

**ALABAMA ONSITE WASTEWATER BOARD
ADMINISTRATIVE CODE**

**CHAPTER 628-X-5
ENFORCEMENT AND DISCIPLINARY ACTIONS**

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628-X-5-.01	<u>Initiation Of Proceedings And Procedure For Investigation.</u>

The Board may initiate proceedings as it deems appropriate to investigate and determine violations of the provisions of this Act. The statute of limitations for complaints filed with the Alabama Onsite Wastewater Board shall be 3 years. Persons reporting alleged violations shall do so by obtaining a consumer complaint form from the Boards official website or requesting one from the office of the Executive Director. Persons alleging violations of this Act by any other person may request the Board to hold identifying information in a confidential manner. The Board shall adopt by resolution the procedures for investigations of complaints against licensees or the Board may enter into informal settlements with the licensee it is investigating, provided each such settlement is ratified by the Board. Said resolution shall be available at the office of the Executive Director.

Author: Melissa Hines

Statutory Authority: Code of Ala. 1975, §§34-21A-1, *et seq.*

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed April 24, 2009; effective May 29, 2009. **Amended:** Published December 31, 2025; effective February 14, 2026.

628-X-5-.02 Hearings.

All disciplinary hearings and/or contested case hearings shall be conducted in accordance with the Alabama Administrative Procedures

Act, specifically but not limited to Sections 12, 13, 14, 15, 16, 17, 18, and 19, as if set out full herein.

Author: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

628-X-5-.03 Discipline.

The Board shall take appropriate action to enforce these rules with regard to licensee suspension and revocation. The Board may revoke or suspend licenses of parties found to be guilty of any violation of the Act or these rules, and also these circumstances shall include, but not be limited to, the following:

- (1) Obtaining a license under false pretense.
- (2) Obtaining a license by having another person take the examination.
- (3) Allowing another person to use the license in violation of the regulations of this board.
- (4) Selling or conveying the license to another person.
- (5) Failure to timely renew a license.
- (6) Failure to follow the rules and regulations of the State of Alabama Department of Public Health or the appropriate local health department or authorities.
- (7) Committing a dishonest or illegal, act in the performance of work covered under the license.

Author: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed September 28, 2004; effective November 2, 2004.

Amended: Filed January 13, 2011; effective February 17, 2011.

628-X-5-.04 Informal Settlement.

(1) No action shall be taken to effect an informal settlement of a controversy, either prior to or during a contested case proceeding, without formal approval by the Board of such action.

(2) Informal settlement negotiations may be initiated by either party to the controversy, provided that neither party is obligated to use informal procedures.

(3) If the Board approves participation in an informal settlement procedure, it shall negotiate its settlement upon the terms it believes to be in the best interest of the Board and the public, and if the settlement is effectuated the terms of the settlement shall be incorporated, by reference, in the official minutes of the Board.

Author: Mike Talley

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed April 24, 2009; effective

628-X-5-.05 Appeals.

Final actions of the Board may be appealed in accordance with Alabama Administrative Procedures Act, specifically but not limited to Sections 20 and 21, as if set out in full herein.

Author: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

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Ed. Note: Rule was renumbered from .04 to .05 as per certification filed April 24, 2009; effective May 29, 2009.

628-X-5-.06 Reinstatement Of Licenses After Revocation Or Suspension.

Applications for reinstatement of licenses may be submitted to the Board. The applicant shall include in the application for reinstatement the reasons why the license should be reinstated and shall specifically set forth any change in circumstances that would justify reinstatement. The application for reinstatement must include evidence that the applicant meets the current licensure requirements for and, unless excused by the Board, the applicant must qualify for a licensure through all the procedures, including testing, experience, proof of required bonding and ability that is required for initial testing. Upon receipt of such application, the board may grant the applicant a hearing on reinstatement, at which time the applicant may appeal to the Board to reinstate the applicant's license. All fees for testing, issuance of license and a reinstatement fee must be paid before re-issuance of license. Procedures for reinstatement of suspended licenses shall be set by the Board at the time of suspension.

Author: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

Amended: Filed September 28, 2004; effective November 2, 2004.

Amended: Filed April 24, 2009; effective May 29, 2009.

Ed. Note: Rule was renumbered from .05 to .06 as per certification filed April 24, 2009; effective May 29, 2009.

628-X-5-.07 **Conflict Or Bias.**

No board member shall be entitled to vote or to otherwise participate in any hearing or disciplinary matter if the Board member is personally biased for or against the respondent or when such voting or participation would violate the provisions of the Alabama Administrative Procedures Act, Section 18(a). Any party in a hearing or respondent in a disciplinary action who wishes to assert bias or conflict may do so by filing with the Executive Director at least three days prior to the scheduled hearing a suggestion of disqualification and a supporting affidavit setting forth the factual basis for the suggestion. The Board shall consider the suggestion of disqualification on the record as a preliminary matter at the hearing before any other question is decided.

Author: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

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Ed. Note: Rule was renumbered from .06 to .07 as per certification filed April 24, 2009; effective May 29, 2009.

628-X-5-.08 **Institution Of Criminal Proceedings.**

Upon receipt of evidence that any person has: undertaken or attempted to undertake the business of manufacturing, installing or maintaining an onsite wastewater system or any component thereof, without first having procured a valid license as required by the Act, knowingly presented to or filed false information with the Board for the purpose of obtaining a license, or any other violation of law which the Board deems worthy of reporting to appropriate government agencies, the Executive Director or designee, acting on the instructions of the Board, shall present such evidence to the appropriate governmental authority within the county of which the violator resides and may file a complaint regarding the violations.

Author: Mitchelene Shaddix, Angie Burkhalter

Statutory Authority: Code of Ala. 1975, §§34-21A-1, et seq.

History: New Rule: Filed May 19, 2000; effective June 23, 2000.

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