

Notice of Emergency Rule

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE NO.: RULE TITLE:

61G4ER20-6 Approval of Continuing Education Courses.

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY OR WELFARE: The Construction Industry Licensing Board (Board) is required by statute to adopt rules to implement and enforce Chapter 489, Part I, Florida Statutes. In doing so the Board promulgated Rule 61G4-18.004 Approval of Continuing Education Courses., Florida Administrative Code, which set out the requirements for registered continuing education providers presenting courses in the classroom setting as well as by interactive distance learning , for construction professionals certified and registered by the Board. Many registered continuing education providers (providers) have Board approved continuing education classroom courses requiring in person attendance which were applied for under Rule61G4-18.004 (3); which they are now unable to teach because in person attendance is logistically impossible due to the COVID-19 pandemic social distancing, requirements and restrictions on meetings of 50 people or more. Meanwhile, many certified and registered construction professionals are trying to complete their continuing education licensure renewal requirements by the biennium deadline of August 31, 2020; they need to take the courses in question but cannot do so in a classroom setting because of the restrictions further detailed below caused by the COVID-19 pandemic. The rule does not allow these providers or students to elect whether to provide or to attend approved classroom courses through interactive distance learning methods (webinars). Courses taught through interactive distance learning methods have to be separately applied for under Rule61G4-18.004 (3)(a); the delay caused by reapplying for these same courses to be taught by webinar will greatly restrict the amount of courses available for those seeking licensure renewal in the short amount of time available, unless these courses can be presented in a webinar format on an expedited basis for those seeking licensure renewal by the August 31, 2020 deadline.

On March 1, 2020, Florida Governor Ron DeSantis issued Executive Order Number 20-51 which directed the State Health Officer and Surgeon General, Dr. Scott Rivkees, to declare a public health emergency pursuant to the spread of the Coronavirus Disease 2019 (COVID-19). On March 9, 2020, Governor DeSantis issued Executive Order Number 20-52 (Emergency Management - COVID-19 Public Health Emergency) and officially declared that a state of emergency exists in the State of Florida. COVID-19 is a severe acute respiratory illness that can spread among humans through respiratory transmission and presents with symptoms similar to those of influenza. The Center for Disease Control (“CDC”) recommends mitigation measures to combat the spread of COVID-19 such as staying home when sick, keeping away from others who are sick, staying home when a household member is sick with respiratory disease symptoms, and for those who are at higher risk, including older adults and those who have serious chronic medical conditions, to avoid non-essential air travel and to avoid crowds as much as possible. On June 5, 2020 , Governor Ron DeSantis issued Executive Order Number 20-139 (Phase 2: Safe. Smart. Step-by-Step. Plan for Florida's Recovery) Section 2 of the order concerning Responsible Individual Activity encourages all persons in Florida to follow appropriate social distancing and safety protocols issued by the CDC and OSHA and strongly encourages Senior Citizens and individuals with a significant underlying medical condition to avoid crowds and take measures to limit the risk of exposure to COVID-19. Further, the order provides that all persons in Florida are encouraged to avoid congregating in groups larger than 50 persons and requires that most businesses observe appropriate social distancing and operate at 50% capacity. The order also extends Executive Order Number 20-82 requiring all persons who enter the State of Florida from an area with substantial community spread, to include the New York Tri-State Area (Connecticut, New Jersey and New York), to isolate or quarantine for a period of 14 days from the time of entry into the State of Florida or the duration of the person' s presence in the State of Florida, whichever is shorter.

Since issuance of the Executive Orders and the declaration of a public health emergency, the Board Office has received numerous inquiries from registered course providers of approved classroom courses and from construction professionals seeking to complete their biennium continuing education requirements for licensure renewal. Providers ask whether they can provide these approved classroom course through interactive distance learning methods and the certificate and registration renewal applicants are especially concerned about the availability of such courses and

the timely completion of their continuing education obligations by the August 31, 2020 deadline for licensure renewal. The in-person attendance requirement under Rule 61G4-18.004 (3) at approved continuing education courses in the current COVID-19 Pandemic has become a barrier to licensure renewal for the construction industry profession because of the scarcity of such courses and the threat of exposure to COVID-19, if these courses are attended in person. This rule revision to allow the courses to be presented in a webinar format on an expedited basis will avoid possible risk of non-licensure renewal by many construction industry professionals and ensure the continued availability of construction services to the public. This revision to allow interactive distance learning options is essential during this healthcare emergency.

