

MINUTES OF THE JANUARY 28, 2014 CONSTRUCTION CONTRACTORS BOARD MEETING

The Construction Contractors Board (CCB) met on Tuesday, January 28, 2014, in the Santiam Room, West Salem Roth's IGA, 425 Glen Creek Rd. NW, Salem, Oregon.

Attendees:

Board Members: Board Chair, Rob Yorke, and Board Members: Simone Neall, Roger Nyquist, Jim Patrick, Sandi Warren, and Kimberly Wood. Board member Melvin Oden-Orr was excused from the meeting.

Staff: Craig P. Smith, CCB Administrator, and Catherine Dixon, Board Secretary. Assistant Attorney Generals Susan Bischoff and Kelly Gabliks were also present.

Guests: Bonnie Sullivan, Jason Yarashes, and Dustin Ball.

A. PROCEDURAL

1. Call to Order:

Chair Rob Yorke called the meeting to order at 8:30 a.m.

2. Approval of Agenda and Order of Business:

The Board made the following motion:

MOTION: Jim Patrick moved to approve the January 28, 2014, Board meeting agenda.

VOTE: 5-0, Ayes—Neall, Patrick, Warren, Wood, and Yorke.

3. Approval of Minutes of the December 3, 2013, Board Meeting:

The Board made the following motion:

MOTION: Kimberly Wood moved to approve the December 3, 2013, Board meeting minutes.

VOTE: 5-0, Ayes—Neall, Patrick, Warren, Wood, and Yorke.

4. Board Member Reports:

Board members reported on current CCB related events in the geographic region, in which they live and work. Construction is growing at a slow rate in most regions and the members are cautiously optimistic.

5. Agency Report:

- Administrator Smith reported that the cost benefit analysis of going to a paperless Board meeting packet has not been completed; and he hopes to bring it back to the next Board meeting.

(Staff Action item 1.28.A5)

- In regards to the Phase II report, he clarified that in a previous report it mentioned seeking fee approval for Series B courses. That has been removed from the report.

- CCB is discovering some conflicts as SB 783 (2013) is being implemented. For example, many contractors are upset about the six years of experience statutes. If a licensee changes their entity type and does not have six years of experience with the new entity, they are required to take 16 hours of Residential Continuing Education (RCE). Staff would like to seek a change to accept their previous experience, but the industry has not been contacted about making a change. Discussion ensued and direction was laid out for Administrator Smith to collaborate with industry groups and obtain permission from the Governor's office for a legislative concept in order to alleviate the purposed unintended result of this Senate Bill.

a. Number of New Licenses Processed Per Month:

Administrator Smith reported that the number of new licenses processed December 2013:

- The agency processed 176 new CCB license during the month of December.
- The average for the period July 2013 through December 2013 was 210.
- The 2013-15 CCB budget is based on an average of 270 new licenses per month.

b. Rate of Renewals:

Administrator Smith reported that the renewal rate for December 2013 was 68.6 percent compared to the 76 percent projection in the 13/15 biennium budget.

- The agency processed 1,228 renewals during the month of December.
- The average renewal rate for the period July 2013 through December 2013 was 70.6 percent, which is 93 percent of the projection in the budget for 2013/15 LAB.
- The 2013/15 budget is based on a protected 76 percent renewal rate.

c. Workload Charts:

- The total number of licenses, including both active and inactive in October 2013, was 34,578. The number of licensees continues to decline.
- Enforcement actions remain about the same.
- The amount of Dispute Resolution Services (DRS) complaints is consistent, averaging approximately 82 new complaints per month.

d. Contractor Survey Results:

Administrator Smith discussed the contractor survey results with Board members. The survey was sent to 39,000 contractors by email. One question asked on the survey was "Do you feel mandatory education is about right, too much, or too little?" Approximately 2,500 responded to the survey; 36 percent answered "just right," 4.7 percent said "too little," and 56 percent said "too much."

The Board reviewed the RCE class ratings and expressed surprise that the ratings were fairly high with 4 or 5 stars being given. However, they also noted that it was very early in the new RCE program.

Administrator Smith praised all of the hard work staff made over the last six months to implement the new RCE program.

e. Residential/Commercial Licensing Chart:

Administrator Smith discussed the residential and commercial license chart with Board members.

- In December 31, 2011 there were 32,687 residential contractors and December 31, 2013 there were 28,220.
- December 31, 2011 there were 9,275 commercial contractors and December 31, 2013 there were 8,633 commercial contractors.

f. Specialty Licenses/Certifications (Total number in December 2013):

- LBPR Licenses - 4,583.
- Home Inspectors - 416.
- EEAST - 53.
- Oregon Certified Locksmiths - 444.

g. Lead-Based Paint Memorandum of Understanding:

Assistant Attorney General, Kelly Gabliks, reported that the Memorandum of Understanding (MOU) has been signed. She worked with EPA to negotiate the MOU.

Assistant Attorney General, Susan Bischoff, reported that CCB has satisfied the federal EPA regarding its reporting. There have been many legal issues that required the enforcement staff's time in the lead-based paint program. The civil penalty fees collected for this program go into a special fund. The Board was presented with its first Appeal Committee enforcement case regarding a lead-based paint violation.

