

## CHAPTER 2891

### DEPARTMENT OF COMMERCE

### RESIDENTIAL BUILDING CONTRACTORS

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#### BUILDING CONTRACTORS; REQUIREMENTS

##### 2891.0010 CHANGE OF BUSINESS NAME OR ADDRESS.

The licensee must notify the commissioner, in writing, of any change in control, ownership, officers or directors, business name, license name, qualifying person, or location within 15 business days of the change.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

##### 2891.0020 RECORDS.

For the purposes of this license, a licensee shall maintain records showing all plans, contracts, documents, records, receipts, and disbursements by a licensee of all the licensee's transactions as a contractor for a period of not less than three years after completion of any construction project or operation to which the records refer, and shall have the records available for inspection by the commissioner during normal business hours. Records must be kept at the licensee's business address.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

##### 2891.0030 WRITTEN CONTRACT REQUIRED.

Contracts between a contractor and a customer for the performance of a licensee's services must be reduced to writing and must contain the following:

- A. a summary of the work to be performed;
- B. a description of materials to be used or a list of standard features included; and
- C. the total contract price, or a description of the basis on which the price will be calculated.

The licensee shall provide at no cost to the customer a copy of all written contracts between the licensee and its customer, including, but not limited to, proposals, quotations, change orders, and purchase orders at the time the document is executed.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

##### 2891.0040 FRAUDULENT, DECEPTIVE, OR DISHONEST PRACTICES.

**Subpart 1. Description.** For the purposes of Minnesota Statutes, section 326.91, subdivision 1, clause (2), the following acts and practices are considered fraudulent, deceptive, or dishonest practices:

- A. misrepresentation of a material fact by the applicant in obtaining a license;
- B. engaging in false, fraudulent, or misleading advertising;
- C. making any material misrepresentation or omission in the procurement of a building contract;
- D. any fraud or dishonesty in the execution of, or in the material alteration of, any contract, mortgage, promissory note, or other document incident to a building transaction;
- E. conducting a building or remodeling contracting business in any name other than the one in which the contractor is licensed, unless the licensee has filed a certificate of assumed name with the secretary of state and provided a copy of the certificate to the commissioner;
- F. contracting or offering to contract while the license is revoked, under suspension, or inactive for any reason;
- G. knowingly contracting for, or performing, a service beyond the scope of the license; or
- H. performing any construction without obtaining applicable local building permits and inspections.

Subp. 2. **Nonlimitation of authority.** Nothing in this part limits the authority of the commissioner to take action against a licensee for fraudulent, deceptive, or dishonest practices not specifically described in this part.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

## **2891.0050 INCOMPETENT, UNTRUSTWORTHY, OR FINANCIALLY IRRESPONSIBLE PRACTICES.**

Subpart 1. **Description.** For the purposes of Minnesota Statutes, section 326.91, subdivision 1, clause (6), the following acts and practices are considered incompetent, untrustworthy, or financially irresponsible:

- A. failure to maintain any required license bond, or Minnesota workers' compensation, liability, or unemployment insurance as required by applicable law;
- B. accrual of \$500 or more in delinquent taxes, penalties, or interest, owed to the state, pursuant to Minnesota Statutes, section 270.72; or
- C. diversion of funds paid to a licensee from the purposes for which the funds were intended.

Subp. 2. **Nonlimitation of authority.** Nothing in this part limits the authority of the commissioner to take action against a licensee for incompetent, untrustworthy, or financially irresponsible practices not specifically described in this part.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

## **CONTINUING EDUCATION COURSES**

### **2891.0060 DEFINITIONS.**

Subpart 1. **Scope.** The terms used in parts 2891.0070 to 2891.0280, have the meanings given them in this part.

Subp. 2. **Coordinator.** "Coordinator" means an individual who is responsible for monitoring residential contracting or remodeling education offerings.

Subp. 3. **Instructor.** "Instructor" means an individual lecturing in a residential contracting or remodeling education offering.

Subp. 4. **Sponsor.** "Sponsor" means a person offering or providing residential contracting or remodeling education.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### **2891.0070 CONTINUING EDUCATION.**

Subpart 1. **Content.** Continuing education consists of approved courses that impart substantive and procedural knowledge in the residential and remodeling contracting field.

