or administrative regulation, are open for public inspection during regular business hours. Requests to review or obtain records should be submitted in writing to the Executive Director. All correspondence to the Board, including requests for information and all submissions of the requests should be made to the Executive Director at the Board's office in Montgomery, Alabama.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-2-.03 Meetings The Board also shall meet quarterly in October, January, April and July of each year and at such other times as the Chairman may designate. Meetings will be governed by the Roberts Informal Rules of Order until such time as the Chairman feels because of meeting disorder the need to invoke the regular Roberts Rules of Order. A quorum

of the board shall consist of not less than five of the duly appointed members present.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-2-.04 Voting All Board members are entitled to make or second motions. A majority of those members of the Board present and voting on any matter shall decide the matter before the Board, except that the Chairman of the board or other Board member presiding as Chairman shall rule upon all questions or procedure and, in the event evidence is taken, on the admissibility of that evidence, consistent with the requirements of Section 13 of the Alabama Administrative Procedures Act. The Chairman shall not regularly vote as a member of the Board, except that in the event of a tie vote, the Chairman shall vote to break the tie. All voting will be done at called meetings where Board members are present. A Board member who is present at any meeting of the board at which action is taken on any matter is presumed to have assented to the action taken unless his dissent is entered in the minutes of the meeting. Any motion passed by the board requires a majority of the members present.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

Amended: Filed February 20, 2009; effective: May 28, 2009

628-X-2-.05 Declaratory Rulings The Board may issue declaratory rulings to any person substantially affected by a rule with respect to the validity of any rule, or with respect to the applicability to any person, property, or state of facts of any rule or statute enforceable by the Board, or with respect to the meaning and scope of any order of the Board. Such ruling shall be issued provided: (a) The petitioner shows that the petitioner is substantially affected by the rule in question, and sufficient facts are supplied in the request to permit the Board to make a valid determination, and (b) the request arises from an actual question or controversy. The request for a declaratory ruling must be in writing. All properly submitted petitions shall be ruled upon by the Board within ninety calendar days of receipt beginning on the first State of Alabama business day that the petition is received in the office of the Executive Director. If the petition is determined to present an inappropriate request, the Executive Director shall promptly return the petition to the petitioner along with a brief explanation for return.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed September 3, 2010; effective February 17, 2011

628-X-2-.06 Advisory Opinions The Board may, in its discretion, issue an advisory opinion to any licensee, governmental official, or entity substantially affected by a rule or statute enforceable by the Board. Board advisory opinions may address but not necessarily be limited to the applicability of such rule or statute to the licensee, official, or entity or to a meaning and scope of any order of the Board. A request for any advisory opinion must be in writing and must specifically state it is a "request for an advisory opinion.

"Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-2-.07 Petition For Adoption, Amendment Or Repeal Of Rules Any person who wishes to propose that the Board adopt, amend, or repeal any rule may do so on the form prescribed by the Board and available from the Executive Director. The Board shall meet and consider any petition of adoption, repeal, or amendment within ninety days of its submission.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed: August 1, 2012; effective: September 5, 2012

