



# **New Hampshire Board of Professional Engineers Laws and Rules**

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## New Hampshire Board of Professional Engineers laws and rules

# TITLE XXX OCCUPATIONS AND PROFESSIONS

## CHAPTER 310-A OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

### Professional Engineers

#### Section 310-A:2

##### **310-A:2 Definitions. –**

As used in this subdivision:

I. "Board" means the board of professional engineers.

I-a. "Business organization" means any enterprise, whether corporation, partnership, limited liability company, proprietorship, association, business trust, real estate trust, or other form of organization; organized for gain or profit, carrying on any business activity within the state.

II. "Professional engineer" means a person who by reason of advanced knowledge of mathematics and the physical sciences, acquired by professional education and practical experience, is technically and legally qualified to practice engineering, and who is licensed by the board or otherwise authorized by this subdivision to engage in the practice of engineering.

III. "Practice of engineering" means any professional service or creative work requiring education, training, experience, and the application of advanced knowledge of mathematics and physical sciences, involving the constant exercise of discretion and judgment, to such services or work as consultation, investigation, evaluation, planning, design, responsible oversight of construction, and responsible oversight of operation, in connection with any public or private utilities, structure, buildings, machines, equipment, processes, works, or projects, wherein the public welfare, or the safeguarding of life, health, or property is concerned.

IV. "Engineering surveys" means any surveying activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineering projects by persons licensed under this subdivision, but shall exclude the surveying of real property for the establishment or reestablishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

V. "Engineer of record" means a professional engineer who seals drawings, reports, or documents for a project. The seal shall acknowledge that the professional engineer prepared, coordinated, or had subordinates prepare under the direct supervision of the professional engineer, drawings, reports, or documents for a project. The engineer of record shall not be responsible for engineering work performed and sealed by other professional engineers,

including independent consulting engineers who work under the coordination of the engineer of record.

**310-A:2-a Purpose.** – To safeguard life, health, and property, and to promote public welfare, the practice of engineering in this state shall be regulated by the board of professional engineers, except as provided in RSA 485-A:4 and RSA 485-A:35.

**310-A:2-b Jurisdiction of the Board of Professional Engineers; Regulation of Scope of Practice.** – No agency or subdivision of the state shall adopt any rule, regulation, standard, code, ordinance, or policy that restricts or limits the scope of practice of any licensed professional engineer, whose practice shall be within the sole jurisdiction of the board of professional engineers.

### Section 310-A:3

#### **310-A:3 Board of Engineers; Establishment; Criteria; Terms; Compensation and Expenses; Meetings; Records and Reports; Roster. –**

I. A board of professional engineers is established to administer the provisions of this subdivision. The board shall consist of 5 persons appointed by the governor and council, 4 of whom shall be professional engineers, and one public member. The public member of the board shall be a person who is not, and never was, a member of the engineering profession or the spouse of any such person, and who does not have and never has had, a material financial interest in either the provision of engineering services or an activity directly related to engineering, including the representation of the board or profession for a fee at any time during the 5 years preceding appointment.

II. Each member of the board shall be a citizen of the United States and a resident of this state. Each professional engineer member shall have actively practiced professional engineering for the chief means of livelihood for at least 10 years prior to appointment and shall have held a responsible position in charge of such work for at least 5 years prior to appointment, which may include the teaching of engineering.

III. Members shall be appointed for 5-year terms, except that no more than one appointed member's term may expire in any one calendar year. Appointments for terms of less than 5 years may be made in order to comply with this limitation. No appointed member shall be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 5-year term shall be deemed a full term. Upon expiration of a member's term, the member shall serve until a successor is qualified and appointed. The successor's term shall be 5 years from the date of expiration of the predecessor's appointment, regardless of the date of the successor's appointment. Vacancies occurring prior to the expiration of a specific term shall be filled by appointment for the unexpired term. A board member may be removed for cause by the governor and council under RSA 4:1.

IV. [Repealed.]

V. The board shall hold at least 3 regular meetings each year and special meetings at such times as it may deem necessary. Notice of all meetings shall be given in such a manner as rules adopted by the board may provide. The board shall biennially elect a chairperson, vice-chairperson, and secretary. A majority of the members of the board who have been approved by

the governor and council shall constitute a quorum.

VI. (a) The board shall keep a record of its proceedings in accordance with the retention policy established by the office of professional licensure and certification.

(b) The records of the board shall be prima facie evidence of the proceedings of the board, and a transcript of such records certified by the secretary of the board under seal shall be admissible in evidence with the same force and effect as if the original were produced.

VII. [Repealed.]

**310-A:5-a Notice of Rulemaking Proceedings.** – The board shall solicit from each license holder, at the time of application or renewal, whether the license holder wishes to be categorized as an interested party for the purpose of RSA 541-A:6, III. The board is authorized to assess license holders who ask to be counted as interested parties a nominal fee, not to exceed the increased costs of this section.

**310-A:6 Rulemaking Authority.** –

I. The board shall adopt rules, pursuant to RSA 541-A, relative to:

(a) [Repealed.]

(b) The qualifications of applicants in addition to those requirements set by statute, and including the qualifications for satisfactory evidence of good professional character;

(c) How an applicant shall be examined;

(d) The requirements for renewal of a license, including the requirements for continuing education;

(e) [Repealed.]

(f) Ethical and professional standards required to be met by each holder of a license under this subdivision and how disciplinary actions by the board shall be implemented for violations of these standards;

(g) Matters related to the proper administration of this subdivision;

(h) [Repealed.]

(i) The design of an official seal;

(j) [Repealed.]

(k) [Repealed.]

(l) What constitutes engineering experience for the purposes of RSA 310-A:12;

(m) Procedures for a waiver of the fundamentals of engineering examination under RSA 310-A:12, II;

(n) The circumstances under which an applicant may be required to take an examination under RSA 310-A:12, IV;

(o) Interstate licensure and temporary permits under RSA 310-A:19;

(p) Waiver of renewal fees for professional engineers 70 years of age or older under RSA 310-A:21;

(q) Procedural and substantive requirements for assessing, compromising, and collecting civil penalties against licensees as authorized by RSA 310-A:23, V(f);

(r) The requirements for retired status.

II. [Repealed.]

III. At least 40 days prior to any hearing to be held pursuant to RSA 541-A:11, the board shall furnish a copy of any proposed rules of professional conduct, or amendments thereto, to all affected professionals licensed by the board.

**310-A:6-a Immunity From Civil Liability.** – No action or other legal proceedings for damages shall be instituted against the board or any member or employee of the board for any act done in good faith or for any neglect or default in the performance or exercise in good faith of any such duty or power.

**310-A:7 Fees.** –

I. The board shall adopt rules under RSA 541-A which establish fees for the following:

- (a) Examinations.
- (b) Application for licensure upon passing the examination.
- (c) Application for a certificate, temporary permit, or license under RSA 310-A:19 and 20.
- (d) Biennial renewal for licensed professional engineers.
- (e) Late reinstatement for a late renewal of license.
- (f) Replacement of lost or mutilated license.
- (g) Transcribing and transferring records and other services.

II. The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board budgeted for the biennium in which they will apply.

**310-A:8 Receipts and Disbursements.** – The board may employ such investigators, retained through the office of professional licensure and certification, and may make expenditures for the reasonable expenses of the board's delegate to meetings of, and membership dues to, the National Council of Examiners for Engineering and Surveying (NCEES). The board may, with the approval of the attorney general, hire counsel and investigators through the office of professional licensure and certification and pay the reasonable expenses of such counsel and investigators for the investigation and prosecution of any violation of this subdivision.

**310-A:11 Licensure Required.** – No person shall practice engineering in this state, except as permitted in RSA 310-A:19, III or RSA 310-A:27, without a professional engineer's license issued under this subdivision.

**310-A:12 General Requirements for Licensure as an Engineer.** –

I. Applicants who have the minimum of a bachelor of science degree, or the equivalent, from an Accreditation Board for Engineering and Technology (ABET) or other accredited 4-year institution in an engineering curriculum, certification as an "engineer-in-training" as a result of a NCEES fundamentals of engineering proctored examination and 4 years of accumulated engineering experience under the direction of a licensed professional engineer and satisfactory to the board may apply to sit for the professional engineers examination.

II. Applicants who have the minimum of a bachelor of science degree, or the equivalent, from an ABET or other accredited 4-year institution in an engineering curriculum and more than 10 years of accumulated engineering experience under the direction of a licensed professional engineer and satisfactory to the board may apply to sit for the professional engineers examination. Such an applicant may request a waiver of the fundamentals of engineering examination.

III. Applicants with a minimum of 25 years of engineering experience of which at least 10 years shall have been in responsible charge of engineering work satisfactory to the board may apply for licensure under this section on the basis of education and experience, provided that they have successfully passed the professional engineers examination required by RSA 310-A:17.

IV. Whenever the evidence presented in an application under paragraph I, II, or III does not appear to the board conclusive and warranting the issuance of a license, the applicant shall be required to pass a proctored examination, as the board may determine.

**310-A:13 Character.** – No person shall be eligible for licensure as a professional engineer who is not of good professional character.

**310-A:14 Teaching Credits.** – In considering the qualifications of applicants, engineering

teaching may be construed as engineering experience.

**310-A:15 Education Credits.** – The satisfactory completion of each year of an approved curriculum in engineering in a school or college approved by the board as of satisfactory standing, without graduation, shall be considered as equivalent to a year of experience under RSA 310-A:12, II and III. Graduation in a curriculum other than engineering, but in a related field, from a college or university of recognized standing may be considered as equivalent to 2 years of experience under RSA 310-A:12, II and III; provided, however, that no applicant shall receive credit for more than 4 years of experience because of undergraduate educational qualifications. In counting years of experience, the board, at its discretion, may give credit not in excess of one year for satisfactory graduate study in engineering.

**310-A:16 Applications.** – Applications for licensure or for a temporary permit shall be on forms prescribed and furnished by the board, shall contain statements made under oath, showing the applicant's education and a detailed summary of the applicant's technical work, and shall contain not less than 5 references, of whom at least 3 shall be licensed professional engineers having personal knowledge of the applicant's professional experience. The board shall establish fees for application and any examination required under this subdivision. If the board denies the issuance of a license or a temporary permit to any applicant, any initial fee deposited shall be retained as an application fee.

**310-A:17 Examinations.** – Proctored technical examinations in engineering shall be held at least annually as the board shall determine. If examinations are required on fundamental subjects, the applicant shall be permitted to take this part of the examination upon completion of the requisite years of professional experience. The board may issue to each applicant, upon successfully passing the examination in fundamental subjects, a certificate stating that the applicant has passed the examination. The scope of the technical and professional examination and the methods of procedure shall be prescribed by the board. A candidate failing an examination may apply for reexamination upon payment of an additional fee determined by the board and shall be reexamined on the next regularly scheduled examination date. A candidate failing the examination 3 consecutive times shall be required to furnish evidence of additional experience, study, or education credits acceptable to the board before being allowed to proceed with the examination.

**310-A:18 Certificates; Seals.** – The board shall issue a license, upon payment of the registration fee established by the office of professional licensure and certification, to any applicant who, in the opinion of the board, has satisfactorily met all the requirements of this subdivision. Licenses shall show the full name of the licensee and have a serial number. The issuance of a license by the board shall be prima facie evidence that the person named in the license is entitled to all the rights and privileges of a licensed professional engineer while the license remains valid. Each licensee shall upon licensure obtain a seal of the design authorized by the board, bearing the registrant's name and the legend, "Licensed Professional Engineer." All papers or documents involving the practice of engineering under this subdivision, when issued or filed for public record, shall be dated and bear the signature and seal of the licensed professional engineer who prepared or had responsibility for and approved them. It shall be a class B misdemeanor for the licensee to stamp or seal any documents with such seal after the license of the licensee has expired or has been revoked, unless such license shall have been renewed or reissued.

**310-A:18-a Seals for Temporary Permits.** – All documents and papers issued under a temporary permit to practice engineering shall be stamped or otherwise noted to indicate the professional engineer's temporary permit number, the beginning and ending date of the temporary permit period, and the project name or identifying title. All such documents and papers shall be signed by the temporary

permit holder.