It was determined the in the future, the Board will need to review the cost of the program to determine if it viable, as Administrator Smith reported that the cost of the LBPR license does not cover the costs to administer the program.

6. Budget Concerns:

The total number of licensees in December 2013 was 34,428 compared to 34,688 in July 2013.

Board members expressed concern that the number of new licenses and renewals are below projections, which affects the Agency's budget. The budget was projected at 270 renewals per month and the average over the past six months was 210. This has left the CCB with a \$1.2 million budget shortfall. Board members asked what the renewal numbers were during profitable times.

Administrator Smith replied that the renewals were approximately 400-500 per month. The Agency is underspending, but the current biennial budget is very narrow as the revenue is not what was projected. Administrator Smith said that he would continue to closely monitor the revenue stream and that the rate of renewals had not increased as hoped. He further stated that he had not developed a plan to address revenue being below projections other than not filling vacant positions.

Board members expressed concern that the reduced renewal rates and fewer new licensees seems to follow a trend that aligns with the beginning of the Residential Continuing Education (RCE) requirements. Discussed ensued that perhaps that

requirement encouraged folks to leave or retire from the construction industry. The Board members stated that they felt the next six months would be important to see if the licensing numbers began to increase.

DAS Chief Financial Office Budget Analyst, Dustin Ball, reported that CCB has an issue with revenue and spending limitation. The Agency has the authority to spend a total of \$15.8 million in the 2013-15 biennium, this includes services and supplies. Of that amount approximately \$600,000 is unscheduled because the legislature had concerns with the declining revenue. The Agency does not set funds aside; they must adjust their spending limit accordingly to revenue. The beginning estimated balance was \$3.0 million and projected revenue of \$15.5 million, which totals \$17.5 million.

Board members asked if the set aside budget of \$15.2 million was reached, would layoffs need to occur.

Mr. Ball clarified and repeated that there was no cash set aside.

Administrator Smith reported that the Agency has been spending less every month than projected, positions have not been filled, and purchases are being managed. He further stated that if by March or April the revenue had not increased, decisions would need to be made about evaluating and implementing budget cuts.

Mr. Ball reported that the revenues brought in nearly \$3.0 million and the Agency is drawing down \$1.4 million. He proposed a key component to review when developing the 2015-17 budget would be the past trends of new licenses and renewals. He stated that either a fee increase or revenue reduction would be required.

Administrator Smith reported that the agency is doing everything the legislature has asked of CCB.

8. Reclassification of Licensing Phone Staff (from Office Specialist 2 to Public Service Representative 4):

Mr. Ball reported that as part of the reclassification of Licensing phone staff, he shadowed one of the staff members. He was impressed with the staff's skill set of being able to work on multiple items such as reviewing insurance documents while answering phone calls. He stated that the staff was busy and productive. Darla, the staff person he shadowed, had very good customer service skills and was proficient in walking contractors through the Licensing process who were having difficulties navigating our website. Mr. Ball reported that there were not any upset callers during the time he shadowed, which was a Friday afternoon. He stated that many of the calls were regarding the contractor being very confused with the new RCE requirements. He observed that the Licensing phone staff handled many complex phone calls.

Administrator Smith reported that the Licensing phone staff consists of five persons who answer an average of 120 calls per day (or one call every four minutes).

7. Meeting Location:

Administrator Smith reported that beginning August 2014 the West Salem Roth’s IGA, Hospitality Center will be closed for remodeling. The staff will be researching new meeting locations.

B. ONGOING ISSUES:

1. Phase II Draft Budget Report:

Administrator Smith discussed the Phase II report with Board members.

Item #1: Surety Bonds or Other Forms of Financial Accountability

Surety bonds are the current method for financial accountability. The CCB recommends:

- a. Retain surety bonds as the primary source of financial assurance.
- b. Retain the current bond amounts.
- c. Repeal ORS 701.088, which permits cash deposit for rehabilitating “meth” houses, as unnecessary and inconsistent with consumer protection.

Contractors survey results:

Are Oregon Bonding Levels?	Response Percent
About right	67.1%
Too high	17.3%
Too low	6.5%
I don't know	9.2%

Item #2: Contractor Licensing Categories and Endorsements

Current contractor endorsements may be confusing and in some cases, unnecessary. Contractors that previously used some endorsements may use one of the new, limited endorsements created by the 2013 legislature. The CCB recommends:

- a. Consolidate the Residential Developer and Commercial Developer endorsements.
- b. Eliminate the Residential Limited Contractor endorsement.
- c. Eliminate the distinction between residential general and specialty contractors.
- d. LBPR license – change from one year to a two year license.
- e. Amend SB 207 (2013) (ORS 701.495) to allow an owner or employee – not just a responsible managing individual – to qualify the contractor for endorsement.
- f. Amend SB 207 (2013) (ORS 701.360) to clarify the home service contractor endorsement.
- g. Amend HB 2801 (2013) (ORS 701.532) for a 2-year home energy performance score license and endorsement.

