

230 CMR: DIVISION OF PROFESSIONAL LICENSURE

230 CMR 13.00: PRIVATE OCCUPATIONAL SCHOOLS: LICENSING OF SCHOOLS AND SALES REPRESENTATIVES

Section

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13.01: Licensing of Schools

- (1) Unless exempted from licensure under M.G.L. c. 112, § 263(c)(i) through (x), a School shall be licensed to operate as:
 - (a) a private occupational School; or
 - (b) a post-secondary private occupational School.
- (2) A School may be licensed to operate as a post-secondary private occupational School if it admits as Regular Students only those individuals who:
 - (a) have a high school diploma; or
 - (b) have the recognized equivalent of a high school diploma; or
 - (c) are beyond the age of compulsory school attendance as defined under M.G.L. c. 76, § 1.
- (3) A School that requires the licensure or approval of another state or federal authority must be so licensed or approved. The division, in its discretion, may accept proof of such licensure or approval as the school's demonstration of compliance with 230 CMR 13.02, 14.01 through 14.05 in whole or in part.

13.02: School Application Process

- (1) All applicants for a license to operate a School shall submit, in a form acceptable to the division, the following to the division:
 - (a) a completed application on a form provided by the division;
 - (b) the required fee;
 - (c) certification from the State Auditor that the applicant is financially qualified to operate a School;
 - (d) Surety in the amount determined by the State Auditor;
 - (e) proof that the School maintains adequate insurance, including liability insurance;
 - (f) an inspection report from the local building inspector certifying that the premises comply with 780 CMR: *State Board of Building Regulations and Standards*;
 - (g) an inspection report from the local fire department certifying that the premises comply with applicable fire codes;
 - (h) criminal offender record information acknowledgment forms, as prescribed by the division, for Principals, Administrators, employees, and other individuals related to the School in order to facilitate division review of criminal offender record information as required under M.G.L. c. 112, § 263(b);
 - (i) pursuant to M.G.L. c. 112, § 263(e), certification on a form provided by the division that the school has performed reasonable due diligence to determine that all Principals and employees of the School are of good moral character;
 - (j) certification on a form provided by the division that the School has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, withholding and remitting of child support, unemployment insurance contributions, worker's compensation insurance coverage, and classification of employees;
 - (k) a School closure plan including the process by which the School will securely convey records to the division in the event of a closure, as required under M.G.L. c. 112, § 263(e), and assist students in securing teach-out opportunities;
 - (l) if applying for licensure as a post-secondary private occupational School, certification on a form provided by the division that it meets the requirements of 230 CMR 13.01(2); and

13.02: continued

(m) information required to be submitted pursuant to M.G.L. c. 112, § 263(e) which includes:

1. the training and experience of the Instructors employed or to be employed by the School (*see* 230 CMR 14.04: *Instructors*);
2. the building facilities and Equipment available or to be available for the instruction to be offered by the School (*see* 230 CMR 14.01: *Facilities* and 14.02: *Equipment*);
3. the form and content of the Courses to be offered by the School (*see* 230 CMR 14.03: *Curriculum*);
4. the particular field of instruction to be offered by the School; and
5. the form of any contract or agreement to be executed by a prospective student.

(2) The division may return incomplete applications to the applicant. If the applicant seeks licensure thereafter, the division may require a new completed application to be filed with the required fee.

13.03: Financial Qualification and Surety Requirement for Schools

(1) An applicant for a license to operate a School shall apply to the State Auditor for certification that the School is financially qualified, by submitting financial statements and other such information as the State Auditor may require.

(2) Pursuant to M.G.L. c. 112, § 263(g), no School shall operate without valid Surety in the amount determined by the State Auditor.

(3) A School shall timely apply to the State Auditor for a reevaluation of its financial qualification upon renewal and at such other time as may be required by the State Auditor pursuant to M.G.L. c. 112, § 263(d) by submitting current financial statements and such other information as the State Auditor may require.

