

CHAPTER 29 – LOCKSMITH LICENSING BOARD

SECTION .0100-GENERAL

21 NCAC 29 .0101 SCOPE

The rules in this Section set forth the general operating policies and procedures of the North Carolina Locksmith Licensing Board.

*History Note: Authority G.S. 74F-5;
Temporary Adoption Eff. August 13, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0102 MEETINGS

(a) Frequency. The Board shall meet on the second Mondays of January and August and at other times agreed upon by the Board.

(b) Notice. Notification of the time and place of all meetings shall be published on the North Carolina Locksmith Licensing Board website not less than 15 days prior to the meeting.

*History Note: Authority G.S. 74F-5;
Temporary Adoption Eff. August 13, 2002;
Eff. August 1, 2004.*

SECTION 0200 - EXAMINATION

21 NCAC 29 .0201 EXAMINATION FEE

The examination fee shall be two hundred dollars (\$200.00) and shall accompany the examination registration form. If the applicant elects to take the exam at a commercial testing center that charges a fee, then the applicant retains responsibility for paying the additional fee assessed by the testing center.

*History Note: Authority G.S. 74F-6; 74F-9;
Temporary Adoption Eff. October 17, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0202 APPLICATION REQUIREMENTS

Applicants must register for an examination on the form prescribed by the Board. The application must be submitted to the Board's office at least 15 days before the requested examination date.

*History Note: Authority G.S. 74F-6; 74F-7;
Temporary Adoption Eff. November 13, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0203 MINIMUM PASSING SCORE

The passing score for the Locksmith Licensing Examination shall be 70 percent.

*History Note: Authority G.S. 74F-6; 74F-7;
Temporary Adoption Eff. November 13, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0204 REQUIREMENTS OF EXAMINEES

Applicants appearing at an examination session shall present a valid government-issued photo ID to the examination proctor before the beginning of the examination session. The applicant shall not bring books, calculators or other items deemed inappropriate by the proctor into the examination room. Pagers and cellphones must be turned off during the examination. Applicants shall not speak with others during the examination session. Applicants must obey instructions from the proctor regarding when to begin and cease work on the examination. Applicants shall be excused from the room during the examination only with permission from the proctor. Failure to abide by any of these standards shall result in invalidation of the applicant's examination results.

*History Note: Authority G.S. 74F-6; 74F-7;
Temporary Adoption Eff. November 13, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0205 FAILURE TO ATTEND SCHEDULED EXAMINATION SESSION

Applicants who fail to appear for a scheduled examination session shall forfeit their examination fee and must submit a new registration form along with the required fee for a different session. The Board shall waive the additional examination fee if it finds that the applicant's failure to attend as scheduled was the result of a hardship or emergency.

*History Note: Authority G.S. 74F-6; 74F-7;
Temporary Adoption Eff. November 13, 2002;
Eff. August 1, 2004.*

SECTION .0300 – DEFINITIONS AND EXPLANATIONS (RESERVED)

.0301 RESERVED

SECTION .0400-LICENSING REQUIREMENTS

21 NCAC 29 .0401 APPLICATION FORM

All applications for licensure shall be submitted on the form prescribed by the Board for this purpose and shall be accompanied by the following supporting documents:

- (1) two frontal photos of the applicant's face, taken within the preceding three months, size one inch by one inch;
- (2) a complete set of the applicant's fingerprints, collected by local law enforcement and accompanied by the applicant's social security number;
- (3) a completed examination registration form, unless the applicant is exempted by Statute;
- (4) a criminal history report, certified by the law enforcement agency or clerk of court in the applicant's county of residence;
- (5) a criminal history report, certified by the law enforcement agency or clerk of court in the applicant's county of employment, if different from the county of residence;
- (6) complete and truthful explanations of affirmative responses to questions on the application regarding employment history, criminal history and military service, if applicable;
- (7) payment in full of all applicable fees, by check or money order;
- (8) a copy of the applicant's legal resident documents, if the applicant is not a U.S. citizen;
- (9) a copy of a Locksmith License or other relevant license from another state, if applicable;
- (10) a copy of the applicant's military discharge document (DD-214 or equivalent), if the applicant has served in any branch of the armed forces;
- (11) a notarized Authorization for Records Release form;
- (12) a copy of any relevant industry certifications, if applicable.

*History Note: Authority G.S. 74F-6;
Temporary Adoption Eff. August 13, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0402 ESTABLISHMENT OF MORAL AND ETHICAL CHARACTER

(a) Information supplied on the application and in supporting documents must be truthful. Falsification or concealment of facts relating to employment, military service, criminal conviction or court-martial, age or other matters that reflect on the applicant's suitability for licensure shall be grounds for license denial, revocation, or suspension.

(b) Applicants with criminal histories from any jurisdiction shall be categorized according to the seriousness of the offense. The category shall be determined by the most serious offense.