Accordingly, the Board by emergency rule, for construction professionals seeking certificate and registration licensure renewal by the August 31, 2020 biennium immediately now permits attendance by interactive distance learning methods at Board-approved continuing education courses that were authorized solely for in person attendance and waives the requirement for these providers to seek separate approval to teach those courses. The Board finds that this not only assists timely licensure renewal, despite the barriers to doing so caused by the COVID-19 pandemic, it will also help construction professionals continue providing their construction services to the public. The Board finds that these actions are a measured regulatory approach that also helps to mitigate the threat of exposure to COVID-19 by construction professionals who are required to complete continuing education to maintain licensure renewal.

REASON FOR CONCLUDING THAT THE PROCEDURE IS FAIR UNDER THE CIRCUMSTANCES: Given the recently declared emergency in the State of Florida, the recent guidance from the CDC, the social distancing guidelines which will be in effect through at least June 30, 2020, and the risk of impeding licensure renewal and the availability of construction services to Florida citizens during and after the current declared emergency, the Board finds that an immediate danger to the public health, safety, or welfare necessitates immediate action. Notice of this emergency rule meeting was published in the Florida Administrative Register on May 29, 2020.

SUMMARY: The proposed emergency rule immediately permits attendance by interactive distance learning methods at Board-approved continuing education courses that were authorized solely for in person attendance and waives the requirement for providers to seek separate approval to teach those courses prior to doing so.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Daniel Biggins, Esq. Executive Director, Construction Industry Licensing Board, 2601 Blair Stone Road, Tallahassee, Florida 32399-1039.

THE FULL TEXT OF THE EMERGENCY RULE IS:

61G4ER20-6 (61G4-18.004) Approval of Continuing Education Courses.

(1) Through (2) No Change.

(3) Notwithstanding the in-person attendance requirement specified in Rule 61G4-18.004(3), registered course providers of approved courses in a classroom setting may now provide these same courses by interactive distance learning methods without separately applying to do so, and shall comply with all applicable statutes and Board rules in doing so. The application shall include the total number of classroom or interactive distance learning hours, the course syllabus, a detailed outline of the contents of the course, the name and qualifications of all instructors known at the time of the application and the minimum qualifications of any instructors not known at the time of the application. Course instruction time shall be separated into intervals of no more than twenty-five (25) minutes. Each interval shall contain a descriptive outline stating the subject matter in such detail so as to describe the content of the interval. ~~In addition, a course provider making application to offer interactive distance learning must submit documents indicating the following:~~

~~(a) The means by which the course will demonstrate interactivity between the student and course provider within a maximum of 24 hours, which promotes student involvement, and demonstrates that the course measures learning and addresses comprehension of content at regular intervals.~~

~~(b) The means by which the course provider is able to monitor student enrollment, participation and course completion.~~

~~(c) The means by which the course provider will be able to satisfactorily demonstrate that stated course hours are consistent with the actual hours spent by each student to complete the course.~~

~~(d) The means by which the provider will assure qualified instructor(s) will be available to answer questions and provide students with necessary support during the duration of the course.~~

~~(e) That the student will be required to complete a statement at the beginning and end of the course that indicates that he/she personally completed each module/session of instruction.~~

~~(f) The means by which the course provider will verify student identification.~~

(4) Rule 61G4-18.004(3) F.A.C., is hereby superseded by the present rule Emergency Rule 61G4ER20-6

(4) Through (11) Renumbered as (5) Through (12).

Rulemaking Authority 455.213, 455.2123, 489.108, 489.115 FS. Law Implemented 455.213, 455.2123, 455.2179, 489.115 FS. History—New 12-2-93, Amended 7-20-94, 1-18-95, 7-2-95, 11-25-97, 5-30-00, 3-25-01, 11-10-03, 1-24-05, 8-28-05, 4-17-08, 9-20-15, 7-4-16, _____.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: June 17, 2020