Contractors survey results:

Residential Categories	Response Percent
Leave as is	50.3%
Have more	15.0%
Have less	24.4%
I don't know	10.3%

Administrator Smith reported he had not contacted industry associations about the proposed changes. We do not have any legislative concepts for 2014.

Item #3: Continuing Education

The 2013 legislature passed Senate Bill 783. The bill creates a new residential continuing education (RCE) program that applies to contractors renewing their licenses on or after January 1, 2013. The CCB recommends:

- a. Amend SB 783 (2013) (ORS 701.082) to allow business entities with a responsible managing individual (RMI) with at least six years’ experience to complete only eight hours of continuing education. (SB 783 ties the requirement to the business license.)
- b. Amend SB 783 (2013) (ORS 701.082) to allow business entities or RMIs to qualify for the six year experience even if the experience was not continuous.
- c. Consider reducing all RCE from 16 to 8 hours for all contractors.

Contractors survey results:

Are RCE Requirements?	Response Percent
Just about right	36.2%
Not enough	4.7%
Too much	56.2%
I don't know	2.8%

Board members expressed concern for those contractors that have changed entities in the last six years. Board member consensus was to move forward with a and b recommendations above and hold on c (reducing all RCE to 8 hours) for further consideration.

(Staff Action item 1.28.B1)

Item #4: New Contractor Outreach

From 2009 to 2013, CCB occasionally offered new contractor information workshops. The CCB recommends:

- a. Develop a plan for new contractor workshops at the Agency’s office and throughout the state.

Contractors survey results:

Is CCB Outreach?	Response Percent
Just enough	22.9%
Not enough	7.8%
Too many	34.6%
I don't know	34.6%

Item #5: Interagency Duplication of Efforts

Various agencies in Oregon regulate businesses, including contractors. Other agencies regulate construction and trades. Still other agencies regulate certain “specialty” conduct by contractors. The CCB recommends:

- a. Remove ORS 701.555 from ORS chapter 701. The statute bans certain exterior products. These standards are in Oregon’s structural code.
- b. Remove ORS 701.550 from ORS chapter 701. Disposal of mercury thermostats is regulated by both the Building Codes Division and the Department of Environmental Quality.
- c. Repeal ORS 701.230. The CCB must provide a monthly list of information to other state agencies. By 2014, these other state agencies will be able to access ‘real time’ information with a search query.

Contractors survey results:

CCB Partnerships?	Response Percent
Keep as is	40.3%
Strengthen	13.5%
Reduce or eliminate	28.7%
I don't know	17.4%

Item #6: Database and Computer Application Development (Automation)

The CCB is working on an application program interface (API) for external use. The API will be available for agencies, vendors and education providers. The CCB recommends:

- a. Explore expanding e-proof to bonds.
- b. Develop Application Program Interface (API) for public partners.
- c. Develop online license applications.

Contractors survey results:

CCB Automation?	Response Percent
Keep the same	43.3%
Add more	43.9%
Reduce	7.7%
I don't know	5.1%

Item #7: Central Business Registry

The Secretary of State developed a Central Business Registry (CBR) that is available online to businesses. The CCB recommends:

- a. Add CCB licensing to Central Business Registry.

Contractors survey results:

CCB Licensing through Secretary of State Business Registry?	Response Percent
I do approve	61.2%
I don't approve	13.4%
Neutral	19.0%
I don't know	6.4%

Item #8: Statewide Disciplinary Database

At issue is whether there could be a central registry for all enforcement actions by state agencies against construction contractors.

- a. Research feasibility for a statewide disciplinary database for construction contractors.
- b. Perform cost/benefit analysis for a statewide disciplinary database.
- c. Consider posting NASCLA national disciplinary database on Oregon CCB website for use by Oregon citizens.

Contractors survey results:

Disciplinary Actions Online?	Response Percent
I do approve	66.9%
I don't approve	16.4%
I feel neutral on the approval	14.2%
I don't know	2.5%

Administrator Smith reported that NASCLA may make their disciplinary database available to consumers nation-wide.

Item #9: Streamline CCB Laws

There may be statutes in ORS chapter 701 and administrative rules in OAR chapter 812 that can be repealed or revised. The CCB recommends:

- a. Identify statutes that the legislature might amend, repeal or move to a more appropriate ORS chapter.
- b. Continue identifying, amending or repealing, unnecessary rules as part of the CCB's rulemaking process.
- c. Perform 5-year rule reviews for rules adopted in 2009 and 2010. [Completed January 2014].

Contractors survey results:

Contractor Regulations?	Response Percent
Develop more	16.9%
Develop less	54.9%
Keep the same	19.9%
I don't know	8.4%

2. New 2014 RCE:

Administrator Smith discussed the new 2014 RCE and new online course catalogue with Board members. By clicking on a course name, more details about the course will pop up.

Chair Yorke reported that CCB's webpage lists all the providers and courses that they offer in the course catalogue.

Administrator Smith reported CCB has been keeping many of its resources busy fine tuning the new RCE program since the middle of December. CCB is monitoring the survey results and when a provider submits a student record with survey results, CCB emails the student indicating that it received the survey results and asking if that the information is correct. If the student doesn't fill out the survey, an email is sent to them offering them another chance to rate the course.