(c) These categories are as follows:

- (1) Category I. This Category consists of all Class A and B felonies.
- (2) Category II. This Category consists of all felonies of classes C-F.

- (3) Category III. This Category consists of all felonies of classes G or lesser, and all misdemeanors of classes A1 and 1. Three or more Category III convictions (committed as separate incidents) shall be reclassified as a Category II offense.
 - (4) Category IV. This Category consists of misdemeanors of classes 2 and 3. Three or more Category IV convictions (committed as separate incidents) shall be reclassified as a Category III offense.
- (d) The Board shall determine if the conviction is directly related to the duties and responsibilities of a locksmith. The Board may consider the following factors:
- (1) The nature and seriousness of the crime;
 - (2) The relationship of the crime to the purposes for requiring a license as a locksmith;
 - (3) The extent to which a license might offer an opportunity to engage in further criminal activity of the same type; and
 - (4) The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a licensed locksmith.
- (e) If the Board determines that the conviction does not relate to the duties and responsibilities of a locksmith, the Board shall process the application according to standard procedures.
- (f) If the Board determines that the conviction does relate to the duties and responsibilities of a locksmith, the Board shall evaluate the present fitness of the individual to provide locksmith services.
- (g) The Board shall use the following guidelines in evaluating an individual's present fitness:
- (1) An applicant with a Category I conviction is ineligible for licensure. A licensed locksmith with a Category I conviction shall be subject to immediate revocation of license.
 - (2) An applicant with a Category II conviction shall have at least 12 years since the applicant has completed all aspects of his or her sentence received as a result of the last Category II conviction to be eligible for licensure. A licensed locksmith convicted of a Category II offense shall be subject to immediate license revocation.
 - (3) An applicant with a Category III conviction shall have at least 7 years since the applicant has completed all aspects of his or her sentence received as a result of the last Category III conviction to be eligible for licensure. A licensed locksmith convicted of a Category III offense may be subject to immediate license revocation.
 - (4) An applicant with a Category IV conviction shall have at least three years since the applicant has completed all aspects of his or her sentence received as a result of the last Category IV conviction to be eligible for licensure. A licensed locksmith convicted of a Category IV offense may be subject to immediate license revocation.
- (h) The Board may also consider the following factors in determining the present fitness of a person who has been convicted of a crime which relates to the duties and responsibilities of a locksmith:
- (1) The age at the time each crime was committed;
 - (2) The conduct and work history of the person before and after the criminal conviction;
 - (3) Evidence of the person's rehabilitation efforts and outcome;
 - (4) The extent and nature of the past criminal history;
 - (5) Two letters of recommendation from licensed locksmiths; and
 - (6) Other evidence of fitness that may be relevant to the Board's assessment, such as a psychological test, mental health status report or substance abuse assessment.
- (i) If the person's criminal activity is related to a history of chemical dependency, the Board shall also consider the person's efforts and success in achieving and maintaining recovery. Applicants with a history of chemical dependency shall demonstrate evidence of treatment or rehabilitation and at least two years of continuous recovery.
- (j) An individual whose application is denied or whose license is suspended or revoked may request a hearing under the procedures established in of G.S. 150B, Article 3A.

*History Note: Authority G.S. 74F-6; 74F-7;
Temporary Adoption Eff. August 13, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0403 COMPLETION OF EXAMINATION

An application for licensure shall not be considered by the Board until the results of the applicant's Board-administered examination are determined and available to the Board.

*History Note: Authority G.S. 74F-6; 74F-7;
Temporary Adoption Eff. August 13, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0404 FEES

The license issuance fee shall be one hundred dollars (\$100.00). The license issuance fee shall accompany the application for licensure. In the event that licensure is denied the applicant, the fee shall be refunded.

*History Note: Authority G.S. 74F-6; 74F-7; 74F-9;
Temporary Adoption Eff. October 17, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0405 EXEMPTION FROM EXAMINATION

Any applicant who has achieved at least a Certified Registered Locksmith (CRL) designation from the Associated Locksmiths of America (ALOA), upon submitting proof to the Board of such qualification, shall be deemed to have passed the competency portion of the qualifying examination administered by the Board. Such applicants are required to pass the portion of the examination testing understanding of the Statute and the obligations of licensed locksmiths.

*History Note: Authority G.S. 74F-6;
Temporary Adoption Eff. August 13, 2002;
Eff. August 1, 2004.*

SECTION .0500-CODE OF ETHICS

21 NCAC 29 .0501 OBLIGATION OF LICENSED LOCKSMITHS

By applying for and accepting a license issued by the Board, all licensees become obligated to comply with the provisions of this section. Failure to comply shall result in disciplinary action by the Board.

*History Note: Authority G.S. 74F-6;
Temporary Adoption Eff. August 13, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0502 FAIR BUSINESS PRACTICES

- (a) Locksmiths shall conduct all business in compliance with all applicable laws.
- (b) Locksmiths shall impartially analyze security problems receiving their attention and advance the best possible solution for the protection of the client.
- (c) Locksmiths shall refrain from associating themselves with or allowing the use of their name (personal or professional) by any enterprise which in any way countenances misrepresentation.
- (d) Locksmiths shall not misrepresent the features afforded by any product nor make unwarranted claims about the merits of any product or service they offer. Examples include, but are not limited to the following:
 - (1) Representing to a client that non-restricted or widely available keys (whether stamped "Do Not Duplicate" or not) provide any measure of assurance against unauthorized duplication.
 - (2) Selling a used product as new.
- (e) Locksmiths shall avoid using any improper or questionable means of soliciting business. Prohibited practices include:
 - (1) Affixing stickers to permanent fixtures such as doors or door frames or in any way defacing the property of any person without his express written consent.
 - (2) Installing stickers or any other promotions in such fashion that they falsely represent that the locksmith or company has previously serviced the hardware in that location.
 - (3) Installing or supplying hardware which curtails the customer's ability to choose a different company or technician for product support or service, unless the locksmith obtains the customer's express written consent.
 - (4) Modifying the customer's hardware in any fashion that will curtail the customer's ability to choose a different company or technician for later product support or service or cause him to incur additional expense by doing so, unless the locksmith obtains the customer's express written consent.

- (5) Direct solicitation in violation of a non-compete agreement, such as an employee offering competing bids to customers of his employer.
- (6) Using a name in advertising which is similar enough to a competitor's name to cause confusion among consumers.

*History Note: Authority G.S. 74F-6;
Temporary Adoption Eff. August 13, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0503 PROTECTION OF THE PUBLIC INTEREST

- (a) Locksmiths shall refrain from allowing their specialized skills, knowledge, or access to tools and information to be used in any manner that puts the safety and security of the public at risk.
- (b) In the event that the locksmith suspects wrongful intent or misrepresentation by a potential client, the locksmith shall refuse service and shall immediately notify the law enforcement agency with jurisdiction.
- (c) Locksmiths shall not knowingly infringe a restricted key system.
- (d) Locksmiths shall record the identity of the customer for all service calls in which the locksmith opens a vehicle, building, room or secured container, or originates a key or in any other fashion provides the customer with access to any such property.
- (e) Locksmiths shall not supply an existing key or combination for an architectural lock without verifying the identity and authority of the client to have it. This Paragraph applies to off-site (shop) service as well as on-site service. Unless the locksmith can verify the origin of the lock and the authority of the client to obtain the requested key or combination, the locksmith shall refuse to supply an original key or combination to the lock.
- (f) Locksmiths shall endeavor to install all locking devices in compliance with all relevant codes, such as Uniform Building Code, National Fire Protection Association, and Americans with Disabilities Act and any local codes or ordinances which regulate architectural hardware. Locksmiths shall in all cases refuse to install a locking device which produces a threat to life safety. If such a (pre-existing) condition is encountered, the locksmith shall immediately inform the client and recommend appropriate remedial action.
- (g) Locksmiths shall not become a party to disputes of ownership or authority. When an authorization dispute is deemed likely to arise, the locksmith shall advise the law enforcement agency having jurisdiction and request the presence of a uniformed officer. The locksmith shall refuse to provide service when there is an unresolved dispute of ownership or authority. Only Instructions from a uniformed law enforcement officer or a court order shall be accepted as resolution of any such dispute.
- (h) Locksmiths shall not knowingly interfere with the maintenance of a master key system. When master keyed cylinders are encountered, the key presented without its corresponding master key shall be presumed to be a subordinate key until otherwise determined. An attempt must be made to determine the holder of the master key and seek authorization for cylinder changes or key origination before such service is performed.
- (i) Locksmiths shall keep key biting arrays, file keys and all client information confidential. Locksmiths shall not release any information or security device, such as a master key or safe combination, to any person without verifying that the recipient is entitled to receive it.

*History Note: Authority G.S. 74F-6;
Temporary adoption Eff. August 13, 2002;
Eff. August 1, 2004.*

21 NCAC 29 .0504 TECHNICAL INTEGRITY

- (a) Locksmiths shall always endeavor to service and install security devices in a manner that maintains the highest level of security afforded by the manufacturer of the product.
- (b) Locksmiths shall inform clients of the dangers of introducing new keys into a master keyed system without reference to the original biting array. Locksmiths shall not introduce random keys into a master keyed system without obtaining the signature of the client on a written warning notice.
- (c) Locksmiths shall inform clients of the dangers inherent in keying a mechanical lock to operate on several keys in a fashion that requires multiple chambers to be left empty or stacked with more than two master wafers in any chamber (maison keying). Locksmiths shall not key mechanical lock cylinders in this fashion without obtaining the signature of the client on a written warning notice.

(d) Locksmiths shall follow industry and manufacturer standards and insure random and complete recombination of cylinders and combination locks for optimal security maintenance. Examples of violations include, but are not limited to the following:

- (1) The repeated use of a standard key or combination for multiple customers or job sites.
- (2) Filing the plug on a mechanical lock cylinder as a means to enlarge the shear line.
- (3) Leaving multiple chambers of a mechanical lock empty.

(e) Locksmiths shall honor manufacturer recommendations for the proper installation of locking devices and shall not omit or disable any security feature, such as a safe relocking assembly or deadlatch, to the detriment of the client's safety and security.

*History Note: Authority G.S. 74F-6;
Temporary Adoption Eff. August 13, 2002;
Eff. August 1, 2004.*

SECTION .0600 - ADMINISTRATIVE LAW PROCEDURES

21 NCAC 29 .0601 PETITIONS FOR ADOPTION, AMENDMENT OR REPEAL OF RULES

(a) Any person may petition the Board under G.S. 150B-20 to adopt a new rule or to amend or repeal an existing rule by sending a written petition for rulemaking to the Chair at the Board's address. The petition shall be entitled "Petition for Rulemaking" and shall include the following information:

- (1) the name and address of the person submitting the petition;
- (2) a citation to any rule for which an amendment or repeal is requested;
- (3) a draft of the proposed new rule or amended rule;
- (4) the reason for the proposal, with any information the petitioner believes is relevant and wishes the Board to consider;
- (5) the effect of the proposed new rule or amendment on existing rules or decisions;
- (6) practices likely to be affected by the proposed new rule or amendment; and
- (7) an identification of the persons or class of persons most likely to be affected by the proposal.

(b) The Board may request additional information before making its decision.

*History Note: Authority G.S. 74F-6; 150B-20;
Temporary Adoption Eff. March 26, 2003;
Eff. March 1, 2004.*

21 NCAC 29 .0602 DECLARATORY RULINGS

(a) A person seeking a declaratory ruling from the Board under G.S. 150B-4 shall file a petition for a declaratory ruling that meets the requirements of this Rule.

(b) All petitions for declaratory rulings shall be in writing and shall be sent to the Chair at the Board's address. Each petition shall be entitled "Petition for Declaratory Ruling" and shall include the following information:

- (1) the name and address of the petitioner;
- (2) the statute or rule to which the petition relates;
- (3) a statement of the manner in which the petitioner has been or may be aggrieved by the statute or rule; and
- (4) if the petitioner wishes to make an oral presentation to the Board on the petition, a statement requesting an opportunity to appear and be heard.

(c) The Board may refuse to issue a declaratory ruling when:

- (1) the petition does not comply with this Rule;
- (2) the petitioner is not a person or a person aggrieved as defined in G.S. 150B-2;
- (3) the Board has previously issued a declaratory ruling on similar facts;
- (4) the Board has previously issued a final agency decision in a contested case on similar facts;
- (5) the subject matter of the petition is involved in pending litigation; or

*History Note: Authority G.S. 74F-6; 150B-4;
Temporary Adoption Eff. March 26, 2003;
Eff. March 1, 2004.*

21 NCAC 29 .0603 RIGHT TO HEARING

When the Board acts or proposes to act, other than in rule-making or declaratory ruling proceedings, in a manner which will affect the rights, duties, privileges or a license of a specific, identifiable person, such person has the right to an administrative hearing. When the Board proposes to act in such a manner, it shall give such person notice of their right to a hearing by mailing, by certified mail, to them at their last known address, a notice of the proposed action and a notice of a right to a hearing.

*History Note: Authority G.S. 74F-6; 150B-11; 150B-38;
Temporary Adoption Eff. May 28, 2003.*

21 NCAC 29 .0604 REQUEST FOR HEARING

(a) Any time an individual believes his rights, duties, or privileges have been affected by the Board's administrative action, but has not received notice of a right to an administrative hearing pursuant to G.S. 150B-38(b), that individual may file a request for a hearing.

(b) Before an individual may file a request he must first exhaust all reasonable efforts to resolve the issue informally with the Board.

(c) Subsequent to such informal action, if still dissatisfied, the individual shall submit a request to the Board's office, with the request bearing the notation: REQUEST FOR ADMINISTRATIVE HEARING. The request shall contain the following information:

- (1) Name and address of the Petitioner;
- (2) A concise statement of the action taken by the Board that is challenged;
- (3) A concise statement of the way in which the Petitioner has been aggrieved; and
- (4) A specific statement of request for a hearing.