CHAPTER 628-X-3 LICENSING

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628-X-3-.01 Requirement For Licensing Any individual, business, partnership or corporation advertising, soliciting, bidding, obtaining permit, obtaining a business license, performing the function of manufacturing septic tanks, manufacturing of poured in place tanks, installing, pumping, servicing, repairing, and cleaning portable toilets, installing, cleaning, pumping, servicing, repairing, or maintaining onsite wastewater equipment or systems in Alabama shall have and maintain a current license issued by the Board or have a licensed employee in responsible charge. The licensee may hire a contractor or subcontractor who shall have a current license issued by the Board to perform the work. The Board shall establish the following types of licenses: A Basic Level Installer's License for the installation, servicing, replacing lids, repairing or maintenance of a conventional onsite wastewater system and shallow placement onsite wastewater systems, with design flows of up to 1200 GPD. The Alabama Department of Public Health shall define these systems. These systems may include a pump that lifts the effluent to the disposal field. These pumps must be basic on-demand pumps with no control panels; an Advanced Level I Installer's License to allow all work done under the Basic Level License and for the installation, servicing, repairing or maintenance of systems up to 1200 GPD and/or mound systems, simplex pumps with time dosing requirements, on-demand duplex pumps including single family systems with secondary treatment. An Advanced Level II Installers License to allow for all work done under the Basic and Advanced Level I Installers License and for the installation, servicing, replacing lids, repairing, or maintaining all systems 1201 GPD and above, including, multiple pump systems with timed dosing requirements and other advanced technology systems; A Manufacturer's License for those involved in the manufacture of onsite wastewater septic tanks, including tanks poured in place, lids and receptacles; A pumper's License for those pumping, servicing, replacing lids, repairing, replacing or maintaining the component parts of a septic tank, sewage tanks and grease traps; a Portable Toilet License for those involved in installing, transporting, pumping, servicing, repairing, maintaining, and cleaning portable toilets. The Board may develop additional areas and/or levels of licensing at a later date as the industry changes require. Any unlicensed individual, business, partnership or corporation performing work for which a license

is required must cease said work upon demand by the Board. A license is current only during the calendar year in which it is issued. A calendar year runs from January 1 thru December 31. Unless renewed, a license automatically shall expire at the end of the calendar year for which it was issued.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

Amended: Filed January 24, 2006

Amended: Filed August 15, 2006

Amended: Filed August 10, 2007

Amended: Filed February 20, 2009 effective: May 28, 2009

628-X-3-.02 Filing Of License Applications License applications, annual license renewal applications, and all other applications or submissions required by these rules shall be mailed to the Executive Director. All license applications, annual license renewal applications and any other application or submission will be deemed filed when received by the Executive Director. The Executive Director may reject an application that is inaccurate, incomplete, or for which all fees due have not been paid at the time the application is filed.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

628-X-3-.03 Obtaining A New License All persons desiring to obtain a license should request from the Executive Director instructions for obtaining any license issued by the Board. Persons desiring to be licensed must satisfy all the eligibility requirements for licensure. Persons should contact a sponsor of Board approved training to register for the initial training. Board approved sponsors shall be posted on the Boards web site in January of each year. The exam will be given at the conclusion of any initial Board approved training. The Executive Director or his designee shall administer the Exam on the last day of the initial training. The minimum passing grade of all licensing examinations is 80 percent. 2 (two) hours shall be given to take any licensing exam. Written examination results shall be provided to individuals within fourteen (14) days in writing after the exam is taken. Successful candidates will receive information on completion of the licensure process along with their test results. Any person who fails an examination will be provided with information on reapplying. Those testing unsuccessfully can re-test three times with a minimum of fourteen days lapsing between each test. If a passing score is not achieved with the third re-test, the applicant must begin the licensing anew. Application packets containing licensing application for current year, and the bond along with all applicable fees shall be received and reviewed for accuracy by the Executive Director or designee of the Board. The Board's Executive Director or designee shall approve all complete applications for licensing; applications that are incomplete shall