### **310-A:19 Interstate Licensure; Temporary Permit. –**

I. Applicants who are licensed or registered in another state, provided the other state's licensing requirements are substantially equivalent to or higher than those of this state, may apply to the board for licensure.

II. Applicants who are certified by the National Council of Engineering Examiners (NCEE) may apply for licensure by having their NCEE record sent to the board and by furnishing such other information on a standard application form as the board may direct.

III. A person not a resident of and having no established place of business in this state who wishes to practice or to offer to practice engineering in this state may make application to the board for a temporary permit. A temporary permit shall be limited to practice on a specific project in this state for a period not to exceed 6 months in any one calendar year, provided such person is a licensed professional engineer in a state or country where the requirements and qualifications for obtaining a certificate of licensure are substantially equivalent to or higher than those specified in this subdivision.

### **310-A:20 Engineering Certificates for Business Organizations. –**

I. The practice of or offer to practice professional engineering for others by individual engineers licensed under this subdivision through a business organization as officers, partners, associates, employees, or agents is permitted, subject to the provisions of this subdivision; provided that:

(a) One or more of the corporate officers, of a corporation or one or more general partners, or associates is designated as being responsible for the engineering activities and engineering decisions of the business organization, and is a licensed engineer under this subdivision.

(b) All personnel of the business organization who act in its behalf as professional engineers are licensed under this subdivision.

(c) The business organization has been issued a certificate of authorization by the board, as provided in this section.

II. The requirements of this subdivision shall not affect a business organization or its employees in performing services for such business organization or its subsidiary or affiliated business organizations. All final drawings, specifications, plans, reports, or other engineering papers or documents involving the practice of engineering, when issued or filed for public record, shall be dated, and bear the signature and seal of the professional engineer who prepared them or under whose direct supervisory control they were prepared.

III. A business organization desiring a certificate of authorization shall file with the board an application, using a form provided by the board, listing the names and addresses of all officers and board members, general and limited partners, associates, and any individuals duly licensed to practice engineering in this state who shall be in responsible charge of the practice of engineering in this state through the business organization, and any other information required by the board. The same form, giving the same information, must accompany the annual renewal fee. If there is a change in any of these persons during the year, such change shall be designated on the same form and filed with the board within 30 days after the effective date of such change. If all requirements of this section are met, the board shall issue a certificate of authorization to such business organization, and such business organization shall be authorized to contract for and to collect fees for furnishing engineering services.

IV. No business organization shall be relieved of responsibility for the conduct or acts of its agents,



employees, officers, or partners, by reason of its compliance with the provisions of this section, nor shall any individual practicing engineering be relieved of responsibility for engineering services performed by reason of such individual's employment by or relationship with such business organization.

V. The secretary of state shall not issue a certificate of incorporation to an applicant for incorporation or for registration as a foreign business organization which includes the words "Engineer" or "Engineering" or any modification or derivative thereof in its corporate or business name or which includes the practice of engineering among the objects for which it is established unless the board shall have issued, with respect to such applicant, a certificate of authorization or eligibility for authorization, a copy of which shall have been presented to the secretary of state. Similarly, the secretary of state, after a reasonable transition period, shall decline to register any trade name or service mark which includes such words or modifications or derivatives thereof in its firm or business name except to partnerships, sole proprietorships and associations holding certificates of registration or authorization issued under the provisions of this subdivision, a copy of which shall likewise have been presented to the secretary of state. However, the requirements of this subdivision shall not apply to any business formed and registered with the secretary of state prior to January 1, 1999, which uses the words "Engineer" or "Engineering" or any modification or derivative thereof in its corporate or business name, and which does not perform or require the services of a professional engineer.

VI. A professional engineer who renders occasional, part-time or consulting engineering services to or for a business organization may not, for the purposes of this subdivision, be designated as being responsible for the engineering activities and decisions of such business organization.

**310-A:21 License Expiration and Renewals.** – All licenses issued by the board shall expire on the last day of the month of the licensee's birth in the year 2 years following the year of issuance. The board shall cause notification of the impending license expiration to be sent to each licensee at least one month prior to the expiration of the license. If the renewal fee is not submitted within 12 months after the expiration date, the licensee's name shall be removed from current status, and application for reinstatement shall be required to return to current status. The board shall charge a 20 percent reinstatement fee for each month or fraction of a month the renewal is late, up to 12 months, in addition to the renewal fee. If a professional engineer is 70 years or older at time of renewal, and the professional engineer has held an engineering license continuously for the 10-year period immediately preceding the renewal, the board may waive the renewal fee in accordance with rules adopted by the board.

**310-A:22 Investigations and Disciplinary Proceedings.** –

I. [Repealed.]

II. Misconduct sufficient to support disciplinary proceedings under this section shall include:

- (a) The practice of fraud or deceit in procuring or attempting to procure or renew a certificate to practice under this subdivision.
- (b) Conviction of a felony or any offense involving moral turpitude.
- (c) Unprofessional, unethical, or dishonorable conduct unworthy of, and affecting the practice of engineering.
- (d) Unfitness or incompetency by reason of negligent habits or other causes, or negligent or willful acts performed in a manner inconsistent with the interests of persons relying on the expertise of the licensee.
- (e) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders the licensee unfit to practice under this subdivision.
- (f) Mental or physical incompetency to practice under this subdivision.
- (g) Willful or repeated violation of the provisions of this subdivision.
- (h) Suspension or revocation of a license, similar to one issued under this subdivision, in another



jurisdiction and not reinstated.

- (i) Violations of the rules of professional conduct for professional engineers, or any other rule adopted by the board.
- (j) Providing false testimony before the board.
- (k) Failure to provide, within 30 calendar days of receipt of notice by certified mail, return receipt requested, information requested by the board as a result of any formal complaint to the board alleging a violation of this subdivision.
- (l) Knowingly making or signing any false statement, certificate, or affidavit in connection with the practice of engineering.

### **310-A:22-a Investigations; Enforcement. –**

I. [Repealed.]

II. [Repealed.]

III. Any district court within the jurisdiction of which the inquiry is carried on or within which said person resides or conducts business, upon application by the board, shall have jurisdiction to issue such person an order requiring such person to appear before the board, its members or agents, and to produce evidence, if so ordered, or to give testimony. Any failure to obey such order of the court may be punishable by the court as contempt.

IV. The board is hereby authorized to apply in its own name for relief by injunction to the superior court, to enforce the provisions of this subdivision or to restrain any violation of the provisions of this subdivision. In such proceedings, it shall be unnecessary to allege or to prove that either an adequate remedy at law does not exist or that substantial or irreparable damage would result from any continued violation. The members of the board shall not be personally liable under these proceedings.

V. The actions by the board shall be binding upon applicants for licensure, engineers-in-training, and all persons licensed under this subdivision, and shall be applicable to any business organization which shall hold a certificate or registration under this subdivision.

VI. Following an investigation of any complaint relating to a violation of any provision of this subdivision by a nonregistrant, and dependent on the result of such investigation, the board may present its findings to the county attorney in whose county such violation has occurred, and shall aid in the prosecution of the violation

### **310-A:23 Hearings; Appeals; Penalties. –**

I. [Repealed.]

II. (a) The board shall have the power to administer oaths or affirmations, preserve testimony, subpoena witnesses, and to compel, by subpoena duces tecum, the production of all books, records, files and documents, whether originals, copies, or in electronic or other form, and other materials, relevant to its investigation of any grievance, complaint, or disciplinary proceeding before the board.

(b) The board may issue subpoenas with the approval of the office of the attorney general.

(c) A minimum of 10 business days' notice shall be given for compliance with a subpoena under this chapter.

III. At any hearing, the named person or licensee shall have the right to:

(a) Appear in person, by counsel, or both.

(b) Produce evidence and witnesses.

(c) Cross-examine witnesses.

IV. If the named person fails or refuses to appear, the board may proceed to hear and determine the validity of the charges.

V. The board, upon making an affirmative finding under RSA 310-A:22, II, may take disciplinary action in any one or more of the following ways:

(a) By written reprimand.

(b) By suspension, refusal to renew, limitation or restriction of a license, or probation for a period of time

determined to be reasonable by the board.

(c) By revocation of a license.

(d) By requiring the person to participate in a program of continuing education in the area or areas in which the person has been found deficient.

(e) By requiring the person to practice under the direct supervision of a licensed professional engineer for a period of time specified by the board.

(f) By assessing civil penalties, after notification and due process, in amounts established by the board which shall not exceed \$2,000 per offense or, in the case of continuing offenses, \$200 for each day the violation continues, whichever is greater.

VI. Any applicant or licensee aggrieved by an action of the board denying, suspending, refusing to renew, or revoking its license may appeal the decision in accordance with RSA 541.

VII. In addition to any other action, the board may assess all reasonable costs incurred in connection with any disciplinary proceeding, including investigations and stenographers' and attorneys' fees as a condition of probation or reinstatement.

VIII. Any disciplinary action by the board shall be published in the report of the board and shall be a public record in accordance with RSA 91-A.

**310-A:24 Reissuance of Licenses.** – The board, for reasons it deems sufficient, may reissue a license to any person whose license has been suspended or revoked, provided 3 or more members of the board vote in favor of such reissuance. A new license may be issued, subject to the rules of the board, and a charge shall be made for such issuance.

**310-A:25 Violations.** –

I. (a) It shall be a class B misdemeanor for any unlicensed natural person or a felony for any unauthorized business organization to:

(1) Practice, or offer to practice, engineering in this state.

(2) Represent by any verbal statement, sign, letterhead, card, or in any other way that they are professional engineers or able to perform engineering services.

(3) Use or otherwise assume in conjunction with the personal name, or advertise any title or description tending to convey the impression that such person is a professional engineer licensed under this subdivision.

(b) It shall be a class B misdemeanor for any natural person or a felony for any unauthorized business organization to:

(1) Present or attempt to use the license or seal of another as one's own.

(2) Give any false or forged evidence of any kind to the board or to any member of the board in obtaining a license.

(3) Falsely impersonate any other licensee of like or different name.

(4) Attempt to use an expired or revoked license.

II. The attorney general, or a designee, shall act as legal advisor to the board if the board so requests, and render such legal assistance as deemed necessary by the board in carrying out the provisions of this subdivision, provided that this responsibility shall not relieve the local prosecuting officers of any of their duties under the law. With the approval of the attorney general, the board may employ counsel and necessary assistance through the office of professional licensure and certification in carrying out the provisions of this subdivision. Reasonable compensation and expenses for counsel and legal assistance shall be paid from the funds of the board allocated for such purpose.

**310-A:26 Restraint of Violations.** – The superior court shall have jurisdiction in equity to restrain violations of RSA 310-A:25 on proceedings brought by the attorney general, the board or any society of licensed professional engineers duly incorporated under the laws of this state.

### **310-A:27 Exemptions. –**

Nothing in this subdivision shall be construed to prevent or affect:

I. [Repealed.]

II. The work of an employee or a subordinate of a person holding an engineering license under this subdivision, provided such work does not include final designs or decisions and is done under the direct responsibility, checking, and supervision of a person holding an engineering license under this subdivision;

III. The practice of officers and employees of the government of the United States while engaged within this state in the practice of engineering for the federal government; or

IV. The practice of architecture by a duly licensed architect.

## CHAPTER Eng 100 DEFINITIONS, ORGANIZATION AND PUBLIC INFORMATION

### REVISION NOTE:

Document #5397, effective 5-20-92, made extensive changes to the wording, format, structure and numbering of rules in Chapter Eng 100. Document #5397 supersedes all prior filings for the sections in this chapter. The prior filings for former Chapter Eng 100 include the following documents:

#2364-a, eff 5-17-83

#3031, eff 5-28-85, EXPIRED: 5-28-91

### PART Eng 101 PURPOSE AND SCOPE

Eng 101.01 Purpose and Scope. The rules of this title implement the statutory responsibilities of the New Hampshire board of professional engineers created by RSA 310-A: 3. These provisions regulate but are not limited to the licensing of professional engineers and the practice of professional engineering in the state of New Hampshire.

