

CHAPTER Rab 400 CONTINUED STATUS

PART Rab 401 RENEWALS

**Adopt Rab 401.01, previously effective 2/2/13 (Document #10270) and expired 2/2/23, to read as follows:**

Rab 401.01 Renewal Requirements.

(a) Pursuant to RSA 310-B:10, licenses and certificates issued by the board shall expire biennially on the last day of the month 2 years from the date of issuance.

(b) Biennially, the board shall issue a license upon receipt of the completed biennial renewal form and fee. The card shall certify that the appraiser holds a license in good standing and is authorized to perform appraisals to the date of expiration as shown on the card.

(c) The following requirements shall be met for renewal of an apprentice classification, a license, or a certificate:

- (1) The applicant shall apply for renewals on a renewal form provided by the board;
- (2) The applicant for renewal shall have completed the applicable continuing education requirements set forth in Rab 403 prior to submitting a renewal application; and
- (3) The applicant shall submit the applicable fee set forth in Rab 306.01 with the application for renewal.

**Readopt with amendment Rab 401.02, effective 12/18/18 (Document #12689), to read as follows:**

Rab 401.02 Renewal Application. The applicant shall supply the following on or with the “Real Estate Appraiser Renewal Form” for license renewal:

- (a) The applicant’s full name;
- (b) The applicant’s license number;
- (c) The applicant’s mailing address, electronic address, home phone number, and work phone number;
- (d) Principal business address and all other addresses at which the applicant is currently engaged in the business of preparing real estate appraisal reports;
- (e) A statement indicating that the applicant has complied with the continuing education requirements of Rab 403;
- (f) A log showing the type and date of continuing education activity claimed, sponsoring provider, and continuing education [~~hours~~] earned;

(g) A statement indicating whether the applicant has been convicted of any felony or misdemeanor since the last renewal that has not been annulled by a court pursuant to RSA 651:5 and, if not annulled, the name of the court in which the conviction occurred, the details of the offense, the date of conviction, and the sentence imposed;

(h) A statement indicating any disciplinary or legal action brought against the applicant by any appraiser board of licensing authority since the last renewal or not previously disclosed to the board;

(j) A statement indicating that the applicant has adhered to the ethical and professional standards of Rab 500;

(k) Acknowledgment that the provision of materially false information in the application knowingly provided is a basis for denial;

(l) Acknowledgement that, if the applicant provided false information that is discovered after the license is renewed, it shall be a basis for disciplinary action by the board;

(m) The applicant's signature under penalty of unsworn falsification and date; and

(n) The application fee specified in Rab 306.01.

**Adopt Rab 401.03 through Rab 401.05, previously effective 2/2/13 (Document #10270) and expired 2/2/23, to read as follows:**

Rab 401.03 Denial of Renewal.

(a) Renewal applicants shall be investigated for the purpose of verifying all application materials.

(b) The board shall notify the applicant of any deficiencies in the renewal application within 30 days of receipt. Failure to remedy the deficiencies within 60 days thereafter shall result in denial of the renewal application. An application shall be considered complete when all deficiencies are corrected.

(c) Renewal shall be denied if, after notice and an opportunity for hearing, there is a finding of:

(1) Noncompliance with the continuing education requirements of Rab 403;

(2) Any unethical or unprofessional act for which discipline shall be imposed under Rab 500;

(3) Reasons for which an initial application would have been denied; or

(4) Failure to furnish complete or accurate information on a renewal license application.

Rab 401.04 Appraisal Management Company Renewal. Appraisal management company registrations shall expire on the last day of the month 2 years from the date of issuance. A renewal notification shall be sent to all registered appraisal management companies at least 30 days prior to expiration.

Rab 401.05 Appraisal Management Company Renewal Application. Each applicant for annual renewal of the appraisal management company registration shall provide the completed form required pursuant to Rab 308.01 (d).

PART Rab 402 REVOCATION, SUSPENSION, AND OTHER SANCTIONS

**Adopt Rab 402.01 through Rab 402.07, previously effective 2/2/13 (Document #10270) and expired 2/2/23, to read as follows:**

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

Rab 402.02 Disciplinary Sanctions.

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

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

(b) After a finding that an appraiser has committed misconduct, the board shall impose one or more of the disciplinary sanctions authorized by RSA 310-B:18, III.

(c) When a person subject to the board's disciplinary authority is found, after notice and opportunity for hearing, to have committed misconduct, the board shall impose sanctions after considering aggravating and mitigating factors including, as specified in Rab 402.02 (d) and (e):

(d) The following shall be considered aggravating circumstances:

- (1) The seriousness of the offense;
- (2) The licensee's prior disciplinary record;
- (3) Lack of willingness to cooperate with the board;
- (4) Potential harm to the consumer; and
- (5) The purpose of the rule or statute violated.

(e) The following shall be considered mitigating circumstances:

- (1) Absence of a prior disciplinary record;
- (2) Willingness to cooperate with the board;
- (3) Acknowledgment of the wrongdoing; and
- (4) The purpose of the rule or statute violated.

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

Rab 402.03 Revocation.

(a) “Revocation” means the permanent and complete cancellation of any specially-conferred rights, authority, or privileges that were granted to an appraiser through RSA 310-B.

(b) The most severe sanction, revocation, shall be imposed only for those cases in which:

- (1) An appraiser has made a third false claim of inspecting a property;
- (2) An appraiser has committed a third major violation of USPAP; or
- (3) An appraiser’s license to practice real estate appraisal in any other state has been revoked.

(c) The minimum period for revocation shall be 3 years commencing from the latter of:

- (1) The date that the revocation goes into effect; or
- (2) The date on which no further appeal may be taken.

(d) Upon receipt of a revocation order from the board, the apprentice or appraiser shall immediately cease holding themselves out to the public as an appraiser. Further, such appraiser shall immediately cease engaging in any act for which licensure or certification issued pursuant to RSA 310-B is required.

(e) Failure to comply with (d) above, shall constitute separate grounds for further disciplinary action.

(f) A subsequent license or certification shall be obtained only after:

- (1) The passage of the amount of time specified in the revocation order;
- (2) Complying with all of the requirements of RSA 310-B and Rab 300 regarding application for an initial license or certification;
- (3) Demonstrating that the cause for revocation does not exist at the time of the subsequent application; and
- (4) Demonstrating that any corrective actions that were ordered by the board have been fully implemented.

Rab 402.04 Suspension.

(a) “Suspension” means the temporary withdrawal of any specially-conferred rights, authority, or privileges that were granted to an appraiser through RSA 310-B.

(b) The sanction of suspension shall be imposed only after notice and opportunity for a hearing in those cases in which the board determines that at least one of the following is true:

- (1) An appraiser has, for a third time, engaged in willful acts that are intended to:

- a. Mislead someone who has a right to rely upon the appraisal; or
- b. Influence the value of the subject property in such a way as to favor the client's interests;

(2) An appraiser has, for the third time, violated a competency requirement;

(3) An appraiser has, for the second or subsequent time, failed to disclose assistance provided by others; or

(4) An appraiser's license to practice real estate appraisal in any other state has been suspended;

(c) The minimum period for suspension shall be that amount of time necessary for the appraiser to take corrective action ordered by the board and return to compliance. Suspension shall have no effect upon the expiration of licensure or certification. Specifically, suspension shall not cause expiration to be advanced or delayed.

(d) Upon receipt of a suspension order from the board, the appraiser shall immediately cease holding themselves out to the public as an appraiser. Further, such appraiser shall immediately cease engaging in any act for which licensure or certification is required until the board grants reinstatement pursuant to (f), below.

(e) Failure to comply with (d) above, shall constitute separate grounds for further disciplinary action.

(f) An appraiser seeking reinstatement shall petition the board, providing documentation of all corrective actions taken. The board shall review the petition and supporting documentation and grant the petition if it determines that all corrective action ordered by the board has, in fact, been taken and the appraiser has returned to compliance.

#### Rab 402.05 Administrative Fines.

(a) Adjudicative procedures seeking the assessment of administrative fines shall be commenced against any person subject to such penalties under any provision of RSA 310-B 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 administrative fines in accordance with Rab 402.02, such penalties shall be assessed in accordance with the factors stated in Rab 402.02 (d) and (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 an administrative 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 3 years preceding the board's notice to the respondent, the penalty assessed shall not exceed \$100.00 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 3 years preceding the board’s notice to the respondent, the penalty assessed shall not exceed \$100.00 per day or \$1,500.00 per offense whichever is greater; and
- (3) When more than one disciplinary infraction of the same type has occurred within the 3 years preceding the board’s notice to the respondent the penalty assessed shall not exceed \$100.00 per day or \$2,000.00 per offense whichever is greater.
- (d) In the case of continuing violations, a separate penalty shall be assessed for each day the violation continues.
- (e) A single course of continuing conduct shall be treated as a single violation for purposes of Rab 402.05 (c).

Rab 402.06 Procedures for Assessing and Collecting Administrative Fines.

- (a) Payment of administrative fines 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 they shall pay the fine by a certain date 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 an administrative fine by a licensee or respondent in contravention of an order, agreement or promise to pay, shall be grounds for discipline by the board and a basis for judicial action seeking to collect the fine.

Rab 402.07 Disciplinary Continuing Education.

- (a) “Disciplinary continuing education” means any course or seminar that an apprentice or appraiser is ordered, by the board, to take for the purpose of addressing a finding of misconduct based upon deficient appraisal skills, and which is in addition to and does not count toward meeting the continuing education requirements set forth in Rab 403.
- (b) The sanction of disciplinary continuing education shall be imposed only after notice and opportunity for a hearing in those cases in which the board determines that the apprentice or appraiser’s misconduct arose, at least in part, through deficient skills necessary for some aspect of conducting an appraisal.
- (c) The failure by an appraiser to take the disciplinary continuing education ordered by the board shall be grounds for further discipline by the board and a basis for judicial action seeking to collect the penalty.

PART Rab 403 CONTINUING EDUCATION

**Adopt Rab 403.01 through Rab 403.08, effective 2/2/13, previously effective 2/2/13 (Document #10270), and expired 2/2/23, to read as follows:**

Rab 403.01 Purpose. The purpose of continuing education requirements for the renewal of apprentice classifications, appraiser licenses and certificates are to ensure that the appraiser participates in a program that maintains and increases their skill, knowledge and competency in real estate appraising.

Rab 403.02 Specific Renewal Requirements. To be eligible for renewal of an apprentice classification, appraiser license or certificate, the applicant shall meet the continuing education requirement for renewals developed by the AQB and the requirements of these rules:

(a) The apprentice or appraiser shall take the equivalent of at least 14 class hours of instruction in courses or seminars for each year of practice during the period preceding the renewal;

(b) Appraisers shall successfully complete the 7-Hour National USPAP Update Course, or its equivalent, every 2 calendar years. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB;

(c) USPAP continuing education credit shall be awarded only when the course is taught by at least one AQB certified instructor who is in good standing as a certified residential appraiser or a certified general appraiser, or through any USPAP courses meeting the AQB distance education criteria;

(d) Continuing education credit shall not be recognized for any repeat program attended or completed within an appraiser's 2 year continuing education cycle; and

(e) Instructors under (c) above shall meet the requirements established by the AQB in "The Real Property Appraiser Qualification Criteria and Interpretations of the Criteria" 1/2022 Edition, and these rules.

Rab 403.03 Credit.

(a) Credit toward meeting the continuing education requirement for renewal shall be granted only for:

(1) Courses provided by any of the organizations or individuals outlined in Rab 302.13 which meet the requirements for board approval; and

(2) Courses which include instruction in any one or more of the following subject areas:

- a. Ad valorem taxation;
- b. Arbitration and dispute resolution
- c. Courses related to practice of real estate appraisal or consulting;
- d. Development cost estimating;
- e. Ethics and standards of professional practice, USPAP;
- f. Land use planning, zoning;

- g. Management, leasing, timesharing;
- h. Property development, partial interests;
- i. Real estate law, easements and legal interests;
- j. Real estate litigation, damages, condemnation;
- k. Real estate financing and investment;
- l. Real estate appraisal related computer applications;
- m. Real estate securities and syndication;
- n. Green building;
- o. Seller concessions;
- p. Developing opinions of real property value in appraisals that also include personal property;
- q. Business value; and
- r. Fair housing and valuation bias.