be approved or denied by the Board at quarterly board meetings. The minimum application requirements shall include, but are not limited to, the applicant's business experience, work experience (no work experience is required for the basic installer license or the pumper license or the portable restroom license) in the requested area of licensure, evidence of bond, and being of legal age. Applicants must have obtained Board prescribed initial training within one year preceding application for testing or have on file with the Board a current Certificate of Education for training exceeding that one year time frame. If exceeding that one year time frame. To keep a Certificate of Education current, the holder must maintain annual CEU's as prescribed for licensees. An application for testing must be completed and returned with appropriate testing fees to the office of the Executive Director. Persons must first obtain an Alabama Onsite Wastewater Board (AOWB) Basic Level Installer License before qualifying for an AOWB Advanced Level I Installer License. To qualify for an AOWB Advanced Level I Installers License, (A): an AOWB Basic Level Installer licensee, who has held the AOWB Basic Level Installer License for less than 10 years (of continuous active license service), shall complete a minimum of five (5) conventional onsite sewage systems as defined by the Alabama Department of Public Health and have held the AOWB Basic Level Installer License for not less than twenty-four (24) months and have obtained the Board required education. Documentation verifying these qualifications have been met must be submitted for an Advanced Level I Installers License. (B): An AOWB Basic Level Installer License holder or an Alabama Municipal and Utility License holder with more than ten (10) years (of continuous active license service), shall complete a minimum of three (3) conventional onsite sewage systems as defined by the Alabama Department of Public Health. The two year time requirement shall be waived. Documentation verifying these qualifications have been met must be submitted for an Advanced Level I Installers License. Persons must first obtain an AOWB Advanced Level I Installer License before qualifying for an AOWB Advanced Level II Installer License. To qualify for an AOWB Advanced Level II Installer License (A): an AOWB Advanced Level I Installer License holder, (with less than 10 (ten) years of continuous active license service) as an AOWB Advanced Level I Installer License, shall complete a minimum of 5 (five) engineered systems as defined by the Alabama Department of Public Health, have held the Advanced Level I Installer License for no less than twenty-four (24) months, and have obtained the Board required education. Documentation verifying these qualifications have been met must be submitted for an Advanced Level II Installer License or (B): An AOWB Advanced Level I License holder or an Alabama Municipal and Utility License holder with more than 10 (ten) years (of continuous active license service), shall complete a minimum of three (3) engineered onsite sewage systems as defined by the Alabama Department of Public Health. The two year time requirement shall be waived. Documentation verifying these qualifications have been met must be submitted for an Advanced Level II Installer License.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

Amended: Filed January 24, 2006

Amended: Filed February 20, 2009; effective: May 28, 2009
Amended: Filed September 14, 2009; effective: December 23, 2009
Amended: Filed May 27, 2010; effective: July 19, 2010
Amended: Filed September 03, 2010; effective: February 17, 2011.
Amended: Filed August 1, 2012; effective: September 5, 2012

628-X-3-.04 Annual Renewal Of Licenses, Consequences Of Failure To Renew Annual Renewal Of Licenses, Consequences Of Failure To Renew License is valid only during the calendar year indicated on the license. At the end of the calendar year, all licenses expire unless it is renewed by the licensee.

A person holding an Advanced Installer License at the time these rules are adopted not making a license transition during the three years following adoption of these rules will become an Advanced Level I license Installer. To become an Advanced Level II license Installer after three years the Advanced Installer must fulfill the Advanced Level II Installer License requirements. All licensees shall make application for license renewal at least 30 days prior to the expiration of current license. Those not renewing by the last day of the calendar year shall do no work for which a license is required until a renewal license has been issued. The licensee's name will be removed from the Board's official list and the Alabama Department of Public Health and the appropriate local health authorities will be notified of the license expiration. To renew a license, licensees must submit appropriate fees with the applicable application, proof of continuing education and training requirements for each level and type of license, evidence of required bond, \$15,000 bond for a basic installer's license, a pumpers' license, a portable restroom license and manufacturers' license. Evidence of a required bond of \$30,000 for an Advanced Level I Installers License and the Advanced Level II Installers license and any other documents requested by the board or the Executive Director. Renewal applications and forms should be requested from the Executive Director. Continuing education units required for renewing a license shall be set by resolution of the Board. Failure to meet renewal requirements shall result in the expiration and possible revocation of the license.

- (a) Failure to renew a license before the close of business on December 31 will result in restoration fees being assessed by the Board.
- (b) A license which has expired for failure to renew may only be restored within one year from the date of expiration after application and payment of the license restoration fee established by the Board.
- (c) Any license which has not been restored within one year following its expiration may not be renewed, restored, or reissued,

and the holder may apply for and obtain a previously held license only upon compliance with all qualifications and requirements for the issuance of a new license.

- (d) Any Advanced Level I license or Advance Level II license which has not been restored within one year following its expiration shall not be renewed, restored, or reissued, and the holder shall apply for and obtain a Basic Level Installer License; upon compliance with all qualifications and requirements for a Basic Level Installer License the holder can then apply for an Advance Level I License. The holder must complete all the time requirements, systems and educational requirements for an Advance Level I License before applying for an Advance Level II License.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004 **Amended:** Filed January 24, 2006

Amended: Filed February 20, 2009; effective: May 28, 2009; **Amended:** Filed September 03, 2010; effective: February 17, 2011

Amended: Filed August 1, 2012; effective: September 5, 2012

628-X-3-.05 Continuing Education and Training Requirements

The Board shall adopt programs for initial training to become licensed and continuing education for licensees as presented by the education coordinator or the Executive Director. The Education Coordinator or Executive Director may recommend to the Board the approval or disapproval of courses and classes that meet the requirements for initial training and continuing education credit hours for licensees. Courses, classes or shows desiring approval by the Board shall submit prior to advertising the availability of subject classes, a complete agenda of coursework to include date, time and location and hours to be obtained.

Author: Mike Talley

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed February 20, 2009; effective: May 28, 2009

628-X-3-.06 Requirements for Continuing Education

All licensees, being active or inactive, holding a Basic Level Installers License, Advanced Level I Installers License, Advanced Level II Installers License, Pumpers License and Manufacturers License shall be required to obtain continuing education each year. Alabama Onsite Wastewater Board licensees with a Basic Installer License, a Pumper License, a Manufacturer License, a Certificate of Education, or any combination of the three (3), being Active or Inactive, shall obtain six (6) credit hours of continuing education each calendar year. Licensees with an Advanced Level I License

and additional Alabama Onsite Wastewater Board licenses, being Active, Inactive or a Certificate of Education, shall obtain eight (8) credit hours of continuing education for each calendar year. Licensees holding an Advanced Level II license and additional Alabama Onsite Wastewater Board licenses, being Active, Inactive or Certificate of Education, shall obtain ten (10) credit hours of continuing education for each calendar year. All licensees holding only a portable restroom license being Active, Inactive or a Certificate of Education shall be required to obtain four (4) credit hours of continuing education each year. The Board may require licensees to submit to the Board proof of compliance with the continuing education requirement on an annual basis to allow the Board to maintain its records regarding continuing education attendance of each licensee by submitting as proof a certificate of attendance from the approved training program. All licensees licensed with the Board shall complete the required continuing education hours prior to receiving a renewal of their license. The failure to complete the minimum continuing education requirements during the year shall prevent the renewal of a license until proof of compliance is submitted in writing to the Board. All restoration fees are applicable. In the event of military service, medical hardship or emergency prevents a licensee from timely complying with the Board's continuing education requirements, the Board may allow licensee to submit a deficiency plan on a form prescribed by the Board, for approval by the Board, which shall describe the licensees plan for compliance with the continuing education requirements. The proposed deficiency plan shall be specific in describing the plan for full compliance with the continuing education requirement and shall be accompanied by the deficiency plan fee established by the Board. The Board may waive late fees, and penalty fees for said deficiency plan.

Author: Mike Talley

Statutory Authority: Code of Alabama 1975, Section 34-21A-18

History: New Rule: Filed: February 20, 2009; effective: May 28, 2009

Amended: Filed: August 1, 2012; effective: September 5, 2012

Amended: Filed: June 4, 2013; effective: July 9, 2013

628-X-3-.07 Replacement Licenses Applications for replacement licenses may be obtained from the Executive Director. Applications and appropriate fees must be submitted and reviewed by the Director and/or Board before replacement licenses are issued. Reasons for requesting replacement licenses will be reviewed and taken into consideration by the Board and/or Executive Director when determining whether or not to issue a replacement license.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed: February 20, 2009; effective May 28, 2009

