

APA-2

Board of Heating, Air Conditioning & Refrigeration Contractors

NOTICE OF INTENDED ACTION

AGENCY NAME:

Board of Heating, Air Conditioning & Refrigeration Contractors

RULE NO. & TITLE:

440-X-4 Continuing Education Requirements for Certified Contractors Program and Requirements

INTENDED ACTION:

Repeal Current Rule Section and Replace with New Rule Section.

SUBSTANCE OF PROPOSED ACTION:

To repeal the entire section regarding continuing education and pre-licensure requirements, as they do not fall within the education process outlined in the Board's law, and to replace it with the appropriate education process outlined in a clear and concise manner.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

11:00 A.M., May 5, 2022 4673 Wharf Pkwy W, Orange Beach, AL 36561

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

Written comment will be accepted until 5:00 P.M., Monday, May 2, 2022. All comments will be read before the Board on Wednesday May 5, 2022.

CONTACT PERSON AT AGENCY:



Jeffrey M. Becraft
Executive Director

CHAPTER 440-X-4
CONTINUING EDUCATION REQUIREMENTS FOR CERTIFIED CONTRACTORS
EDUCATION PROGRAM AND CONTINUING EDUCATION FOR CERTIFIED
CONTRACTOR

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~~440-X-4-.01~~ — Continuing Education And Education Committee.

~~(1) — The Board shall adopt an annual program of continuing education for certified contractors by January 1 of each year. The Board may designate an Education Committee on an annual basis to assist in the development of a curriculum of courses each year. The Board may charge fees for reviewing continuing education providers, courses and/or instructors.~~

~~(2) — The Education Committee may recommend to the Board the approval or disapproval of courses and classes that meet the requirements for continuing education credit hours for certified contractors.~~

~~(3) — The Board may require all courses or classes that seek status as approved by the Board to first be submitted, along with the appropriate fees, to the Education Committee for recommended approval or disapproval by the Board.~~

~~(4) The Education Committee shall approve all pre-examination and apprentice/technician curricula prior to recommendation for approval or disapproval by the Board.~~

440-X-4.01 Definitions.

(1) Board Approved Continuing Education Provider: An individual; partnership; association; organization; educational institution; or governmental agency, offering continuing education for heating and air conditioning, and refrigeration contractors that meet Board criteria for approval and are assigned an issued a Provider ID by the Board.

(2) Board Approved Continuing Education Instructor: May be a certified HVAC contractor, certified refrigeration contractor, industry expert professional, or otherwise qualified individual. When the instructor is not a certified contractor, there shall be evidence of knowledge, skill, and experience of the heating, air conditioning and refrigeration industry.

(3) Board Approved Continuing Education Course: A course that meets the definition of continuing education and has been approved by the Board to be administered by a board approved provider. A course may be a program of multiple sessions or a single session lasting at least two hours.

(4) Continuing Education: Planned, organized learning experiences designed to augment the knowledge, skill, and ability to enhance the knowledge of a certified contractor and therefore improve the installation, service or repair of HVAC or commercial refrigeration equipment to the consumer.

(5) Continuing Education Hours: Unit of measurement of continuing education that meets Board criteria for approval and lasts at least two hours.

(6) Provider ID: A permanent, nontransferable number assigned by the Board to designate an approved provider.

(7) Education Committee: An annually designated committee consisting of at least one Board member and the executive director that assist in the review and continuation of the Board's continuing education program and prelicensure program.

~~Authors: Mark Montiel, Kathy LeCroix, Jeffrey M. Becraft
Statutory Authority: Code of Ala. 1975, §34-31-26.
History: Filed August 20, 1986. Amended: Filed July 12, 1988,
December 29, 1988. Emergency rule filed April 16, 1992.
Amended: Filed June 8, 1992. Repealed and New Rule: Filed
April 9, 2003; effective May 14, 2003. Amended: Filed
August 14, 2009; effective September 18, 2009. Amended:
Published December 31, 2019; effective February 14, 2020.~~

Author: Jeffrey M. Becraft
Statutory Authority: Code of Ala. 1975, Section 31-31-32
History: Filed April 9, 2003; effective May 14, 2003;
Repealed and New: Filed February 10, 2022; Effective:

~~440-X-4-.02 — Requirements.~~

~~(1) — Beginning in the calendar year 2010, all certified contractors shall be required to acquire four (4) credit hours of continuing education every year. Hours of credit in excess of the minimum annual requirement may be carried forward and applied to the succeeding calendar year's requirement only; however such hours must be reported in the year in which they were completed and must be designated as hours to be carried forward. The Board may require certified contractors and providers to submit to the Board proof of compliance with the continuing education requirement before November 1st annually to allow the Board to maintain its records regarding continuing education attendance of each certified contractor.~~

~~(2) — All certified contractors licensed with the Board shall complete the required continuing education hours prior to receiving a renewal of their certification. The failure to complete the minimum continuing education requirements before November 1st annually will prevent the renewal of a certified contractor's license until proof of compliance is submitted in writing to the Board. All continuing education submitted after December 31st of the year in which the hours are intended shall result in accrual of, all late, penalty and delinquent fees applicable.~~

440-X-4-.02 Continuing Education General Standards.