Over 129 people have put information on their license record of courses they have taken that will be displayed on their CCB license record.

Over 3,000 RCE courses have been taken in the last three weeks.

CCB has developed an online RCE provider manual to help providers through the system. Staff from other sections of the Agency have been asked to help review courses to get the program kicked off.

PUBLIC COMMENT

Bonnie Sullivan of Sullivan's Carpet Services provided public comment: "I have concerns about the continuing education. Corporation Division records are public and so are the CCB's, but for Sullivan's Carpet Service to get inundated about continuing education [from education providers], from phone calls, emails, which I was really surprised we got as many emails as we did and phone calls. And, now we are getting emails regarding our bond and insurance and the whole gambit. Back in the day when pre-requisite education was first started, the applications had the names of the different providers for the education. When I was getting some of these emails [from education providers], I went to the CCB webpage to see if they were truly providers, and I could not find the information. Also, I know that there are some providers that I feel are inappropriately offering services other than just the education. I don't feel that is really a level playing field, and that has been my concern for a good many years. Some are providers for pre-licensure and RCE. Craig is right about confusion about the RCE and poor CCB staff trying to answer those questions. We had problems and it is a combination of not knowing how to use the computers and then navigating through the webpages to get the information you need. There is still concern about the rural areas only being able to go into town and use the library or something because a lot of us have dial-up and you cannot do classes on dial-up; it does not work. Some of the emails that we were getting were very explicit about the changes that CCB was doing and what their charges were going to be, it became to be a really competitive thing that I was looking at that all of these different emails. Some of the phone calls were emphatic about me contacting them immediately, and now they are even doing the contractor exchange. It doesn't help small contractors to get these phone calls tying up our lines. I know there

are quite a few contractors that are balking and say they are not going to do it; they will probably try to get someone to take the education for them.”

Board member Nyquist followed up by asking if the staff had considered the cost of supervising and regulating education providers when they determined amount of fee they charged the education providers.

Administrator Smith responded that they had considered that. He went on to note that it had only been three weeks into the new RCE program so there had not been enough time to determine or rate the overall effectiveness. He state that he worried about education providers providing bad courses, not providing CCB with appropriate student records in a timely manner, and even providing CCB with false information. At this time, the CCB staff had not reviewed the issue of contractors getting inundated with solicitations of product.

Board members asked if it was illegal for a company to solicit business from a contractor, saying they are an authorized education provider when they are not.

Administrator Smith clarified that an education provided didn't have to be approved by CCB to offer education, but they do have to be approved by CCB if they are offering continuing education, or leading people to believe that their continuing education meets CCB's requirements. If we find that education providers are provided continuing education and the provider has not been approved by CCB, a penalty would be issued by CCB. Currently, there have not been any reported cases.

C. NEW BUSINESS:

1. Agency Lay Representation:

Administrator Smith discussed the letter from Department of Justice authorizing CCB to use lay representatives in hearings in accordance with 183.452. There are things that CCB must do, such as:

- Staff training
- A plan must be developed by the Enforcement Manager (the Agency's AAG will be contacted to write the plan).

(Staff Action item 1.28.C1)

D. ADMINISTRATIVE RULES

1. Review of Rules and Discussion:

Administrator Smith discussed the proposed rule changes with Board members.

2. Rulemaking Hearing:

Chair Yorke opened the administrative rulemaking hearing at 11:00 a.m. and read a statement regarding the rulemaking hearing.

Public Comment: No one came forward to give public comment.

The Board made the following motion after discussion of the proposed rules:

MOTION: Roger Nyquist moved to adopt the proposed rules as recommended by staff on pages 101 thru 107 of the Board packet.

VOTE: 6-0, Ayes—Neall, Nyquist, Patrick, Warren, Wood, and Yorke.

The rulemaking hearing closed at 11:06 a.m.

(Note: See Attachment B for the language of the adopted rules.)

3. Permanent Rules Filed:

Administrator Smith reported that the rules adopted at the last Board meeting have been filed permanent.

4. Temporary Rules Filed:

Administrator Smith briefly reported that the temporary rules filed were part of today's rulemaking hearing.

E. EXECUTIVE SESSION:

The Board went into executive session at 11:10 a.m. pursuant to ORS 192.660(2)(f) and (h) to consider information or records that are exempt from public disclosure and consultation with legal counsel on threatened or pending litigation.

The Board meeting broke for the Appeal Committee meeting that started at 1:00 p.m. (See Attachment A for Appeal Committee minutes.)

After the Appeal Committee meeting, the Board reconvened and was back on the record at 2:10 p.m.

F. CCB PROGRAM ISSUES:

1. Evaluation of Administrator:

Board Vice-Chair Nyquist reported that a performance evaluation of the Administrator needs to be conducted and asked for volunteers. Board members Rob Yorke, Jim Patrick, and Kimberly Wood volunteered to serve on the subcommittee.
(Staff Action item 1.28.F1)

2. Survey Letters:

Administrator Smith handed out two emails from licensees complaining about the contractor survey conducted by the Agency. Discussion about the emails with Board members ensued.

1. Board Calendar:

Administrator Smith asked if Board members had any changes to the calendar.

