

Readopt with amendment Fors 401, effective 3/13/14 (Document #10544), to read as follows:

PART Fors 401 EXPIRATION AND RENEWALS

Fors 401.01 ~~[Renewals. If the renewal fee, application and proof of continuing education are not received by the date of expiration the forester's name shall be omitted from the roster and the license shall expire until such time as renewal and reinstatement fees are paid, and providing continuing education requirements have been met.]~~ **Expiration. License shall expire 2 years from the date the license was issued.**

Fors 401.02 ~~[Renewal Notices. Renewal notices shall be sent to each licensed forester one month prior to expiration of his/her license. The expiration date shall be the last day of the license holder's birth month.]~~ **Renewal Processing. Renewals shall be processed in accordance with Plc 308.09 through Plc 308.12.**

Fors 401.03 Renewal Application. Each applicant for licensure renewal shall ~~[provide, or cause to be provided, the following on a form supplied by the board:]~~ **submit the "Universal Application for License Renewal" as required by Plc 308.05(a).**

- ~~[(a) The applicant's full name;~~
- ~~— (b) The applicant's business address and telephone number;~~
- ~~— (c) The applicant's home address and telephone number;~~
- ~~— (d) Documentation that the applicant has complied with the continuing education requirements of Fors 403.01;~~
- ~~— (e) A statement indicating any disciplinary or legal action brought against the applicant for his/her services as a forester;~~
- ~~— (f) A statement indicating that the applicant has adhered to the ethical and professional standards of Fors 500;~~
- ~~— (g) Acknowledgment that the provision of materially false information in the application knowingly provided shall result in denial;~~
- ~~— (h) Acknowledgment that, if the applicant provided false information that is discovered after the license is renewed, it shall result in disciplinary action by the board; and~~
- ~~— (i) The applicant's signature and date.]~~

Fors 401.04 Denial of Renewal. Renewal shall be denied if~~[, after notice and an opportunity for hearing,]~~ the ~~[board]~~ **OPLC** finds:

- (a) Noncompliance with the continuing education requirements of Fors 403.01;
- (b) Any unethical act for which discipline shall be imposed under Fors 500;
- (c) Reasons for which an initial application could be denied; **or**

(d) Failure to furnish complete or accurate information on an initial or renewal license application;
[or

— (e) Failure to file a renewal application within 12 months of license expiration.]

Fors 401.05 Reinstatement. A forester whose license to practice in this state has been allowed to lapse [for a period of 12 months] shall:

(a) File [a reinstatement application with the board that shall include at least the following:] **a “Universal Application for Renewal of Licensure” as required by Plc 309.03;**

[~~(1) The applicant’s full name;~~

[~~(2) The applicant’s business address and telephone number;~~

[~~(3) The applicant’s home address and telephone number;]~~

(b) File an “Addendum to the Application for Renewal of Licensure” continuing the following:

(1) The names, complete addresses, occupation, and business relationship with applicant of 3 references from foresters as defined by RSA 310-A:99, I;

[~~(b)~~**(c)** Applicants shall submit the application and reinstatement fees as specified in [Fors 301.04] **Plc 1002.16.**

(b) Submit the following documents in support of the application for licensure reinstatement:

[~~(4)~~**(1)** Documentation that the applicant has complied with the continuing education requirements of Fors 403;

[~~(5) A statement indicating any disciplinary or legal action brought against the applicant for his/her services as a forester;~~

[~~(6) A statement indicating that the applicant has adhered to the ethical and professional standards of Fors 500;~~

[~~(7) Acknowledgement by the applicant that the provision of false information in the application shall result in disciplinary action by the board;~~

[~~(8) The names, complete addresses, occupation and business relationship with applicant of 3 references from foresters as defined by RSA 310 A:99, I; and~~

[~~(9) The applicant’s signature and date.]~~

(2) A detailed explanation of any of the “yes” answers to the yes or no questions on the “Universal Application for License Renewal” including but not limited to:

1. Relevant court documents;

2. Relevant malpractice claims or suits filed; and

3. Relevant orders, settlements, or disciplinary documents, including the status of compliance with such documents

Readopt with amendment Fors 402, effective 3/13/14 (Document #10544), to read as follows:

PART Fors 402 DISCIPLINARY MATTERS

Fors 402.01 Initiation of Disciplinary Action. The board shall undertake misconduct investigations, settlements of misconduct allegations, or disciplinary hearings, in response to any information which reasonably suggests that a licensee has engaged in professional misconduct.