(d) A request for administrative hearing must be submitted to the Board's office within 60 days of receipt of notice of the action taken by the Board that is challenged. The request shall be acknowledged promptly and, if Petitioner is a person aggrieved, a hearing shall be scheduled.

*History Note: Authority G.S. 74F-6; 150B-38;
Temporary Adoption Eff. May 28, 2003;
Eff. March 1, 2004.*

21 NCAC 29 .0605 GRANTING OR DENYING HEARING REQUEST

(a) The Board shall decide whether to grant a request for a hearing.

(b) The Board shall issue the denial of request for a hearing immediately upon decision, and in no case later than 60 days after the submission of the request. Such denial shall contain a statement of the reasons leading the Board to deny the request.

(c) The Board shall signify the approval of a request for a hearing by the issuing of a notice as required by G.S. 150B-38(b) and explained in Rule .0606 of this Section.

*History Note: Authority G.S. 74F-6; 150B-38;
Temporary Adoption Eff. May 28, 2003;
Eff. March 1, 2004.*

21 NCAC 29 .0606 NOTICE OF HEARING

(a) The Board shall give the party or parties in a contested case a notice of hearing not less than 15 days before the hearing. Said notice shall contain the following information, in addition to the items specified in G.S. 150B-38(b):

- (1) the name, position, address and telephone number of a person at the offices of the Board to contact for further information or discussion;
- (2) the date, time, and place for a pre-hearing conference, if any; and
- (3) any other information deemed relevant to informing the parties as to the procedure of the hearing.

(b) If the Board determines that the public health, safety or welfare requires such action, it may issue an order summarily suspending a license or permit. Upon service of the order, the licensee or permit holder to whom the order is directed shall immediately cease the practice of locksmithing in North Carolina. The Board shall promptly give notice of hearing

pursuant to G.S. 150B-38 following service of the order. The suspension shall remain in effect pending issuance by the Board of a final agency decision pursuant to G.S. 150B-42.

History Note: Authority G.S. 74F-6; 150B-3(c); 150B-38;
Temporary Adoption Eff. May 28, 2003;
Eff. March 1, 2003.

21 NCAC 29 .0607 WHO SHALL HEAR CONTESTED CASES

All administrative hearings will be conducted by the Board, a panel consisting of a majority of the members of the Board, or an administrative law judge designated to hear the case pursuant to G.S. 150B-40(e).

History Note: Authority G.S. 74F-6; 150B-11; 150B-38; 150B-40;
Temporary Adoption Eff. May 28, 2003.

21 NCAC 29 .0608 INFORMAL PROCEDURES

The Board and the party or parties may agree in advance to simplify the hearing by:

- (1) decreasing the number of issues to be contested at the hearing;
- (2) accepting the validity of certain proposed evidence;
- (3) accepting the findings in some other case with relevance to the case at hand; or
- (4) agreeing to such other matters as may expedite the hearing.

History Note: Authority G.S. 74F-6; 150B-41;
Temporary Adoption Eff. May 28, 2003;
Eff. March 1, 2004.

21 NCAC 29 .0609 PETITION FOR INTERVENTION

- (a) A request to intervene shall bear the notation: PETITION TO INTERVENE IN THE CASE OF (Name of case).
- (b) If the Board determines to allow intervention, notice of that decision shall be issued promptly to all parties, and to the petitioner. In cases of permissive intervention, such notification shall include a statement of any limitations of time, subject matter, evidence or whatever else is deemed necessary, that are imposed on the intervenor.
- (c) If the Board's decision is to deny intervention, the petitioner shall be notified promptly. Such notice shall be in writing, identifying the reasons for the denial, and shall be issued to the petitioner and all parties.

History Note: Authority G.S. 74F-6; 150B-38;
Temporary Adoption Eff. May 28, 2003;
Eff. March 1, 2003.

21 NCAC 29 .0610 TYPES OF INTERVENTION

- (a) Intervention of Right. A petition to intervene as of right, as provided in the North Carolina Rules of Civil Procedure, Rule 24, shall be granted if the petitioner meets the criteria of that rule and the petition is timely.
- (b) Permissive Intervention. A petition to intervene permissibly as provided in the North Carolina Rules of Civil Procedure, Rule 24, shall be granted if the petitioner meets the criteria of that rule and the Board determines that:
 - (1) There is legal or factual similarity between the petitioner's claimed rights, privileges, or duties and those of the parties to the hearing; and
 - (2) Permitting intervention by the petitioner as a party would aid the purpose of the hearing.
- (c) The Board may allow permissive intervention, with whatever limits and restrictions are deemed appropriate.

History Note: Authority G.S. 74F-6; 150B-38;
Temporary Adoption Eff. May 28, 2003;
Eff. March 1, 2004.