Agenda Items for the next meeting:

- Update on 2014 legislation
- KPM 10 – Best Practices for Boards and Commissions

G. CCB PROGRAM QUARTERLY REPORTS:

1. Business Services:

Administrator Smith asked if the Board had any questions regarding the Business Services report.

- 2. Quarterly Reports:**
 - a. Education**
 - b. Field Investigation**
 - c. Enforcement**
 - d. Licensing**
 - e. Dispute Resolution Services**

Administrator Smith asked if the Board had any questions regarding the Quarterly Reports. No questions were asked.

I. ADJOURNMENT

The meeting adjourned at 2:19 p.m. The next Board meeting and Appeal Committee meeting are scheduled for April 22, 2014.

Sincerely,

Catherine Dixon
Board Secretary

ATTACHMENT A

MINUTES OF THE JANUARY 28, 2014 CONSTRUCTION CONTRACTORS BOARD APPEAL COMMITTEE MEETING

The Construction Contractors Board Appeal Committee met on Tuesday, January 28, 2014, at West Salem Roth's IGA, Santiam Room, 425 Glen Creek Rd NW, Salem, Oregon. Appeal Committee Members present included: Chair Rob Yorke, Simone Neall, Roger Nyquist, Jim Patrick, Sandi Warren, and Kimberly Wood. Board member Melvin Oden-Orr was excused from the meeting; and Board member Wood was excused from the meeting at 1:30 p.m. Construction Contractors Board staff present were: Craig P. Smith, CCB Administrator; Richard Blank, Enforcement Manager; and Board Secretary Catherine Dixon. Assistant Attorney General Susan Bischoff was also present.

Guests Included: None.

Chair Yorke opened the Appeal Committee at 1:15 p.m.

1. Enforcement No. 99992, Jerry Blaine Stroud (Respondent). In the matter of imposition of a civil penalty against Jerry Blaine Stroud. The Respondent, Jerry Stroud, appeared before the Board.
2. Enforcement No. 101460, Portland Redevelopment LLC (Respondent). In the matter of imposition of a civil penalty against Portland Redevelopment LLC. The Respondent, Vladimir Ozergua, appeared before the Board.
3. Enforcement No. 101874, East Wind Builders Inc. (Respondent). In the matter of imposition of a civil penalty against East Wind Builders Inc. The Respondent, East Wind Builders Inc., did not appear before the Board.

The Appeal Committee retired to deliberate under ORS 192.690. The meeting was reconvened and the Appeal Committee made the following decisions:

1. Enforcement No. 99992, Jerry Blaine Stroud (Respondent).

MOTION: Sandi Warren moved to adopt the proposed order as the final order and impose a civil penalty in the amount of \$5,000 and authorize staff to execute the written order.

VOTE: 5-0, Ayes—Neall, Nyquist, Patrick, Warren and Yorke.

2. Enforcement No. 101460, Portland Redevelopment LLC (Respondent).

MOTION: Jim Patrick moved to adopt the proposed order as the final order and impose a civil penalty in the amount of \$1,000 and authorize staff to execute the written order.

VOTE: 4-1, Ayes—Neall, Patrick, Warren and Yorke; Nay—Nyquist.

3. Enforcement No. 101874, East Wind Builders Inc. (Respondent).

MOTION: Rob Yorke moved to adopt the proposed order as the final order and impose a civil penalty in the amount of \$3,000 and authorize staff to execute the written order.

VOTE: 5-0, Ayes—Neall, Nyquist, Patrick, Warren and Yorke.

The meeting adjourned at 2:10 p.m. The next Appeal Committee meeting is scheduled for April 22, 2014.

Respectfully submitted,

Catherine Dixon
Appeal Committee Secretary

ATTACHMENT B

Operative 1-1-14

812-022-0010

Effective Date – Continuing Education for Residential Contractors (SB 783)

(1) OAR 812-022-0000 to 812-022-0047 apply to residential contractors:

(a) That have active, non-lapsed licenses that expire on or after January 1, 2014.

(b) That renew lapsed licenses with expiration dates on or after January 1, 2014.

(c) That renew lapsed licenses with expiration dates before January 1, 2014, but that are renewed on or after January 1, 2014.

(2) Notwithstanding section (1), until December 31, 2014, a residential contractor may apply hours earned from attending the courses, completed during the licensing period immediately preceding January 1, 2014, towards the new residential continuing education requirements regardless of whether the courses would qualify under the new law. These courses may include:

(a) Construction Contractor Board laws, regulations and business practices (up to three hours);

(b) Building codes courses approved by CCB before January 1, 2014, (up to two hours);

(c) Building Exterior Shell Training (BEST) (up to three hours); and

(d) Elective courses.

(3) Notwithstanding section (1), a residential contractor renewing a license on or after January 1, 2014, that expired before October 1, 2013, must complete three hours of BEST and two hours of building code courses. The BEST and building code course hours will substitute for required Series A Course hours.

(4) Notwithstanding section (1), a residential contractor renewing a license on or after January 1, 2014, which expired between October 1, 2013, and December 31, 2013, must complete two hours of building code course. The hours will substitute for required Series A Course hours.