### PART Eng 102 DEFINITIONS

Eng 102.01 Terms Used. As used in these rules, the following terms shall have the meanings indicated:

(a) “Professional engineer” means, professional engineer as defined in RSA 310-A:2, II namely “ a person who by reason of advanced knowledge of mathematics and the physical sciences, acquired by professional education and practical experience, is technically and legally qualified to practice engineering, and who is licensed by or otherwise authorized by this subdivision to engage in the practice of engineering.”

(b) "Practice of engineering" means, practice of engineering as defined in RSA 310-A:2, III, namely “any professional service or creative work requiring education, training, experience and the application of advanced knowledge of mathematics and physical sciences, involving the constant exercise of discretion and judgment, to such services or work as consultation, investigation, evaluation, planning, design, responsible oversight of construction and responsible oversight of operation, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects wherein the public welfare, or the safeguarding of life, health or property is concerned.”

(c) “Engineer-in-training” means a person who has qualified for, taken and passed the National Council of Examiners for Engineers and Surveyors examination in the fundamentals of engineering and has been issued a certificate by the board.

(d) “Board” means the New Hampshire board of professional engineers created by RSA 310-A:3.

(e) “Board administrator” means the board’s staff director, a person with delegated authority to perform administrative and clerical functions for the board.

#### PART Eng 103 BOARD ORGANIZATION

Eng 103.01 Duties and Responsibilities. The board shall administer the provisions of RSA 310-A:2-27 which include but are not limited to safeguarding life, health, and property, to promoting public welfare and maintaining a high standard of integrity regarding the practice of professional engineering in this state.

Eng 103.02 Composition of the Board. The board shall consist of 5 members who meet the eligibility requirements of RSA 310-A:3.

Eng 103.03 The Chairperson and Vice Chairperson. The chairperson shall preside at all meetings. In the absence of the chairperson, the vice-chairperson shall preside.

Eng 103.04 Organization. Beginning with the regular meeting in July and annually thereafter, the board shall meet and organize and, by election from among its members, select a chairperson, vice-chairperson and secretary.

Eng 103.05 Seal. The seal of the board shall be an embossed circular seal consisting of an outer circle and an inner circle. Between the outer and inner circle shall be the words “Office of Professional Licensure and Certification” and “N.H. Boards, Counsels, and Commissions”. Inside the inner circle shall be an outline of the State of New Hampshire and the letters “OPLC”.

Eng 103.06 Office Hours, Office Location, Mailing Address and Telephone.

(a) The board’s office shall be located at the office of professional licensure, 4 Eagle Square, Concord, N.H. 03301, and shall be open to the public weekdays, excluding holidays, from 8:00 a.m. to 4:00 p.m.

(b) Correspondence shall be addressed to the board at the location stated in Eng 103.05(a).

(c) The board’s telephone number shall be (603)-271-2152.

#### PART Eng 104 PUBLIC INFORMATION

Eng 104.01 Record of Board Actions. Minutes shall be kept of board meetings and of official actions taken by the board. Minutes of board actions which are not confidential under RSA 91-A:3, II or RSA 91-A:5 shall be a governmental record and shall be available for inspection during the board’s ordinary office hours within 5 days from the close the meeting or vote in questions unless the 72 hours availability requirement of RSA 91-A:3, III is applicable.

Eng 104.02 Custodian of Records. Persons desiring copies or board records shall submit a request which identifies as particularly as possible the information being sought. If records are requested which contain both public and confidential information, the board shall delete the confidential information and provide the remaining information.

## PART Eng 105 MEETINGS, DELIBERATIONS AND DECISIONS

Eng 105.01 Meetings. Regular meetings shall be held at least at least each month, provided that there is board business to be conducted. Special meetings shall be called by order of the chairperson for consideration of appropriate board business. Each member of the board shall be notified in writing of each meeting and such notice shall contain the place, date, time, and subject of the meeting. Notice of meetings shall be posted in accordance with RSA 91-A.

Eng 105.02 Quorum. A quorum of the board shall consist of a majority of the members appointed by Governor and Counsel. A quorum of the board shall be necessary to pass a motion unless otherwise specified by law. In the absence of the chair or vice chair the chair shall designate a pro tempore officer for the officer or officers absent.

## PART Eng 106 APPOINTMENT OF COMMITTEES

### Eng 106.01 Committees.

(a) A committee shall consist of one or more of board members who have been directed by the board to investigate and make recommendations on matters which could be handled by the full board.

(b) When expressly authorized by the board, the authority of a committee shall include:

- (1) The retention of voluntary assistance from qualified non-board members; and
- (2) The retention of paid advisors or consultants pursuant to RSA 332:G-3.

## APPENDIX

Rule	Statute
Eng 101	RSA 310-A:3
Eng 102	RSA 541-A:54
Eng 103	RSA 310-A:3
Eng 104.01	RSA 541-A:16, I(a); RSA 91-A:4
Eng 104.02	RSA 541-A:16, I(a); RSA 91-A:4
Eng 105	RSA 310-A:3, RSA 541-A:16 I, (a)
Eng 106	RSA 310-A:3, RSA 541-A:16 I, (a)

## CHAPTER Eng 200 PRACTICE AND PROCEDURE

### PART Eng 201 PURPOSE AND SCOPE

Eng 201.01 Purpose and Scope. The board shall conduct proceedings for the purpose of acquiring sufficient information to make fair and reasonable decisions on matters within its statutory jurisdiction, including decisions on applications and complaints filed against licensees. These rules are intended to secure the just, efficient and accurate resolution of all board proceedings.

## PART Eng 202 DEFINITIONS

### Eng 202.01 Definitions.

- (a) “Appearance” means a written notification to the board that a party’s representative intends to actively participate in a hearing.
- (b) “Hearing” means “adjudicative proceeding” as defined by RSA 541-A:1, I, namely, “the procedure to be followed in contested cases, as set forth in RSA 541-A:31 through RSA 541-A:36.”
- (c) “Motion” means a request to the presiding officer for an order or ruling directing some act to be done in favor of the party making the motion, including a statement of justification or reasons for the request.
- (d) “Natural person” means a human being.
- (e) “Party” means “party” as defined by RSA 541-A:1, XII, namely, “each person or board named or admitted as a party, or properly seeking and entitled as a right to be admitted as a party.” The term “party” includes all intervenors in a proceeding, subject to any limitations established pursuant to RSA 541-A:33, III.
- (f) “Person” means “person” as defined by RSA 541-A:1, XIII, namely, “any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than a board.”
- (g) “Presiding officer” means presiding officer as defined in RSA 541-A:1, XIV, namely, “that individual to whom the board has delegated the authority to preside over a proceeding, if any; otherwise it shall mean the head of the board.”
- (h) “Proof by a preponderance of the evidence” means a demonstration by admissible evidence that a fact or legal conclusion is more probable than not to be true.

## PART Eng 203 PRESIDING OFFICER; WITHDRAWAL AND WAIVER OF RULES

### Eng 203.01 Presiding Officer; Appointment; Authority.

- (a) All hearings shall be conducted for the board by a natural person appointed by the board to serve as a presiding officer.
- (b) A presiding officer shall as necessary:
- (1) Regulate and control the course of a hearing;
  - (2) Facilitate an informal resolution acceptable to all parties;
  - (3) Administer oaths and affirmations;
  - (4) Issue subpoenas to compel the attendance of witnesses at hearings or the production of documents, as authorized by RSA 310-A:23, II;
  - (5) Receive relevant evidence at hearings and exclude irrelevant, immaterial or unduly repetitious evidence;
  - (6) Rule on procedural requests, including adjournments or postponements, at the request of



a party or on the presiding officer's own motion;

(7) Question any person who testifies;

(8) Cause a complete record of any hearing to be made, as specified in RSA 541-A:31, VI; and

(9) Take any other action consistent with applicable statutes, rules and case law necessary to conduct the hearing and complete the record in a fair and timely manner.

Eng 203.02 Withdrawal of Presiding Officer.

(a) Upon his or her own initiative or upon the motion of any party, a presiding officer or board official shall, for good cause withdraw from any hearing.

(b) Good cause shall exist if a presiding officer or board official:

(1) Has a direct interest in the outcome of a proceeding, including, but not limited to, a financial or family relationship;

(2) Has made statements or engaged in behavior which objectively demonstrates that he or she has prejudged the facts of a case; or

(3) Personally believes that he or she cannot fairly judge the facts of a case.

(c) Mere knowledge of the issues, the parties or any witness shall not constitute good cause for withdrawal.

Eng 203.03 Waiver or Suspension of Rules by Presiding Officer. The presiding officer, upon his or her own initiative or upon the motion of any party, shall suspend or waive any requirement or limitation imposed by this chapter upon reasonable notice to affected persons when the proposed waiver or suspension appears to be lawful, and would be more likely to promote the fair, accurate and efficient resolution of issues pending before the board than would adherence to a particular rule or procedure.

PART Eng 204 FILING, FORMAT AND DELIVERY OF DOCUMENTS

Eng 204.01 Date of Issuance or Filing. All written documents governed by these rules shall be rebuttably presumed to have been issued on the date noted on the document and to have been filed with the board on the actual date of receipt by the board, as evidenced by a date stamp placed on the document by the board in the normal course of business.

Eng 204.02 Format of Documents.

(a) All correspondence, pleadings, motions or other documents filed under these rules shall:

(1) Include the title and docket number of the proceeding, if known;

(2) Be typewritten or clearly printed on durable paper 8 1/2 by 11 inches in size;

(3) Be signed by the party or proponent of the document, or, if the party appears by a representative, by the representative; and

(4) Include a statement certifying that a copy of the document has been delivered to all

parties to the proceeding in compliance with Eng 203.03.

(b) A party's or representative's signature on a document filed with the board shall constitute certification that:

- (1) The signer has read the document;
- (2) The signer is authorized to file it;
- (3) To the best of the signer's knowledge, information and belief there are good and sufficient grounds to support it; and
- (4) The document has not been filed for purposes of delay.

Eng 204.03 Delivery of Documents.

(a) Copies of all petitions, motions, exhibits, memoranda, or other documents filed by any party to a proceeding governed by these rules shall be delivered by that party to all other parties to the proceeding.

(b) All notices, orders, decisions or other documents issued by the presiding officer or board shall be delivered to all parties to the proceeding.

(c) Delivery of all documents relating to a proceeding shall be made by personal delivery or by depositing a copy of the document, by first class mail, postage prepaid, in the United States mail, addressed to the last address given to the board by the party.

(d) When a party appears by a representative, delivery of a document to the party's representative at the address stated on the appearance filed by the representative shall constitute delivery to the party.

PART Eng 205 TIME PERIODS

Eng 205.01 Computation of Time.

(a) Unless otherwise specified, all time periods referenced in this chapter shall be calendar days.

(b) Computation of any period of time referred to in these rules shall begin with the day after the action which sets the time period in motion, and shall include the last day of the period so computed.

(c) If the last day of the period so computed falls on a Saturday, Sunday or legal holiday, then the time period shall be extended to include the first business day following the Saturday, Sunday or legal holiday.

PART Eng 206 MOTIONS AND PLEADINGS

Eng 206.01 Motions; Objections.

(a) Motions shall be in written form and filed with the presiding officer, unless made in response to a matter asserted for the first time at a hearing or on the basis of information which was not received in time to prepare a written motion.

(b) Oral motions and any oral objection to such motions shall be recorded in full in the record of the hearing. If the presiding officer finds that the motion requires additional information in order to be fully and fairly considered, the presiding officer shall direct the moving party to submit the motion in writing, with supporting information.

(c) Objections to written motions shall be filed within 30 days of the date of the motion.

(d) Failure by an opposing party to object to a motion shall not in and of itself constitute grounds for granting the motion.

(e) The presiding officer shall rule upon a motion after full consideration of all objections and other factors relevant to the motion.

Eng 206.02 Pleadings.

(a) The only pleadings permitted shall be petitions, other than for rulemaking, and replies to petitions. Applications shall not be considered pleadings.

(b) All petitions shall contain:

(1) The name and address of the petitioner;

(2) The name and address of the petitioner's representative, if any;

(3) A concise statement of the facts that caused the petitioner to request the board to act;

(4) The action that the petitioner wishes the board to take; and

(5) The identification of any statutes, rules, orders, or other authority that entitles the petitioner to request the board to act.