(4) If the State Auditor increases the amount of Surety a School must have, the School shall submit additional Surety to the division within 30 days.

(5) If the Surety is canceled, the School shall procure new Surety 30 days prior to the effective cancellation date.

13.04: Licensing of Sales Representatives

(1) An individual who acts as a Sales Representative shall be licensed by the division. A Sales Representative's license shall remain valid for a period of two years from the date of issue so long as the School under which the Sales Representative operates maintains a current license.

(2) Schools must apply on behalf of applicants for a Sales Representative's license, or renewal of such license, and shall submit, in a form acceptable to the division, the following to the division:

- (a) a completed application on a form provided by the division;
- (b) the required fee;
- (c) evidence that the applicant has completed division approved training in ethics. The division may require Schools to offer this training to its Sales Representatives as a condition of being able to utilize Sales Representatives;
- (d) certification that the School has performed reasonable due diligence to determine that the Sales Representative is of good moral character as required under M.G.L. c. 112, § 263(f);
- (e) Surety in the amount of at least \$1,000; and
- (f) information required to be submitted pursuant to M.G.L. c. 112, § 263(f), which includes:
 1. The applicant's name and address;
 2. The applicant's educational qualifications;
 3. The name and address of three business references; and
 4. The name and address of three personal references.

13.04: continued

(3) A license to practice as a Sales Representative is valid only for use at the School named in the application and is not transferable. A separate Sales Representative license must be obtained for each School for which the Sales Representative wishes to provide services.

(4) If the Surety is canceled, the School shall procure new Surety for the Sales Representative 30 days prior to the effective cancellation date.

13.05: Renewal of Licenses

(1) Unless otherwise determined by the Director, every license shall remain valid for a period of two years from the date of issue, unless the license is suspended or revoked pursuant to M.G.L. c. 112, § 263 and 230 CMR 16.00: *Private Occupational Schools: Denials of Licensure and Disciplinary Action*.

(2) A School shall submit to the division an application for license renewal no later than 60 days before the expiration of its current license by submitting the information listed in 230 CMR 13.02. A failure to submit all materials required prior to this deadline may be grounds for denial of renewal, late fees, and/or disciplinary action.

(3) A School shall submit to the division an application for Sales Representative license renewal no later than 60 days before the expiration of the current license by submitting the information listed in 230 CMR 13.04(2). A failure to submit all materials required prior to this deadline may be grounds for denial of renewal, late fees, and/or disciplinary action.

(4) Failure to renew a license in accordance with this section shall result in expiration of the license. Provided, however, that if a licensee has, in accordance with any law and regulation, made timely and sufficient application for renewal, the license shall not expire until the application has been finally determined by the division.

13.06: Exemptions from Licensure

(1) Schools are not required to be licensed if they meet one of the exemptions in M.G.L. c. 112, § 263(c)(i) through (ix).

(2) Exemptions pursuant to M.G.L. c. 112, § 263(c)(x)

(a) Exemptions to licensure under M.G.L. c. 112, § 263(c)(x) are valid only when issued by the division in writing.

(b) Consistent with public health, safety, and welfare, the division may exempt a School from licensure subject to certain conditions as determined by the division.

(c) Rescinding of exemptions

1. exemptions from licensure granted by the division shall be deemed permanent or grandfathered. Further, the division may rescind exemptions at any time if it determines that they have been expired or superseded by any new laws, regulations, division policies, or are otherwise determined to no longer be in the best interests of the public health, safety, or welfare.

2. School that previously operated under an exemption under M.G.L. c. 112, § 263(c)(x) must obtain a license in a timeframe established by the division if the exemption expires or is otherwise rescinded. If a School continues to operate thereafter without meeting the requirements of this section, it shall be subject to penalties as outlined in M.G.L. c. 112, § 263(l).

REGULATORY AUTHORITY

230 CMR 13.00: M.G.L. c. 112, § 263.