Rules and Regulations

RULE NO. 1

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GENERAL

001. **Office and Communications**

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The Office of the Director of the Abstracters Board of Examiners shall, in all respects, be deemed to be the Office of the Board. All correspondence and filings shall be addressed or delivered to the Abstracters Board of Examiners at its official office in Lincoln, Nebraska.

Source: Section 76-541

002. **Director**

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The Director, who shall be employed by the Board, shall keep a record of all proceedings, transactions, communications and official acts of the Board. The Director shall be accountable and responsible directly to the Board and shall be custodian of all records, and perform such other duties as the Board may require. Office hours, for the purpose of filing papers, examining public records or transacting any business with the Board or its staff, shall be determined by the Director. When filing or doing any act is required before a certain date, which falls on any Saturday, Sunday or legal holiday, the time for completing said filing or act shall be extended to the next succeeding working day.

Source: Section 76-541

003. **Public/Confidential Records**

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All records of the Board are public records except files for individual applicants, investigative files, litigation files and test papers. Files for individual applicants, investigative files and litigation files are considered confidential and shall not be open to any persons except members of the Board, the Director of the Board and staff of the Director or Board. Test papers are considered confidential and shall not be open to any persons except Members of the Board, the Director of the Board, the Staff of the Board or the Staff of the Director. Any Applicant may be given one opportunity to review his or her test papers in the company of the Director or a Member of the Board. Any review by an Applicant shall be scheduled at the discretion of the Director and/or the Board and in no case shall occur later than three (3) months after the examination date. All public records of the Board shall be open for inspection at any time during the office hours determined by the Director.

Source: Section 76-541 and 76-542

004. **Conduct of the Business of the Board**

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Except for hearings on the revocation of certificates issued by the Board, the business of the Board may be conducted while in session as a body or by correspondence. Any such correspondence shall be directed to the Director to be incorporated into the records of the Board.

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Source: Section 76-541

005. **Meetings**

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Dates and times of the meeting of the Board shall be determined by the Board. Meetings may be continued from time to time as required by the business before the Board, upon a vote of a majority of the members.

~~005.~~006. **Majority**

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The action of the majority of the Members of the Board shall be deemed the action of the Board.

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Source: Section 76-541

007. **Quorum**

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A quorum consisting of a simple majority of the Members of the Board will be an official board meeting.

~~006.~~008. **Roberts Rules of Order**

All meetings of the Board, unless otherwise stated in the Rules or Statutes shall be conducted in accordance with Roberts Rules of Order''.

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Source: Section 76-541

Rules and Regulations

RULE NO. 2

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APPLICANTS

001. **Application for Certificate of Registration**

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Applicant for a Certificate of Registration'' shall be defined as any person desiring to become a registered abstracter, who shall have reached the age of majority, shall have not been convicted of a felony and shall have at least one year of verified land title related experience satisfactory to the Board.

Source: Section 76-542

002. **Application for Renewal of Certificate of Registration**

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Applicant for a Renewal of a Certificate of Registration'' shall be defined as any person who shall have successfully completed and passed a written examination prescribed by Section 76-543, R.R.S. Nebraska, as amended, who shall have been duly issued a Certificate of Registration, and who shall have acquired the required number of professional development credit hours within the prescribed period.

Source: Section 76-547

003. **Application for Certificate of Authority**

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Applicant for a Certificate of Authority'' shall be defined as any person, firm, partnership, association, corporation or business entity engaged in the business of abstracting as defined by the Abstracters Act who shall be or have in his, her or its employ a registered abstracter.

Source: Section 76-545

Rules and Regulations

RULE NO. 3

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CERTIFICATE OF REGISTRATION

001. **Requirements**

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No Certificate of Registration shall be issued unless an Applicant shall first pass the written examination, as prescribed and specified in accordance with Rule No. 7, below.

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Source: Section 76-542 and 76-543

002. **Application Forms**

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Application forms for the written examination may be obtained from the office of the Director of the Abstracters Board of Examiners.

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Source: Section 76-542

003. **Completed Applications**

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Applications must be received by the Director ~~thirty (30)~~forty-five (45) days in advance of the examination date for processing. Applications must be typed or neatly printed in ink on forms prescribed and furnished by the Board. To be acceptable they must be filled out completely and in the detail required.

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Source: Section 76-542

004. **Fees**

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No application for registration as an Abstracter will be accepted unless it is accompanied by a check, draft or money order in a sum which shall include an application fee of not less than twenty five dollars nor more than one hundred dollars; and an examination fee of not less than twenty five dollars nor more than one hundred dollars, all as determined from time to time by the Board.