(1) All certified contractors shall be individually accountable for continued competence to renew annually.

(2) The Board may prescribe an additional continuing education courses as disciplinary action.

(3) All certified contractors shall meet continuing education requirements as stated in Section 34-31-26 Code of Alabama, 1975.

(5) Continuing education is not required for the first year a contractor holds a certification.

(7) Failure to complete the minimum continuing education requirements before November 1st annually will prevent the renewal of a certified contractor's license until proof of compliance is submitted to the Board.

(8) Units of measure for continuing education in hours. One hour equals at least 50 minutes.

(9) Continuing education hours are awarded in increments of two hours not to exceed eight hours.

(10) Certified contractors may roll over up to four hours on an annual basis.

(11) The Board may accept continuing education earned from an alternative continuing education provider by submitting a request for approval of non-traditional continuing education.

(12) Continuing education courses and activities may not be repeated within the earning period for credit.

(13) Proof of compliance with the continuing education requirements must be submitted to the Board before November 1st annually.

~~Authors: Mark Montiel, Jeffery Becraft~~

~~Statutory Authority: Code of Ala. 1975, §34-31-26.~~

~~History: New Rule: Filed April 9, 2003; effective May 14, 2003. Amended: Filed August 14, 2009; effective September 18, 2009. Amended: Filed September 11, 2018; effective October 26, 2018.~~

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, Section 31-31-32

History: Filed April 9, 2003; effective May 14, 2003;

Repealed and New: Filed February 10, 2022; Effective:

~~440-X-4-.03~~ Deficiency. In the event a certified contractor cannot submit their continuing education hours before November 1 annually, a contractor may appeal in writing for Board approval for a continuing education credit hour deficiency extension after November 1st but before January 1st annually.

~~The written appeal must outline in detail the contractors plan, including intended date of completion, to submit the deficient continuing education hours. The fee for deficiency approval may not exceed one hundred dollars (\$125).~~

~~All applications for a continuing education deficiency extension must be received by the Board prior to January 1 of the year in which the license was to be renewed.~~

~~Late fees may apply if the deficiency extends past December 31 annually.~~

440-X-4-.03 Deficiency

(1) The Board may implement a continuing education credit hour deficiency policy in the event a certified contractor cannot submit their continuing education hours before November 1 annually. A contractor must appeal in writing for Board approval for a continuing education credit hour deficiency extension after November 1st but before January 1st annually. The written appeal must outline in detail the contractors plan, including intended date of completion, before consideration will be given.

The fee for deficiency approval may not exceed one hundred dollars (\$125).

(2) All applications for a continuing education deficiency extension must be received by the Board prior to December 30, of the year in which the license certification was to be renewed. Late fees will apply if the deficiency extends past December 31 annually.

~~Authors: Mark Montiel, Kathy LeCroix, Jeffrey M. Becraft
Statutory Authority: Code of Ala. 1975, §34-31-26.
History: New Rule: Filed April 9, 2003; effective May 14, 2003. Amended: Filed August 14, 2009; effective September 18, 2009. Amended: Published January 31, 2020; effective March 16, 2020.~~

Author: Jeffrey M. Becraft
Statutory Authority: Code of Ala. 1975, Section 31-31-32
History: Filed April 9, 2003; effective May 14, 2003;
Repealed and New: Filed February 10, 2022; Effective:

440-X-4-.04 Annual Program; Approval Of Courses And Curricula.

