

524 CMR: BOARD OF ELEVATOR REGULATIONS

524 CMR 5.00: ELEVATOR CONTRACTORS

Section

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5.01: Scope and Applicability

Unless specified elsewhere in 524 CMR, the provisions of 524 CMR 5.00 shall govern the registration, duties, responsibilities, and discipline of registered elevator contractors. No person or entity shall employ a Massachusetts licensed elevator mechanic, or be issued a permit in accordance with 524 CMR 1.08: *Permits*, for purposes of performing installation, alteration, modification, decommissioning maintenance, servicing, or repair of an elevator without being registered with the Office, on behalf of the Board, as an elevator contractor.

5.02: Registration

- (1) An application for a registration as an elevator contractor shall be made in writing on a form provided by the Office. No registration shall be issued unless the applicant has submitted a completed application evidencing all requirements of 524 CMR 5.00.
- (2) An application for registration as an elevator contractor shall include:
 - (a) The official name of the elevator contractor, the permanent business address of the contractor, applicable contact information, and the name of a contact person(s) authorized to speak on behalf of the contractor.
 - (b) For Corporations. An official document which lists the names and addresses of officers, directors, and major stockholders such as: a copy of the articles of incorporation, a current annual report as filed with the Secretary of the Commonwealth, a copy of the registration as a foreign corporation filed with the Secretary of the Commonwealth, or any other official documentation which lists the names and addresses of officers, directors, and major stockholders.
 - (c) For Partnerships. Either a copy of the current partnership agreement containing the requested information, or listing of the names and addresses of all partners on the application form.
 - (d) For Applicants Using a DBA. A copy of the DBA certificate filed with a city or town pursuant to M.G.L. c. 110, § 5.
 - (e) The applicable registration fee as set in accordance with M.G.L. c. 7, § 3B.
- (3) On behalf of the Board, the Office shall issue a certificate evidencing such registration to applicants that meet the requirements of 524 CMR 5.00 and have successfully completed the application. All registrations issued pursuant to 524 CMR 5.00 shall be valid for two years from the date of issuance unless otherwise suspended or revoked by the Board.
- (4) The registrant shall have the responsibility of reporting any change of mailing address, email address, contact person, and/or change of circumstance to the Office. The information on file at the Office shall be deemed accurate for purposes of notification unless changed by the registrant.
- (5) The Office may require an applicant to appear in person to answer questions or provide documents in conjunction with an application for registration in addition to those required under 524 CMR 5.00.
- (6) Any false statement in an application for registration under 524 CMR 5.02(6), or any action intended to subvert the intent of 524 CMR 5.00, may be deemed grounds for any of the following:
 - (a) Denial of the application; or
 - (b) If the registration has already been issued, immediate suspension or revocation of the registration without a hearing, although the registrant is entitled to a hearing upon request.

5.03: Duties and Responsibilities

A registered elevator contractor shall have the following duties and responsibilities:

- (1) to ensure that every person who performs work on behalf of the contractor as an elevator constructor, maintenance person and repairman in the construction, maintenance, alteration, modification, servicing, or repair of elevators holds a license therefor granted by the Board of Elevator Examiners in accordance with M.G.L. c. 143, § 71C(1), or a temporary license therefor granted by the Commissioner in accordance with M.G.L. c. 143, § 71C(2), or is an elevator mechanic apprentice working under the direct and immediate field supervision of a licensed elevator mechanic.
- (2) To ensure that no work requiring a permit or a variance in accordance with 524 CMR is performed by any person working on behalf of the contractor prior to obtaining a permit or variance.
- (3) To ensure that all necessary variances from 524 CMR that are reasonably foreseeable have been obtained prior to filing a permit, and to submit variance approval along with the permit application.
- (4) To ensure that all required permits and variances are posted all times where work is performed.
- (5) To include its Office-issued elevator contractor registration number and the signature of an authorized individual on all applications and correspondence filed with the Board and/or the Office.
- (6) To ensure that adequate and proper personnel timely appear for all periodic tests, fire tests, and other inspections scheduled with the Office.
- (7) To notify the building owner of an upcoming inspection within two weeks of scheduling by the Office, including the need for the fire alarm company and/or emergency generator contractor if required.
- (8) To adequately prepare an elevator for an inspection, which shall include but not be limited to adequate pre-testing of all equipment prior to scheduled inspection and proper notification to building owner pursuant to 524 CMR 5.03(6).
- (9) To cure all code violations subject to a work order issued by the Office within the timeframe allotted, ensuring that the elevator is adequately prepared for re-inspection. For all work orders issued by the Office not requiring re-inspection, all work and proper documentation shall be completed and filed within the timeframe allotted.
- (10) To ensure that any licensed elevator mechanic assigned to complete work not requiring re-inspection is provided with the work order.
- (11) To certify that an elevator has been pre-tested prior to periodic inspection.
- (12) To provide accurate owner information to the Office.
- (13) To ensure that all submittals to the Office or the Board are truthful and accurate.
- (14) To ensure that any elevator under contract for repairs or service is registered with the Office.
- (15) To timely file applications for periodic inspections if given the authority to file those applications by the building owner.
- (16) To obtain an elevator owner's express consent to file any form on his or her behalf with the Office prior submitting the form.