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Source: Section 76-542

005. **References**

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All information received from references named by the Applicant shall be held in confidence by the Board. No member of the Board shall be named as a reference.

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Source: Section 76-542

006. **Minimum References**

An applicant shall not be admitted to the examination until satisfactory replies have been received from a minimum of three of his or her references.

Source: Section 76-542

007. **Original Certificate**

Upon the Applicant passing the examination and meeting the requirements set forth in Section 76-542, R.R.S. Nebraska, as amended, the Board shall issue a Certificate of Registration designating him or her a Registered Abstracter which shall be prominently displayed in the place of business of the Certificate of Authority holder.

Source: Section 76-543

008. **Temporary Certificate of Registration**

Issuance of a Ttemporary Ccertificate of Rregistration pursuant to Section 76-546, R.R.S. Nebraska, as amended, shall be issued only after the applicant provides proof of land title related experience sufficient to meet the standards established by the Board.

Source: Section 76-546

~~**008.01** Proof of land title related experience shall mean not less than one year of land title related experience which shall be verified and shall be satisfactory to the Board.~~

009. **Temporary Certificate of Registration Fee**

The fee payable for such Ttemporary Ccertificate of Rregistration shall be an amount which shall be not less than twenty five dollars or more than one hundred dollars.

Source: Section 76-546

010. **Duplicate Certificate**

An abstracter shall obtain a Duplicate Certificate of Registration for each additional place of employment, if any, which shall be prominently displayed in the place of business of such additional Certificate of Authority holder.

Source: Section 76-543

010.01 Applicant for Certificate of Registration shall indicate the principal Certificate of Authority of the Registered Abstracter in the event the Registered Abstracter is the Registered Abstracter for more than one Certificate of Authority holder. Said Registered Abstracter is required to make regular visits to those offices of the Certificate of Authority holders not designated as the principal office.

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Source: Section 76-550 and 76-545

011. Duplicate Certificate of Registration Fee

A biennial fee which shall not be less than twenty dollars nor more than two hundred dollars for additional Certificates of Registration is required for each additional Certificate.

Source: Section 76-541 and 76-547

~~010.~~012. Notification of Change

Any Holder of a Certificate of Registration or Temporary Certificate of Registration shall notify the Director in writing within thirty (30) days of any change of his or her business address, increase or decrease in the number of places of business and the address(es) of the same.

Source: Section 76-541 and 76-546

~~011.~~013. Rejection of Application

When an Applicant is rejected for any cause, the unsuccessful Applicant shall be notified as promptly as practicable and informed of the reason or reasons for his or her rejection.

Source: Section 76-541

~~**012.** Annual Renewal: Upon receipt of the renewal fee in an amount which shall be not less than ten dollars or more than thirty dollars for a Certificate of Registration, and upon compliance with all applicable Rules, the Director of the Board shall issue a Certificate of Registration'' to each applicant whose registration is in full force. Such renewal shall be for the following year beginning April 1 and ending on the immediately following April 1, unless cancelled, suspended or revoked by the Board.~~

~~**Source:** Section 76-545, 76-547 and 76-548~~**014. Inactive Status**

A Registered Abstracter who does not have a Certificate of Authority, nor employed by a holder of a Certificate of Authority, shall be designated as inactive and shall not engage in the business of abstracting.

Source: Section 76-545

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Rules and Regulations

RULE NO. 4

CERTIFICATE OF REGISTRATION ~~NOTICE OF ANNUAL FEE~~ RENEWALS

001. **Notice**

Prior to March 1 of each even numbered year, the Director shall notify all persons currently registered under the Abstracters Act of expiration and shall at the same time provide an A~~a~~pplication for R~~r~~enewal including a statement for the ~~annual~~ biennial fee for the following two year period and that it will be due and payable on or before April 1st of the same even numbered period.

Source: Section 76-547

002. **Application**

Each applicant for renewal must return the Application for Renewal, together with the appropriate fee prescribed in Section 76-547 R.R.S. Nebraska, as amended, to the Director on or before April 1st of each even numbered year.

Source: Section 76-547

003. **Biennial Renewal**

Upon receipt of the biennial renewal fee in an amount which shall be not less than twenty dollars nor more than two hundred dollars for a Certificate of Registration, and upon compliance with all applicable Rules, the Director of the Board shall inssue a Certificate of Registration to each applicant whose registration is in full force. Such renewal shall be for the following two year period Beginning April 1st and ending on April 1st of the next even numbered year, unless cancelled, suspended or revoked by the Board.

Source: Section 76-545, 76-547 and 76-548

~~003.~~004. **Cancellation of Certificate**

Any Certificate of R~~r~~egistration which has not been renewed for the next ~~April 1 to April 1~~two year period ~~in any one year~~ will be cancelled on April 1st. The Director will immediately remove said registration from the active roster and within thirty (30) days, shall notify said registered~~rant~~ abstracter by registered or certified mail of the fact of such cancellation and removal. Nothing contained in this Rule shall be construed as excusing any person, firm, partnership or individual from the provisions of the Abstracters Act, Sections~~.~~ 76-502, et~~.~~ seq., which prohibit engaging in the business of abstracting contrary to the provisions of said Act.

Source: Section 76-548, 76-539, 76-558

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~~004.~~005. Reinstatement

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Any ~~registrant~~ Certificate so cancelled may, before July 1st of the year of expiration, reinstate the registration by submitting a late renewal application and appropriate fee. The fee for reinstatement shall be the same as the ~~annual~~ biennial fee but shall be increased by $10.00 for each month or fraction of a month the application and fee are delinquent. Upon receipt of the appropriate fee, approval of the application and approval of the completion of the professional development requirements, the Board shall reinstate said ~~registration~~ Certificate for the remainder of the two year period.

Source: Section 76-547 and 76-548

~~005.~~006. Professional Development Requirement

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Each applicant must complete the professional development requirements imposed by Sections~~.~~ 76-544 R.R.S. Nebraska, as amended and as set forth in Rule No. 8 before the board shall renew the Certificate of Registration.

Source: Section 76-541, 76-544, 76-547

~~006.~~007. Extension of Time

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If the Board, in its sole discretion, determines that the applicant has shown good cause for not completing the professional development requirements, the Board shall permit the applicant to make up all outstanding hours of professional development credits within six (6) months of the renewal of the Certificate of Registration. If the credits are not obtained within such six month period, the certificate shall be revoked.

Source: Section 76-541, 76-544, 76-547

~~007.~~008. Examination for Renewal

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After July 1 of ~~each~~ the year of expiration, any holder of a Certificate of Registration who has not renewed his or her registration by April 1st nor reinstated it by July 1st of that year, shall take the written examination prescribed by section 76-543~~2~~, R.R.S., Nebraska, as amended and, if he or she passes the examination and meets the other requirements of Section 76-542, R.R.S., Nebraska, as amended, he or she shall be given a Certificate of Registration.

Source: Section 76-542 and 76-543

Rules and Regulations

RULE NO. 5

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CERTIFICATE OF AUTHORITY

001. **Applications**

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Any individual or business entiry desiring to engage in the business of abstracting in this State shall make application to the Board for a Certificate of Authority. Applications for a Certificate of Authority may be obtained from the Director of the Abstracters Board of Examiners.

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Source: Section 76-545

002. **Completed Applications**

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Applications must be typed or neatly printed in ink on forms prescribed and furnished by the Board. To be acceptable they must be filled out completely and in the detail required.

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Source: Section 76-541 and Section 76-542

003. **Fees**

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No Application for a Certificate of Authority will be accepted unless it is accompanied by a check, draft or money order in an amount which shall not be less than twenty five dollars or more than ~~one~~ two hundred dollars, made payable to the Abstracters Board of Examiners.

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Source: Section 76-545

004. **Registered Abstracter Employee**

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Applicant shall furnish proof that such applicant is or has employed a registered abstracter, as defined in the Abstracters Act, Secs. 76-502, et. seq., R.R.S., Nebraska, as amended.

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Source: Section 76-545

004.01 Every Certificate of Authority holder shall have a Certificate of Registration of a Registered Abstracter displayed in a prominent place in the office of the Certificate of Authority holder.

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004.02 Applicant for Certificate of Registration shall indicate the principal Certificate of Authority of the Registered Abstracter in the event the Registered Abstracter is the Registered Abstracter for more than one Certificate of Authority holder. Said Registered Abstracter is required to make

regular visits to those offices of the Certificate of Authority holders not designated as the principal office.

Source: Section 76-550, 76-545 and 76-541

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005. **Notice of Termination of Registered Abstracter**

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Any holder of a Certificate of Authority shall, within fifteen (15) days of the termination of employment, death or incapacity of any registered abstracter employed by said holder, notify the Director, in writing, of the fact of such termination, death or incapacity. Such holder shall furnish any additional information regarding such termination, death or incapacity as the Board and/or Director may require.

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Source: Section 76-545

006. **Conduct Following Termination of Registered Abstracter**

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If the termination of employment, death or incapacity of a Registered Abstracter leaves the holder of a Certificate of Authority without a Registered Abstracter in its employ, such holder shall immediately cease any business of abstracting and forward its Certificate of Authority for cancellation. Alternatively, any person to whom Section 76-546, R.R.S. Nebraska, as amended, is applicable, may proceed pursuant to that Section to apply for a ~~t~~Temporary ~~c~~Certificate of ~~r~~Registration, in accordance with these Rules.

