

The
**Washington
Board**



Journal

Number 49 • Spring 2012

*Informing Professional
Engineers and Professional
Land Surveyors of the events
and developments that affect
their professions*

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If you, or someone you know, would like to receive a copy of this publication, please contact the Board of Registration for Professional Engineers and Land Surveyors.

For Parcel Delivery

405 Black Lake Blvd.,
Olympia, WA 98502

– or –

USPS

PO Box 9025
Olympia, WA 98507-9025

Phone

Board Administration
(360) 664-1564

Exams, Licensing and
Renewals
(360) 664-1575

Complaints and Investigations
(360) 664-1571

Fax

(360) 664-2551

E-Mail

Engineers@dol.wa.gov

Web site

www.dol.wa.gov/business/engineerslandsurveyors

Message from the Chair

“The Message from the Chair” is a reflection of the personal opinions and experiences of the Board Chair. Comments in the article may be shared by various members of the Board, but they are not to be interpreted as a policy, position, or consensus of the Board unless specifically so indicated.

From Neil Arthur Norman, PE, C.Eng.

In the Fall 2011 Journal we noted the Board’s effort to increase outreach to licensees, engineering societies, educators, students, and public to highlight the importance of licensing to public health and safety. That effort is starting to pay off. Recently we have had requests for presentations from five engineering schools, six engineering societies, and two government entities. Board Members and/or Staff are making these presentations.

International Applicants For Licensure

Every month now the WA BORPELS receives applications for initial professional Engineering licensing from residents of Japan and Korea where the NCEES FE and PE tests are offered every year in English. We received our first application from Egypt in January, and if plans proceed, soon the NCEES tests will be offered in Turkey and the Arab Gulf States. As we work through the review of these applications there are questions about the type and depth of the experience obtained in the foreign jurisdiction, about the English language proficiency of the applicants, and about cultural differences that could affect their understanding of our professional/ethical practices in the U.S. The Board’s Examination Qualification Committee is now reviewing each of these applications to assure that the experience is suitable and demonstrates progressive growth in responsibility. The evaluation of the communication skills and the understanding of our cultural differences provide a different challenge. Currently the Board administers a Law and Ethics examination that must be taken and passed by each applicant. However this exam does not provide an in-depth evaluation of the candidate’s professional/ethical understanding. As a result, the Board has initiated a project to develop a more rigorous examination that will require that the candidate, regardless of their country of residence, write an analysis of an ethical case. This exam, which is part of the initial application process, will be administered in an “open book” format thus enabling applicants to refer to existing Board law and rule.

US/Canada Emergency Management Planning

On Jan 26, I participated in a meeting in Olympia where we discussed issues of mutual cooperation between Canadian Provinces and our state. The meeting in Senator Mary Margaret Haugen’s office included Matt Morrison, Executive Director of the Pacific Northwest Economic Region. A subject of major interest is how our engineering expertise can be used for mutual support in natural or man-made emergencies. Although the Board has not initiated any action related to this, the Society of American Military Engineers and the Washington Society of Professional Engineers have some projects

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News to You

State SEIII Examination Is Administered For The Last Time

Since June 1964 the Washington Board of Registration for Professional Engineers and Land Surveyors has offered a state specific examination to qualify engineers in structural engineering. On October 15th the ongoing administration of that examination ended. From this point forward the Board will use the national structural examination developed through the National Council of Examiners for Engineering and Surveying (NCEES).

The development of and the Board's move to the new examination is seen as a significant milestone in the evolution of this licensing examination. The examination is the result of several years of work amongst member boards of the NCEES and volunteer consulting structural engineers from across the country that provided substantial time and expertise to the process. The result is an examination that is a balanced reflection of contemporary structural practice. States in high seismic areas, like Washington and California, were instrumental in assuring the exam content presented sufficient evaluation of a candidate's knowledge in seismic design. Equally important to states in the gulf and southern coastal areas was the inclusion of design considerations where high sustained winds must be addressed.

It also is important that the Board give its deep appreciation to the dozens of subject matter experts who have put so much effort in the many years when a national exam was not available. These volunteers were instrumental in making sure the state of Washington was able to offer an examination in structural engineering. Without those hours of contributions no structural examination would have been available to the Board.