**Subp. 2. Required courses.**

A. Each licensee must, during the licensee's first complete continuing education reporting period, complete and report one hour of continuing education relating to lead abatement rules and safe lead abatement procedures.

B. Each licensee must, during each continuing education reporting period, complete and report one hour of continuing education relating to energy codes for buildings and other building codes designed to conserve energy.

**Subp. 3. Examinations.** Course examinations will not be required for continuing education courses unless they are required by the sponsor.

**Subp. 4. Textbooks.** Textbooks are not required to be used for continuing education courses. In instances in which textbooks are not used, students are to be provided with a syllabus containing, at a minimum, the course title; the times and dates of the course offering; the names, addresses, and telephone numbers of the course coordinator and instructor; and a detailed outline of the subject materials to be covered.

**Subp. 5. Credit earned.** Upon completion of approved courses, students shall earn one hour of continuing education credit for each hour of approved instruction. Approved instructors shall earn three hours of continuing education credit for each hour of approved instruction. Credit may not be earned if, within the preceding five years, the licensee has previously obtained credit for the same course as either a student or instructor.

**Subp. 6. Nonapproved courses for continuing education.** The following are not approved courses:

- A. courses designed to prepare students for a license examination;
- B. courses in mechanical office or business skills, including typing, speed reading, or use of calculators or other machines or equipment; or
- C. courses in motivation, sales skills, psychology, time management, or communication.

**Subp. 7. Burden of proof.** The burden of demonstrating that courses impart substantive and procedural knowledge in the residential contracting or remodeling field is upon the person seeking approval of credit.

**Subp. 8. Professional designations.** Courses leading to the following professional designations automatically qualify for continuing education credit:

- A. Graduate Builders Institute offered by the Builders Association and the National Association of Home Builders;
- B. certified graduate remodeler (CGR) program offered by the Builders Association and the National Association of Home Builders;
- C. construction superintendent series offered by the Builders Association and the National Association of Home Builders;
- D. Graduate Builders Institute master series offered by the Builders Association and the National Association of Home Builders;
- E. certified remodeling program of the National Association for Remodeling Industry, the Minnesota chapter; and
- F. building code update program offered by the Department of Administration.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

**CONTINUING EDUCATION REQUIREMENTS**

**2891.0080 APPLICATION FOR COURSE APPROVAL FOR CONTINUING EDUCATION.**

The residential contracting or remodeling application for course approval for continuing education must be submitted on forms prescribed by the commissioner.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

**2891.0090 COURSE APPROVAL.**

Subpart 1. **Approval of course offerings.** Sponsors must submit their courses to the commissioner for approval at least 30 days prior to the date on which the course is to be held. Courses will be approved or disapproved on the basis of their compliance with Minnesota Statutes, section 326.87, and this chapter. Approval will not include time spent on breaks, meals, or other unrelated activities.

Subp. 2. **Continuing education courses not submitted for advance approval.** Licensees may receive continuing education credit for courses attended which have not been submitted for approval in advance if the licensee demonstrates that the courses were in substantial compliance with Minnesota Statutes, section 326.87, and the rules adopted thereunder. Requests for credit for courses not approved in advance must be submitted on forms prescribed by the commissioner.

Subp. 3. **Permitted course offerings.** Courses complying with Minnesota Statutes, chapter 326, and the rules adopted thereunder may be offered or sponsored by sponsors.

Coordinators must immediately notify the commissioner of any material change in an application for approval or in the exhibits attached to it.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

**2891.0100 NOTICE OF SUBSEQUENT OFFERINGS OF CONTINUING EDUCATION COURSES.**

Approval may be granted for subsequent offerings of identical continuing education courses without requiring a new application if a notice of subsequent offerings, on the form prescribed by the commissioner, is filed with the commissioner at least 30 days in advance of the date the course is to be held.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

**2891.0110 COURSES OPEN TO ALL.**

All course offerings must be open to any interested individuals.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

**2891.0120 COURSE COORDINATOR.**

Subpart 1. **Mandatory.** Each course of study shall have one coordinator, approved by the commissioner, who is responsible for supervising the program and assuring compliance with Minnesota Statutes, section 326.87, and this chapter. Sponsors may engage an additional approved coordinator in order to assist the coordinator or to act as a substitute for the coordinator in the event of an emergency or illness.