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Source: Section 76-546

007. **Notice of Changes**

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Any holder of a Certificate of Authority shall notify the Director in writing within thirty (30) days of any change of its business address, increase or decrease of places of business and the address(es) of the same.

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Source: Section 76-541, 76-545~~,~~ and 76-546

Rules and Regulations

RULE NO. 6

CERTIFICATE OF AUTHORITY ~~NOTICE OF ANNUAL FEE~~RENEWAL

001. **Notice**

Prior to March 1 of each even numbered year, the Director shall notify all persons or business entities, currently registered under the Abstracters Act, of the expiration and shall provide at the same time an A~~a~~pplication for R~~r~~enewal, together with a statement for the ~~annual~~ biennial fee for the following two year period, which fee shall be due and payable on or before April 1st of the same year.

Source: Section 76-547

002. **Application**

Each applicant for renewal must return the Application for Renewal, and the appropriate fee to the Director on or before April 1st of each even numbered year.

Source: Section 76-547

003. **Cancellation of Certificate**

Any certificate of authority which has not been renewed for the next ~~April 1 to April 1~~two year period ~~in any year~~ will be cancelled on April 1. The Director will immediately remove said Certificate of Authority from the active roster and shall, within thirty (30) days, notify the applicant of such cancellation and removal by r~~R~~egistered or certified Mail.

Source: Section 76-547

004. **Reinstatement**

Any applicant so cancelled may, before July 1 of the year of expiration, reinstate the C~~c~~ertificate of A~~a~~uthority by submitting a late renewal application and appropriate fee. The fee for reinstatement shall be the same as the ~~annual~~ biennial fee but shall be increased $10.00 for each month or fraction of a month the application and fee are delinquent. Upon receipt of the appropriate fee and approval of the application the Board shall reinstate such Certificate of Authority for the remainder of the two year period.

Source: Section 76-548

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005. **Biennial Renewal**

Upon receipt of the renewal fee in an amount not less than ~~twenty five~~ fifty dollars nor more than ~~one~~ four hundred dollars for a Certificate of Authority, and upon compliance with all applicable rules, the director of the Board shall issue a Certificate of Authority to each applicant whose registration is in full force. Such renewal period shall ~~be for the period~~ begin~~ning~~ April 1st of each even numbered year and end April 1st of the next even numbered year~~and ending on the next following April 1~~, unless cancelled, suspended or revoked by the Board.

Source: Section 76-545, 76-547 and 76-548

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Rules and Regulations

RULE NO. 7

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EXAMINATIONS

001. **Examination Schedule**

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Examinations shall be conducted as prescribed in Sections 76-502 to 76-588~~.~~, R.R.S., Nebraska, as amended, at such times and places as the Board may designate, but shall be given at least twice a year. The Board on its own motion may conduct the examination in a manner which provides security, reduces the risk of cheating or plagiarism and is not in conflict with these Rules.

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Source: Section 76-541 and 76-543

002. **Examination Application**

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The A~~a~~pplication for R~~r~~egistration is a part of the examination. Each applicant must show to the satisfaction of the Board that he or she meets the minimum requirements set forth in Section 76-502 to 76-588, R.R.S., Nebraska, as amended, before he or she will be admitted to any examination. If the application is not accepted, the examination fee, tendered pursuant to Rule 3.00~~3~~4, shall be returned or refunded to the Applicant.

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Source: Section 76-541 and 76-542

003. **Notice of Examination**

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Upon receipt of a completed application and the application fee, the Director shall acknowledge the application and advise the applicant that the ~~routing~~ protocol of making the necessary investigations will be followed and that he or she will be notified no later than 30 days before the written examination whether he or she will be admitted to the examination, and of the time and place of the examination.

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Source: Section 76-541 and 76-542

004. **Failure to Appear**

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In the event an Applicant does not appear for either of the two examinations held after he or she has been advised of admittance to the examination, he or she must repeat the application process, including the payment of the prescribed fees, before being permitted to take a subsequent examination.

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Source: Section 76-541 and 76-542

005. **Content and Duration of Examination**

The written examination shall be comprised of four sections, i.e.: District Court; County Court; legal descriptions; and general knowledge of the practice of abstracting. Each section will be of not less than ~~three~~ one and one-half hours duration.

Source: Section 76-541 and 76-543

~~**006.**~~ ~~Each applicant shall submit, as a portion of his or her application, a summary or digest of his or her land title related experience and training. No person shall be eligible for admittance to the examination until the Board has determined that he or she has demonstrated the minimal experience required by Section 76-542.~~

~~**Source:** Section 76-541 and 76-542~~

~~**007.**~~**006.** **Personal Interview**

Any applicant or applicants may be called before the Board for a personal interview.

Source: Section 76-542

~~**008.**~~**007.** **Grading and Notice**

Any applicant, in order to qualify for registration, must pass the examination. Each member of the Board will independently grade the examination and give a grade of "Pass'' or "Fail'' to the applicant. The Board will determine which applicants have passed or failed the examination. The applicant, the Director or any Member of the Board may request that the grade on an examination be reviewed by the Board at a regular meeting. Such request must be delivered in writing to the Director of the Board within sixty (60) days of notification of the grades. The decision of the Board in such reviews will be final.

Source: Section 76-541 and 76-543

~~**009.**~~**008.** **Timing of Re-Take of Examination**

If any applicant fails to pass the examination he or she may be reexamined no sooner than the next regularly scheduled examination, but no later than two years following the failed examination, upon remittance of the examination fee.

~~**010.**~~**009.** **Two or More Sections Passed**

If any applicant passes two or more sections of the examination, he or she will not be required to retake the sections passed.

Source: Section 76-541 and 76-543

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~~010.1.~~009.01 Such an applicant shall have two years from the date of the original examination to retake the sections not passed. If the applicant has not passed all four parts within the two-year period, the applicant will be required to retake the entire examination.

~~010.2.009.02~~ Any applicant re-examined will be required to remit the regular examination fee before being admitted to any re-examination.

~~**Source:** Section 76-541 and 76-543~~

~~**011.** A short form written examination is available in specific cases such as an applicant who has allowed their Certificate of Registration to lapse due to failure to obtain the required continuing professionsl development hourse and shall be given only on the approval of the Board.~~

~~**Source:** Section 76-542 and 76-543~~

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~~**011.**~~**010.** The Board shall have the authority to impose, in its discretion, any further or additional rules or regulations necessary to the efficient and fair administration of the examination, so long as such further or additional rules or regulations do not affect any substantive rights of any applicant.

Source: Section 76-542

Rules and Regulations

RULE NO. 8

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PROFESSIONAL DEVELOPMENT

001. **Professional Development Credits**

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Each applicant for renewal of a Certificate of Registration shall certify to the Board that he or she has duly acquired three (3) hours of board-approved professional development credits.

Source: Section 76-541 and 76-544

002. **One Hour Credit for One Hour Attendance**

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Professional development credits shall be awarded on the basis of attendance at Board-approved seminars, workshops or correspondence courses which are directly related to the practice of abstracting, at a rate of 1.0 Professional Development Credit for each actual hour of attendance.

Source: Section 76-541 and 76-544

002.01. **Requirements of Sponsors**

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Program sponsors will be required to submit to the Board an outline of each program for which professional development credits is sought. Such outline must be submitted not later than forty five (45) days prior to the date set for presentation of the program. Upon review of the outline and any other information submitted by program sponsors, the Board may approve or disapprove of the number of professional development credit hours sought, or the Board may approve a lesser number of credit hours than originally sought by the program sponsor.

002.02. **Request for Approval**

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Program sponsors may request approval of professional development programs for credit in letter form with course outlines, syllabi or other relevant material attached.

002.03. **Partial or Divided Credits**

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If a program consists of a session of more than one day's duration, the credits may be divided between the days, and credits may be obtained for hours of actual attendance on any day or days of any particular program, unless the

granting of partial or divided credits would be achieved only through a break in continuity of subject matter of a particular program.

002.04. **Notice to Registered Abstracters**

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Once the Board has approved the professional development program for professional development credits, the program sponsor must mail notice of such program to all registered abstracters within the State of Nebraska at least twenty (20) days in advance of the program presentation. The official roster of Registered Abstracters as maintained by the Director shall control in the event of any controversy regarding mailing of notice to any particular abstracter or abstracters.

002.05. **Correspondence Course**

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Any correspondence course for which approval of professional development credits is requested will be examined by the Board with strict scrutiny in order to determine, to the extent possible, that integral to such courses are sufficient controls to ensure that the courses are administered in a fair, professional manner, to ensure that the individuals seeking professional development credits actually participate in, and successfully complete, the course for the actual number of hours for which credit is sought.

002.06. ~~APPEAL OF AWARD OF CREDIT HOURS.~~ **Appeal of Award of Credit Hours**

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Any program sponsor may request that the Board of Examiners review the number of credit hours awarded that sponsor's professional development programs. Such request shall be in writing and shall be received at the Office of the Board of Examiners not later than ten days following the date of mailing, to the program sponsor, of the original notice of award of credit hours. Upon receipt of a written request for review, the Board of Examiners shall forthwith conduct its review and advise the program sponsor, in writing, of:

(a) an award of a greater number of credit hours than originally granted, or;

(b) no change in the number of credit hours granted.