(5) Notwithstanding OAR 812-021-0028(7) and (8), providers approved pursuant to OAR 812-021-0025 or 812-022-0025 may continue to offer BEST or building codes courses previously approved by CCB under OAR 812-021-0028 without submitting additional application or fees for provider or course approval.

(6) Notwithstanding section (1), a contractor renewing its license between January 1, 2014, and March 31, 2014, may elect to renew the license pursuant to OAR 812-021-0015 rather than renewing its license pursuant to this rule. A contractor making this election will need to maintain record of the continuing education courses it completes to satisfy OAR 812-021-0015 for which the provider does not otherwise submit notification of completion of core hours.

Stat. Auth.: ORS 670.310, **701.082**, 701.126 and 701.235

Stats. Implemented: **ORS 701.082**

(10/24/13, temp. 10/29/13, 2/6/14)

812-022-0015

Minimum Continuing Education Requirements – Continuing Education for Residential Contractors (SB 783)

(1) Except as provided in section (3), residential contractors shall have an owner, officer, RMI or employee, or a combination of those persons, who complete a minimum of eight hours of continuing education every licensing period as described in sections (2) and (3).

(2) Residential continuing education hours consist of the following:

(a) Three hours of education on laws, regulations and business practices offered by the agency or by an approved provider under an agreement with the agency; and

(b) Five hours of Series A Courses, approved by the agency and offered by approved providers, in one or more of the following subjects:

(A) Construction business practices;

(B) Marketing;

(C) Customer service;

(D) Accounting;

(E) Business law;

(F) Bidding;

(G) Building Codes; or

(H) Safety.

(3) Residential contractors that have not been licensed as a residential contractor during any part of the six-years immediately preceding their **scheduled** renewal **date** must complete an additional eight hours of residential continuing education offered by an approved provider. The education hours may include:

- (a) Series A Courses described in section (2)(b); or
 - (b) Series B Courses in one or more of the following subjects:
 - (A) Energy efficiency; or
 - (B) Trade specific subjects, such as roofing, excavation, or exterior shell construction, as selected by the contractor.
 - (4) Courses shall be a minimum of 50 minutes to qualify for one hour of residential continuing education credit. Courses shall be at least one credit hour.
 - (5) Credit shall not be given for an individual student repeating the same residential continuing education course during a two-year licensing period.
 - (6) If, during the two years immediately preceding the expiration date of the license, a residential contractor served on active duty in the United States armed forces, including but not limited to mobilization or deployment, the residential continuing education requirement is waived for that two-year licensing period. This exemption applies only if the residential contractor is a:
 - (a) Sole proprietor without employees;
 - (b) Sole owner of a corporation; or
 - (c) Sole member of a limited liability company.
- Stat. Auth.: ORS 670.310, 701.082, ~~701.126~~ & 701.235
 Stats. Implemented: ORS 701.082
 (10/24/13, temp. 11/26/13, 2/6/14)

812-022-0021

Plumbing and Electrical Contractor Exemptions from Continuing Education – Continuing Education for Residential Contractors (SB 783)

- (1) Subject to section (2) of this rule, the following persons are exempt from completing Series A Courses required under OAR 812-022-0015(2)(b) and Series B Courses required under OAR 812-022-0015(3)(b):
 - (a) Contractors licensed as plumbing contractors under ORS 447.010 to 447.156; and
 - (b) Contractors licensed as electrical contractors under ORS 479.630.
 - (2) A contractor that is exempt under this rule and has been licensed as a residential contractor during all of the six years immediately preceding renewal must complete sufficient course hours in trade licensing continuing education or Series A Courses to total five hours. **To qualify for the exemption, an owner or employee of the contractor must complete the trade licensing continuing education.**
 - (3) A contractor that is exempt under this rule and has not been licensed as a residential contractor during any part of the six years immediately preceding renewal must:
 - (a) Complete sufficient course hours in trade licensing continuing education or Series A Courses to total five hours; and
 - (b) Complete sufficient course hours in trade licensing education, Series A Courses, or Series B Courses to total eight hours.
- (c) To qualify for the exemption, an owner or employee of the contractor must complete the trade licensing continuing education.**
- Stat. Auth.: ORS 670.310, 701.082, 701.083, ~~701.126~~ & 701.235
 Stats. Implemented: ORS 701.082 and 701.083
 (10/24/13, temp. 11/26/13, 2/6/14)

812-022-0025

Provider Approval – Continuing Education for Residential Contractors (SB 783)

- (1) The agency will review and approve providers offering residential continuing education.
- (2) Providers will apply for approval on a form, and submit fees, prescribed by the agency. ~~[Providers may, but need not, apply for approval at the same time they apply for course approval.]~~
- (3) Providers seeking approval to offer residential continuing education must submit the following to the agency:
 - (a) Name, address and contact information of the provider;
 - (b) Business entity type of the provider and, if applicable, the Corporation Division business registry number;
 - (c) Description of the subject area(s) the provider intends to offer;
 - (d) Indication whether provider will offer:
 - (A) Series A Courses;
 - (B) Series B Courses; or
 - (C) Both Series A and Series B Courses; and
 - (e) Such other information or documentation as the agency may request.
- (4) To qualify for approval, providers must:

- (a) Employ or contract with instructors who have at least four years work experience or four years of education, or any combination of both, in the subject that they instruct;
 - (b) Be capable of entering and transmitting electronic data to the agency;
 - (c) Describe and follow a process for prompt resolution of complaints by registrants;
 - (d) Describe a process for cancellations and refunding registrant payments. If the provider does not permit cancellation or refunds, it must provide notice of that fact in a conspicuous manner in its advertising, solicitation and registration materials;
 - (e) Describe and follow attendance verification procedures;
 - (f) Provide an evaluation opportunity as prescribed by the agency for course attendees to complete;
 - (g) Be capable of submitting rating results to the agency by 12:00 noon of the business day following the day the contractor completes the course;
 - (h) **Except as provided in OAR 812-022-0027(2), if** [H] offering agency developed courses, pursuant to an agreement under OAR 812-022-0018, or Series A Courses, provide a surety bond, as described in OAR 812-022-0027, in the amount of \$20,000 obligating the surety to pay the State of Oregon any fees unpaid by provider;
 - (i) **Except as provided in OAR 812-022-0026(3), pay** [Pay] fees as provided under OAR 812-022-0026; and
 - (j) Maintain records available for agency to inspect for at least six years.
- (5) Only an approved provider may offer or provide residential continuing education to a contractor or a contractor's employees.
- (6) An approved provider may not allow any person not approved by the agency as a provider to offer or provide courses of the approved provider. For purposes of this rule, "offer or provide" includes, but is not limited to, assisting the contractor or the contractor's employees in obtaining or completing the courses or acting on behalf of an approved provider in advertising or soliciting the courses.
- (7) Provider approval will be valid for two (2) years from the date the provider is approved by the agency.
- (8) If providers change or add course types (Series A Courses or Series B Courses), they shall notify the agency within 24 hours.
- (9) If providers change or add instructors, they shall notify the agency within 24 hours.
- (10) Providers must re-submit an application and fees for renewal of approval. Renewal of approval will be subject to the same requirements as initial approval.
- (11) The agency may withdraw approval issued to any provider that violates Oregon Laws 2013, chapter 718, or any rule of the agency.
- Stat. Auth.: ORS 670.310, ~~701.126~~ **701.265** and 701.235
 Stats. Implemented: **ORS 701.265**
 (10/24/13, temp. 10/29/13, temp. 12/12/13, 2/6/14)

812-022-0026

Fees for Provider Approval – Continuing Education for Residential Contractors (SB 783)

- (1) Providers will remit to the agency a non-refundable fee of \$2,000, together with an application for approval, or renewal of approval, to offer Series A Courses, Series B Courses, or both Series A Courses and Series B Courses.
- (2) Providers will be assessed a fee of \$4 per student per hour for each Series A Course hour provided. Providers will pay agency the fees at the time provider submits each student's records. The agency will establish the manner in which the provider must remit payment. Students will receive credit for Series A Course hours only after CCB receives provider's payment.
- (3) The fees established under section (1) of this rule do not apply to Oregon public community colleges or small business development centers (including BizCenter Online Learning).**
 Stat. Auth.: ORS 670.310, ~~701.126~~, 701.235, and **701.267**
 Stats. Implemented: ORS 701.267
 (10/24/13, temp. 12/12/13, 2/6/14)

812-022-0027

Surety Bond to Assure Performance of Agency Agreements

- (1) Providers that [enter into agreements to] provide [the agency's courses on laws, regulations and business practices, as provided in OAR 812-022-0018, or] Series A Courses as provided in OAR 812-022-0015(2)(b), will maintain a surety bond in the amount of \$20,000, issued by a surety company authorized to do business in the State of Oregon, for the benefit of the State of Oregon, Construction Contractors Board. [The bond must be in the form adopted by the board as the Residential Continuing Education Provider Surety Bond for Payment of Fees.] The bond must be in the form "Series A Course Provider Surety Bond," dated October 24, 2013.**
- (2) Section (1) of this rule does not apply to Oregon public community colleges or small business development centers (including BizCenter Online Learning).**
 Stat. Auth.: ORS 670.310, ~~701.126~~, 701.235, **701.265 and 701.267**
 Stats. Implemented: **ORS 701.265 and 701.267**

(10/24/13, temp. 10/29/13, temp. 12/12/13, 2/6/14)

812-022-0028

Course Approval – Continuing Education for Residential Contractors (SB 783)

(1) The agency will approve Series A Courses required under OAR 812-022-0015(2)(b). **Providers seeking course approval must be approved providers under OAR 812-022-0025.**

(2) A provider seeking approval for Series A Courses must submit the following:

(a) Course name, course description, objective of the offered course, and number of hours of continuing education credit sought (must be no less than one hour);

(b) A written description of the course instructors' credentials, including years of education and experience in the subject matter they instruct;

(c) Course syllabus;

(d) Comprehensive course outline;

(e) Copies of the course materials provided to students;

(f) Cost of the offered course;

(g) For live classes and classes held in real time:

(A) Anticipated date, time, place of the course; and

(B) Number of registrants that each course can accommodate;

(h) For self-study courses:

(A) Anticipated date when the course will first be offered;

(B) Description of provider's procedures to answer student questions; and

(C) The length of time a student has to complete the course and receive credit.