5.03: continued

(17) To ensure work performed and actions taken meet all applicable provisions in 524 CMR, including those codes adopted by reference therein, and M.G.L. c.143.

5.04: Discipline

(1) Complaints. Any person may file a complaint against a registered elevator contractor. All complaints relative to a registrant shall be in writing on a form provided by the Board. All complaints shall be received by the Board within one year of the date of the alleged wrongdoing. The Board may itself initiate a complaint at any time.

(2) Basis of Complaint. A complaint shall allege wrongdoing by a registrant in the form of a violation of 524 CMR 5.00 or M.G.L. c. 143.

(3) Review and Investigation of Complaints. The Board may, in its discretion, investigate a complaint to determine whether a hearing will be held.

(4) Notice of Hearing. If the Board determines that a hearing shall be held to resolve a complaint, reasonable notice shall be provided to the complainant and the registrant. Mailing of notice to the address on record with the Board, and emailing the notice to the contact person identified by the registrant on the application for registration, shall be deemed satisfactory notice. The notice of hearing shall contain:

- (a) The name of the complainant (if provided).
- (b) The date, time, and place of said hearing.
- (c) The location of the incident giving rise to the complaint.
- (d) A description of the situation giving rise to the complaint.
- (e) A copy of the complaint filed with the Board.

(5) Hearing. Hearings convened pursuant to 524 CMR 5.00 shall be presided over by the Board and conducted pursuant to 801 CMR 1.02: *Informal/Fair Hearing Rules* and M.G.L. c. 30A. Any party may be represented by legal counsel.

(6) If an elevator contractor, or a designee, does not appear for the hearing, the hearing may proceed in their absence and a decision rendered based upon the evidence presented, but only after a finding is made that the registrant was provided notice as required by 524 CMR 5.04(4).

(7) Subpoenas. The Board may issue a subpoena in accordance with M.G.L. c. 30A, § 12 requiring the attendance and testimony of witnesses and the production of any evidence, including books, records, correspondence or documents, relating to any matter in question in the proceeding.

(8) Decisions and Discipline of Registrants. The Board shall issue a written decision after the hearing in a reasonably prompt manner. If the Board, acting on behalf of the Office, determines that a registrant has violated any provision of 524 CMR 5.00 or M.G.L. c. 143, it may suspend a registration for a fixed period of time, revoke a registration permanently, or issue a reprimand to the registrant. In reaching the decision the Board shall consider any history of disciplinary issues, the severity of the offense, and any remedial action taken by the contractor. Further, the Board may impose any terms and conditions upon a registrant which are reasonably calculated to ensure future compliance with 524 CMR and M.G.L. c. 143 by the registrant.

(9) Appeals. Any person aggrieved by a decision of the Board may appeal such decision to the Board of Elevator Appeals in conformance with M.G.L. c. 143, § 70(b).

REGULATORY AUTHORITY

524 CMR 5.00: M.G.L. c. 143, §§ 62 through 71G.