~~(1) The annual program of continuing education established by the Board shall contain the procedures and fees, for approval of proposed courses and curricula for credit hours of continuing education by certified contractors. All institutions, organizations, and individuals shall submit proposed courses and curricula, along with the appropriate fees, to the Board's Education Committee for recommended approval or disapproval by the Board. The Board will consider proposed courses and curricula for approval only after a review of the proposal by the Board's Education Committee.~~

~~Requests for approval of proposed courses and curricula shall contain detailed information regarding the instructors to be used; the proposed physical facilities and classrooms, including equipment to be utilized in instruction; the course syllabus, which shall include a sufficient description of the planned instruction, resource materials, and textbooks involved in the instruction; and the length of the course instruction. The proposed courses and curricula should also include the resumes, areas of specialty, and prior teaching experience of proposed instructors.~~

~~(2) Upon request to the Board, the Board shall furnish a copy of its standards for approval of proposed continuing education courses and curricula as recommended by the Education Committee and approved by the Board. The Board shall maintain a list of all approved courses and curricula to assist certified contractors in efforts to comply with the state law requirements of continuing education.~~

440-X-4-.04 Education Committee

(1) The Board may designate an Education Committee on an annual basis to assist in the development of a curriculum of courses each year. The Board may charge fees for reviewing continuing education providers, courses, instructors, and non-traditional continuing education course applications to the applicant.

(2) The Education Committee shall be tasked with the following duties:

(b) Approve all pre-licensure curricula applications,

(c) Approve apprentice/technician curricula,

- (d) Approve or deny course applications that meet the requirements for Board Approved Continuing Education Course,
- (e) Approve or deny provider applications that meet the requirements for Board Approved Continuing Education Providers.
- (f) Approve or deny instructor applications that meet the requirements for Board Approved Continuing Education Instructors.
- (g) Approve or deny applications for non-traditional continuing education.

~~Authors: Mark Montiel, Kathy LeCroix, Jeffrey M. Becraft
Statutory Authority: Code of Ala. 1975, §34-31-26.
History: New Rule: Filed April 9, 2003; effective May 14, 2003. Amended: Filed August 14, 2009; effective September 18, 2009. Amended: Published December 31, 2019; effective February 14, 2020.~~

Author: Jeffrey M. Becraft
Statutory Authority: Code of Ala. 1975, Section 31-31-32
History: Filed April 9, 2003; effective May 14, 2003;
Repealed and New: Filed February 10, 2022; Effective:

~~440-X-4.05 Denial Of Application For Course Or Curricula; Request For Reconsideration. The Board may deny any application for course or curriculum approval that fails to meet the established standards of the Board or which the Board considers inadequate to properly educate its certified contractors. The Board may consider requests for reconsideration of approval of courses and curricula which have been denied upon a submission of a written request to the Board.~~

440-x-4-.05 Qualifications and Standards For Board Approved Providers and Instructors

(1) An application for approval as a Board-approved provider of continuing education shall submit to the Board the required fee and a complete application that demonstrates:

- (a) An organized plan for quality continuing education for heating and air conditioning or refrigeration contractors,
- (b) The mission and objectives of the provider,

- (c) Policies and procedures for implementation and evaluation of the educational programs and the educational unit,
- (d) An identifiable educational unit with designated qualified personnel and resources for conducting an organized plan of continuing education,

(2) Approved providers are accountable for the quality, accuracy and veracity of continuing education provided.

(3) Approved providers are responsible for ensuring the instructor (s) possess qualifications appropriate to the content of the activity.

(4) Approved providers shall submit electronic records of all contact hours awarded to certified contractors to the Board in a format and method specified by the Board.

(5) Records and reports shall be maintained for a minimum of two years.

(6) A Board-assigned provider number shall be issued upon approval of the entity as an approved provider of continuing education.

- (a) The Board Approved Provider ID does not expire, provided standards for approval are maintained.
- (b) The provider ID shall be listed on course announcements, certificates, records, and reports including all correspondence with the Board.
- (c) Name of entity attached to the Board assigned provider number may be changed upon written request from the contact person or administrator.

(7) Withdrawal of approval as a provider may occur if the provider fails to adhere to requirements in these rules. Grounds for withdrawal of approval include, but are not limited to:

- (a) Lack of qualified personnel for planning and conducting continuing education for industry contractors,
- (b) Inadequate record maintenance,
- (c) Fraud, deception, or misrepresentation relating to the educational program,
- (d) Failure to comply with request for documents, submitting false, inaccurate, or incomplete evidence of continuing education programs conducted and certificates issued,

(e) Aiding or abetting a licensee who fails to meet the continuing education requirement by altering or falsifying certificates.