(b) No more than one half of an individual's continuing education requirement shall be granted for:

(1) Participation, other than as a student, in appraisal educational processes and programs including acting as a training supervisor or trainer for an apprentice or trainee appraiser.

(2) Instructing any given course or seminar shall be awarded only once during a continuing education cycle.

(3) Other approved activities are:

- a. Teaching;
- b. Program development;
- c. As an author of textbook(s); or
- d. Serving on a licensing board.

(c) Each hour of actual attendance at a continuing education activity described in (b) above shall count for one hour of continuing education as required by Rea 403.

(d) Educational offerings taken by an individual in order to fulfill the class hour requirement for a different classification than the individual's current classification may be simultaneously counted towards the continuing education requirement of their current classification.



(e) A certificate of completion shall be delivered to the student upon successful completion of the course and, if applicable, confirmation of a satisfactory score on the final examination. The certificate shall state at a minimum, the student's name, the course name, the name of the provider, the completion date and the class hours awarded.

Rab 403.04 Record Keeping.

(a) The licensee shall maintain records to be used to support credits claimed.

(b) Records required shall contain a log showing the type of activity claimed, sponsoring organization, location, instructor's or speaker's name, and continuing education credits earned.

(c) Attendance verification records shall be in the form of completion certificates or other documents supporting evidence of attendance such as:

(1) Signed attendance completion certificates; or

(2) Completed continuing education transcript from a board approved provider.

(d) 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 or verification purposes. Documentation shall support continuing education class hours claimed. Failure to provide documentation for audit verification shall result in disciplinary action.

(e) Not less than 10% of the licensees shall be randomly selected each year by the board for compliance with the continuing education requirements of Rab 403.

Rab 403.05 Extension of Continuing Education Deadlines.

(a) No waiver or deferral shall be granted to a licensee who fails to meet the continuing education requirements. Instead, pursuant to RSA 310-B:13-a, the appraiser's license shall be considered to have lapsed.

(b) Notwithstanding (a) above, deferrals shall be granted to individuals returning from active military duty. Such individuals shall be permitted to be placed on active status for up to 90 days pending completion of all continuing education requirements.

Rab 403.06 Distance Education. Distance education activities shall include a verifiable written proctored examination which tests the licensee's comprehension of the content of that course or program.

Rab 403.07 Standards for Approval of Continuing Education Courses.

(a) Continuing education credit shall be granted only for courses approved by the board. A list of currently approved courses shall be provided by the board upon request.

(b) The content of the course of instruction shall be within those subject areas set forth in Rab 403.03(a)(2);

(c) Credit towards the continuing education hour requirements for each appraiser classification shall be granted only where the length of the educational offering is at least 2 class hours.

(d) Course providers shall submit an application for approval provided by the board, including as attachments all additional materials listed in that application.

(e) The board shall approve continuing education courses if it determines that:

- (1) The application demonstrates compliance with (b) – (d) above;
- (2) The course is led by an instructor with sufficient experience in and mastery of the subject matter of the course;
- (3) The course is sponsored by a group or individual possessing the intent and ability to produce a course of sufficient quality to improve or establish an appraiser's competence; and
- (4) The course is organized in such a way as to fulfill the objectives of the course and the overall purpose of continuing education.

Rab 403.08 Additional Standards for Approval of Distance Education Courses.

(a) A distance education course provider shall not seek board approval pursuant to Rab 403.07 until the distance education course has been approved by the AQB Course Approval Program and the course design and delivery method has been approved by an organization authorized by the AQB to provide such approval. Distance education courses that are currently approved by the board but not by the AQB shall continue to be accepted for credit only until such approval expires.

(b) An approved distance education course or seminar shall be subject to random review by the board at any time. If the results of that review indicate that the approval criteria in Rab 403.07(e) are no longer being met, the board shall, after notice and opportunity for hearing, revoke approval for that distance education course. The provider shall be notified of the board's decision in writing. Revocation of the previously granted approval shall become effective 45 days from the date of decision. Appraisers having taken that offering prior to the revocation's effective date shall still be granted credit for completing that course.