(c) Board replies to petitions shall contain:

(1) The name and address of the petitioner;

(2) The name and address of the representative of the petitioner, if any;

(3) A statement addressing each fact alleged in the petition;

(4) A statement addressing the authority identified by the petitioner;

(5) A concise response to each statement;

(6) The identification of any statutes, rules, orders, or other authority, not identified in the petition, having a bearing upon the subject matter of the petition; and

(7) The action the board took.

(d) Replies shall be filed within 90 days from the date of the petition.

PART Eng 207 NOTICE OF HEARING; APPEARANCES; PRE-HEARING CONFERENCES

Eng 207.01 Commencement of Hearing. A hearing shall be commenced by an order of the board giving notice to the parties at least 30 days prior to the hearing as required by Eng 207.03.

Eng 207.02 Docket Numbers. A docket number shall be assigned to each matter to be heard which shall appear on the notice of hearing and all subsequent orders or decisions of the board.

Eng 207.03 Notice of Hearing.

(a) A notice of a hearing issued by the board at least 30 days prior to the hearing shall contain the information required by RSA 541-A:31, III, namely:

- (1) A statement of the time, place and nature of any hearing;
- (2) A statement of the legal authority under which a hearing is to be held;
- (3) A reference to the particular statutes and rules involved including this chapter;
- (4) A short and plain statement of the issues presented;
- (5) A statement that each party has the right to have an attorney represent them at their own expense; and
- (6) A statement that each party has the right to have the board provide a certified shorthand court reporter at the party's expense and that any such request shall be submitted in writing at least 10 days prior to the hearing.

Eng 207.04 Appearances and Representation.

(a) A party's representative shall file an appearance that includes the following information:

- (1) A brief identification of the matter;
- (2) A statement as to whether or not the representative is an attorney and if so, whether the attorney is licensed to practice in New Hampshire; and
- (3) The party or representative's daytime address and telephone number.

Eng 207.05 Prehearing Conference. Any party may request, or the presiding officer shall schedule on his or her own initiative, a prehearing conference in accordance with RSA 541-A:31, V to consider:

- (a) Offers of settlement;
- (b) Simplification of the issues;
- (c) Stipulations or admissions as to issues of fact or proof by consent of the parties;
- (d) Limitations on the number of witnesses;
- (e) Changes to standard procedures desired during the hearing by consent of the parties;
- (f) Consolidation of examination of witnesses and;
- (g) Any other matters which aid in the disposition of the proceeding.

PART Eng 208 ROLES OF BOARD STAFF AND COMPLAINANTS

Eng 208.01 Role of Board Staff in Enforcement or Disciplinary Hearings. Unless called as witnesses, board staff as defined in Eng 103.04 shall have no role in any enforcement or disciplinary hearing.

Eng 208.02 Role of Complainants in Enforcement or Disciplinary Hearings. Unless called as a witness or granted party or intervenor status, a person who initiates an adjudicative proceeding by complaining to the board about the conduct of a person who becomes a party shall have no role in any enforcement or disciplinary hearing.

#### PART Eng 209 INTERVENTION

##### Eng 209.01 Intervention.

(a) A non-party may intervene in a matter pending before a board under the provisions of RSA 541-A:32, by filing a motion stating facts demonstrating that the non-party's rights or other substantial interests might be affected by the proceeding or that the non-party qualifies as an intervenor under any provision of law.

(b) If the presiding officer determines that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the hearing, he or she shall grant the motion for intervention.

(c) Participation by intervenors shall be limited to that which is necessary to protect the interest identified in the petition for intervention.

(d) Petitions for intervention shall be filed any time after commencement of a proceeding, and state:

- (1) The petitioner's interest in the subject matter of the hearing;
- (2) Whether the petitioner appears in support of the complainant, or the respondent, as well as for his or her own interest;
- (3) Why the interests of the parties and the orderly and prompt conduct of the proceeding would not be impaired; and
- (4) Any other reasons why the petitioner should be permitted to intervene.

(e) Petitions for intervention shall be granted if the petitioner has an interest in the proceeding and has clearly stated this interest.

(f) A person filing a complaint that becomes the subject of a disciplinary hearing shall be served with the hearing notice and notified of the right to intervene in the proceeding.

(g) Once granted leave to intervene, intervenors shall take the proceeding as they find it and no portion of the proceeding shall be repeated because of the fact of intervention.

#### PART Eng 210 POSTPONEMENT REQUESTS AND FAILURE TO ATTEND HEARING

##### Eng 210.01 Postponements.

(a) Any party to a hearing may make an oral or written motion that a hearing be postponed to a later date or time.

(b) If a postponement is requested by a party to the hearing, it shall be granted if the presiding officer determines that good cause has been demonstrated. Good cause shall include the unavailability of parties, witnesses or attorneys necessary to conduct the hearing, the likelihood that a hearing will not be

necessary because the parties have reached a settlement or any other circumstances that demonstrate that a postponement would assist in resolving the case fairly.

(c) If the later date, time and place are known at the time of the hearing that is being postponed, the date, time and place shall be stated on the record. If the later date, time and place are not known at the time of the hearing that is being postponed, the presiding officer shall issue a written scheduling order stating the date, time and place of the postponed hearing as soon as practicable.

Eng 210.02 Failure to Attend Hearing. If any party to whom notice has been given in accordance with Eng 207.03 fails to attend a hearing, the presiding officer shall declare that party to be in default and shall either:

- (a) Dismiss the case, if the party with the burden of proof fails to appear; or
- (b) Hear the testimony and receive the evidence offered by a party, if that party has the burden of proof in the case.

## PART Eng 211 REQUESTS FOR INFORMATION OR DOCUMENTS

### Eng 211.01 Voluntary Production of Information.

(a) Each party shall attempt in good faith to make complete and timely response to requests for the voluntary production of information or documents relevant to the hearing.

(b) When a dispute between parties arises concerning a request for the voluntary production of information or documents, any party may file a motion to compel the production of the requested information under Eng 211.02.

### Eng 211.02 Motions to Compel Production of Information.

(a) Any party may make a motion requesting that the presiding officer order the parties to comply with information requests. The motion shall be filed at least 15 days before the date scheduled for the hearing.

(b) The moving party's motion shall:

- (1) Set forth in detail those factors which it believes justify its request for information; and
- (2) List with specificity the information it is seeking to discover.

(c) When a party has demonstrated that such requests for information are necessary for a full and fair presentation of the evidence at the hearing, the presiding officer shall grant the motion.

Eng 211.03 Mandatory Pre-Hearing Disclosure of Witnesses and Exhibits. At least 5 days before the hearing the parties shall exchange a list of all witnesses to be called at the hearing with a brief summary of their testimony, a list of all documents or exhibits to be offered as evidence at the hearing, and a copy of each document or exhibit.

## PART Eng 212 RECORD, PROOF, EVIDENCE AND DECISIONS

### Eng 212.01 Record of the Hearing.



(a) The board shall record the hearing by tape recording or other method that will provide a verbatim record except for a proceeding on emergency action shall be governed by RSA 541-A:30, III.

(b) If any person requests a transcript of the taped record, the board shall cause a transcript to be prepared and, upon receipt of payment for the cost of the transcription, shall provide copies of the transcript to the requesting party.

(c) At the request of a party to any proceeding involving disciplinary action, the record of the proceeding shall be made by a certified shorthand court reporter provided by the board at the requesting party's expense. A request for a certified shorthand court reporter shall be filed at least 10 days prior to the hearing.

Eng 212.02 Standard and Burden of Proof. The party asserting a proposition shall bear the burden of proving the truth of the proposition by a preponderance of the evidence.

Eng 212.03 Testimony; Order of Proceeding.

(a) Any person offering testimony, evidence or arguments shall state for the record his or her name, and role in the proceeding. If the person is representing another person, the person being represented shall also be identified.

(b) Testimony shall be offered in the following order:

(1) The party or parties bearing the burden of proof and such witnesses as the party may call;

(2) The party or parties opposing the party who bears the overall burden of proof and such witnesses as the party may call.

Eng 212.04 Evidence.

(a) Receipt of evidence shall be governed by the provisions of RSA 541-A:33.

(b) All documents, materials and objects offered as exhibits shall be admitted into evidence unless excluded by the presiding officer as irrelevant, immaterial, unduly repetitious or legally privileged.

(c) All objections to the admissibility of evidence shall be stated as early as possible in the hearing, but not later than the time when the evidence is offered.

(d) Transcripts of testimony and documents or other materials, admitted into evidence shall be public records unless the presiding officer determines that all or part of a transcript or document is exempt from disclosure under RSA 91-A:5 or applicable case law.

Eng 212.05 Proposed Findings of Fact and Conclusions of Law.

(a) Any party may submit proposed findings of fact and conclusions of law to the presiding officer prior to or at the hearing.

(b) Upon request of any party, or if the presiding officer determines that proposed findings of fact and conclusions of law would serve to clarify the issues presented at the hearing, the presiding officer shall specify a date after the hearing for the submission of proposed findings of fact and conclusions of law.

(c) In any case where proposed findings of fact and conclusions of law are submitted, the decision shall include rulings on the proposals.

Eng 212.06 Closing the Record.

(a) After the conclusion of the hearing, the record shall be closed and no other evidence shall be received into the record, except as allowed by (b) below and Eng 212.08.

(b) Before the conclusion of the hearing, a party may request that the record be left open to allow the filing of specified evidence not available at the hearing. If the other parties to the hearing have no objection or if the presiding officer determines that such evidence is necessary to a full consideration of the issues raised at the hearing, the presiding officer shall keep the record open for the period of time necessary for the party to file the evidence.

Eng 212.07 Reopening the Record. At any time prior to the issuance of the decision on the merits, the presiding officer, on the presiding officer's own initiative or on the motion of any party, shall reopen the record to receive relevant, material and non-duplicative testimony, evidence or arguments not previously received, if the presiding officer determines that such testimony, evidence or arguments are necessary to a full and fair consideration of the issues to be decided.

Eng 212.08 Decisions.

(a) A board member shall not participate in making a decision unless he or she personally heard the testimony in the case, unless the matter's disposition does not depend on the credibility of any witness and the record provides a reasonable basis for evaluating the testimony.

(b) If a presiding officer has been delegated the authority to conduct a hearing in the absence of a majority of the members of the board who are to render a final decision, the presiding officer shall submit to the board a written proposal for decision, which shall contain a statement of the reasons for the decision and findings of fact and rulings of law necessary to the proposed decision.

(c) If a proposal for decision in a matter not personally heard by all board members voting on the decision is adverse to a party to the proceeding other than the board itself, the board shall serve a copy of the proposal for decision on each party to the proceeding and provide an opportunity to file exceptions and present briefs and oral arguments to the board.

(d) A proposal for decision shall become a final decision upon its approval by the board.

(e) A board shall keep a decision on file in its records for at least 5 years following the date of the final decision or the date of the decision on any appeal, unless the director of the division of records management and archives of the department of state sets a different retention period pursuant to rules adopted under RSA 5:40.

## PART Eng 213 MOTION FOR REHEARING

Eng 213.01 Purpose. The rules in this part are intended to supplement any statutory provisions, including RSA 541, that require or allow a person to request a rehearing of a decision of the board prior to appealing the decision.

Eng 213.02 Applicability. The rules in this part shall apply whenever any person has a right under applicable law to request a rehearing of a decision prior to filing an appeal of the decision with the court

having appellate jurisdiction.

Eng 213.03 Filing and Content of Motion.

- (a) A motion for rehearing shall be filed within 30 days of the date of the board decision or order.
- (b) A motion for rehearing shall:
  - (1) Identify each error of fact, error of reasoning, or error of law which the moving party wishes to have reconsidered;
  - (2) Describe how each error causes the board's decision to be unlawful, unjust or unreasonable, or illegal in respect to jurisdiction, authority or observance of the law, an abuse of discretion or arbitrary, unreasonable or capricious;
  - (3) State concisely the factual findings, reasoning or legal conclusion proposed by the moving party; and
  - (4) Include any argument or memorandum of law the moving party wishes to file.

Eng 213.04 Standard for Granting Motion for Rehearing.