Subp. 2. **Qualifications.** The commissioner shall approve as a coordinator an individual meeting one or more of the following criteria:

A. a minimum of the previous five years as an active residential contractor or remodeler;

B. at least three years of full-time experience in the administration of an education program during the five-year period immediately preceding the date of application; or

C. a degree in education plus two years residential contracting or remodeling experience.

Subp. 3. **Responsibilities.** A coordinator is responsible for:

A. assuring compliance with all laws and rules pertaining to residential contracting education;

B. assuring that students are provided with current and accurate information relating to the codes, laws, and rules governing the residential contracting or remodeling activities which are the subject of the course;

C. supervising and evaluating courses and instructors, including assuring, especially when a course will be taught by more than one instructor, that all areas of the curricu-

lum are addressed without redundancy and that continuity is present throughout the entire course;

D. furnishing the commissioner, upon request, with copies of evaluations of instructors or courses;

E. investigating complaints related to course offerings and instructors;

F. maintaining records relating to course offerings, instructors, and student attendance for a period of three years from the date on which the course was completed; these records shall be made available to the commissioner upon request. In the event that a sponsor should cease operation for any reason, the coordinator is responsible for maintaining the records or providing a custodian for the records acceptable to the commissioner. Under no circumstances will the commissioner act as custodian of the records. In order to be acceptable to the commissioner, custodians must agree to make copies of acknowledgments of course attendance available to students at a reasonable fee;

G. assuring that the coordinator is available to instructors and students throughout course offerings and providing the name of the coordinator and a telephone number at which the coordinator can be reached;

H. attending workshops or instructional programs as reasonably required by the commissioner; and

I. providing students with course completion certificates for continuing education courses.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### 2891.0130 APPLICATION FOR COORDINATOR APPROVAL.

The residential contractor or remodeler application for coordinator approval must be submitted on forms prescribed by the commissioner.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### 2891.0140 INSTRUCTORS.

Subpart 1. **Requirement.** Each course of study shall have an instructor who is qualified by education, training, or experience to ensure competent instruction.

Subp. 2. **Qualifications.** The following provisions relate to the approval and qualification of instructors:

A. Requests must be submitted at least 30 days before instruction in an approved course.

B. Continuing education instructors must have:

(1) five years practical experience in the subject area being taught;

(2) a college or graduate degree in the subject area being taught;

(3) a college degree in any area plus three years experience in the subject area being taught; or

(4) an associate of applied science degree from a technical college plus three years experience in the subject area being taught.

Subp. 3. **Responsibilities.** Approved instructors are responsible for the following:

A. compliance with all laws and rules relating to residential contracting or remodeling education;

B. providing students with current and accurate information;

C. maintaining an atmosphere conducive to learning in the classroom;

D. assuring and certifying attendance of students enrolled in courses;

E. providing assistance to students and responding to questions relating to course materials; and

F. attending workshops or instructional programs that are required by the commissioner.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

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RESIDENTIAL BUILDING CONTRACTORS 2891.0180

## **2891.0150 APPLICATION FOR INSTRUCTOR APPROVAL FOR CONTINUING EDUCATION.**

The residential contracting or remodeling application for instructor approval for continuing education must be submitted on forms prescribed by the commissioner.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

## **2891.0160 PROHIBITED PRACTICES FOR SPONSORS, COORDINATORS, AND INSTRUCTORS.**

Subpart 1. **Prohibitions.** In connection with an approved course, sponsors, coordinators, and instructors shall not:

A. recommend or promote the services or practices of any particular licensee, coordinator, instructor, or sponsor;

B. encourage or recruit individuals to engage the services of, or become associated with, any particular licensee;

C. use materials, clothing, or other evidences of affiliation with any particular licensee;

D. require students to participate in other programs or services offered by the sponsor, coordinator, or instructor;

E. attempt, either directly or indirectly, to discover questions or answers on a licensing examination; or

F. disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations.

Subp. 2. **Notification of misconduct.** Coordinators and instructors shall notify the commissioner within ten days of being charged with or convicted of a felony or gross misdemeanor or of disciplinary action taken against any occupational license held by the coordinator or instructor.