As you might imagine, ensuring the existence of a quality examination is an effort that requires sustained commitment and leadership. The Board and the citizens in this state owe a debt of gratitude to Edwin Huston, PE, SE. Logging untold hours in coordinating the work here and traveling hundreds of times to distant locations to represent the interests of Washington State, Ed has invested an extraordinary portion of his career to

the betterment of structural engineering practice. Yet, even with the end of our state exam in October, Ed's commitment continues. He remains an active participant in the development, item review and grading of the national SE exam.

Continuing Education For Professional Engineers

HB 1900, reactivated in the State House of Representatives for the 2012 session, was passed by a vote of 66 for to 29 against. The bill set basic requirements for continuing education that must be collected by professional engineers to qualify for a renewal of their PE license.

In the Senate, HB 1900 was heard and passed by the Labor, Commerce and Consumer Protection Committee (LCCP). After referral to the Senate Transportation Committee the bill was referred back to the House Rule Committee on March 8th. A complete record of the bill's activity for the last two years can be viewed at: <http://apps.leg.wa.gov/billinfo/summary.aspx?bill=1900&year=2011>.



Board Receives Strong Response To Outreach Article

In the fall Journal, Board Chair Neil Norman explained the emphasis the Board was taking to have members and staff available to attend meetings, seminars or classes where the topics of Board administration would be presented. Many representatives of various organizations have responded by inviting the Board to make presentations at their events or programs. The following is a list of those completed and scheduled as of March 1st.

If you are planning an event that is fitting for participation by representatives of the Board we encourage you to contact our staff for scheduling. The Board makes every effort to provide suitable topics and speakers at no cost to the organization.

George A. Twiss, PLS

Executive Director

gtwiss@dol.wa.gov

Robert Fuller

Deputy Exec. Director

rfuller@dol.wa.gov

EVENTS COMPLETED:

Date	Speaker	Audience/Topic
January 26	Norman	WSPE Tri Cities Chapter, <i>New actions from NCEES & Bd + Ethics Case</i>
January 27	Twiss	WA On-Site Sewage Assoc. <i>Annual Meeting, New rules implementing Onsite law change</i>
January 30	Twiss	Clark College, Geomatics Class <i>Land surveying ethics</i>
February 7	Fuller/Browne	LSAW, Tacoma, <i>Processing a complaint</i>
February 17	Lau/Twiss	Seattle University <i>Engineering ethics</i>
February 27	Twiss	St. Martins University <i>Engineering ethics</i>
March 1	Lau/Twiss	UW-AICHe <i>Promoting licensure</i>

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EVENTS COMPLETED (cont.):

Date	Speaker	Audience/Topic
March 8	Garland/Valentine/Twiss/Fuller	LSAW Annual Meeting <i>Variety of Board Topics of Interest</i>
March 9	Twiss/Fuller	Engineering Institute, Bellingham (HS seniors) <i>Overview of benefits of professional licensure and career choices in engineering or surveying.</i>
March 13	Fuller/Twiss	ASCE, Silverdale <i>Variety of Board Topics of Interest.</i>

EVENTS SCHEDULED:

Date	Speaker	Audience/Topic
April 19	Norman	SEAW, Sunnyside <i>NCEES & Board Topics of interest</i>
May 4	Norman	WSPE Annual Mtg., Ellensburg <i>Panelist and Speaker - Standard of Care Workshop</i>
May 11	Norman	Prof Engrs. of Oregon, Eugene <i>Speaker at Annual Meeting on Standard of Care</i>
June 19	Norman	ASHRAE Seattle Section, Seattle <i>Variety of Board Topics of Interest</i>

Decisions...Decisions

The Board's initiative to have a stronger presence through outreach presentations inevitably involves questions about the processing of complaints, investigations and adjudication. This is an activity that the Board has spent considerable effort to make it a balanced and equitable process. Yet, because of the expectations by those who file complaints and the impact upon those who are the subject of the complaint, the outcome rarely is found to be satisfying to all concerned.

For many years the Board has devoted articles

in this *Journal* to explain various aspects of the disciplinary process. It is, as you might imagine, a complex combination of procedures, evaluations, interpretations and conclusions. Every complaint also brings its own uniqueness through the circumstances and personalities involved. So it is not necessarily surprising that decisions are questioned and even challenged by those most impacted.

The most common point of contention is when a complainant has concluded that a certain number of violations have occurred and that the Board needs to do something about them. A complaint is filed, sometimes very well documented and explained, with the expectation that the Board merely needs to decide how to punish the offender. After all, the complainant has provided everything necessary for the Case Manager to arrive at the same conclusion. In this article we intend to devote a little time to help shed some light on how and why some decisions are made.

As licensees know every day brings new challenges where, using skill and experience, they make interpretations and apply professional judgment. This is an integral part of professional practice and fuels the opportunity to find optimum results. However, when licensees disagree along the lines of opinions or judgments, it sometimes becomes an impasse that is believed best resolved by the Board. In such cases the Board will rarely become involved. They have historically found that better solutions are arrived at through discussions by the professionals directly involved.

But what if the disagreement is based upon a dispute about whether or how well someone complied with rule or statute. Isn't that the appropriate time for the Board to become involved? Well...sometimes.

This is where many licensees may disagree with how the Board makes decisions. More often than not the involvement of the Board will identify an apparent infraction with a rule or statutory provision by one or both of the practitioners. Yet, it is not uncommon for the Board to *apply* their professional judgment and, more importantly, their statutory discretion on what level of correction is needed. Like any agency charged with regulatory responsibilities, the Board makes a decision about the significance of the apparent infraction and how that may impact public health, safety and welfare. Some rule and even statutory violations will be satisfactorily resolved without actual charges or adjudicative proceedings.

In those examples, Board members consider the following questions against the infraction: does it raise a question about minimum competency; was it deliberate or inadvertent; is it subject to different interpretations; how frequently does it occur; is the issue clearly under the jurisdiction of the Board and does it represent behavior that impacts upon society as a whole.

There are two axioms in regulatory work. You can enforce a law or you can apply a law, like the example of the state patrol on traffic infractions. How much violation of the posted speed limit can be allowed is the judgment of the officer given the circumstances involved. How much forgiveness the Board may allow is their discretion and is based upon the circumstances involved.



Online Resource Launched For FE, FS Exam Transition To Computer-Based Testing

A new online information center is part of the NCEES communications strategy to prepare member boards, educators, and examinees for the transition to computer-based testing. The FE and FS exams are scheduled to move to a computer-based format in January 2014.

NCEES has introduced an online information center explaining the latest developments as the FE and FS exams are moved to computer-based testing, a transition that is scheduled to be complete in January 2014. Visitors to ncees.org/CBT can get the latest news and announcements and find answers to frequently asked questions, such as how the exams will change and where and when they will be offered.

This webpage focuses on information relevant to member boards, including how fees will be collected and whether boards will need a third-party testing vendor after the transition.

“We’ve been updating the member boards on these issues through a variety of outlets, but now it’s time to focus on communicating with other groups as well—including engineering and surveying educators—so that everyone’s ready when January 2014 arrives,” said NCEES Executive Director Jerry Carter.

Upcoming CBT webinars

Carter will moderate a live webinar on April 26 (1:00 EST) for members of the American Society for Engineering Education. NCEES Associate Executive Director Davy McDowell, P.E., and Director of Exam Services Tim Miller, P.E., will explain the latest developments in the transition and how this will affect students and engineering programs. “Educators will need to understand what’s happening and when so that they can inform their students, but they also need to know how it will affect their program, such as what changes there will be to the format or frequency of their institution reports, which they use for outcomes assessment,” said McDowell.

NCEES staff will present a second CBT webinar through *Point of Beginning*, or *POB*, magazine on May 8 (2:00 EST) to educate professional surveyors about the move to computer-based testing. Information on both of these webinars—including registration information—will be posted on ncees.org/CBT as it becomes available.

The new online information center and upcoming webinars are part of NCEES’s overall communications strategy for the transition. “We want this move to go as smoothly as possible, so it’s vital that we keep everyone updated on the latest activities and give them the resources to easily find the answers they need,” said Carter.

ANSI Recognizes NCEES Model Law Structural Engineer Standard

The American National Standards Institute recently approved the Model Law Structural Engineer (MLSE) standard developed by NCEES.

This standard outlines the requirements for attaining licensure as a structural engineer, or S.E. Its criteria are divided into education, professional experience, and examinations. The standard is used by NCEES as a guideline for its member licensing boards, which grant licensure to engineers and surveyors in all 50 states and several U.S. territories.

Prior to being approved by the ANSI Board of Standards Review, the MLSE standard was published on the NCEES home page and in ANSI’s Standards Review and was open to public comment.

“We’re looking forward to promoting this standard to encourage uniformity in the licensing of structural engineers and, ultimately, better protect the public,” said Jerry Carter, NCEES executive director.

The full text of the MLSE standard can be downloaded at ncees.org/About_NCEES/ANSI.php

NCEES was granted status as an accredited standards developer with ANSI in 2007. It currently has two other standards recognized by ANSI: the Model Law Engineer standard and the Model Law Surveyor standard, which outline the requirements for licensure as a professional engineer and professional surveyor, respectively.

As the U.S. representative to the International Organization for Standardization, ANSI oversees the development of standards for various products, services, and processes throughout the United States. Its membership includes more than 100,000 government agencies, corporations, and academic and international bodies.

NCEES Engineering Award Is Important Effort To Promote Licensure

by Chun C. Lau, PE, SE

When Western Zone Vice President Patty Mamola, P.E., called me in March asking if I would be willing to serve on the jury for this year's NCEES Engineering Award, I did not hesitate in saying yes, as I have been involved with our state's professional societies in outreach and mentoring programs for both high school and college students. Also, I thought it would only take a day of commitment at Council headquarters. That was before I knew just how much work goes into the submissions—and into determining the winners.

Before the June 7 jury meeting, I received packets of information for this year's 26 entries. Browsing through them, I quickly realized that it would be a daunting task to come up with the \$25,000 grand prize winner and the five \$7,500 winners. All of the entries were very impressive, so I went through them carefully, reviewing them against the award criteria, and tried to do my best to prepare for the meeting.

The jury members looked at the following areas when evaluating the projects:

Successful collaboration of faculty, students, and licensed professional engineers

Benefit to public health, safety, and welfare

Knowledge or skills gained

*Multidiscipline and/or allied profession participation
Effectiveness of abstract, project description, and display board*

When I arrived at headquarters, I found myself in the company of engineering deans from the four NCEES geographic zones; licensing board members from each zone; and representatives from ABET, the American Society for Engineering Education, the National Academy of Engineering, and the National Society of Professional Engineers. I was very impressed with my fellow jury members—they came with prepared notes and even ranking matrices all set up and ready to go. The judging process went smoothly, with each member respecting others'

observations and opinions.

By the end of the day, we were able to review all 26 entries and select the grand prize winner as well as five additional award winners. After we made our final decision, the Council staff revealed to us who those winners were. I was excited to learn that Seattle University in Washington had won two of the five \$7,500 awards.

It was my privilege to represent NCEES at the awards ceremony for the Seattle University Department of Civil and Environmental Engineering. A fellow board member, Daniel Parker, P.E., and our executive director, George Twiss, P.L.S., accompanied me to present the awards at the annual kickoff meeting for the department's capstone projects, which was held September 5.

The meeting was well attended by industry sponsors, faculty members, and advisors, as well as a large number of student participants. The students were mostly seniors at the university, and when I asked how many of them are planning to take the FE exam, I was encouraged to see almost all the students raise their hands.

I truly enjoyed my experience serving on the jury and am grateful for the opportunity. The NCEES Engineering Award represents an important step in the Council's efforts to promote engineering licensure to undergraduate students. By working closely with professional engineers, the students gain valuable insight into the responsibilities and the privileges of being licensed.

I encourage member boards to promote the award to your state's universities and encourage them to submit projects for the 2012 cycle. The competition is open to all EAC/ABET-accredited programs, so it would be great to see a cross section of disciplines represented, especially those that typically have lower licensure rates.

Information on the award and entry forms are available online at engineeringaward.com. The deadline for entries is May 7, 2012.

To read more about this year's winners, including Seattle University's winning projects, pick up a copy of the 2011 NCEES Engineering Award Book. You can download a PDF or request copies at engineeringaward.com.

The Washington Board Journal

Questions & Answers



General

Question: As a licensee I sometimes wonder if I will ever decide to file a complaint against another licensee. Doesn't the Board have a requirement for registrants to file complaints about violations?

Answer: *The reporting of violations is covered by WAC 196-27A-020 (4)(c) that states: Registrants shall notify the board of suspected violations of chapter 18.43 or 18.235 RCW or of these rules by providing factual information in writing to convey the knowledge or reason(s) to believe another person or firm may be in violation.*

This rule does not require a registrant to file a complaint to "notify" the Board. A complaint about possible violations is one way to do so but sending information or an inquiry to the Board of suspected infractions is equally acceptable. In the absence of a signed complaint, the Board will decide whether the information warrants the handling as if it were a complaint. In such cases the complaint is Board generated.