Fors 402.02 Disciplinary Sanctions.

(a) Other than immediate license suspensions authorized by RSA 541-A:30, III the board shall impose disciplinary sanctions only:

- (1) After prior notice and an opportunity to be heard; or
- (2) Pursuant to a mutually agreed upon settlement or consent decree;

(b) When the board receives notice that a licensee has been subjected to disciplinary action related to professional conduct by the licensing authority of another jurisdiction, where the license was not reinstated, the board shall issue an order directing the licensee to demonstrate why reciprocal discipline should not be imposed in New Hampshire.

(c) In a disciplinary proceeding brought on the basis of discipline imposed in another jurisdiction the licensee shall be subject to any disciplinary sanction authorized by RSA 310-A:112 and RSA 310-A:114.

(d) After a finding that misconduct has occurred, the board shall impose one or more of the disciplinary sanctions authorized by RSA 310-A:112 and RSA 310-A:114.

(e) In imposing sanctions, the board shall consider the following factors, along with the presence of other aggravating or mitigating circumstances, in determining the level or kind of disciplinary sanction imposed:

- (1) The seriousness of the offense;
- (2) Prior disciplinary record;
- (3) State of mind at the time of the offense;
- (4) Acknowledgment of his or her wrongdoing;
- (5) Willingness to cooperate with the board;
- (6) The purpose of the rule or statute violated;
- (7) The potential harm to public health and safety; and
- (8) The nature and extent of the enforcement activities required of the board as a result of the offense;

(f) No hearing date established in a proceeding conducted under Fors 402.02 shall be postponed at the request of the licensee unless the licensee also agrees to continue the suspension period pending issuance of the board's final decision.

(g) Copies of board orders imposing disciplinary sanctions and copies of all settlement agreements or consent decrees shall be sent to the licensing body of each state in which the licensee is licensed and to such other entities, organizations, associations, or boards as are required to be notified under applicable state or federal law.

Fors 402.03 Administrative Fines.

(a) Adjudicative procedures seeking the assessment of an administrative fine shall be commenced against any person subject to such fines or penalties under any provision of RSA 310-A when the board possesses evidence indicating that a violation has occurred.

(b) When persons subject to the board's disciplinary authority are directed to pay fines in accordance with Fors 402.02 (e), such fines shall be assessed in accordance with the factors stated in Fors 402.02 (e) and the following additional considerations:

- (1) The cost of any investigation or hearing conducted by the board; and
- (2) The licensee's ability to pay a fine assessed by the board.

(c) Administrative fines shall not exceed the following amounts:

- (1) When no violation of the same type has occurred within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$250.00 per day or \$1,000.00 per offense whichever is greater;
- (2) When a single disciplinary infraction of the same type has occurred within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$250.00 per day or \$1,500.00 per offense whichever is greater;
- (3) When more than one disciplinary infraction of the same type has occurred within the 5 years preceding the board's notice to the respondent, the fine assessed shall not exceed \$250.00 per day or \$2,000.00 per offense whichever is greater; and
- (4) In the case of continuing violations, a separate fine shall be assessed for each day the violation continues, but the total amount of the fine and the respondent's promptness and cooperativeness in ceasing the prohibited conduct in question shall be considered in assessing the daily fines. A single course of continuing conduct shall be treated as a single violation for purposes of Fors 402.03 (c), (1), (2) and (3).

Fors 402.04 Procedures for Assessing and Collecting Fines.

(a) Payment of a fine shall be included among the options available for settling disciplinary allegations, and shall be included among the types of disciplinary sanctions imposed after notice and hearing.

(b) In cases where the board initially intends to limit disciplinary sanctions to an administrative fine, the board shall issue a “notice of apparent liability” describing the alleged offense, stating the amount of the assessed fine, and notifying the alleged offender that [~~he or she~~] **they** shall pay or compromise the fine by a date certain or request that an administrative hearing be held. If a hearing is requested, the notice of apparent liability shall be withdrawn and a notice of hearing shall be issued. In such hearings, the board’s disciplinary options shall not be limited to the assessment of an administrative fine.

(c) Nonpayment of a fine by a licensee or respondent in contravention of an order, agreement or promise to pay, shall be a separate ground for discipline by the board or a basis for denying a subsequent license or renewal application or a basis for judicial action seeking to collect the fine.