PART Rab 404 ONGOING REQUIREMENTS

**Adopt Rab 404.01 and Rab 404.02, previously effective 2/2/13 (Document #10270) and expired 2/2/23, to read as follows:**

Rab 404.01 Change of Address. All apprentices, appraisers, and applicants shall notify the board in writing of any change in home or business address within 10 days of such change. Failure to provide a written notification of change of address shall not be exculpatory grounds for failing to respond to governing board inquiries or timelines and shall be grounds for disciplinary actions.

Rab 404.02 Compliance with USPAP. Each apprentice and appraiser shall, pursuant to RSA 310-B:18-a, comply with the then-current requirements of "Uniform Standards of Professional Appraisal Practice," when performing any appraisal service. Failure to adhere to USPAP shall be misconduct and shall subject the apprentice or appraiser to the imposition of discipline pursuant to Rab 402 after notice and opportunity for hearing.

PART Rab 405 VOLUNTARY LICENSE SURRENDER

**Adopt Rab 405.01 through Rab 405.03, previously effective 2/2/13 (Document #10270) and expired 2/2/23, to read as follows:**

Rab 405.01 Procedure for Surrendering a License. Any person holding a license may voluntarily surrender that license by returning it to the board accompanied by a signed letter stating that they intend to surrender their license.

Rab 405.02 Effect of Voluntary License Surrender.

(a) A licensee who voluntarily surrenders a license shall retain no right or privilege to practice real estate appraising in New Hampshire unless specifically set forth in a board order or settlement agreement authorizing the voluntary surrender. Unless otherwise provided by the board, a licensee who reapplies for licensure in New Hampshire after a voluntary surrender shall have the burden of proving compliance with all of the requirements then in effect for new applicants, including professional character requirements.

(b) Surrender or non-renewal of a license shall not preclude the board from investigating or completing a disciplinary proceeding based upon the licensee's professional conduct while the license was still in effect. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.

Rab 405.03 Voluntary Surrender When Misconduct Allegations are Pending.

(a) A licensee who wishes to surrender their license as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.

(b) Any settlement agreement reached under (a), above, shall include the following concessions:

- (1) That the license surrender has occurred in settlement of pending disciplinary charges; and
- (2) That the pending disciplinary allegations shall be issues to be resolved in any future application the licensee may submit in New Hampshire.

(c) The board shall decline to accept a settlement agreement under (a), above, if the board believes the licensee has unreasonably declined to disclose material information concerning the alleged misconduct or has refused to stipulate to the truth of specific material facts concerning the alleged misconduct which would be necessary to protect the public interest in the event the licensee subsequently reapplies for a license.

(d) A licensee's stipulation of facts shall be exempt from public disclosure to the extent permitted by RSA 91-A and if the public portion of the settlement agreement or surrender document expressly states that a separate, confidential stipulation of facts is on file with the board.

(e) The fact of license surrender and the terms of any settlement agreement pertaining thereto shall be distributed to all relevant licensing authorities and professional societies in the same manner as a final decision containing specific finding of professional misconduct.

**APPENDIX A: Incorporation by Reference Information**

<b>Rule</b>	<b>Title</b>	<b>Obtain at:</b>
Rab 302.01 (a) Rab 302.02 (a) (1) Rab 302.15 Rab 403.02(e)	The Real Property Appraisal Qualifications Criteria and Interpretations of the Criteria, revised January 2022	The Appraisal Foundation, 1155 15 <sup>th</sup> Street NW, Suite 1111, Washington, DC 20005. Telephone (202)347-7722. Downloadable version is free online at <a href="https://appraisalfoundation.sharefile.com/share/view/s63f99dc2b9f241e0b3fd1645f7b63680">https://appraisalfoundation.sharefile.com/share/view/s63f99dc2b9f241e0b3fd1645f7b63680</a>

**APPENDIX B**

<b>Rule</b>	<b>Specific State Statute which the Rule Implements</b>
Rab 401	RSA 310-B:5; RSA 310-B:10; RSA 310-B:12-b, III; RSA 310-B:12-e, II; RSA 310-B:12-n (c); RSA 310-B:13
Rab 402	RSA 310-B:18
Rab 403	RSA 310-B:14
Rab 404.01	RSA 310-B:15
Rab 404.02	RSA 310-B:18-a
Rab 405.01 - Rab 405.03	RSA 541-A:16, I(b)