- (a) A motion for rehearing in a case subject to appeal under RSA 541 shall be granted if it demonstrates that the board's decision is unlawful, unjust or unreasonable.
- (b) A motion for rehearing in a case subject to appeal by petition for writ of certiorari shall be granted if it demonstrates that the board's decision is illegal in respect to jurisdiction, authority or observance of law, an abuse of discretion or arbitrary, unreasonable or capricious.

Eng 213.05 Decision on Motion for Rehearing. The board shall grant or deny a motion for rehearing, or suspend the order or decision pending further consideration within 10 days of the filing of the motion for rehearing.

PART Eng 214 RULEMAKING PUBLIC COMMENT HEARINGS

Eng 214.01 Purpose. The purpose of this part is to provide a uniform procedure for the conduct of public hearings at which comment from the general public will be solicited for evaluation and consideration by the board relative to rulemaking.

Eng 214.02 Scope.

- (a) These rules shall apply to all hearings required by state law to be conducted by the department at which public comment shall be solicited, except that they shall not apply to adjudicative hearings.
- (b) If any requirement set by these rules conflicts with an applicable statute, such other authority shall control.

Eng 214.03 Notice.

- (a) A public comment hearing concerning rulemaking shall be commenced by placing notice of the hearing in the "Rulemaking Register" so that it shall appear at least 20 days prior to the hearing date.

(b) Notice for rulemaking public comment hearings shall comply with RSA 541-A:6, I.

(c) Nothing in these rules shall prohibit the board from giving greater notice than the minimums set out in this part.

Eng 214.04 Media Access.

(a) Public comment hearings shall be open to the print and electronic media.

(b) The moderator shall place limits on the activities of the media to avoid disruption in the following ways:

(1) Limit the number of media representatives when their presence is disproportionate to the number of citizens present and shall cause citizens to be excluded;

(2) Limit the placement of television cameras to certain locations in the hearing room; and

(3) Prohibit interviews from being conducted within the hearing room during the hearing.

Eng 214.05 Moderator.

(a) The hearing shall be presided over by a moderator who shall be the board chairperson or a designee.

(b) The moderator shall:

(1) Call the hearing to order;

(2) Cause a recording of the hearing to be made;

(3) Place limits on the media to avoid disruption as set out in Eng 214.04(b);

(4) Recognize those who wish to be heard and establish the order thereof;

(5) Limit the time for each speaker, as set out in Eng 214.06(b);

(6) Remove or have removed any person who disrupts the hearing;

(7) Adjourn the hearing; and

(8) Provide opportunity for the submission of written comments.

Eng 214.06 Public Participation.

(a) Any person who wishes to speak on the issue or issues which are the subject of the hearing shall place his or her name and address on a speakers' list before the last speaker on the list has finished speaking. All whose names appear on the speakers' list, as provided, shall be afforded reasonable time to speak at the hearing. Limit the amount of time each speaker may speak to a reasonable time. Reasonable time shall be determined considering the number of people who wish to be heard, the time and the availability of the facility.

(b) The board, through the moderator, shall:

(1) Refuse to recognize a person who refuses to give his or her full name and address;

- (2) When a group or organization wishes to comment, limit the group to no more than 3 spokespersons, provided that the members who are present shall be allowed to enter their names and addresses into the record as supporting the position by the group or organization;
  - (3) Revoke recognition of a speaker who speaks or acts in an abusive or disruptive manner; or
  - (4) Revoke recognition of a speaker who refuses to keep his comments relevant to the issue or issues which are the subject of the hearing.
- (c) Written comments may be submitted any time from the time notice has been published until the record has been closed by the moderator, which shall not be less than 7 calendar days after the hearing.
- (d) In the event that the number of speakers who wish to give oral testimony relevant to the issue or issues involved exceed that number which can be heard within a reasonable period of time subject to facility availability and length of the hearing, the hearing shall be reconvened pursuant to applicable provisions in RSA 541-A to afford such persons the opportunity to be heard. Speakers may elect to submit written testimony in lieu of additional oral hearing.

Eng 214.07 Explanation after Adoption.

- (a) Any person may request an explanation regarding adoption of the rules pursuant to RSA 310-A:11, VII by submitting a request to the board.
- (b) The request shall be considered at the next scheduled board meeting and the board shall issue a response within 45 days after consideration.

PART Eng 215 PETITIONS FOR RULEMAKING

Eng 215.01 Petition for Rulemaking.

- (a) Any person may request the board to commence a proceeding for the purpose of adopting, amending, or repealing a rule by filing a written petition that contains:
  - (1) A statement of the petitioner's request for the proposed rule;
  - (2) The text of the proposed rule or a statement of the particular results intended by the petitioner's interest in the subject matter of the proposed rule;
  - (3) An identification of the particular rule sought to be amended or repealed;
  - (4) Any data or argument the petitioner believes would be useful to the board in deciding whether to commence a rulemaking proceeding; and
  - (5) Name, address, signature of petitioner and date.

Eng 215.02 Disposition of Petition.

- (a) The board shall consider all petitions for rulemaking and proceed pursuant to RSA 541-A:4. The board shall request additional data or argument from the petitioner or other interested persons to clarify the argument.
- (b) If the data or argument fails to support the petition, the board shall state the reason therefore in

the order.

(c) If the data or argument supports the petition, the board shall commence rulemaking in accordance with RSA 541-A:3 et. seq.

#### PART Eng 216 DECLARATORY RULINGS

##### Eng 216.01 Petitions.

(a) Any person may request a declaratory ruling from the board on matters within its jurisdiction by filing an original and 5 copies of a petition pursuant to Eng 206.02(b).

(b) A petition for declaratory ruling shall also set forth the following information:

- (1) The exact ruling being requested; and
- (2) The statutory and factual basis for ruling, including any supporting affidavits or memoranda of a law.

##### Eng 216.02 Action on Petitions.

(a) The petitioner shall provide such further information or participate in such evidentiary or other proceedings as the board shall direct after reviewing the petition and any replies received.

(b) Upon review and consideration, the board shall within 90 days rule on the petition pursuant to Eng 206.02 (d).

#### PART Eng 217 EXPLANATION AFTER ADOPTION

##### Eng 217.01 Explanation after Adoption.

(a) Any person may request an explanation regarding adoption of the rules pursuant to RSA 541-A:11, VII by submitting a request to the board.

(b) The request shall be considered at the next scheduled board meeting and the board shall issue a response within 45 days after consideration.

### APPENDIX

Rule	Specific State Statute which the Rule Implements
Eng 201-213	RSA 310-A:22, 310-A:22-a, 310-A:23
Eng 214.01	RSA 541-A:16, I(c)
Eng 214.03	RSA 541-A:16, I(c)
Eng 214.04	RSA 541-A:16, I(b)
Eng 215	RSA 541-A:16, I(d)
Eng 216	
Eng 217	RSA 541-A:16, I(b)



## CHAPTER Eng 300 LICENSURE REQUIREMENTS

### PART Eng 301 DEFINITIONS

Eng 301.01 Terms Used. As used in these rules, the following terms have the meanings indicated:

(a) “Accreditation Board for Engineering and Technology (ABET)” means the organization primarily responsible for monitoring, evaluating, and certifying the quality of engineering, engineering technology, and engineering-related education in colleges and universities in the United States.

(b) “Applicant” means a candidate on whose behalf an application has been filed.

(c) “Bachelor of science in an ABET accredited engineering curriculum” means a curriculum accredited by the Engineering Accreditation Commission (EAC) of the ABET leading to a Baccalaureate Degree in Engineering.

(d) “Bachelor of science in an Technology Accreditation Commission (TAC) accredited engineering technology curriculum” means a curriculum of 4 or more years accredited by the TAC of the ABET leading to a degree in engineering technology.

(e) “National Council of Examiners for Engineering and Surveying (NCEES)” means the service provider, which verifies and maintains a permanent collection of original source documentation of engineer’s educational, examination and identification documents.

(f) “Non-ABET accredited engineering or related science curriculum” means a curriculum of 4 or more years, of physics, math, chemistry and engineering technology which contains engineering or scientific principles not accredited by ABET.

(g) “Temporary permit” means a temporary license, issued for a period not exceeding 6 months in any one calendar year, issued pursuant to RSA 310:A-19, III.

(h) “Verification” means a document received directly from a state licensing authority which verifies whether or not a person has ever been granted a license by that state, the dates during which the license was valid and whether the licensing authority has ever taken disciplinary action against that license.

### PART Eng 302 APPLICATION REQUIREMENTS AND APPLICATION/EXAMINATION/LICENSURE FEES

Eng 302.01 Application Process.

(a) A person wishing to become licensed as a professional engineer shall submit an application form provided by the board containing the information specified in Eng 302.02, including the application fee specified in Eng 302.04.

(b) An application, which is not signed by the applicant, and is not accompanied by cash, a valid check or a valid credit card for the application fee, shall not be accepted and shall be returned to the applicant.

(c) If the application is denied, the applicant shall be provided an opportunity to request a hearing for reconsideration pursuant to Eng 206 on the deficiency issues identified by the board. Any such request shall be made in writing and received by the board within 30 days of the receipt of the notification of denial.

(d) Applications about which there has been no communication by the applicant to the board for one year shall be destroyed.

Eng 302.02 Application for Licensure.

(a) Each applicant for licensure shall provide, or cause to be provided, the following on a form supplied by the board:

- (1) The applicant's name, including any names previously used;
- (2) The applicant's residence and business addresses and telephone numbers;
- (3) The applicant's e-mail address;
- (4) The applicant's date of birth and place of birth;
- (5) The applicant's positions, dates of employment, title, and present address of employer;
- (6) Character of employment including types of work performed and degree of responsibility;
- (7) Name and present address of someone familiar with each position;
- (8) The applicant's educational history including the names of all high school and post-secondary institutions attended, the dates of attendance and degrees awarded and certified copies of transcripts from all post-secondary institutions attended;
- (9) A listing of every state in which the applicant holds or has ever held registration/licensure as a professional engineer;
- (10) Whether the registration/license is now in force and if not, the reasons why it is not in force;
- (11) Whether the applicant has ever lost or been denied registration /licensure as a professional engineer or disciplined by another licensing board in any other state or jurisdiction and if so, an explanation of the circumstances;
- (12) Whether the applicant has ever taken the NCEES Fundamentals of Engineering examination, and if so, the location, date and grade awarded;
- (13) Whether the registration /licensure as a professional engineer was issued by examination and if so, the location, date and grade awarded;
- (14) Whether the applicant has ever been convicted of any felony or misdemeanor that has not been annulled by a court pursuant to RSA 651:5 and, if not annulled, the name of the court in which the conviction occurred, the details of the offense, the date of conviction, and the sentence imposed;
- (15) The names, complete addresses, occupation and business relationship with applicant of 5 references as specified in Eng 303.03;

- (16) A list of current memberships in professional or scientific societies which shall include name of organization, location, grades and dates of memberships and any additional experience information the applicant wishes to provide,
  - (17) The applicant's social security number required pursuant to RSA 161- B:11, VI-a; and
  - (18) The applicant's signature under penalty of unsworn falsification.
- (b) Educational transcripts submitted by each applicant for licensure under the provisions of Eng 303.01 (b) (5) shall be sent directly from the institution to the National Council for Examiners for Engineering and Surveying (NCEES) Credentials Evaluations translation and authentication service, which specializes in evaluating educational credentials for translation and authentication. This translation and authentication shall be then sent from the translation and authentication organization directly to the board office for evaluation by the board.
- (c) Applicants shall pay the application fee specified in Eng 302.04.

Eng 302.03 Application for the Fundamentals of Engineering Examination.

- (a) Each applicant for the fundamentals of engineering examination shall provide, or cause to be provided, the following on a form supplied by the board:
- (1) The applicant's name;
  - (2) The applicant's residence and school or business addresses;
  - (3) The applicant's telephone number;
  - (4) The applicant's e-mail address;
  - (5) The applicant's date of birth;
  - (6) The applicant's educational history including the names of all high school and post-secondary institutions attended, and the dates of attendance;
  - (7) Whether the applicant has ever taken the NCEES Fundamentals of Engineering examination, and if so, the location, date and grade awarded; and
  - (8) The applicant's signature under penalty of unsworn falsification.
- (b) Applicants shall pay the application fee specified in Eng 302.04.