(i) Any other information as directed by the agency.

(3) The agency will only approve Series A Courses that the agency, in its sole discretion, considers offer high quality in the following respects:

(a) The course relates to one or more of the subjects listed in OAR 812-022-0015(2)(b);

(b) The course's use of animation, audio, video or color to stimulate multiple learning styles;

(c) The course holds interest through the use of visual, textual, audio or interactive components;

(d) The course material is presented in a logical and understandable manner;

(e) The spelling, grammar and sentence structure in written materials are correct;

(f) For courses using internet, video, audio or other electronic media, the course program is technically sufficient (e.g., video does not "stutter"; internet material does not "lock up"); and

(g) For courses using internet, video, audio or other electronic media, there is adequate instruction and guidance to navigate from the beginning to the end of the course.

(4) The agency will only approve Series A Courses that provide qualified instructors to answer questions in real-time, either in person, by telephone or by electronic means (e.g. chat rooms, e-mail, instant message).

(5) Series A Course approval will be valid for two (2) years from the date the provider is approved by the agency.

(6) Providers must re-submit an application and fees for renewal of Series A Course approval. Renewal of approval will be subject to the same requirements as initial approval.

Stat. Auth.: ORS 670.310, ~~701.266~~, 701.235, **701.265 and 701.267**

Stats. Implemented: **ORS 701.265 and 701.267**

(10/24/13, temp. 10/29/13, 2/6/14)

812-022-0029

Fees for Course Approval – Continuing Education for Residential Contractors (SB 783)

Providers will remit to the agency a non-refundable fee of \$100 together with an application for approval of any Series A Course.

Stat. Auth.: ORS 670.310, 701.235 and 701.267

Stats. Implemented: ORS 701.267

(temp. 10/29/13, 2/6/14)

812-022-0034

Completion and Registration of Series B Courses – Continuing Education for Residential Contractors (SB 783)

(1) Contractors that were not licensed as a residential contractor during any part of the six-year period immediately preceding the renewal must complete eight hours of residential continuing education, which may include Series A Courses described in OAR 812-022-0015(2)(b) or Series B Courses described in OAR 812-022-0015(3)(b).

(2) The agency will register Series B Courses authorized under OAR 812-022-0015(3)(b). Providers seeking course approval must be approved providers under OAR 812-022-0025.

(3) A provider registering Series B Courses must submit the following:

(a) Course name, course description, objective of the offered course, and number of hours of continuing education credit;

(b) Cost of the offered course;

(c) For live classes and classes held in real time:

(A) Anticipated date, time, place of the course; and

(B) Number of registrants that each course can accommodate;

(d) For self-study courses:

(A) Anticipated date when the course will first be offered; and

(B) The length of time a student has to complete the course and receive credit.

(e) Any other information as directed by the agency.

(4) Series B Course registration will be valid for two (2) years from the date the provider is approved by the agency.

(5) Providers must re-submit a registration form for renewal of Series B Course registration. Renewal of registration will be subject to the same requirements as initial registration.

Stat. Auth.: ORS 670.310, 701.082, ~~701.126~~ and 701.235

Stats. Implemented: ORS 701.082

(temp. 10/29/13, 2/6/14)

Operative 1-1-14

812-022-0035

Provider Rosters, Notification of Completion and Certificates of Completion for Series B Course Hours – Continuing Education for Residential Contractors (SB 783)

(1) Providers will maintain rosters capturing data for all contractors that complete Series B Courses, as described in 812-022-0015(3)(b). Rosters will contain the following information:

(a) Course name and any other information identifying course, as required by agency:

(b) Contractor's name;

(c) Contractor's license number;

(d) Name of individual attending or completing the course;

(e) Relationship of individual completing the course to contractor (e.g. owner, officer, member, employee);

(f) Date individual attended or completed the course;

(g) Number of hours credit obtained by attending or completing the course; and

(h) Certification by individual completing the course that the identified individual:

(A) Attended or completed the entire course; and

(B) No other individual attended, completed or assisted in completing the course in place of the individual.

(2) Providers will transmit data, as directed by the agency, containing the information in section (1) and notifying the agency when a contractor completes a Series B Course. Providers must submit data by 12:00 noon of the business day following the date the contractor completes the course.

(3) Upon satisfactory completion of each Series B Course, providers will prepare a certificate of completion for the person completing the course. The certificate of completion will contain the following information:

(a) Provider name;

(b) Provider number assigned by the agency;

(c) Course name;

(d) Course number assigned by the agency;

(e) Number of credit hours;

(f) Date of course completion;

(g) Student name;

(h) Name of contractor with which student is associated;

(i) Contractor CCB number; and

(j) Any other information required by the agency.

Stat. Auth.: ORS 670.310, ~~701.126~~, 701.235, 701.265 and 701.267

Stats. Implemented: ORS 701.265 and 701.267

(temp. 10/29/13, 2/6/14)