Subp. 3. **Change in information in application.** Coordinators and instructors shall notify the commissioner within 15 days of any change in the information set forth in the application for approval on file with the commissioner.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

## **2891.0170 EXTENSIONS.**

Upon appropriate showing of a bona fide medical hardship, the commissioner shall extend the time period during which continuing education instruction must be successfully completed. Requests for extensions must be submitted in writing before the date of license cancellation and must include a physician's statement documenting a medical condition which prevents the licensee from completing continuing education requirements in a timely fashion. An extension granted under this subpart shall not exceed 90 days unless the physician's statement documents that a longer extension is medically necessary.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

## **2891.0180 CANCELLATION OF LICENSE.**

A license that has been canceled for failure of a licensee to complete continuing education requirements must be returned to the commissioner within ten days of receipt of notice of cancellation. The license shall be reinstated without reexamination by completing the required instruction, filing a license application, and paying the fee for a building contractor or remodeler license within two years of the cancellation date.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### 2891.0190 WAIVERS.

Required education must not be waived for any licensee or applicant for a license. Extensions shall be granted pursuant to part 2891.0170.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### 2891.0200 FEES.

Fees for approved courses and related materials must be reasonable and clearly identified to students. In the event that a course is canceled for any reason, all fees must be returned promptly. In the event that a course is postponed for any reason, students shall be given the choice of attending the course at a later date or of having their fees refunded in full. If a student is unable to attend a course or cancels registration in a course, sponsor policies regarding refunds shall govern.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### 2891.0210 FACILITIES.

Each course of study must be conducted in a classroom or other facility that is adequate to implement the offering.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### 2891.0220 SUPPLEMENTARY MATERIALS.

An adequate supply of supplementary materials to be used or distributed in connection with an approved course must be available in order to ensure that each student receives all of the necessary materials. Outlines and any other materials that are reproduced must be of readable quality.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### 2891.0230 ADVERTISING OF COURSES.

Subpart 1. **True.** Advertising must be truthful and not deceptive or misleading.

Subp. 2. **Approval statement.** No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering may be circulated or distributed in this state unless the following statement is prominently displayed:

"This course has been approved by the Minnesota commissioner of commerce for residential contracting or remodeling continuing education."

Subp. 3. **Approved course advertisements.** Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

Subp. 4. **Limitation on advertising.** Courses may not be advertised before approval, unless the course is described in the advertising as "approval pending" and that is in fact the case.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### 2891.0240 NOTICE TO STUDENTS.

At the beginning of each approved course, the following notice must be handed out in printed form or must be read to students:

"This residential contractor or remodeler course is recognized by the commissioner of commerce as satisfying ..... hours of credit toward continuing education requirements pursuant to Minnesota Statutes, section 326.87. If you have any comments about this course, please mail them to the Minnesota Commissioner of Commerce."

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

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## RESIDENTIAL BUILDING CONTRACTORS 2891.0280

### **2891.0250 AUDITS.**

The commissioner may audit subject courses with or without notice to the sponsor.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### **2891.0260 DENIAL OR WITHDRAWAL OF APPROVAL.**

The commissioner may deny or withdraw the approval of a coordinator, instructor, or course if it is determined that they are not in compliance with Minnesota Statutes, chapter 326, or this chapter.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### **2891.0270 REPORTS TO COMMISSIONER.**

Continuing education credits must be reported by the licensee on the form prescribed by the commissioner.

Forms will not be accepted unless they reflect all the required hours. Incomplete forms will be returned to the licensee.

Forms must be received by the commissioner no later than March 31 of the year due. Forms that are postmarked no later than March 15 shall be considered timely received if addressed to the licensing unit of the Minnesota Department of Commerce.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*

### **2891.0280 CONTINUING EDUCATION COURSE VERIFICATION.**

The continuing education course verification must be in the form prescribed by the commissioner.

**Statutory Authority:** *MS s 45.023; 326.87; 326.98*

**History:** *18 SR 1471*