Eng 302.04 Application, Examination, and Licensure Fees.

- (a) The application fee for certification as an engineer in training shall be \$75.00
- (b) The application fee for licensure as a professional engineer shall be \$150.00.
- (c) The fee for examination for licensure as a professional engineer shall be \$310.00
- (d) The fee for the vertical forces component of the Principles and Practice examination for licensure as a professional engineer shall be \$500.00.
- (e) The fee for the lateral forces component of the Principles and Practice examination for

licensure  
as a professional engineer shall be \$500.00.

(f) The application fee when applying for licensure by comity/reciprocity with other states shall be \$250.00.

(g) The certificate of licensure fee for applicants shall be \$50.00.

(h) The biennial renewal fee shall be \$150.00 for active status and \$30.00 for retired status.

(i) The reinstatement fee after 12 months shall be the renewal fee plus 20 percent late fee totaling \$510.00.

(j) The application fee for certificate of authorization for all engineering companies shall be \$100.00 per year.

(k) The temporary permit fee shall be \$300.00.

(l) The fee for verification of licensure or certification shall be \$25.00.

(m) The fee for replacement of a lost or mutilated certificate of licensure shall be \$50.00.

Eng 302.05 Fees. All fees shall be paid in the form of cash, money order, bank draft, credit card or check payable to: "Treasurer, State of New Hampshire" and are non-refundable.

## PART Eng 303 QUALIFICATIONS OF APPLICANTS

### Eng 303.01 Candidate Requirements.

(a) Candidates for licensure shall meet the requirements established by RSA 310-A:12-19 before a license shall be granted. The board shall require that applicants appear for a personal audience with the board if their records of education or experience are unclear, contradictory or incomplete. The board shall also require documentation of the applicant's work products to help determine competency if their records of education or experience are unclear, contradictory or incomplete.

(b) Qualifications shall be determined as follows:

(1) Applicants possessing a 4-year EAC/ABET degree shall have 4 years engineering experience satisfactory to the board;

(2) Applicants possessing a 4-year EAC/ABET equivalent, foreign engineering degree which consists of an engineering program which has a successful ABET site visit shall have 4 years engineering experience satisfactory to the board;

(3) Applicants possessing a degree in a related science and holding a master's degree or higher in engineering from an institution which offers an EAC/ABET 4-year engineering degree accredited program shall have 4 years experience satisfactory to the board. Education per Eng 303.02 (h) shall not be counted towards the 4-year experience requirement;

(4) Applicants possessing a 4-year degree from non ABET accredited U.S. engineering program shall have 8 years engineering experience satisfactory to the board;

(5) Applicants possessing a foreign degree having a favorable NCEES Credentials Evaluations which consists of transcript review only shall have 8 years engineering

experience satisfactory to the board;

(6) Applicants possessing a TAC/ABET 4-year degree shall have 8 years engineering experience satisfactory to the board; and

(7) Applicants possessing any degree other than those set forth per Eng 303.01 (b) (1)-(6), or no degree, shall have 25 years of engineering experience satisfactory to the board and shall have successfully passed the NCEES Principles and Practices of engineering examination.

Eng 303.02 Experience Requirements. Experience in the practice of engineering shall be determined pursuant to RSA 310-A:12 – 19 as follows:

(a) Experience shall be progressive on engineering projects to indicate that it is of increasing quality and requiring greater responsibility;

(b) Only work of an engineering nature shall be credible;

(c) Experience shall not be obtained in violation of RSA 310-A;

(d) Experience gained in the armed services, to be creditable, shall be of a character equivalent to that which would have been gained in the civilian sector doing similar work. The applicant while in the armed services shall have served in an engineering or engineering-related group;

(e) Experience shall be gained under the supervision of a licensed professional engineer or if not, an explanation shall be made showing why the experience should be considered acceptable;

(f) Teaching experience to be creditable must be of an advanced level in a college or university offering an engineering curriculum of four years or more that is accredited by the ABET accredited program;

(g) Experience gained in engineering research and design projects by members of an engineering faculty where the curriculum is of an advanced level in a college or university offering an engineering curriculum of four years or more that is accredited by the ABET accredited program shall be creditable;

(h) Successful completion of graduate study leading to the master's degree in engineering which has followed a baccalaureate degree in engineering may be used for credit for one year's experience. If the Ph.D. in engineering is completed under the same conditions, 2-year's total experience shall be credited. The 2 years credit shall include the one year for the master's degree;

(i) Experience shall not be anticipated. The experience shall have been received at the time of the application;

(j) Experience as a contractor in the execution of design by a professional engineer or in employment considered as that of supervising construction of such work shall not be considered as creditable experience; and

(k) Experience gained in construction to be creditable shall constitute engineering practice as set forth in RSA 310-A:2, III.

Eng 303.03 References Required.

(a) Each applicant for licensure shall provide the board with the names and addresses of at least 5 individuals, who shall provide references, and are not related to the applicant. At least 3 of the references shall be individuals having personal or professional knowledge of the applicant's engineering experience.

At least 3 of the references shall be licensed engineers as defined by RSA 310-A:2, II, having detailed knowledge of the applicant's engineering experience.

(b) The board shall use as references any individuals, whose names appear in any part of the completed application.

Eng 303.04 Information from References.

(a) Information from references shall be requested by the board on forms provided by the board as follows:

- (1) Applicant's name;
- (2) Reference's name and address, relationship to the applicant, and status as a licensed engineer as defined in RSA 310-A:2, II; and
- (3) A brief description of the reference's knowledge of the applicant's qualifications in the practice of engineering.

(b) The reference shall sign and date the form.

Eng 303.05 Additional References. The board shall require of the applicant the names and addresses of additional references if the original information provided by the references is unclear, incomplete or contradictory.

PART Eng 304 EXAMINATIONS

Eng 304.01 Examination Requirements.

(a) The board shall hold the Principles and Practice of Engineering, national examination semi-annually in April and October each year on dates set by the National Council of Examiners for Engineering and Surveying.

(b) All applicants for licensure shall have successfully passed the NCEES Fundamentals of Engineering examination unless waived pursuant to (c) and (d) below.

(c) Applicants who meet the education and experience required per RSA 310-A:12, II may request a waiver of the NCEES Fundamentals of Engineering exam, by filing a petition with the board which includes the application specified in Eng 302.02 and the fee as specified in Eng 302.04.

(d) Waivers of the NCEES Fundamentals of Engineering exam shall be granted if the applicant meets the following:

- (1) The applicant shall have a Bachelor of Science Degree in an engineering curriculum from an EAC/ABET or other 4-year accredited program in an engineering curriculum; and
- (2) The applicant shall have more than 10 years of accumulated engineering experience under the direction of a licensed professional engineer set forth in Eng 303.02 and RSA 310-A:12, II.

(e) All applicants for licensure shall have successfully passed the NCEES Principles and Practice examination and the New Hampshire law and ethics questionnaire.



(f) The law and ethics questionnaire shall consist of a take home examination covering RSA 310-A:2 – 27 and Eng 500.

(g) The Fundamentals of Engineering national examination created and graded by NCEES shall be administered using computer-based testing at NCEES test centers on dates set by NCEES.

Eng. 304.02 Re-Examinations.

(a) Candidates failing an examination shall be entitled to re-examination upon payment of an additional examination fee pursuant to Eng 302.04 (a) and (b).

(b) Candidates failing the NCEES principles and practices examination 3 consecutive times shall submit a new application for examination for licensure pursuant to Eng 302.02 before subsequent re-examination shall be granted.

PART Eng 305 RECIPROCITY

Eng 305.01 Reciprocity. Candidates for licensure who are licensed/registered in another state, provided that the other state's licensure/registration requirements are substantially equivalent to or higher than those of this state, shall apply to the board for licensure on a form provided by the board as specified in Eng 302.02 and pay the fee per Eng 302.04 (c). Verification of equivalency shall be determined by verification of the requirements of the state of origin. The verification shall be obtained by the candidate for licensure and submitted to the board directly from the verifying state for approval.

PART Eng 306 ENGINEERING CERTIFICATES FOR BUSINESS ORGANIZATIONS

Eng 306.01 Business Organization Certificate Requirements.

(a) Business organizations offering engineering services in New Hampshire shall meet the requirements established pursuant to RSA 310-A:20.

(b) Persons designated as being responsible for the engineering activities of the business organization shall:

- (1) Be licensed as a professional engineer in this state, and;
- (2) Be employed by the business organization a minimum of 37.5 hours per week, except in the case of a business organization which is owned by a professional engineer and which business organization is either not actively providing engineering services or consists of a sole practicing professional engineer.

(c) Applicants for a certificate of authorization for a business organization shall provide, or cause to be provided, the following on a form supplied by the board:

- (1) The applicant's name, including any names previously used;
- (2) The applicant's business addresses and telephone numbers;
- (3) Fields of engineering practices engaged in;
- (4) Names and addresses of corporate officers or partners;
- (5) Names and addressees, of person/s responsible for engineering activities and decisions;

- (6) NH license number, and status of person/s responsible for engineering activities and decisions;
  - (7) Number of hours employed per week of person/s responsible for engineering activities and decisions;
  - (8) Personnel legally authorized to sign contracts for the business organization for engineering services; and
  - (9) Applicant's signature under penalty of unsworn falsification.
- (d) Applicants shall pay the application fee specified in Eng 302.04.

#### PART Eng 307 TEMPORARY PERMIT

##### Eng 307.01 Temporary Permit.

(a) A person who is eligible to be licensed as a professional engineer in New Hampshire by reciprocity may apply for a temporary permit for a specific project in this state not to exceed 6 months in any one calendar year.

(b) Applicants for temporary permits shall provide, or cause to be provided, the following on a form provided by the board:

- (1) The applicant's name, including any names previously used;
- (2) The applicant's business addresses and telephone numbers;
- (3) State currently licensed in and license number, expiration date;
- (4) Project title, location and brief description of the specific project in the state;
- (5) Applicant's professional engineer stamp of jurisdiction applicant is licensed/ registered in;
- (6) The applicant's positions, dates of employment, title, and present address of employer;
- (7) Character of employment including types of work performed and degree of responsibility;
- (8) Name and present address of someone familiar with each position;
- (9) The applicant's educational history including the names of all high school and post-secondary institutions attended, the dates of attendance and degrees awarded and certified copies of transcripts from all post-secondary institutions attended;
- (10) A listing of every state in which the applicant holds or has ever held registration/licensure as a professional engineer;
- (11) Whether the registration/license is now in force and if not, the reasons why it is not in force;
- (12) Whether the applicant has ever lost or been denied registration /licensure as a professional engineer or disciplined by another licensing board in any other state or jurisdiction and if so, an explanation of the circumstances;

- (13) Whether the applicant has ever taken the NCEES Fundamentals of Engineering examination, and if so, the location, date and grade awarded;
  - (14) Whether the registration /licensure as a professional engineer was issued by examination and if so, the location, date and grade awarded;
  - (15) Whether the applicant has ever been convicted of any felony or any misdemeanor, or a violation involving engineering or the practice of professional engineering and if so, the name of the court, the details of the offense and the date of conviction and the sentence imposed;
  - (16) The names, complete addresses, occupation and business relationship with applicant of 5 references as specified in Eng 303.03;
  - (17) A list of current memberships in professional or scientific societies, including name of organization, location, grades and dates of memberships and any additional experience information the applicant wishes to provide, and
  - (18) Applicant's signature under penalty of unsworn falsification.
- (c) Applicants shall submit the application fee specified in Eng 302.04.
  - (d) Temporary permits shall be granted if the board determines that the applicant meets or exceeds the requirements of Eng 303.01, 303.02, and 304.01.

#### PART Eng 308 CREDENTIALS

Eng 308.01 License. An applicant for licensure as a professional engineer, who has met satisfactorily all the requirements of RSA 310-A:2-27 and who has paid all of the fees, shall be issued a license by the board. The licensee shall be issued a license authorizing the practice of engineering that shall show the name of the licensee, shall have a serial number, and shall be sealed and signed by the chairperson and secretary of the board.