Readopt with amendment Fors 403.01, effective 3/13/14 (Document #10544), to read as follows:

Fors 403.01 Basic Requirement.

(a) Each licensee shall obtain at least 20 units of continuing education units each biennium as a condition of biennial license renewal.

(b) All 20 continuing education units shall be taken during the biennium preceding the licensee’s expiration date.

(c) A renewal application shall not be accepted for filing unless the licensee indicates on the renewal application, and under penalty of unsworn falsification, that [~~he or she has~~] **they have** completed the minimum required units of approved continuing education required by Fors 403.01 (a).

Readopt Fors 403.02 and Fors 403.03,, effective 3/13/14 (Document #10544), to read as follows:

Fors 403.02 Requirements for New Licensees. Persons licensed less than 24 months in a biennial renewal period shall obtain one unit of approved continuing education units for each month licensed up to 20 continuing education units (CEUs) as a condition of license renewal.

Fors 403.03 Continuing Education Unit Requirements. Continuing education units shall meet the following criteria or no credit shall be awarded:

(a) Continuing education activities shall be relevant to the practice of forestry. Such continuing education activities may include technical, ethical, or managerial content;

(b) The content of each presentation shall be well organized and presented in a sequential manner;

(c) There shall be a provision for individual participant course/program registration including information required for record keeping and reporting; and

(d) Self-directed learning activities shall include a written instrument which tests the licensee’s comprehension of the content of that course or program.

Readopt with amendment Fors 403.05, effective 3/13/14 (Document #10544), to read as follows:

Fors 403.05 Record Keeping.

(a) The licensee shall maintain records to be used to support continuing education units claimed.

(b) Records required shall contain attendance verification records in the form of completion certificates or other documents supporting evidence of attendance such as:

- (1) Signed attendance receipts;
- (2) Paid receipts;
- (3) A copy of a listing of attendees signed by a person sponsoring the course or program or the course/program provider;
- (4) Continuing education verification from the SAF; or
- (5) Certificates of attendance from the sponsoring organization.

(c) The licensee shall retain attendance verification records for a period of at least 4 years. Such documentation shall be made available to the board for random audit ~~and~~ or verification purposes. Documentation shall support continuing education units claimed. Failure to provide documentation for audit verification shall result in disciplinary action.

(d) Not less than 5% of the licensees shall be randomly selected each year by the board, **through the OPLC**, for compliance with Fors. 403.01.

Readopt Fors 403.06, effective 3/13/14 (Document #10544), to read as follows:

Fors 403.06 Exemption. A licensee shall be exempt from the continuing education requirements for serving on temporary active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a year.

Readopt with amendment Fors 403.07, effective 3/13/14 (Document #10544), to read as follows:

Fors 403.07 Waiver of Continuing Education Units Deadline.

- (a) A licensee may request waiver of continuing education deadlines.
- (b) A waiver shall be granted provided the waiver petition meets the following criteria:
 - (1) A petition requesting a waiver shall be filed at least 30 days before the expiration of the biennial continuing education period in question;
 - (2) Late filing shall be justified by a showing of good cause that includes serious accident, illness or other circumstances beyond the control of the licensee which actually prevents the licensee from satisfying the continuing education requirements;
 - (3) Relevant supporting documentation from the licensee's physician or medical professional shall be furnished to the ~~board~~ **OPLC** when necessary for a fair and informed determination by the board; and

(4) A waiver petition shall include a specific timetable for completing specific courses, which will meet the petitioner’s continuing education units deficiency.

Readopt Fors 403.08, effective 3/13/14 (Document #10544), to read as follows:

Fors 403.08 Noncompliance. Failure to submit documentation required per Fors 403.05 which establishes that said requirements were so completed, shall after notice and opportunity for hearing, result in disciplinary action including license suspension or revocation unless a waiver petition has been timely filed and duly granted by the board.

APPENDIX

Rule	Specific State Statute the Rule Implements
Fors 401.01 – Fors 401.05	RSA 310-A:102, VI; RSA 310-A:109; RSA 310-A:110
Fors 402	RSA 310-A:102, VI, VII, VIII; RSA 310-A:112, I, II RSA 310-A:114; RSA 310:12, I(e)
Fors 403.01 – Fors 403.03	RSA 310-A:102, VI; RSA 310-A:109; RSA 310-A:110
Fors 403.05 – Fors 403.08	RSA 310-A:102, IV and VII