The Board of Examiners shall complete its review and notification of the program sponsor within ten days of receipt of the sponsor's request for review.

002.07. ~~PROGRAM EVALUATION.~~ **Program Evaluation**

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Each program sponsor shall be required to implement a meaningful system of evaluation of individual professional development programs and of the individual instructors/faculty who present material for the programs. Such evaluations shall be in written form, completed by those individuals attending the particular program for credit, and the results of such evaluations shall be

communicated, in writing, by the program sponsor, to each instructor/faculty member and to the Board of Examiners, together with a copy of the workbooks, handouts or other information submitted to the attendees as part of the approved program course. The Board of Examiners shall retain the evaluations in permanent file and may consider the results of the ~~valuations~~ evaluations in awarding professional development credit hours to future programs.

003. Certificate of Completion

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Upon completion of an approved professional development program, the program sponsor shall furnish, to each individual who completes said program, a Certificate of Completion showing the name of the individual, the date of the program, and the number of credit hours obtained at the program. Program sponsor shall furnish the Office of the Abstracters Board of Examiners with an alphabetical list of those abstracters who successfully completed the program.

Source: Section 76-541, 76-544 and 76-547

004. Refusal of Professionsl Development Credits

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The Board may refuse to grant professional development credit to any abstracter who, within any prescribed two-year professional development credit period, attends more than one program with substantially identical subject matter.

Source: Section 76-541, 76-544 and 76-547

Rules and Regulations

RULE NO. 9

COMPLAINTS AND DISCIPLINARY ACTION

001. **Investigation**

The Board may, upon its own motion, and shall, upon the sworn complaint in writing of any person, investigate the actions of any Registered Abstracter or holder of a Certificate of Authority.

Source: Section 76-552

002. **Subpoena**

The Board may, in the performance of its investigation, compel by subpoena the appearance of the abstracter or holder of a Certificate of Authority to appear before the Board to aid in the investigation.

Source: Section 76-541, 76-552, 84-914

003. **Authority to Retain Investigative Aid**

The Board may retain any persons it deems appropriate to aid in its investigation of any abstracter or holder of a Certificate of Authority. The Chairman may appoint a committee to investigate the abstracter or the holder of a Certificate of Authority upon a motion of the Board.

Source: Section 76-541

004. **Compliance**

Hearings on all complaints regarding abstracters or holders of Certificates of Authority shall be in compliance with Rule No. 10.

Source: Section 76-541, 84-901 - 84-920

005. **Discipline and Powers**

The Board shall have the power to impose discipline, after a hearing, upon a registered abstracter or holder of a Certificate of Authority, as provided in the Abstracters Act.

Source: Section 76-551, 76-552

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006. Unfair Practices

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Unfair practices which are a violation of the Abstracters Act shall include:

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Failure to disclose an agency relationship to or an interest in any title insurance business, law firm, real estate or insurance business, or any other business or enterprise, to a customer, in the event that the holder of the Certificate of Registration or the holder of the Certificate of Authority would receive a fee, directly or indirectly, from such a relationship or interest during a transaction involving real estate in which the holder is retained to provide abstracting services for such customer;

Paying or allowing a rebate of fees for abstracting services, including but not limited to, rendering a statement to be passed on to third parties, which does not reflect the true amount actually charged for such services, or charging an amount from which a rebate is to be paid to any person or entity;

Failure by any person or business entity to be, have or employ a Registered Abstracter, (1) if such person or entity offers, directly or indirectly, to furnish abstracting services; or, (2) by the use of a business or trade name, letterhead, advertisement, or public announcement appearing to be authorized to furnish abstracting services;

~~Signing and furnishing any abstract certificate or title search report, or certificate, in blank, to be completed by a non-registered person, prior to the completion of the research, record search, and review of the public records relating to the real estate which is the subject of the abstract or title certificate;~~

~~Signing or furnishing an abstract or title search report certificate, other than upon a personal review of such completed certificate, and/or without personal knowledge and review of the experience, capability, and search methods of the employee, associate, or other person actually performing the record search to be executed by the Registered Abstracter;~~

~~Operating a place of business offering abstracting services, at a location or in a county remote from the principal place of business of the Registered Abstracter, without regular, reasonable, and adequate control and supervision of the work product of such employees and/or associates, and the adequacy and accuracy of the record search practice of such employees and/or associates;~~

~~Signing in blank and furnishing to any person or entity, an abstract certificate or title search report to be used or completed by such other person or entity in the absence of the Registered Abstracter.~~

Other violations of the Abstracters Act.