Eng 308.02 Pocket Cards. Biennially, the board shall issue a pocket card upon receipt of the biennial renewal form and fee. The card shall certify that the engineer holds a license in good standing and is authorized to practice engineering to the date of expiration as shown on the card.

#### Eng 308.03 Licensed Engineer Seal/Stamp.

(a) The board shall upon issuance of a license to an applicant as a licensed engineer, require the licensee to acquire an impression type seal or rubber stamp of the design specified by these rules. This seal shall bear the licensee's name and number as shown on the license. This seal may be affixed on all plans, maps, and reports prepared by the licensee, but shall be affixed to all documents issued or filed for public record.

(b) The seal shall consist of 2 concentric circles with the outer circle having a diameter of 1-9/16 inches and the inner circle diameter 15/16 of an inch. In the space between the circles at the top shall be the words "State of New Hampshire" and at the bottom "Professional Engineer." In the space inside the inner circle shall be the full name of the licensee and the license number written horizontally. At the bottom of the inner circle shall be the word "Licensed."

(c) It shall be a violation of these rules for the licensee to stamp or seal any documents with his/her

seal after his/her license has expired, revoked or suspended or after the licensee has chosen retired status. It shall be a violation of these rules for the licensee to stamp or seal any documents not prepared by him or her personally or under his/her direct supervision.

## CHAPTER Eng 400 CONTINUED STATUS

### PART Eng 401 RENEWAL OF LICENSE

Eng 401.01 Expirations and Renewals. Pursuant to RSA 310-A:21, licenses shall be renewed by written application prior to the expiration date and by payment of the prescribed renewal fee. The board shall notify each engineer one month prior to expiration of his license. If properly renewed, a license shall remain in effect continuously from the date of issuance, unless suspended or revoked by the board. If an engineer is 70 years or older and has held an engineering license continuously for the 10-year period immediately proceeding the renewal, he shall be renewed with no fee required.

Eng 401.02 Renewal of License. Any licensee wishing to renew a license shall submit:

- (a) The renewal application supplied by the board;
- (b) The fee specified in Eng 302.04;
- (c) If the renewal is not received by the date of expiration, a late fee of 20 percent per month; and
- (d) Proof of completion of the continuing professional development requirements of Eng 403.

Eng 401.03 Renewal Application. The applicant shall supply the following information on the application form for license renewal:

- (a) The applicant's full name;
- (b) The applicant's business address and telephone number;
- (c) The applicant's home address and telephone number;
- (d) A statement indicating that the applicant has complied with the continuing education requirements of Eng 403;
- (e) A statement indicating any disciplinary or legal action brought against the applicant for his/her services as a professional engineer;
- (f) A statement indicating that the applicant has adhered to the ethical and professional standards of Eng 500;
- (g) Acknowledgment that the provision of materially false information in the application knowingly provided is a basis for denial;
- (h) Acknowledgement that, if the applicant provided false information that is discovered after the license is renewed, is a basis for disciplinary action by the board; and
- (i) The applicant's signature and date.

Eng 401.04 Denial of Renewal.

- (a) Renewal applicants shall be investigated for the purpose of verifying all application materials.
- (b) The board shall notify the applicant of any deficiencies in the renewal application within 60 days of receipt. Failure to remedy the deficiencies within 60 days thereafter shall result in denial of the renewal application. An application shall be considered complete when all deficiencies are corrected.
- (c) Renewal shall be denied if, after notice and an opportunity for hearing, there is a finding of:
  - (1) Noncompliance with the continuing education requirements of Eng 403;
  - (2) Any unethical act for which discipline shall be imposed under Eng 500;
  - (3) Reasons for which an initial application would have been denied; or
  - (4) Failure to furnish complete or accurate information on a renewal license application.

Eng 401.05 Reinstatement. A professional engineer whose license to practice engineering in this state has been allowed to lapse for a period of 12 months or more shall:

- (a) File a reinstatement application with the board that shall include at least the following:
  - (1) The applicant's full name;
  - (2) The applicant's business address and telephone number;
  - (3) The applicant's home address and telephone number;
  - (4) Documentation that the applicant has complied with the continuing education requirements of Eng 403;
  - (5) A statement indicating any disciplinary or legal action brought against the applicant for his/her services as a professional engineer;
  - (6) A statement indicating that the applicant has adhered to the ethical and professional standards of Eng 500;
  - (7) A representation that the applicant acknowledges that the provision of false information in the application is a basis for disciplinary action by the board;
  - (8) The names, complete addresses, occupation and business relationship with applicant of 3 references from licensed professional engineers as defined by RSA 310-A:2, II; and
  - (9) The applicant's signature and date.
- (b) Applicants shall submit the application and reinstatement fees as specified in Eng 302.04.

Eng 401.06 Certificate of Authorization Renewal. Certification of authorization for the practice of engineering shall expire on December 31 each year. A renewal notification shall be sent to all engineering certified business organizations at least one month prior to expiration.

Eng 401.07 Certificate of Authorization Renewal Application.

- (a) Each applicant for renewal of the certificate of authorization renewal shall provide, or cause to be provided, the following on a form supplied by the board:

- (1) Complete name and address of the business organization;
  - (2) The applicant's business addresses and telephone numbers;
  - (3) Fields of engineering practices engaged in;
  - (4) Names and addresses of corporate officers or partners;
  - (5) Names and addressees, of person responsible for engineering activities and decisions;
  - (6) NH license number, and status of person responsible for engineering activities and decisions;
  - (7) Number of hours employed per week of person/s responsible for engineering activities and decisions;
  - (8) Personnel legally authorized to sign contracts for the business organization for engineering services; and
  - (9) Applicant's signature under penalty of unsworn falsification.
- (b) The completed form shall be submitted to the board office with the fee pursuant to Eng 302.04 (j).

#### PART Eng 402 DISCIPLINARY MATTERS

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

#### Eng 402.02 Disciplinary Sanctions.

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

- (1) After prior notice and an opportunity to be heard; or
  - (2) Pursuant to a mutually agreed upon settlement or consent decree.
- (b) When the board receives notice that a licensee has been subjected to disciplinary action related to professional conduct by the licensing authority of another jurisdiction, the board shall issue an order providing the opportunity for a hearing and directing the licensee to demonstrate why reciprocal discipline should not be imposed in New Hampshire.
- (c) In a disciplinary proceeding brought on the basis of discipline imposed in another jurisdiction the certificate holder shall be subject to any disciplinary sanction authorized by RSA 310-A:23 after considering the presence of aggravating or mitigating circumstances.
- (d) After a finding that misconduct has occurred, the board shall impose one or more of the disciplinary sanctions authorized by RSA 310-A:23.
- (e) The board shall determine the sanctions to be imposed after considering the presence of aggravating or mitigating circumstances as specified in Eng 402.02 (f) and (g).

(f) The following shall be considered aggravating circumstances:

- (1) The seriousness of the offense;
- (2) The licensee's prior disciplinary record;
- (3) Lack of willingness to cooperate with the board;
- (4) Potential harm to public health and safety; and
- (5) The purpose of the rule or statute violated.

(g) The following shall be considered mitigating circumstances:

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

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

(i) Copies of board orders imposing disciplinary sanctions and copies of all settlement agreements or consent decrees shall be sent to the licensing body of each state in which the licensee is licensed and to such other entities, organizations, associations, or boards as are required to be notified under applicable state or federal law, or which have a legitimate professional interest in the decision and may receive notice consistent with applicable state or federal law.

Eng 402.03 Civil Penalties.

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

(b) When persons subject to the board's disciplinary authority are directed to pay civil penalties in accordance with Eng 402.02, such penalties shall be assessed in accordance with the factors stated in Eng 402.02 (f) and (g) and the following additional considerations:

- (1) The cost of any investigation or hearing conducted by the board; and
- (2) The licensee's ability to pay a civil penalty assessed by the board.

(c) Civil penalties shall not exceed the following amounts:

- (1) When no violation of the same type has occurred within the 5 years preceding the board's notice to the respondent, the penalty assessed shall not exceed \$200.00 per day or \$1,000.00 per offense whichever is greater;
- (2) When a single disciplinary infraction of the same type has occurred within the 5 years preceding the board's notice to the respondent, the penalty assessed shall not exceed \$200.00 per day or \$1,500.00 per offense whichever is greater; and



- (3) When more than one disciplinary infraction of the same type has occurred within the 5 years preceding the board's notice to the respondent the penalty assessed shall not exceed \$200.00 per day or \$2,000.00 per offense whichever is greater.
- (d) In the case of continuing violations, a separate penalty shall be assessed for each day the violation continues.
- (e) A single course of continuing conduct shall be treated as a single violation for purposes of Eng 402.03 (c).

#### Eng 402.04 Procedures for Assessing and Collecting Civil Penalties.

- (a) Payment of a civil penalty shall be included among the options available for settling disciplinary allegations, and shall be included among the types of disciplinary sanctions imposed after notice and hearing.
- (b) In cases where the board initially intends to limit disciplinary sanctions to a civil penalty, the board shall issue a "notice of apparent liability" describing the alleged offense, stating the amount of the assessed penalty, and notifying the alleged offender that he or she shall pay the penalty by a certain date or request that an administrative hearing be held. If a hearing is requested, the notice of apparent liability shall be withdrawn and a notice of hearing shall be issued. In such hearings, the board's disciplinary options shall not be limited to the assessment of a civil penalty.
- (c) Nonpayment of a civil penalty by a licensee or respondent in contravention of an order, agreement or promise to pay, shall be grounds for discipline by the board and a basis for judicial action seeking to collect the penalty.

### PART Eng 403 CONTINUING PROFESSIONAL DEVELOPMENT

#### Eng 403.01 Renewal Requirements.

- (a) A renewal application shall not be accepted for filing unless the licensee indicates on the renewal application, and under penalty of unsworn falsification, that he/she has completed the minimum required hours of approved professional development hours required by 403.01(b) and lists the specific basis for each credit.
- (b) Each licensee shall obtain at least 30 professional development hours of approved continuing education courses during the biennial renewal period as a condition of license renewal.
- (c) If a licensee exceeds the requirement, a maximum of 15 professional development hours may be carried forward into the subsequent renewal period.

Eng 403.02 Continuing Professional Development Requirements for New Licensees. New licensees shall be exempt from obtaining professional development hours for their first biennial renewal period.

Eng 403.03 Requirements for Reciprocity. Licensees who are residents of jurisdictions other than New Hampshire shall meet the continuing professional development or equivalent requirements of their resident jurisdiction. The requirements for the State of New Hampshire shall be satisfied when a non-resident licensee provides evidence of having met the requirements of their resident jurisdiction. If

licensees reside in a jurisdiction that has no continuing professional development requirements, the resident shall meet the requirements of the State of New Hampshire.

Eng 403.04 Reinstatement. An applicant may bring an inactive license to active status by obtaining the professional development hours required pursuant to Eng 403.01 (b) and payment of any and all outstanding renewal and reinstatement fees as specified in Eng 302.04.

Eng 403.05 Professional Development Hour Requirements. Professional development hours shall meet the following criteria:

- (a) Continuing education activities shall be relevant to the practice of engineering or no credit shall be awarded. Such continuing education activities may include technical, ethical, or managerial content;
- (b) The content of each presentation shall be well organized and presented in a sequential manner; and
- (c) There is a provision for individual participant course/program registration including information required for record keeping and reporting.

Eng 403.06 Professional Development Hour Credits. Professional development hours shall be credited as follows:

- (a) A maximum of 6 professional development hours shall apply to activity on a state or national board of licensure;
- (b) Courses/programs awarded one college semester hour of credit shall equal 45 professional development hours based on course credit established by the college or university;
- (c) Courses/programs awarded one college quarter hour shall equal 30 professional development hours;
- (d) Courses/programs awarded one continuing education unit shall equal 10 professional development hours;
- (e) Credit shall be awarded for one hour of professional development in course work, seminars, or professional technical presentations made at meetings, conventions, or conferences for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings shall earn professional development hour units for the actual time of each program;
- (f) Teaching or instructing qualifying courses or seminars or making presentations at technical meetings shall earn professional development hours credit at twice that of participants. Teaching credit shall be valid for teaching a course or seminar for the first time only. Teaching credit shall not apply to full-time faculty;
- (g) Each published article for a trade journal shall equal 2 professional development hours;
- (h) Each published professional journal, article or published engineering text book shall equal 30 professional development hours;
- (i) Active participation in professional or technical societies shall equal 2 professional development hours and shall require that a registrant serve as an officer and/or actively participate in a committee of the organization. Professional development hour credits shall not be earned until each year service is completed and shall be limited to 2 professional development hours per organization;

- (j) Credit awarded for one patent shall equal 10 professional development hours; and
- (k) Professional development credits shall not be recognized for any repeat program attended or completed.