~~Author: Mark Montiel~~

~~Statutory Authority: Code of Ala. 1975, §34-31-26.~~

~~History: New Rule: Filed April 9, 2003; effective May 14, 2003. Amended: Filed August 14, 2009; effective September 18, 2009.~~

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, Section 31-31-32

History: Filed April 9, 2003; effective May 14, 2003;

Repealed and New: Filed February 10, 2022; Effective:

~~440-x-4.06 Written Agreement Upon Approval. Upon approval of a proposed course or curriculum by the Board, the Board shall require the approved provider to execute a written agreement to conduct the approved course and curriculum in accordance with the terms of the Board's approval. This agreement shall be signed by the applicant for course and curriculum approval.~~

440-x-4-.06 Application for Continuing Education Course Standards

(1) An application for course approval from an approved provider of continuing education shall be submitted to the Board with the required fee.

(2) The Board will consider proposed courses and curricula for approval only after a review of the proposal by the Board's Education Committee. Requests for approval of proposed courses and curricula shall contain:

- (a) Detailed information regarding the instructors to be used;
- (b) The proposed facilities or platform, including equipment to be utilized in instruction;
- (c) A detailed course syllabus, which shall include a sufficient description of the planned instruction, resource materials, and textbooks involved in the instruction;
- (d) The number of contact hours and continuing education hours requested.

(3) Acceptable content for continuing education courses shall include one or more of the following:

- (a) Technology, procedures, and industry related applications;
- (b) Specialty areas of heating and air conditioning and refrigeration practices;
- (c) HVAC techniques, indoor air quality, system controls, and safety factors;
- (d) Administration, management, and supervision in heating, air conditioning, or related trade.
- (e) Heating and air conditioning and/or refrigeration education;
- (f) Professional conduct.
- (g) Minimum standard updates as outlined in Section 440-X-5 of the Boards rules and regulations.
- (h) Finance, taxes, payroll, and healthcare related to the industry;
- (i) Managing employees;
- (j) OSHA regulations;
- (k) Orientation programs and mandatory annual education on facility-specific equipment-specific activities designed to familiarize employees with the equipment and controls of an onsite product.

(4) Courses that are not directly applicable to the heating and air conditioning and/or refrigeration industry are not acceptable for continuing education credit. Such courses may include but are not limited to:

- (a) Courses taken for personal economic gain e.g. investment, retirement planning.
- (b) Presentation of course(s) that are:
 - 1. Not an original development of the provider and instructor;
 - 2. Not approved by a Board approved provider of continuing education.

~~Author: Mark Montiel~~

~~Statutory Authority: Code of Ala. 1975, §34-31-26.~~

~~History: New Rule: Filed April 9, 2003; effective~~

~~May 14, 2003. Amended: Filed August 14, 2009; effective September 18, 2009.~~

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, Section 31-31-32

History: Filed April 9, 2003; effective May 14, 2003;

Repealed and New: Filed February 10, 2022; Effective:

Curricula.

~~(1) The Board may revoke, suspend, or terminate any course or curriculum approval if the Board determines that a course provider has failed to comply with the Rules of the Board or its continuing education requirements or has failed to comply with its written agreement regarding conduct of the approved course or curriculum.~~

~~(2) The Board may request that a course provider reapply to the Board for approval if the provider has not held any classes for continuing education credit or submitted a roster to the Board for a period of four years. The provider will be required to submit a new application along with all appropriate fees to the Board for approval prior to holding a class for continuing education credit.~~

440-x-4-.07 Denial of Application For Course Or Curricula;
Request For Reconsideration.

(1) The Board may deny any education related application that fails to meet the established standards of the Board or which the Board considers inadequate to properly educate its certified contractors. The Board may consider requests for reconsideration for applications which have been denied upon a submission of a written request to the Board.

(2) Upon approval of a proposed course or curriculum by the Board, the Board shall require the approved provider to execute a written agreement to conduct the approved course and curriculum in accordance with the terms of the Board's approval. This agreement shall be signed by the applicant for course and curriculum approval.

~~Authors: Mark Montiel, Kathy LeCroix
Statutory Authority: Code of Ala. 1975, §34-31-26.
History: New Rule: Filed April 9, 2003; effective
May 14, 2003. Amended: Filed August 14, 2009; effective
September 18, 2009.~~

Author: Jeffrey M. Becraft
Statutory Authority: Code of Ala. 1975, Section 31-31-32
History: Filed April 9, 2003; effective May 14, 2003;
Repealed and New: Filed February 10, 2022; Effective:

~~440-x-4-.08 Monitoring Of Course And Curricula. The Board shall have the authority to monitor all approved courses and curricula to ensure that approved providers and instructors fully comply with the Rules of the Board and the conditions~~

~~of approval by the Board.~~

440-X-4-.08 Revocation, Suspension, Termination Of Course Or Curricula.