Rules and Regulations

RULE NO. 10

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HEARINGS

001. ~~LOCATION:~~Location

Hearings shall be held in the State of Nebraska at a location designated by the Director of the Board.

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Source: Section 76-541, 84-913

002. ~~APPEARANCE BEFORE THE BOARD:~~Appearance Before the Board

Practice of law before the Board shall be governed by the statutes of the State of Nebraska and the decisions of the Supreme Court of the State of Nebraska. Nothing herein contained shall prevent any party from transacting his or her own business before the Board. In the event of an appearance of some person on behalf of a party, the person appearing must either be admitted to the practice of law before the Supreme Court of the State of Nebraska or be admitted to practice law before the supreme court of any other state and be associated with a person admitted to practice law before the Supreme Court of the State of Nebraska.

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Source: Section 76-541, 84-913

003. ~~PARTIES:~~Parties

Parties appearing before the Board shall be designated as follows:

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003.01. Applicants: in all proceedings involving applications for registration or renewal under the Abstracters Act, as amended, the party or parties on whose behalf the application is made.

003.02. Respondents: Party or parties ordered by the Board to appear in a proceeding, including complaint proceedings.

003.03. Complainants: any party filing a complaint under the provisions of the Abstracters Act, as amended.

003.04. Intervenors: Any person or party having an interest in any proceeding before the Board, and who voluntarily enters into the proceeding with the leave of the Board.

Source: Section 76-541, 84-913

004. ~~PLEADINGS:~~Pleadings

Any written application or protest thereto; any petition or intervention or answer or reply thereto; any complaint or any answer or reply thereto; or any motion or affidavit in support thereof, shall all constitute pleadings for the purposes of these Rules.

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Source: Section 76-541, 84-913

005. ~~COMPLAINTS:~~ Complaints

A complaint, where applicable, may be filed by a person, organization, corporation or the Board on its own motion. The complaint shall set forth the names of the party complainant, the name of the parties against whom the complaint is made, a concise description of the complaint or alleged violation, and any other facts necessary. Complaints must be in writing, sworn to and signed by the complainant. Complaints by the Board on its own motion shall be signed by the Chairman.

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Source: Section 76-541, 84-913

006. ~~PROCEDURE FOR HEARING NOT ASSOCIATED WITH COMPLAINTS:~~Procedure for Hearing Not Associated with Complaint

All hearings which do not pertain directly to a complaint filed pursuant to Section 76-551 to 76-553, R.R.S. Nebraska, as amended, shall be conducted by the Board with the Director acting as ~~h~~Hearing ~~e~~Examiner. The ~~h~~Hearing ~~e~~Examiner will, among other things, open the proceedings, enter into the record the notice of hearing, take appearances, hear the evidence, rule on motions and objections, interrogate, if deemed necessary, any witness and close the proceedings. Hearings conducted by the Board will, unless circumstances dictate otherwise, be incorporated with regular meetings of the Board and a quorum shall be present.

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Source: Section 76-541, 84-913

007. ~~PROCEDURE FOR HEARING ON COMPLAINT:~~Procedure for Hearing on Complaint

All hearings which directly pertain to a complaint filed pursuant to Sections 76-551 to 76-553, R.R.S. Nebraska, as amended, shall be conducted by a hearing examiner appointed by the Board. The ~~h~~Hearing ~~e~~Examiner may be any person except a voting member of the Board. The hearing examiner shall have the power to compel the attendance of witnesses and to administer oaths. The ~~h~~Hearing ~~e~~Hxaminer will, among other things, open the proceedings, enter into the record the notice of hearing, take appearances, hear the evidence, rule on motions and objections, interrogate, if deemed necessary, any witness and close the proceedings. The hearing shall make in writing complete findings and recommendations to the Board.

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Source: Section 76-541, 76-551 - 76-553, 84-913

008. ~~OPENING STATEMENTS, ORAL ARGUMENTS, BRIEFS:~~Opening Statements, Oral Arguments, Briefs

Opening statements and oral arguments following the close of presentation of evidence will not be permitted unless specifically requested by the Board or its ~~h~~Hearing E~~e~~xaminer. Any party wishing to submit a brief of the matter presented at any hearing may do so within the time allotted by the ~~h~~Hearing Eexaminer.

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Source: Section 76-541, 84-913

009. ~~MOTIONS FOR CONTINUANCE:~~Motions for Continuance

Any party who desires a continuance shall file a motion with the Director of the Board. Such motion shall be in writing and it shall state the reasons why such continuance is necessary. All motions for continuance shall be filed at least five (5) calendar days prior to the date set for the hearing unless the party requesting the continuance can show good cause for the delay in filing. For good cause shown, the Director may grant a continuance.