628-X-3-.08 Inactive Licenses. Applications to cause the status of a license to be inactive may be obtained from the Executive Director. Persons holding inactive licenses shall not perform any work under the

auspices of being a licensed dealer, installer or pumper. Persons in possession of an inactive license shall maintain educational requirements as set by the Board of Executive Director on a case by case basis. Appropriate fees must be submitted as directed by the Board and/or Executive Director for issuance of an inactive license and annual renewal of the inactive license. Forms and instructions to reactivate the license may be obtained from the Executive Director.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed: February 20, 2009; effective May 28, 2009

628-X-3-.09 Roster Of Licensees. Copies of the roster shall be made available from the Executive Director as well as obtained from the website that shall be updated on a weekly basis.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

Amended: Filed: February 20, 2009; effective May 28, 2009

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Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: September 03, 2010; effective: February 17, 2011.

Amended: Filed: August 1, 2012; effective: September 5, 2012

628-X-4-.02 Amount Of Fees

(1) Application fee for any license - \$25.00

(2) Exam fee for Advanced Level I Installer - \$150.00

Exam fee for Advanced Level II Installer - \$200.00

Exam fee for Basic Installer, Pumper, Manufacturer,
Portable Restroom \$100.00

(3) Annual license fee for

(a):	Basic Level License	\$200.00
	Pumper License	\$200.00
	Portable Toilet License	\$200.00
	Manufacturer License	\$200.00

(b) Advanced Level I Installer License \$300.00

(c) Advanced Level II Installer License \$500.00

- (4) A person licensed in more than one category must purchase first the most advanced license for which they have qualified. Additional license fee for other categories shall be \$100.00.
- (5) Failure to renew license from January 1 thru February 15 of each calendar year - \$100.00 for each license you hold and shall include the inactive license or the certificate of education.
- (6) Failure to renew license from February 16 thru December 31 of each calendar year - \$100.00 for each license you hold and a \$250.00 penalty fee and shall include the inactive license and/or certificate of education.
- (7) Replacement Licenses - \$50.00
- (8) Obtaining Inactive Licenses - \$50.00 each license
- (9) Reinstatement of Inactive License - regular license fee
- (10) Annual Renewal of Inactive License - \$50.00 each license
- (11) Reinstatement of revoked License - up to \$1,000.00 in addition to all Board requirements.
- (12) Reinstatement of Suspended License - up to \$500.00 in addition to all Board requirements.
- (13) Fee to maintain record of Certificate of Education - \$75.00 plus Certificate of annual continuing education training.
- (14) Non-Sufficient Fund Fee - up to the maximum allowed by law.
- (15) Deficiency Plan Fee - \$25.00 in addition to the Deficiency Plan.
- (16) Reinstatement of License for Bond Suspension Fee - \$104.00

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed February 1, 2002; effective March 8, 2002.

Amended: Filed July 15, 2004;

Amended: Filed January 24, 2006

Amended: Filed February 20, 2009; effective: May 28, 2009
Amended: Filed September 14, 2009; effective: December 23, 2009
Amended: Filed June 20, 2011; effective: November 29, 2011
Amended: Filed: August 1, 2012; effective: September 5, 2012

CHAPTER 628-X-5 ENFORCEMENT AND DISCIPLINARY ACTIONS

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628-X-5-.01 Initiation Of Proceedings And Procedure For Investigation The Board may initiate proceedings as it deems appropriate to investigate and determine violations of the provisions of this Act. Persons reporting alleged violations shall do so in writing or by phone to the Executive Director or any Board member. Persons alleging violations of this Act by any other person may request the Board to hold identifying information in a confidential manner. The Board shall adopt by resolution the procedures for investigations of complaints against licensees or the Board may enter into informal settlements with the licensee it is investigating, provided each such settlement is ratified by the Board. Said resolution shall be available at the office of the Executive Director.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed: February 20, 2009; effective May 28, 2009

628-X-5-.02 Hearings All disciplinary hearings and/or contested case hearings shall be conducted in accordance with the Alabama Administrative Procedures Act, specifically but not limited to Sections 12, 13, 14, 15, 16, 17, 18, and 19, as if set out full herein.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-5-.03 Discipline The Board shall take appropriate action to enforce these rules with regard to licensee suspension and revocation. The Board may revoke or suspend licenses of parties found to be guilty of any violation of the Act or these rules, and also these circumstances shall include, but not be limited to, the following:

- (1) Obtaining a license under false pretense.
- (2) Obtaining a license by having another person take the examination.
- (3) Allowing another person to use the license in violation of the regulations of this board.
- (4) Selling or conveying the license to another person.
- (5) Failure to timely renew a license.
- (6) Failure to follow the rules and regulations of the State of Alabama Department of Public Health or the appropriate local health department or authorities.
- (7) Committing a dishonest or illegal act in the performance of work covered under the license.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004; **Amended:** September 03, 2010; effective: February 17, 2011.

628-X-5-.04 Informal Settlement

- (1) No action shall be taken to effect an informal settlement of a controversy, either prior to or during a contested case proceeding, without formal approval by the Board of such action.
- (2) Informal settlement negotiations may be initiated by either party to the controversy, provided that neither party is obligated to use informal procedures.
- (3) If the Board approves participation in an informal settlement procedure, it shall negotiate its settlement upon the terms it believes to be in the best interest of the Board and the public, and if the settlement is effectuated the terms of the settlement shall be incorporated, by reference, in the official minutes of the Board.

Authors: Mike Talley

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed February 20, 2009; effective: May 28, 2009

628-X-5-.05 Appeals Final actions of the Board may be appealed in accordance with Alabama Administrative Procedures Act, specifically but not limited to Sections 20 and 21, as if set out in full herein.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed: February 20, 2009; effective: May 28, 2009

628-X-5-.06 Reinstatement Of Licenses After Revocation Or Suspension

Applications for reinstatement of licenses may be submitted to the Board. The applicant shall include in the application for reinstatement the reasons why the license should be reinstated and shall specifically set forth any change in circumstances that would justify reinstatement. The application for reinstatement must include evidence that the applicant meets the current licensure requirements for and, unless excused by the Board, the applicant must qualify for a licensure through all the procedures, including testing, experience, proof of required bonding and ability that is required for initial testing. Upon receipt of such application, the board may grant the applicant a hearing on reinstatement, at which time the applicant may appeal to the Board to reinstate the applicant's license. All fees for testing, issuance of license and a reinstatement fee must be paid before re-issuance of license. Procedures for reinstatement of suspended licenses shall be set by the Board at the time of suspension.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed July 15, 2004;

Amended: Filed February 20, 2009; effective: May 28, 2009

628-X-5-.07 Conflict Or Bias No board member shall be entitled to vote or to otherwise participate in any hearing or disciplinary matter if the Board member is personally biased for or against the respondent or when such voting or participation would violate the provisions of the Alabama Administrative Procedures Act, Section 18(a). Any party in a hearing or respondent in a disciplinary action who wishes to assert bias or conflict may do so by filing with the Executive Director at least three days prior to the scheduled hearing a suggestion of disqualification and a supporting affidavit setting forth the factual basis for the suggestion. The Board shall consider the suggestion of disqualification on the record as a preliminary matter at the hearing before any other question is decided.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed: February 20, 2009; effective May 28, 2009

628-X-5-.08 Institution of Criminal Proceedings Upon receipt of evidence that any person has: undertaken or attempted to undertake the business of

manufacturing, installing or maintaining an onsite wastewater system or any component thereof, without first having procured a valid license as required by the Act, knowingly presented to or filed false information with the Board for the purpose of obtaining a license, or any other violation of law which the Board deems worthy of reporting to appropriate government agencies, the Executive Director or designee, acting on the instructions of the Board, shall present such evidence to the appropriate governmental authority within the county of which the violator resides and may file a complaint regarding the violations.

Authors: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed: February 20, 2009; effective: May 28, 2009