21 NCAC 29 .0611 DISQUALIFICATION OF BOARD MEMBERS

- (a) Self-disqualification. If for any reason a board member determines that personal bias or other factors render that member unable to hear a contested case and perform all duties in an impartial manner, that board member shall voluntarily decline to participate in the hearing or decision.

(b) Petition for Disqualification. If for any reason any party in a contested case believes that a board member is personally biased or otherwise unable to hear a contested case and perform all duties in an impartial manner, the party may file a sworn, notarized affidavit with the Board. The title of such affidavit shall bear the notation: AFFIDAVIT OF DISQUALIFICATION OF BOARD MEMBER IN THE CASE OF (Name of case).

(c) Contents of Affidavit. The affidavit must state all facts the party deems to be relevant to the disqualification of the Board member.

(d) Timeliness of Affidavit. An affidavit of disqualification shall be considered timely if filed ten days before commencement of the hearing. Any other affidavit shall be considered timely provided it is filed at the first opportunity after the party becomes aware of facts that give rise to a reasonable belief that a board member may be disqualified under this Rule.

(e) Where a petition for disqualification is filed less than 10 days before or during the course of a hearing, the hearing shall continue with the challenged board member sitting. The petitioner shall have the opportunity to present evidence supporting his petition, and the petition and any evidence relative thereto presented at the hearing shall be made a part of the record. The Board, before rendering its decision, shall decide whether the evidence justifies disqualification. In the event of disqualification, the disqualified member shall not participate in further deliberation or decision of the case.

(f) Procedure for Determining Disqualification:

- (1) The Board shall appoint a board member to investigate the allegations of the affidavit.
- (2) The investigator shall report their findings and recommendations to the Board.
- (3) The Board shall decide whether to disqualify the challenged individual.
- (4) The person whose disqualification is to be determined shall not participate in the decision but may be called upon to furnish information to the other members of the Board.
- (5) When a board member is disqualified prior to the commencement of the hearing or after the hearing has begun, such hearing shall continue with the remaining members sitting provided that the remaining members still constitute a majority of the Board.
- (6) If five or more members of the Board are disqualified pursuant to this Rule, the Board shall petition the Office of Administrative Hearings to appoint an administrative law judge to hear the contested case pursuant to G.S. 150B-40(e).

History Note: Authority G.S. 74F-6; 150B-38; 150B-40;
Temporary Adoption Eff. May 28, 2003;
Eff. March 1, 2004.

21 NCAC 29 .0612 FAILURE TO APPEAR

Should a party fail to appear at a scheduled hearing, the Board, or the designated Administrative Law Judge, may proceed with the hearing and make its decision in the absence of the party, provided that the party has been given proper notice. The Board or the Administrative Law Judge may order a continuance in order to give the party another opportunity to appear.

History Note: Authority G.S. 74F-6; 150B-11; 150B-38; 150B-40;
Temporary Adoption Eff. May 28, 2003.

21 NCAC 29 .0613 SUBPOENAS

(a) Requests for subpoenas for the attendance and testimony of witnesses or for the production of documents, either at a hearing or for the purposes of discovery, shall be made in writing to the Board and shall identify any document sought with specificity, and shall include the full name and home or business address of all persons to be subpoenaed and, if known, the date, time, and place for responding to the subpoena. The Board shall issue the requested subpoenas within three days of receipt of the request.

(b) Subpoenas shall contain: the caption of the case; the name and address of the person subpoenaed; the date, hour and location of the hearing in which the witness is commanded to appear; a particularized description of the books, papers, records or objects the witness is directed to bring with him to the hearing, if any; the identity of the party on whose application the subpoena was issued; the date of issue; the signature of the presiding officer or his designee; and a "return of service." The "return of service" form as filled out, shall show the name and capacity of the person serving the subpoena, the date on which the subpoena was delivered to the person directed to make service, the date on which service was made, the person on whom service was made, the manner in which service was made, and the signature of the person making service.

- (c) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board's office.
- (d) The objection shall include a concise, but complete, statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy of the evidence sought, or any other reason sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardship.
- (e) Any such objection to a subpoena must be served on the party who requested the subpoena simultaneously with the filing of the objection with the Board.
- (f) The party who requested the subpoena may file a written response to the objection within five working days. The written response shall be served by the requesting party on the objecting witness simultaneously with filing the response with the Board.
- (g) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested the subpoena and the party challenging the subpoena, and may notify any other party or parties of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented, limited to the narrow questions raised by the objection and response.
- (h) Promptly after the close of such hearing, a majority of the Board members with voting authority, or an administrative law judge assigned to the case pursuant to G.S. 150B-40(e), shall rule on the challenge and issue a written decision. A copy of the decision shall be issued to all parties and made a part of the record.

History Note: Authority G.S. 74F-6; 150B-38; 150B-40;
Temporary Adoption Eff. May 28, 2003;
Eff. May 1, 2004.