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Source: Section 76-541, 84-913

010. ~~MAILING OF ORDERS OF THE BOARD:~~Mailing of Orders of the Board

All orders of the Board, following the close of any hearing, shall be transmitted to the parties of record by certified mail. The orders of the Board shall contain findings, determinations and orders in the matter and shall be signed by all members concurring therein.

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Source: Section 76-541, 84-913

011. ~~EVIDENCE:~~Evidence

The Board is not bound to follow the technical rules of evidence. Evidence shall be admissible which possesses probative value commonly accepted by reasonable men in the conduct of their affairs. Evidence which is cumulative or repetitions may be excluded by the Board or hearing examiner. Provided, however, the Board shall be governed by the statutes governing the administrative agencies of the State of Nebraska, Chapter 84, Article 9 of the Revised Statutes of Nebraska.

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Source: Section 76-541

012. ~~APPEAL PROCEDURE:~~ Appeal Procedure

Any appeal of any decision or order of the Board may be judicially reviewed. Such review shall be wholly in accordance with the provisions of the Administrative Procedure Act of the State of Nebraska.

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Source: Section 76-541, 84-917

013. ~~EXHIBITS:~~ Exhibits

~~**Source**: Sec. 76-541, 84-913~~

013.01. When any exhibit consists of three (3) or more pages, each page shall be consecutively numbered. Any detailed or complex exhibits consisting of more than three (3) pages or with several distinct parts shall be prefaced with an index.

013.02. Each exhibit shall be consecutively marked and numbered.

013.03. Any party desiring to introduce into evidence any part or parts of the official files shall obtain copies thereof in advance of hearing.

013.04. Any party proposing to introduce exhibits into evidence into any proceeding before the Board shall furnish copies of exhibits to the opposing party and all Board Members. Failure to supply copies of said exhibit will cause it to be excluded from the hearing unless good and sufficient reason be shown by the party offering the same for the failure to supply copies.

013.05. Relevant portions of books, papers, or documents shall be plainly designated and distinguished from all irrelevant portions before the relevant material may be offered into evidence.

Source: Sec. 76-541, 84-913

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014. ~~SUBPOENAS:~~ Subpoenas

Subpoenas requiring the attendance of witnesses will be issued by the Examiner, through the Director or such person designated in writing by the Director, upon written application of any party, in care of the Director and shall be delivered to the Director not later than fourteen (14) days prior to the scheduled hearing.

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Source: Section 76-541, 84-913

015. ~~DEPOSITIONS:~~ Depositions

Depositions used in proceedings before the Board are governed by the following rules:

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~~**Source:** Section 76-514, 84-913~~

015.01. All depositions within this state shall be taken at least ten (10) days prior to the date of the hearing, and all depositions outside of this state shall be taken at least (15) days prior to the hearing date, except for good cause shown in writing.

015.02. Depositions shall be taken in accordance with the rules of civil procedure.

015.03. The official taking the deposition shall promptly seal the same along with all exhibits in an envelope, endorsed with the title of the proceeding, and send the same by registered mail to the Director of the Board. The deposition shall reach the Board, except for good cause shown, at least three (3) days prior to the date of hearing at which it is to be offered as evidence. The official taking the deposition; shall give prompt notice of its filing to all parties of record.

Source: Section 76-514, 84-913

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016. ~~NOTICE:~~Notice

In any hearing before the Board or before a Hearing Examiner duly appointed by the Board, the Director shall notify the registrant, applicant, or respondent, at least twenty (20) days prior to the date set for the hearing. Such notice shall be in writing and contain an exact statement of the charges against him or her and the date and place of hearing. Such notice may be served by personal delivery to the registrant, applicant or respondent or by registered or certified mail addressed to him or her at his or her last known business address as shown on the registration or application for registration.

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Source: Section 76-514, 76-551, 84-913

017. ~~RECORDS:~~Records

In any hearing before the Board or before a Hearing Examiner duly appointed by the Board the Director shall cause a verbatim record of the testimony to be made. The respondent or applicant shall receive one copy of the record at no charge to him or her. Additional copies of the record shall be available to the respondent, applicant or any other person for a fee which shall equal the cost of reproduction and handling, as determined by the Director.

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Source: Section 76-541, 84-913

018. ~~ADMINISTRATIVE RULES:~~Administrative Rules

In all cases not covered by these Rules and Regulations, or when these Rules and Regulations shall be in conflict with the ~~a~~Administrative Procedures Act, Sections 84-901 to 84-920, R.R.S. Nebraska, as amended, said Administrative Procedures Act shall control.

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