Eng 403.07 Record Keeping.

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

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

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

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

- a. Signed attendance receipts;
- b. Paid receipts and course agenda; or
- c. A copy of a listing of attendees signed by a person sponsoring the course or program or the course/program provider.

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

(d) Not less than 3% of the licensees shall be randomly selected each year by the board for compliance with Eng. 403.01.

Eng 403.08 Exemptions. A licensee shall be exempt from the professional development educational requirements for any of the following reasons:

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

(b) Licensees who list their occupation as "retired" on the board approved renewal form and who further certify that they are no longer providing professional engineering services shall be exempt from the professional development hours required.

Eng 403.09 Waiver of Professional Development Hours Deadline.

(a) A licensee may request a waiver of professional development hour deadlines.

(b) A waiver shall be granted provided the waiver petition meets the following criteria:

(1) A petition requesting a waiver shall be filed at least 30 days before the expiration of the biennial continuing education period in question;

- (2) Late filing shall be justified by a showing of good cause that includes serious accident, illness or other circumstances beyond the control of the licensee which actually prevents the licensee from satisfying the continuing education requirements;
- (3) Relevant supporting documentation from the licensee's physician or medical professional shall be furnished to the board when necessary for a fair and informed determination by the board; and
- (4) A waiver petition shall include a specific timetable for completing specific courses, which will meet the petitioner's continuing education unit deficiency.

Eng 403.10 Noncompliance. Failure to submit documentation required per Eng 403.07 (b) and (c) which establishes that said requirements were so completed, shall after notice and opportunity for hearing, result in disciplinary action including license suspension or revocation unless a waiver petition has been timely filed and duly granted by the board.

## CHAPTER Eng 500 ETHICAL STANDARDS AND LICENSE SURRENDER

### PART Eng 501 ETHICAL STANDARDS

#### Eng 501.01 Purpose and Scope.

(a) In order to safeguard the life, health, property, and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the profession of engineering the following rules of professional conduct are promulgated in accordance with RSA 310-A:2 through RSA 310-A:27.

(b) These rules shall be binding upon every person holding a license as a professional engineer and on all persons, corporations, or other legal entities authorized to perform engineering in this state.

#### Eng 501.02 Obligation To Obey.

(a) Violation of these ethical standards shall result in disciplinary sanctions. Conduct proscribed by these ethical standards, when performed by an engineer-in-training or a candidate for licensure as a professional engineer in this state, or during a prior period of licensure, shall result in denying a license application.

(b) All persons licensed under RSA 310-A:2 through RSA 310-A:27 shall be considered to have knowledge of the existence of these rules of professional conduct and shall be deemed to be familiar with their several provisions. Such knowledge shall encompass the understanding that the practice of professional engineering is a privilege, as opposed to a right, and the licensed professional engineer shall be forthright and candid in the licensee's statements or written response to the board or its representatives on matters pertaining to professional conduct.

(c) Licensees shall submit only truthful and correct information in any application or other document filed with or statement made to the board.

(d) Licensees shall inform the board of a principal business or home address to which all official board communications should be directed, and of all addresses where they are practicing. The establishment of a business or home address or the change or abandonment of a business or home address shall be reported to the board within 30 days.

Eng 501.03 Standards of Conduct.

(a) The professional engineer shall hold paramount the safety, health, and welfare of the public as follows:

- (1) Perform their services only in areas of their competence;
- (2) Issue statements only in an objective and truthful manner;
- (3) Act for each employer or client as faithful agents or trustees;
- (4) Avoid deceptive acts;
- (5) Conduct themselves ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession;
- (6) Undertake to perform engineering assignments only when qualified by education or experience in the specific technical field of professional engineering involved;
- (7) Accept an assignment requiring education or experience outside of their own field of competence, but only to the extent that the services are restricted to those phases of the project in which the licensee is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees;
- (8) Not affix their signature or seal to any engineering plan or document dealing with subject matter for which they lack competence by virtue of education or experience, nor to any such plan or document not prepared under their direct supervisory control;
- (9) Exercise direct supervisory control, which requires a licensee to maintain responsible charge which includes:
  - a. Providing all client contracts;
  - b. Internal and external financial control; and
  - c. Overseeing employee training;
- (10) Exercise control and supervision over all jobs requirements which includes:
  - a. Research;
  - b. Planning;
  - c. Design;
  - d. Field supervision; and
  - e. Work product review;
- (11) Not delegate responsible charge or direct supervisory control to a non-licensed individual to provide professional services as specified in Eng 501.03 (a) (9); and
- (12) May affix their seal and signature to drawings and documents depicting the work of 2 or more professionals provided they designate by a note under their seal the specific subject matter for which they are responsible.

(b) The professional engineer shall issue public statements only in an objective and truthful manner; as follows:

- (1) Be objective and truthful in all professional reports, statements, or testimony and include all relevant and pertinent information in such reports, statements, or testimony;
- (2) When serving as an expert or technical witness before any court, commission, or other tribunal, express an expert opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of their testimony;
- (3) Issue no statements, criticisms, or arguments on engineering issues connected with public policy which are influenced or paid for by an interested party, or parties, unless they have prefaced their comment by explicitly identifying themselves by disclosing the identities of the party or parties on whose behalf they are speaking, and by revealing the existence of any pecuniary interest they may have in the instant matters;
- (4) Not attempt to injure, maliciously or falsely, directly, or indirectly, the professional reputation, prospects, practice, or employment of another engineer nor shall they indiscriminately criticize another engineer in public; and
- (5) If they believe that another engineer is guilty of misconduct or illegal practice, they shall present such information to the board.

(c) The professional engineer shall avoid conflicts of interest as follows:

- (1) Promptly inform their employer or client of any business associations, interests, or circumstances, which could influence their judgment, or the quality of their services;
- (2) Not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties;
- (3) Not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products;
- (4) Not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their client or employer in connection with work for which they are responsible;
- (5) When in public service as a member, advisor, or employee of a governmental body or department, not participate in considerations or actions with respect to services provided by them or their organization in private engineering practices; and
- (6) Not solicit or accept an engineering contract from a governmental body on which a principal or officer of their organization serves as a member.

(d) The professional engineer shall solicit or accept work only on the basis of their qualifications as follows:

- (1) Not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;

- (2) Shall compete for employment on the basis of professional qualification and competence to perform the work;
  - (3) Not solicit or submit proposals for professional services containing false, fraudulent, misleading, deceptive, or unfair statement or claim regarding the cost, quality, or extent of services to be rendered;
  - (4) Not falsify or permit misrepresentation of their, or their employees or co-worker's, academic or professional qualifications;
  - (5) Not misrepresent their degree of responsibility in or for the subject matter of prior assignments; and
  - (6) Not distribute brochures or other presentations incident to the solicitation of employment which shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or their past accomplishments with the intent and purpose of enhancing their qualifications and their work.
- (e) The professional engineer shall provide their services in an ethical and lawful manner as follows:
- (1) Not knowingly associate with or permit the use of their name or firm name in a business venture by any person or firm which they know, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature;
  - (2) If they have knowledge or reason to believe that another person or firm may be in violation of any of these provision or provisions of RSA 310-A:2 through RSA 310-A:27, present such information to the board in writing and cooperate with the board in furnishing such further information or assistance as may be required by the board; and
  - (3) Cooperate with investigations and requests for information from the board and the board's representatives.

## PART Eng 502 VOLUNTARY LICENSE SURRENDER

### Eng 502.01 Procedure for Surrendering a License.

- (a) Any person holding a license may voluntarily surrender that license by sending to the board a letter stating that they intend to surrender their license. The letter shall include at a minimum:
- (1) The licensee's name as it appears on their license;
  - (2) The licensee's license number; and
  - (3) The signature and date the licensee signed the letter.

### Eng 502.02 Effect of Voluntary License Surrender.

- (a) A licensee who voluntarily surrenders a license shall retain no right or privilege to practice professional engineering in New Hampshire except as may be specifically set forth in a board order or settlement agreement authorizing the voluntary surrender. Unless otherwise provided by the board, a licensee who reapplies for licensure in New Hampshire after a voluntary surrender shall have the burden of proving compliance with all of the requirements then in effect for new applicants, including professional character requirements.



(b) Surrender or non-renewal of a license shall not preclude the board from investigating or completing a disciplinary proceeding based upon the licensee's professional conduct while the license was still in effect. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.

Eng 502.03 Voluntary Surrender When Misconduct Allegations are Pending.

(a) A licensee who wishes to surrender their license as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.

(b) Any settlement agreement reached under (a), above, shall include the following concessions:

- (1) That the license surrender has occurred in settlement of pending disciplinary charges; and
- (2) That the pending disciplinary allegations shall be issues to be resolved in any future application the licensee may submit in New Hampshire.

(c) The board shall decline to accept a settlement agreement under (a), above, if the board believes the licensee has unreasonably declined to disclose material information concerning the alleged misconduct or has refused to stipulate to the truth of specific material facts concerning the alleged misconduct which would be necessary to protect the public interest in the event the licensee subsequently reapplies for a license.

(d) A licensee's stipulation of facts shall be exempt from public disclosure to the extent permitted by RSA 91-A and if the public portion of the settlement agreement or surrender document expressly states that a separate, confidential stipulation of facts is on file with the board.

(e) The fact of license surrender and the terms of any settlement agreement pertaining thereto shall be distributed to all relevant licensing authorities and professional societies in the same manner as a final decision containing specific finding of professional misconduct.

### Appendix

Rule	Specific State Statute which the Rule Implements
Eng 301	RSA 310-A:6, I (a); RSA 310-A:11; RSA 310-A:12, I, II, III, IV
Eng 302	RSA 310-A:6, I (b); RSA 310-A:12, I, II, III, IV
Eng 302.02(b)	RSA 310-A:6, I(a); RSA 310-A:16
Eng 302.03, 302.04	RSA 310-A:6, I (e); RSA 310-A:7, I, II; RSA 310-A:16
Eng 302.03 (d) & (e)	RSA 310-A:6, I (c); RSA 310-A:7, I (a); RSA 310-A:16; RSA 310-A:17
Eng 302.04 (a) and (c)	RSA 310-A:6, I (e); RSA 310-A:7, I (a) & (b); RSA 310-A:16; RSA 310-A:17
Eng 303	RSA 310-A:6, I, (b), (l); RSA 310-A:12, I, II, III, IV; RSA 310-A:13; RSA 310-A:14; RSA 310-A:15; RSA 310-A:16
Eng 304	RSA 310-A:6, I, (c), (m), (n); RSA 310-A:17
Eng 305	RSA 310-A:6, I, (o); RSA 310-A:18-a; RSA 310-A:19

<b>Rule</b>	<b>Specific State Statute which the Rule Implements</b>
Eng 301	RSA 310-A:6, I (a); RSA 310-A:11; RSA 310-A:12, I, II, III, IV
Eng 306	RSA 310-A:6 I, (k); RSA 310-A:20, I-VI
Eng 307	RSA 310-A:6, I, (o); RSA 310-A:18-a; RSA 310-A:19
Eng 308	RSA 310-A:6, I, (i)
Eng 401	RSA 310-A:6 ,I, (d); RSA 310-A:21
Eng 402	RSA 310-A:6, I, (f), (q); RSA 310-A:22, I, II; RSA 310-A:22-a, I-VI; RSA 310-A:23, I-VIII; RSA 310-A:25, I-II
Eng 403	RSA 310-A:6, I, (d); RSA 310-A:21
Eng 501	RSA 310-A:6, I, (f)
Eng 502	RSA 310-A:23