21 NCAC 29 .0614 WITNESSES

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded. At the request of a party or upon the Board's own motion, the presiding officer shall exclude witnesses from the hearing room so that they cannot hear the testimony of other witnesses.

History Note: Authority G.S. 74F-6; 150B-38; 150B-40;
Temporary Adoption Eff. May 28, 2003;
Eff. March 1, 2004.

21 NCAC 29 .0615 FINAL DECISION

In all cases heard by the Board, the Board shall issue its decision within 60 days after its next regularly scheduled meeting following the close of the hearing. This decision shall be the prerequisite "final agency decision" for the right to judicial review.

History Note: Authority G.S. 74F-6; 150B-38; 150B-42;
Temporary Adoption Eff. May 28, 2003;
Eff. March 1, 2004.

21 NCAC 29 .0616 PROPOSALS FOR DECISIONS

(a) When an administrative law judge conducts a hearing pursuant to G.S. 150B-40(e), a "proposal for decision" shall be rendered within 45 days of the hearing pursuant to the Rules of the Office of Administrative Hearings, 26 NCAC 03 .0127. Any party may file written exceptions to this "proposal for decision" and submit their own proposed findings of fact and conclusions of law. The exceptions and alternative proposals must be received within ten days after the party has received the "proposal for decision" as drafted by the administrative law judge.

(b) Any exceptions to the procedure during the hearing, the handling of the hearing by the administrative law judge, rulings on evidence, or any other matter, must be written and refer specifically to pages of the record or otherwise precisely identify the occurrence to which exception is taken. The exceptions must be filed with the Board within ten days of the receipt of the proposal for decision. The written exceptions shall bear the notation: EXCEPTIONS TO THE PROCEEDINGS IN THE CASE OF (Name of case).

(c) Any party may present oral argument to the Board upon request. The request must be included with the written exceptions.

(d) Upon receipt of request for further oral argument, notice shall be issued promptly to all parties designating time and place for such oral argument.

(e) Giving due consideration to the proposal for decision and the exceptions and arguments of the parties, the Board may adopt the proposal for decision or may modify it as the Board deems necessary. The decision rendered shall be a part of the record and a copy thereof given to all parties. The decision as adopted or modified becomes the "final agency decision" for the right to judicial review. Said decision shall be rendered by the Board within 60 days of the next regularly scheduled meeting following the oral arguments, if any. If there are no oral arguments presented, the decision shall be rendered within 60 days of the next regularly scheduled board meeting following receipt of the written exceptions.

History Note: Authority G.S. 74F-6; 150B-38; 150B-40;
Temporary Adoption Eff. May 28, 2003;
Eff. March 1, 2004.

SECTION .0700 – LICENSE RENEWAL REQUIREMENTS

21 NCAC 29 .0701 APPLICATION FORM

All applications for license renewal shall be submitted on the form provided by the Board for this purpose and shall be accompanied by the following required items:

- (1) two frontal photos of the applicant's face, taken within the preceding three months, size one inch by one inch;
- (2) a criminal history report, certified by the law enforcement agency or clerk of court in the applicant's county of residence;
- (3) a criminal history report, certified by the law enforcement agency or clerk of court in the applicant's county of employment, if different from the county of residence;
- (4) complete and truthful explanations of affirmative responses to questions on the application regarding employment history, criminal history and military service, if applicable;
- (5) payment in full of all applicable fees, by check or money order;
- (6) a copy of the applicant's military discharge document (DD-214 or equivalent) if the applicant has actively served in the military since applying for his previously granted license;
- (7) a log, in a format specified by the Board, of Continuing Education hours earned during the previous license period, including the sponsor of the program or course, the name of the instructor or lecturer, the date, the number of hours and a brief description of the subject matter included in the course or program.

History Note: Authority G.S. 74F-6; 74F-10;
Eff. February, 1, 2005.

21 NCAC 29 .0702 DUE DATE

Applications for license renewal shall be submitted at least 90 days prior to the date of license expiration. Licensees who submit their application for renewal after the due date but before the license expiration date shall pay a late fee of one hundred fifty dollars (\$150.00) in addition to the license renewal fee specified in .0404 of these Rules. Applications shall be deemed submitted on the date of their postmark or upon receipt by staff at the Board's offices, whichever is earlier.

History Note: Authority G.S. 74F-6; 74F-9; 74F-10;
Eff. July 1, 2005.

21 NCAC 29 .0703 REINSTATEMENT OF EXPIRED LICENSE

A former licensee may apply for reinstatement of an expired license only if he has completed at least eight contact hours of continuing education within one year preceding the application. Applicants for reinstatement must pay the following fees:

- (1) License renewal fee as specified in .0404 of these Rules;
- (2) Late fee as specified in .0702 of these Rules; and
- (3) A reinstatement fee of one hundred fifty dollars (\$150.00).

History Note: Authority G.S. 74F-6; 74F-9; 74F-10;
Eff. July 1, 2005.

21 NCAC 29 .0704 ESTABLISHMENT OF MORAL AND ETHICAL CHARACTER

- (a) The Board shall apply the same standards specified in Rule .0402 of this Chapter to determine each licensee's fitness for license renewal or reinstatement.
- (b) Applicants must disclose all criminal convictions not included on previous applications for licensure. Failure to disclose any criminal conviction may be grounds for denial of license renewal or reinstatement.
- (c) The Board may deny a request for license renewal or reinstatement when it determines that the applicant has violated the Code of Ethics in Section .0500 these Rules.

History Note: Authority G.S. 74F-6; 74F-7; 74F-10;
Eff. February 1, 2005.

SECTION .0800 – CONTINUING EDUCATION

21 NCAC 29 .0801 DEFINITIONS

The following definition shall apply to the Rules of this Section: "Contact Hour" means a minimum of 50 minutes of contact.

History Note: Authority G.S. 74F-6;
Eff. February 1, 2005.

21 NCAC 29 .0802 REQUIREMENTS

- (a) Every licensee shall obtain 24 contact hours during each 3-year renewal cycle, with the following exceptions:
 - (1) Persons exempted from eight contact hours in Rule .0805 of this Section;
 - (2) Persons applying for renewal of licenses which expire on or before June 30, 2006 shall have at least eight contact hours of continuing education;
 - (3) Persons applying for renewal of licenses which expire between July 1, 2006 and June 30, 2007 shall have at least 16 contact hours of continuing education.
- (b) The contact hours shall be in technical and professional subjects directly related to the practice of locksmithing.
- (c) Licensees shall not carry forward any contact hours into the subsequent renewal period.
- (d) Licensees shall verify completion of the contact hours for the previous license period with their application for license renewal.

History Note: Authority G.S. 74F-6;
Eff. February 1, 2005.

21 NCAC 29 .0803 DETERMINATION OF CREDIT

- (a) The Board has final authority with respect to approval of course sponsors, courses, programs and contact hours.
- (b) The Board shall not pre-approve individual courses or programs. The Board may enter into agreements with course and program sponsors in which the sponsor agrees to offer courses and programs that comply with the subject matter requirements of this Section and agrees to maintain for a period of four years the records of course content and attendance, and agrees to permit a representative of the Board to monitor or review any course or program the sponsor offers to North Carolina Licensed Locksmiths for credit. Provided the sponsor complies with the sponsor agreement, the Board shall accept as presumptively valid contact hours earned by licensees from approved sponsors.
- (c) Credit for teaching or instructing qualifying courses shall earn continuing education credit for the instructor at the same rate as for participants.
- (d) Licensees may claim credit for contact hours for courses or programs that have not been presented by approved sponsors but only credit from approved sponsors shall be presumptively valid. The Board may audit the compliance of individual licensees and may require proof of participation in courses or programs that conform with the content and contact hour calculation contained in the rules of this Section. Such proof shall be in the form of records maintained pursuant to Rule .0804 of this Section.

History Note: Authority G.S. 74F-6;

Eff. February 1, 2005.

21 NCAC 29 .0804 RECORD KEEPING

The licensee shall maintain records to support credits claimed and supply such records to the Board upon request. The Board requires:

- (1) A log showing the type of activity claimed, sponsoring organization, location, duration, the name of the instructor or speaker and the contact hours earned; or
- (2) Attendance certificates or other evidence of participation; or
- (3) A transcript from an approved sponsor detailing the licensee's attendance.

*History Note: Authority G.S. 74F-6;
Eff. February 1, 2005.*

21 NCAC 29 .0805 EXCEPTIONS

A licensee shall be exempt from the continuing education requirement for one calendar year per renewal cycle for any of the following reasons:

- (1) A licensee serving on temporary active duty in the armed forces of the United States for a period exceeding 120 consecutive days within the year.
- (2) A licensee experiencing physical disability or illness if supporting documentation is approved by the Board. Such documentation shall be in the form of a statement from a physician, or medical records which show that the disability or illness prevented the licensee's participation in a course which the licensee had enrolled, or prevented the licensee's participation in the continuing education program for at least 120 consecutive days in a year.

*History Note: Authority G.S. 74F-6;
Eff. February 1, 2005.*

21 NCAC 29 .0806 NON COMPLIANCE

If the Board disallows any credits claimed by an applicant, then the licensee shall have 90 calendar days after notification to substantiate the original claim or obtain other contact hours to meet the minimum requirements. Upon failure to meet this requirement within the 90 days, the applicant's license shall expire at the end of the 90 days.

*History Note: Authority G.S. 74F-6;
Eff. February 1, 2005.*