(1) The Board may revoke, suspend, or terminate any provider, course, instructor, or curriculum approval if the Board determines that a course provider or curriculum has failed to comply with the Rules of the Board or its continuing education requirements or has failed to comply with its written agreement regarding conduct of the approved course or curriculum.

(2) The Board may request that a course provider reapply to the Board for approval if the provider has not held any classes for continuing education credit or submitted a roster to the Board for a period of four years. The provider will be required to submit a new application along with all appropriate fees to the Board for approval prior to holding a class for continuing education credit.

~~Author: Mark Montiel~~

~~Statutory Authority: Code of Ala. 1975, §34-31-26.~~

~~History: New Rule: Filed April 9, 2003; effective May 14, 2003. Amended: Filed August 14, 2009; effective September 18, 2009.~~

Author: Jeffrey M. Becraft

Statutory Authority: Code of Ala. 1975, Section 31-31-32

History: Filed April 9, 2003; effective May 14, 2003;

Repealed and New: Filed February 10, 2022; Effective:

440-X-4-.09 Over 65 Years Of Age Exemption From Continuing Education Requirements For Inactive Contractors Only.

~~(1) Any INACTIVE contractor who is 65 years of age or older is exempt from continuing education requirements. The inactive contractor is not eligible for this exemption until the year after they turn 65 years old. This exemption does not apply for the year in which the inactive contractor turns 65 years old.~~

~~(a) Example: (1) If the inactive contractor is 64 on January 1, 2010 and turns 65 on January 2, 2010 the inactive contractor does not qualify for the exemption for the 2010 licensing year, however the inactive contractor will qualify for the exemption during the renewal period for the 2011~~

~~licensing year.~~

~~(b) Example: (2) If the inactive contractor turns 65 on December 31, 2009 they would qualify for the exemption and not be required to have 4 hours of continuing education to renew for 2010 licensing year because their birthday occurred prior to the 2010 licensing year.~~

~~(2) Once the inactive contractor returns to active status after the age of 65, they will need to submit 8 hours of Continuing Education prior to receiving an active contractor's license. This exemption does not apply to contractors 65 years or older who hold an active certification.~~

440-X-4-.09 Monitoring Of Course And Curricula.

The Board shall have the authority to monitor all approved courses and curricula to ensure that approved providers and instructors fully comply with the Rules of the Board and the conditions of approval by the Board.

~~Author: Jeffery Becraft, Kathy LeCroix
Statutory Authority: Code of Ala. 1975, §34-31-26, Act No. 2009-486.
History: New Rule: Filed August 14, 2009; effective September 18, 2009.~~

Author: Jeffrey M. Becraft, Kathy S. Byrom
Statutory Authority: Code of Ala. 1975, Section 31-31-32
History: Filed April 9, 2003; effective May 14, 2003;
Repealed and New: Filed February 10, 2022; Effective:

440-X-4-.10 Over 65 Years Of Age Exemption From Continuing Education Requirements For Inactive Contractors Only.

(1) Any INACTIVE contractor who is 65 years of age or older is exempt from continuing education requirements. The inactive contractor is not eligible for this exemption until the year after they turn 65 years old. This exemption does not apply for the year in which the inactive contractor turns 65 years old.

(a) Example: (1) If the inactive contractor is 64 on January 1, 2010 and turns 65 on January 2, 2010 the inactive contractor does not qualify for the exemption for the 2010 licensing year, however the inactive contractor will qualify for the exemption during the renewal period for the 2011 licensing year.

(b) Example: (2) If the inactive contractor turns 65 on December 31, 2009 they would qualify for the exemption and not be required to have 4 hours of continuing education to renew for 2010 licensing year because

their birthday occurred prior to the 2010 licensing year.

(2) Once the inactive contractor returns to active status after the age of 65, they will need to submit 8 hours of Continuing Education prior to receiving an active contractor's license. This exemption DOES NOT apply to contractors 65 years or older who hold an ACTIVE certification.

440-X-4-.10 First Year Continuing Education Exemption.

A certified contractor is not required to obtain four (4) hours of continuing education hours to renew their license for the first renewal year following the year he or she received their initial license.

~~Author: Jeffrey Becraft, Kathy S. LeCroix
Statutory Authority: Code of Ala. 1975, §34-31-21(a); Act No. 2009-486.
History: New Rule: Filed March 6, 2013; effective April 10, 2013.~~

Author: Jeffrey M. Becraft, Kathy S. Byrom
Statutory Authority: Code of Ala. 1975, Section 31-31-32
History: Filed April 9, 2003; effective May 14, 2003;
Repealed and New: Filed February 22, 2022; Effective: