

## 780 CMR R5

### Construction Supervisors

~~780 CMR R5 covers the licensing rules and regulations for construction supervisors as defined in 780 CMR~~

#### 780 CMR R5.1 General

**R5.1.1 Title.** As authorized by M.G.L. c. 143, § 94(i), the BBRS establishes the rules and regulations for Licensing Construction Supervisors.

**R5.1.2 Definitions.** Unless otherwise expressly stated in 780 CMR the following

Note 1	Note 2	Scope of Work
00	a, b, c, d	Construction, reconstruction, alteration, repair, removal, or demolition
1G	b	Construction, reconstruction, alteration, repair, removal, or demolition
1A	a, b, c, d	Construction, reconstruction, alteration, repair, removal, or demolition of masonry structures that require a permit. Not applicable for construction of masonry buildings
RF	a, b, c	Construction, reconstruction, alteration, repair, or removal of roof covering, including repair and replacement of 25% of sheathing and 25% of sistering roof rafters
WS	a, b, c	Construction, reconstruction, alteration, repair, or removal of <u>doors, (per D.S.)</u> windows and siding including repair and replacement of damaged window <u>or door</u> framing < 4' wide and up to 25% of sheathing
SF	a, b, c	Installation of solid fuel burning appliances but does not allow work on any structural elements, including sheathing, with the exception of that required for the installation of either the inlet or exhaust elements
D M	a, b, c, d	Demolition only.
IC	a, b, c	Installation of insulation including repair and replacement of sheathing and siding necessary to access wall cavities

(Note: 780 CMR R5 is unique to Massachusetts)

terms shall, for the purpose of 780 CMR R5, have the meaning indicated in 780 CMR

Note 1: License Category and Restriction Code	
Unrestricted	00
Restricted	1G
Masonry <sup>a</sup>	1A
Roof Covering <sup>a</sup>	RF
Window and Siding <sup>a</sup>	WS
Solid Fuel-Burning Appliance <sup>a</sup>	SF
Demolition <sup>a</sup>	DM
Insulation <sup>a</sup>	IC
Note a. Specialty License	

R5.1.2.

**BBRS.** State Board of Building Regulations and Standards.

**CONSTRUCTION SUPERVISOR.** A person of good moral character who is deemed qualified by the BBRS to directly supervise persons engaged in the scope of work listed herein. Such term shall also apply to persons supervising themselves.

Note 2: Building Types and Structures	
(a)	Buildings of any use group which contain less than 35,000 cubic feet (991m <sup>3</sup> ) of enclosed space.
(b)	One- and two-family dwellings or any accessory building thereto, irrespective of size.
(c)	Building or structures for agricultural use.
(d)	Retaining walls less than ten feet (3048mm) in height at all points along the wall as measured from the base of the footing to the top of the wall.

**HEARINGS OFFICER** The Hearings Officer is the person selected by the Chairman of the BBRS to carry out the disposition of complaints against licensed construction supervisors. Officers shall serve for one year

or until a successor is appointed, whichever is later.

**HOMEOWNER** Person(s) who owns a parcel of land on which he/she resides or intends to reside, on which there is, or is intended to be, a one- or two-family dwelling, attached or detached structures accessory to such use and/or farm structures. A person who constructs more than one home in a two-year period shall not be considered a homeowner.

**LICENSED DESIGNEE.** Any individual designated by the license holder to be present, in the absence of said license holder, during any of the periods stated in 780 CMR R5.2.12. Such designee shall also hold a Construction Supervisor's License in the appropriate category (or better), but his name or license number need not be contained on the building permit application.

**RECOGNITION** The approval by the BBRS of an application and related documents by one desirous of being licensed as a construction supervisor.

(The language in this next section was removed from Chapter 1, clarified, shortened to some extent, and inserted here.)

**R5.1.3 Scope.** 780 CMR R5 shall govern the testing and licensing of individuals who are found to possess the requisite qualifications to be licensed as a construction supervisor and to have charge or control of construction, reconstruction, alteration, repair, removal or demolition of certain buildings or structures or parts thereof, as identified.

**R5.1.3.1.** Individuals supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition involving any activity regulated by any provision of 780 CMR, shall be licensed in accordance the Rules and Regulations for Licensing Construction Supervisors as set

forth in 780 CMR R5. Individuals engaged in the supervision of the field erection of manufactured buildings in accordance with 780 CMR R3, shall be licensed as construction supervisors.

**Exception.** Any homeowner performing work for which a building permit is required shall be exempt from the licensing provisions of 780 CMR R5, provided that if a homeowner engages a person(s) for hire to do such work, then such homeowner shall act as supervisor. This exception shall not apply to the field erection of a manufactured buildings constructed pursuant to 780 CMR R3.

**Note:** Any Licensed Construction Supervisor who contracts to do work for a homeowner shall be responsible for performing said work in accordance with 780 CMR and manufacture's recommendations, as applicable, whether or not the licensed contractor secured the permit for said work.

**R5.1.3.2 Exemptions from Construction Supervisor License Requirement.**

A construction supervisor's license is not required for:

1. construction of above ground swimming pools, the erection of signs, the erection of tents;
2. projects which are subject to construction control pursuant to 780 CMR 116;
3. agricultural buildings which are not open to the public or otherwise made available for public use;
4. Massachusetts registered engineers ~~and~~ or ~~Massachusetts~~ registered architects provided such engineers ~~and~~/or architects comply with the Construction Supervisor oversight requirements set forth in 780 CMR R5 generally and 780 CMR R5.2.12, as applicable;
5. the practice of any trade licensed by agencies of the commonwealth (see M.G.L. c. 112, §81R), provided that any such work is within the scope of said license including, but not limited to wiring, plumbing gas fitting, fire protection systems, pipefitting, HVAC and refrigeration equipment.

*6. Massachusetts certified building commissioners, inspectors of buildings, and local inspectors, provided such certification is current and they comply with the oversight requirements of 780 CMR R5.*

*(new exception 6. from MBCIA)*

**R5.1.3.3 Municipal requirements.** No municipality shall be prohibited from requiring a license for those individuals engaged in directly supervising persons engaged in construction, reconstruction, alteration, repair, removal or demolition in those categories of building and structures for which 780 CMR R5 ~~the BBRS~~ does not require a license, ~~provided that those municipalities which have established licensing requirements for construction supervisors prior to January 1, 1975, may maintain their existing licensing requirements.~~ (Unlikely this language is still required; deletion suggested)

**R5.1.4 Administration and Enforcement.** The BBRS shall administer and enforce the provisions of 780 CMR R5. The BBRS or those designated by it shall administer examinations, under 780 CMR R5, of persons desirous of being registered as qualified to receive a license as a construction supervisor.

## **780 CMR R5.2 REGISTRATION AND LICENSING**

**R5.2.1 Qualifications** A Construction Supervisor License candidate shall demonstrate that he or she has had at least three years of experience in their field under the supervision of an individual already possessing a license or a registered architect. This can be made evident through a letter of attestation by the aforementioned professional. If applicant is unable to **obtain a letter of** attestation for reasons beyond their control, BBRS may consider other acceptable forms of evidence. This experience must have been completed ~~between January 1990 and~~ **within the ten year period prior to** the date of application. Successful completion of a three or four year

vocational high school or other vocational school program shall satisfy one year of the required three years of experience. In addition all applicants are required to successfully pass an examination (see) in order to receive a license, ~~which are held by appointment after completed application has been submitted.~~

Exception: An individual holding a current certification per the requirements of 780 CMR Regulation 7 shall be allowed to submit an application for an unrestricted construction supervisor license without the need for examination.

**R5.2.2 Examinations.** Examinations shall be held only by appointment. All exam applications must be filed in accordance with the construction supervisor license examination application found at [www.mass.gov/dps](http://www.mass.gov/dps).

**R5.2.3 License Approval.** A majority vote of the members of the ~~Board~~ **BBRS** shall be required to grant a license.

**R5.2.4 Expiration.** Licenses issued pursuant to these rules and regulations shall expire three years from the date of issuance which shall be noted on said license and may be renewed. A renewal of an original license shall be for periods of two years and a renewal license shall expire two years from the date of issuance which shall be noted on said license and may be renewed. A renewal license shall not be issued unless application therefore is made within sixty days of the date of expiration of the most recently issued license. If a licensee fails to renew his license within sixty days of the expiration date, such license may thereafter be renewed within two years of its expiration date upon the payment of a fee per 780 CMR R5.3.5. If a licensee fails to renew his license within two years of the expiration date, he shall be temporarily dropped from the roster of licensed construction supervisors, subject to reinstatement as hereinafter provided. Written notice shall be given to the licensee by the Department of Public

Safety one month in advance of such dropping from said roster. A licensee, who has been temporarily dropped from said roster, may be reinstated upon the payment of a fee per 780 CMR R5.3.5 and upon the filing of an application for reinstatement together with evidence satisfactory to the BBRS that nothing has occurred during the time he was dropped from said roster which would justify the revocation of his license. A licensee so reinstated shall, without the payment of an additional fee, be issued a license.

#### **R5.2.5 Fees.** See 780 CMR R5.3.5

~~**R5.2.5.1 Building Official Fees.** The BBRS shall grant a license at no fee to any building official who, as a condition of his employment requires such license; provided that such person meets the necessary qualifications for licensure and provided further, that such license shall be authorized for use only during the course of employment and shall be appropriately stamped to indicate as such. The BBRS shall grant an unrestricted construction supervisor license without examination to an individual holding a current certification per the requirements of 780 CMR R7. An individual seeking such license shall file an application to the BBRS and pay all appropriate license fees.~~

#### **R5.2.6 Procedure for Obtaining a License.**

~~**R5.2.6.1 Application.** License applicants meeting the qualifications of 780 CMR R5.2.1 may submit an examination application per 780 CMR R5.2.2 to the authorized testing agent of BBRS. Applications shall be submitted on forms supplied by the BBRS or its authorized agent.~~

~~**R5.2.6.2 Forms.** The applicable forms may be mailed to the appropriate testing agency as~~

~~detailed in the Massachusetts Candidates Bulletin (MACS).~~ It shall be the responsibility of the applicant to assure that the required forms are received by the testing agency. All forms shall be accompanied by the required license fee.

**R5.2.6.3 Records.** The BBRS shall keep a copy of the application and a computer file listing all licensed construction supervisors.

#### **R5.2.6.4 Notification of Examination Date.**

Upon receipt of a fully completed application, an examination date shall be set by the authorized testing agency and the applicant so notified.

**R5.2.7 False Statements.** Any false statement on the application or references shall be sufficient reason to refuse to issue a license, or to suspend or revoke a license if issued.

**R5.2.8 Cause for Suspension or Revocation.** The following shall be grounds for reprimand, suspension, or revocation of a license:

- (1) the applicant made a false statement to the BBRS Board;
- (2) a licensee made a false statement to the BBRS Board;
- (3) any violation of 780 CMR;
- (4) work was performed without a building permit in violation of 780 CMR 11.0 and 511.0;
- (5) failure to fully cooperate with a BBRS Board investigation into a complaint;
- (6) failure to turn over a suspended or revoked license to the BBRS Board;
- (7) failure to abide by a mandate or order of the BBRS Board;
- (8) failure to properly supervise a project or be present at a work site as required by 780 CMR R5.2.15.2
- (9) failure to meet the requirements of 780 CMR R5.4

## **R5.2.9 Procedure for Suspension and/or Revocation of License.**

**R5.2.9.1 Complaints.** All complaints relative to a license must be in writing on a form provided by the Board BBRS. Any person, including a building official or the Board BBRS itself, may file a complaint. ~~A complaint may allege wrong doing against a HIC registration and a CSL holder on the same form if the issues giving rise to the filing of the complaint are reasonably related.~~ All complaints must be received by the Board BBRS within three years of the date the parties entered into an agreement to perform the work requiring licensure pursuant to these provisions.

### **R5.2.9.1.1 Basis of Complaint.**

Work related to a specific building permit that is deemed to ~~be in violation of The Massachusetts Basic and/or One and Two Family Dwelling Code, 780 CMR 110R5 or the Home Improvement Contractor Registration Laws and/or regulations,~~ **not comply with 780 CMR** or a consistent pattern of abuse relating to contractual arrangements between license holder and client shall be the basis of such complaint. Any work requiring a building permit which is performed without such permit shall be considered cause for suspension or revocation.

**R5.2.9.1.2 Review and Investigation of Complaints.** Every complaint filed shall be reviewed by the Board BBRS or its designee. If the reviewer determined that the complaint alleges plausible potential violations of 780 CMR by the licensee, a hearing shall be convened. The Board BBRS may, if it elects, investigate a complaint prior to scheduling a hearing. Failure of a complainant to cooperate in the investigation shall be grounds for dismissal of a complaint.

~~If a complaint alleges violations of the Home Improvement Contractor Act (M.G.L.c.142A: Regulations of Home Improvement Contractors) and/or 780 CMR 110R^ in addition to allegations pursuant to the provisions of 780 CMR R5, one hearing~~

~~may be held on all issues alleged provided that they all arise out of the same set of facts and circumstances.~~

Upon receipt of a complaint, the Board BBRS or its designee shall send a letter acknowledging receipt to the complainant, the licensee being complained of, and the appropriate municipal building official. A copy of the complaint and all attachment shall be mailed to the license holder with the acknowledgement letter.

### **R5.2.9.3 Notice of Hearing.**

If the Hearings Officer or the Board BBRS determined that a hearing shall be held to resolve a complaint, reasonable notice shall be provided to the complainant and the license holder. Mailing of the notice to the address on record with BBRS shall be deemed satisfactory notice to the license holder. The notice of hearing shall contain.

1. The name of the complainant.
2. The date, time and place of said hearing.
3. The location of the incident giving rise to the complaint
4. Notice that either party may view the Board BBRS's complaint file by appointment.

### **R5.2.9.4 Hearings.**

Hearings convened pursuant to this chapter shall be conducted pursuant to 801 CMR 1.02 (Informal/fair hearing rules). Any party may be represented by legal counsel. All parties shall be permitted to present an opening statement, testify on their own behalf, cross-examine all witnesses, present any relevant witness testimony, present any relevant documentary evidence, and offer a closing argument. The Hearing Officer may question any witness and include any records kept by the Board BBRS as exhibits. The Hearing Officer may conclude the hearing at any time and issue a decision based on the evidence presented.

If a licensee does not appear for the hearing, the Hearing Officer may conduct a hearing in their absence and render a decision based upon the evidence presented, but only after making a finding that the licensee was



provided notice as required by 780 CMR R5.2.9.3.

#### **R5.2.9.5 Decisions and Discipline of**

**License Holders.** The hearings officer shall issue a written decision after the hearing. Decisions shall be issued in a reasonably prompt manner. The hearing officer may suspend a license for a fixed period of time, revoke a license permanently, or reprimand the licensee. In conjunction with these disciplinary measures, the hearing officer may order the license holder to retake the CSL examination. Any license that is suspended or revoked shall be forwarded to the

~~Board~~ BBRS immediately. A person whose license is revoked may apply in writing to the ~~Board~~ BBRS for reinstatement no sooner than two years from the date of the revocation.

**R5.2.10 Appeal.** Any person aggrieved by a decision of the hearings officer may, in writing, request review of said decision by the BBRS. The filing of such a petition shall not serve to stay any disciplinary action taken by the Hearings Officer.

The BBRS may review such decision at its discretion. Such review is an administrative review that shall be based solely on the administrative record and is not to be construed as a second Hearing on the same complaint(s). After review, the ~~Board~~ BBRS may either deny the petition or remand the matter to the Hearings Officer for further proceedings as directed. The filing of an appeal with the ~~Board~~ BBRS shall serve to toll the timing provisions of M.G.L. c. 30A, § 14 until such time as a final decision is rendered by the Board BBRS.

**R5.2.10.1 Appeal to a Court.** Any person aggrieved by a decision of the Hearings Officer or the ~~Board~~ BBRS may appeal such decision in conformance with M.G.L. c. 30A, § 14.

**R5.2.11 Change of Address.** The license holder shall have the responsibility of reporting any change of address and/or change of circumstance to the BBRS. The information on file at the BBRS shall be

deemed accurate unless changed by the license holder.

**R5.2.12 On-site Presence of Supervisor.** An Unrestricted or Restricted licensed holder or a licensed designee as defined shall be present on the site at some point to approve construction, reconstruction, alterations, removal or demolition involving the following work.

**Note:** Any Licensed Construction Supervisor who contracts to do work for a homeowner shall be responsible for performing said work in accordance with ~~780 CMR 51.00 through 99.00, 780 CMR R5 and all reference standards and/or manufacturer's recommendations~~, whether or not the licensed contractor secured the permit for said work:

#### **1. Foundation.**

- a. Preparation of bearing material;
- b. Location of foundation;
- c. Placement of forms and reinforcing materials (if applicable);
- d. Placing of concrete (or setting of other foundation materials);
- e. Setting weather protection methods (if required);
- f. Installation of waterproofing and/or damp proofing materials; and
- g. Placement of backfill.

**Note:** If encountered in excavating for foundation placement, the licensed construction supervisor shall report the presence of groundwater to the building official and shall submit a report detailing methods of remediation.

#### **2. Structural frame.**

- a. Installation of joists, trusses and other structural members and sheathing materials to verify size, species and grade, spacing and attachment\fastening methods. (The licensed construction supervisor shall ensure that any cutting or notching of structural members is performed in accordance with requirements of 780 CMR 51.00 through 99.00.)
- b. Setting of masonry or other structural systems (if used).

3. Energy conservation. Installation of insulation materials, vapor and air infiltration barriers.

4. Fire protection. Installation of smoke, heat and carbon monoxide (CO) detectors and/or systems.

5. Special construction, including, but not limited to:

- a. Chimneys;
- b. Retaining walls over four feet (1219 mm) in height above grade.

The building official may require an unrestricted or restricted license holder or his or her licensed designee to be present on the building site at other points during the construction, reconstruction, alterations, removal or demolition work as he or she deems appropriate.

**Exception:** Any homeowner performing work for which a building permit is required shall be exempt from the licensing provisions provided that if a homeowner engages a person(s) for hire to do such work, that such homeowner shall act as supervisor and shall be subject to all applicable provisions of 780 CMR 51.00 through 99.00 and 780 CMR R5. This exception shall not apply to the field erection of manufactured buildings constructed pursuant to 780 CMR 51.00 through 99.00 and 780 CMR R3. (See definition of "Homeowner" in 780 CMR 51.00.)

**Note:** Registered architects and/or professional engineers who secure building permits for and/or perform construction services for detached one and two family dwellings are not required to be licensed pursuant to 780 CMR R5 provided that said registered architect or professional engineer secures such permit or performs such services under the responsibilities of his or her professional registration and supervises construction activities as prescribed by 780 CMR R5.2.12.

**Exception:** An unrestricted or restricted licensed construction supervisor as defined

~~shall be required for installation of manufactured one and two family homes as required by 780 CMR R3.~~

~~Masonry Only Construction Supervisor License~~

~~Holder (MCSL), Residential Roof Covering Construction Supervisor License Holder (RCCSL), Residential Window and Siding (Exterior Weather Protection) Construction Supervisor License Holder (WSCSL), or Residential Solid Fuel Burning Appliance Installer Construction Supervisor License Holder~~

~~(SFCSL) shall be present on the job site at such~~

~~times as deemed necessary to ensure compliance~~

~~with the Massachusetts Basic and/or One and Two Family Dwelling Code and 780 CMR 110R5.~~

**R5.2.13 Lost/Stolen Licenses.** License holders

are required to keep the license in their possession at all times during the course of construction work at any and all building sites. If said license is lost, stolen or mutilated, it shall be the responsibility of the license holder to notify the BBRS.

**R5.2.14 Requirement to Show License.** Any building official may require the license holder to produce the license at any time on a job site.

**R5.2.15 Responsibility of Each License Holder.**

**R5.2.15.1 Responsibility for Work.** The license holder shall be fully and completely responsible for all work for which he/she is supervising. He/she shall be responsible for seeing that all work is done pursuant to 780 CMR and the drawings as approved by the Building Official.

**R5.2.15.2 Responsibility to Supervise Work.** The license holder shall be responsible to supervise the construction, reconstruction, installation, alteration, repair, removal or demolition for the category of license held involving any activity regulated by any provision of 780 CMR only pursuant to 780 CMR 51.00 through 99.00 and all other applicable Laws

of the Commonwealth even though he, the license holder, is not the permit holder but only a subcontractor or contractor to the permit holder.

**R5.2.15.3 Notification of Violations.** The license holder shall immediately notify the building official in writing of the discovery of any violations which are covered by the building permit.

**R5.2.15.4 Willful Violation.** Any licensee who shall willfully violate 780 CMR ~~R5.2.15.1, R5.2.15.2 or R5.2.15.3 or any other Sections of 780 CMR R5 and any procedures,~~ shall be subject to revocation or suspension of license by the hearings officer Committee.

**R5.2.16 Permit Applications.** All building permit applications shall contain the name, signature and license number and the category of license so held of the construction supervisor who is to supervise those persons engaged in ~~the work as defined in the building permit. construction, reconstruction, alteration, installation repair, removal or demolition as regulated by the Sixth Edition of the Massachusetts State Building Code, 780 CMR 108.3.5, 780 CMR 51.00 through 99.00 and 780 CMR R5. i~~In the event that such licensee is no longer supervising said persons, the work shall immediately cease until a successor license holder is substituted on the records of the building department.

**R5.2.17 Gender of Terms.** The term "he" as used in 780 CMR R5 shall include the pronoun "he" and/or "she."

#### **780 CMR R5.3 ADMINISTRATION**

**R5.3.1 Identification.** The BBRS shall issue a card or a certificate or other form of **license** identification.

**R5.3.2 Records of Licensees.** The BBRS shall maintain a computer listing ([www.mass.gov/dps](http://www.mass.gov/dps)) which will be available to the public at the office of the BBRS containing all licenses issued by the BBRS.

**R5.3.3 Examination.** ~~The Board~~ **BBRS** shall

determine whether an examination shall be required, or shall be oral or written and shall determine the content of the examination, if applicable.

**Exception:** An individual holding a current certification per the requirements of 780 CMR R7 shall be allowed to submit an application for an unrestricted construction supervisor license without the need for examination.

**R5.3.4 Subject to Rules, Regulations and Procedures.** All persons licensed shall be subject to 780 CMR R5, as well as other rules, regulations, and procedures promulgated by the BBRS.

**R5.3.5 Fees.** Any and all fees charged for licenses—fees, examinations fees, renewals fees, and registrations fees shall be determined by the Commonwealth and enforced by the BBRS. ~~Examination f~~Fees shall be established from time to time as necessary.

~~**R5.23.5.1 Building Official Fees.** The BBRS shall grant a license at no fee to any building official who, as a condition of his employment requires such license; provided that such person meets the necessary qualifications for licensure and provided further, that such license shall be authorized for use only during the course of employment and shall be appropriately stamped to indicate as such.~~ **The BBRS shall grant an unrestricted construction supervisor license without examination to an individual holding a current certification per the requirements of 780 CMR R7. An individual seeking such license shall file an application to the BBRS and pay all appropriate license fees.**



## 780 CMR R5.4 CONTINUING EDUCATION

**R5.4.1 Standards:** The ~~Board of Building Regulations and Standards (BBRS)~~ may by rule adopt standards for continuing education requirements and course and instructor approval. The standards must include requirements for continuing education as applicable to buildings and building codes and referenced standards.

**R5.4.2 Hours:** A qualifying licensee must provide proof of completion of required hours of continuing education per two year license cycle in the appropriate category in which the licensee is licensed.

Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

### **R5.4.3 Requirements:**

Unrestricted Construction Supervisors License

12 Hours

Restricted Construction Supervisors License

10 Hours

Specialty Construction Supervisors License

6 Hours

Masonry

Roofing

Windows / Siding

Demolition

Burning Fuel

Insulation

**Exception:** Building code Enforcement Officials who are certified and in good standing in accordance with 780 CMR R7 are exempt from CSL Continuing Education.

**R5.4.3.1** All ~~Unrestricted and Restricted~~ Construction Supervisor License holders are required to complete the appropriate number of continuing education each two-year renewal cycle as described in Section R5.2.4. The following hour(s) of continuing education topics are required:

Code Review

one (1) hour

Workplace Safety

one (1) hour

Business Practices / Workers'

Compensation one (1) hour

Energy (except Demolition Specialty License) one (1) hour

Lead Safe Practices (only first renewal cycle) one (1) hour

The remainder credit hours to be completed by approved electives.

**R5.4.4 Accessibility:** To the extent possible, the BBRS shall ensure that continuing education courses are

offered throughout the state and are easily accessible to all licensees.

**R5.4.5 Renewal of approval:** The BBRS is authorized to establish a procedure for renewal of course approval.

**R5.4.6 Content:** Continuing education consists of approved courses that impart appropriate and related knowledge in the regulated industries pursuant to R5.2.15. Courses may include relevant materials that are included in licensing exams subject to the limitations imposed in item number 1 below. The burden of demonstrating that courses impart appropriate and related knowledge is upon the person seeking approval or credit.

Course examinations will not be required for continuing education courses unless they are required by the instructor.

Unless determined by the coordinator textbooks are not required to be used for continuing education courses. The coordinator must provide students with a syllabus containing, at a minimum, the course title, the times and dates of the course offering, the names and addresses or telephone numbers and email address of the course coordinator and instructor, and a detailed outline of the subject materials to be covered. Any written or printed material given to students must be of readable quality and contain accurate and current information.

Upon completion of an approved course, licensees shall earn one hour of continuing education credit for each hour approved by the BBRS. Each continuing education course must be attended in its entirety in order to receive credit for the number of approved hours. Courses may be approved for full or partial credit, and for more than one regulated industry.

Continuing education credit in an approved course shall be awarded to presenting instructors on the basis of one credit for each hour of preparation for the initial presentation, which may not exceed three hours total credit for each approved course. Continuing education credit may not be earned if the licensee has previously obtained credit for the same course as a licensee or as an instructor within the Current licensing cycle

The following courses will not be approved for credit:

- (1) courses designed solely to prepare students for a license examination in a discipline other than CSL;
- (2) courses in mechanical office skills, including typing, speed reading, or other machines or equipment. Computer or business skills courses are allowed, if appropriate and related to the regulated industry of the licensee;

- (3) courses in motivation, psychology, or any other course not related to the building industry
- (4) courses that are primarily intended to impart knowledge of specific products of specific companies, if the use of the product or products relates to the sales promotion or marketing of one or more of the products discussed.

**R5.4.7 Course approval:** Courses must be approved by the BBRS in advance and will be approved on the basis of the applicant's compliance with the provisions of this section relating to continuing education in the regulated industries. The BBRS shall make the final determination as to the approval and assignment of credit hours for courses. Courses must be at least one hour in length.

Approval will not be granted for time spent on meals or other unrelated activities. Breaks may not be accumulated in order to dismiss the class early. Classes shall not be offered to any one student for longer than six hours in one day, excluding meal breaks.

Application for course approval must be submitted 120 days before the course offering.

Approval is granted for a subsequent offering of identical continuing education courses without requiring a new application if the course is offered within the approved 24 month cycle. The BBRS shall deny future offerings of courses if they are found not to be in compliance with the laws relating to course approval as defined in R5.4.21.2. Course shall be updated subject to Periodic review by the BBRS to ensure currency with technological changes in the building code.

**R5.4.8 Course coordinator:** Each course of study shall have at least one coordinator, which is a person who is registered with the BBRS, who is responsible for supervising the program and ensuring compliance with all relevant law.

Each Coordinator shall oversee no more than twelve (12) courses of study.

**R5.4.9 Responsibilities of a course coordinator:**

- (1) ensuring compliance with all laws and rules relating to continuing educational offerings governed by the BBRS including adherence to R5.4.13;
- (2) ensuring that instructors are qualified to teach the course offering as defined in R5.4.21.4.10;
- (3) maintaining accurate records relating to course offerings, instructors, tests taken by students if required, and student attendance for a period of three years from the date on which the course was completed. These records must be made available to the BBRS upon request. In the event that a coordinator ceases operation for any

reason, the coordinator is responsible for maintaining the records or providing a custodian for the records acceptable to the BBRS. The coordinator must notify the BBRS of the name and address of that custodian. Under no circumstances will the BBRS act as custodian of the records;

- (4) supervising and evaluating courses and instructors. Supervision includes ensuring that all areas of the curriculum are addressed without redundancy and that continuity is present throughout the entire course;
- (5) providing course completion certificates within ten days of, but not before, completion of the entire course. Course completion certificates must be completed in their entirety. Course completion certificates must contain the following statement: "If you have any comments about this course offering, please mail them to the Board of Building Regulations and Standards attn: Education Coordinator. The current address of the department must be included. A coordinator may require payment of the course tuition as a condition for receiving the course completion certificate;
- (6) investigating complaints related to course offerings or instructors. A copy of the written, signed complaint must be sent to the BBRS within ten working days of course completion. An acknowledgement will be sent upon receipt of complaint via email.
- (7) to be available to instructors and students throughout course offerings and provide to the students and instructor the mailing address, telephone number and email address at which the coordinator can be reached;
- (8) participate in workshops or instructional programs as reasonably required by the BBRS;
- (9) furnishing the BBRS, upon request, with copies of course and instructor evaluations and qualifications of instructors. Evaluations must be completed by students at the time the course is offered and evaluations must be reviewed by coordinators within five days after the course offering;
- (10) notifying the BBRS in writing within ten days of any change in the information in an application for approval on file with the BBRS.

**R5.4.10 Instructors:**

- (1) Each continuing education course shall have an instructor who is qualified by education, training, or experience to ensure competent instruction. Failure to have only qualified instructors teach at an approved course offering will result in loss of course approval. Coordinators are responsible to ensure that an instructor is qualified to teach the course offering.
- (2) Qualified continuing education instructors must have one of the following qualifications:

- (a) a four-year degree (bachelor or equivalent) in any discipline plus two years' practical experience within the previous five years in the subject area being taught;
- (b) A four-year college degree (bachelors) or graduate degree in the subject area being taught;
- (c) a CSL holder or certified building official with at least three years experience in the subject area being taught; provided the instructor demonstrates proficiency in the subject matter
- (d) five years' practical experience within the previous ten years in the subject area being taught;
- (e) no contractor whose construction license is currently suspended or revoked as a result of ~~Board~~—BBRS discipline shall teach or serve as a continuing education course instructor

- (1) Approved instructors are responsible for:

- (a) compliance with all laws and rules relating to continuing education;
- (b) providing students with current and accurate information;
- (c) maintaining an atmosphere conducive to learning in the classroom;
- (d) verifying attendance of students, submission of completed course evaluations and certifying course completion;

- (e) providing assistance to students and responding to questions relating to course materials; and
- (f) attending the workshops or instructional programs that are required by the BBRS.

**R5.4.11 Prohibited practices for coordinators and instructors:** In connection with an approved continuing education course, coordinators and instructors shall not:

- (1) recommend or promote the services or practices of a particular business;
- (2) encourage or recruit individuals to engage the services of, or become associated with, a particular business;
- (3) require students to participate in other programs or services offered by the instructor or coordinator;
- (4) attempt, either directly or indirectly, to discover questions or answers on an examination for a license;
- (5) disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations;
- (6) misrepresent any information submitted to the BBRS;
- (7) fail to cover, or ensure coverage of, major points, issues, and concepts contained in the course outline approved by the BBRS during the approved instruction; or
- (8) issue inaccurate course completion certificates.

Coordinators shall notify the BBRS within ten days of a felony or gross misdemeanor conviction or of disciplinary action taken against an occupational or professional license held by the coordinator or an instructor teaching an approved course. The notification shall be grounds for the BBRS to withdraw the approval of the coordinator and to disallow the use of the instructor.

**R5.4.12 Fees:** Fees for an approved course of study and related materials must be clearly identified to students. In the event that a course is canceled for any reason, all fees must be returned within 15 days from the date of cancellation. 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 having their fees refunded in full within 15 days from the date of postponement. If a student is unable to attend a course

or cancels the registration in a course coordinator policies regarding refunds shall govern.

**R5.4.13 Facilities:** Each course of study must be conducted in a classroom or other appropriate facility that is accessible and adequate to comfortably accommodate the instructors and the number of students enrolled.

**R5.4.14 Supplementary materials:** An adequate supply of supplementary materials to be used or distributed in connection with an approved course must be available at the time and place of the course offering 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.

**R5.4.15 Advertising courses:**

- (1) Paragraphs (2) to (5) govern the advertising of continuing education courses.
- (2) Advertising must be truthful and not deceptive or misleading. Courses may not be advertised in any manner as approved unless approval has been granted in writing by the BBRs.
- (3) 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 Massachusetts Board of Building Regulations and Standards for ..... (approved number of hours) hours for continuing ..... (relevant industry) education."

- (4) Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.
- (5) The number of hours for which a course has been approved must be prominently displayed on an advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it must be clear that credit is not earned for the entire course.

- (6) Must comply with:

603 CMR 3.14: Advertisements

**"3.14: Advertisements**

(1) A school shall not call itself a "college" or "university" in advertising or elsewhere.

(2) A school shall not advertise or imply that the Department "supervises," "recommends," "endorses," "accredits," or "approves" the school. A licensed school may indicate in literature or advertising that the school is "Licensed by the Commonwealth of Massachusetts, Department of Elementary and Secondary Education."

(3) A school shall not advertise or imply that the school guarantees employment, or specify a wage per hour or gross salary, for those who complete a course or program offered by the school.

(4) All advertising is governed by 940 CMR 3.10, violations of which are enforceable under the provisions of M.G.L. c. 93A, the Consumer Protection Act.

**Regulatory Authority:**

603 CMR 3.00: M.G.L. c. 75C, § 7; c. 75D, § 8 and c. 93, § 21B.

4. All advertising is governed by 940 CMR 3.10, violations of which are enforceable under the provisions of M.G.L. c. 93A, the Consumer Protection Act.

3.10: Private Home Study, Business, Technological Social Skills and Career Schools Correspondence and Other

(1) False Advertising. The making or causing, or permitting to be made or published, any false or deceptive statement or representation or any statement or representation which has the tendency or capacity to mislead or deceive students, prospective students or the public, by way of advertising or otherwise concerning private home study, business, technological, career, or social skills schools, their activities in attempting to enroll students, or concerning the character, nature, quality, value, or scope of any course of instruction or educational service offered, its influence in obtaining employment for its students, or in any other material respect, is an unfair and deceptive trade practice.

**R5.4.16 Notice to students:** At the beginning of each approved offering, the following notice must be handed out in printed form or must be read to students:

"This educational offering is recognized by the Massachusetts Board of Building Regulations and Standards as satisfying ..... (insert number of hours approved) hours of credit toward continuing ..... (insert appropriate industry) education requirements."

**R5.4.17 Audits:** The BBRS reserves the right to audit subject offerings with or without notice to the coordinator.

**R5.4.18 Falsification of reports:** Anyone found to have falsified an education report to the BBRS shall be subject to limitation, condition, suspension of the license, course coordinator approval or instructor approval can be revoked and/or fined up to \$1,000.00.

The BBRS reserves the right to audit a licensee's continuing education records.

**R5.4.19 Waivers and extensions:** If a licensee provides documentation to the BBRS that the licensee or its qualifying person is unable, and will continue to be unable, to attend actual classroom course work because of a physical disability, medical condition, military service or similar reason, attendance at continuing education courses shall be waived for a period not to exceed one two-year cycle. Licensee must make up delinquent credit hours and pay appropriate fees.

The BBRS may request documentation of the condition upon which the request for waiver is based as is necessary to satisfy the BBRS of the existence of the condition and that the condition does preclude attendance at continuing education courses.

**R5.4.20 Reporting requirements:** Required continuing education must be reported in a manner prescribed by the BBRS pursuant to **R5.4.11**. Licensees are responsible for maintaining copies of course completion certificates.

**R5.4.21 Continuing education fees:** The following fees shall be paid to the BBRS:

(1) Course Approval

- (a) initial course application, \$100 for each continuing education course approval sought.
- (b) initial course approval, \$25, refundable if denied, for each hour or fraction of one hour, not to exceed \$150 per course. Initial course approval expires on the last day of the 24<sup>th</sup> month after the course is approved;
- (c) renewal of course approval, \$25 for each hour or fraction of one hour, not to exceed \$150 per course. Renewal of course approval expires on the last day of the 24<sup>th</sup> month after the course is renewed;

(2) Course Coordinator

- (a) initial coordinator approval, \$400. Coordinator may only oversee 12 courses. Initial coordinator approval expires on the last day of the 24<sup>th</sup>

month after the coordinator is approved; and

- (b) renewal of coordinator approval, \$300. Renewal of coordinator approval expires on the last day of the 24<sup>th</sup> month after the coordinator is renewed.

**R5.4.22 Refunds:** All fees paid to the BBRS under this section are nonrefundable, except that an overpayment of a fee shall be returned upon proper application.