The assessment on the severity of the apparent violations and whether those violations warrant corrective action is a discretionary decision of the Board. Just because a complaint is received does not mean the Board will conclude that an investigation is justified.

Question: When does it become necessary for me, as a licensee, to file a complaint with the Board?

Answer: *The decision to file a complaint with the Board is a significant one and should be made carefully. The threshold to justify filing of a complaint is different for each individual. Much like every day consulting practice, professional judgment and personal ethical standards will influence that decision. The point at which one chooses to file a complaint is not a well defined threshold that all registrants will agree upon.*

Land Surveying

Question: It is a common practice in my area to use 2"x 2" wood stakes for line staking without identification of who set it. Is the 2x2 stake considered a monument and does it need to have my LS number on it?

Answer: *The Survey Recording Act does require that monuments set as an element of the survey must have the certificate number of the LS. However, there is no rule that has been adopted defining what type of object is a monument. As a result, there are different opinions on whether the stake itself is a monument or just a witness point. Whether you choose to treat the stake as a monument is within your professional judgment. If you use it as a monument called for in a ROS then it would need to have your certificate number attached.*

Question: Some clients will request me to "flag a line" without setting rebars. They just want flagging hung up in the trees. I have flagging that says my company name on it, but strict interpretation of state law seems to not allow this practice. My LS number is not on the flagging. How can I, or should I, provide this service to clients?

Answer: *Flagging has never been considered a monument in typical survey practice. Flagging a line and the standard of care that would apply to that work is contingent upon the purpose it is provided and the appropriate accuracy required to meet that purpose. It would be your decision on how to handle that activity for your clients. .*

Question: Lately many clients are asking for digital copies of surveys and topographic surveys. How do I send these maps? How do I legally send them with a stamp? What if they are preliminary?

Answer: *The digital signature and document stamping requirements can be found in WAC 196-23. To this point the Board has not chosen to provide prescriptive conditions on document format or methods of distribution. However, they do recommend that licensees retain a permanent copy of the electronic document sent to refer to whenever a question is raised about whether the electronic document has unauthorized modifications.*

Engineering

Question: In my firm we plot paper copies of engineering drawings and apply wet signed/sealed PE stamps. Then we plot the same drawings directly from CAD to pdf files with a CAD signature block on the seal (the signature is temporarily inserted into the CAD drawing to do this). This pdf is identical to what we would get if we sent the wet-signed/sealed paper copy out to be scanned into a pdf. The wet signed paper copy is retained in our files, and the client gets the pdf. Most of our clients, especially those remote to our office, prefer the pdf to shipped paper.

We have an enormous storage expense for 50 years of sealed plans, and the pile is getting bigger every day. Ideally, we'd like to eliminate the wet signed paper copies, and just save the pdf files. We can see several possibilities:

Save the wet-signed/sealed paper copy and the CAD plotted pdf with the CAD signature block for eternity. Physically scan the wet-signed/sealed paper copy to a pdf file, then toss the paper copy. Only keep the scanned pdf.

Save the wet-signed/sealed paper copy until the project ends or some set period of time elapses, then throw it away and just keep the CAD plotted pdf with the CAD signature block. Just save the CAD plotted pdf with the CAD signature block. No paper copy is generated.

How do these possible solutions fit within Board rules?

Answer: *Each of your suggestions would provide compliance with the Board rules governing stamp usage and signature requirements. In the past, the Board has stated that if differences occur between an electronic record and an authentic paper record, the paper record will control. That statement occurs only as an observation of what judicial rulings have stated about document authenticity and how the Board would be guided should an inquiry through an investigation have to address such differences.*

In the end, the method of management you choose should be a best fit between your business needs and overall professional responsibilities.

Question: Are there separate recognized credentials or experience necessary for geotechnical engineering work? Can any licensed engineer, regardless of

discipline, perform geotechnical engineering work if they have experience in that area?

Answer: *While the term geotechnical engineering is more or less a recognized title, in the state of Washington we do not issue a license in that particular specialty as some other states might. Consequently, we do not have any way to evaluate whether one engineer is more qualified to perform such work over another. Our rules require individuals to confine their practice to those areas where they have competency.*

Question: Is there precedent that the Board is aware of to indicate which professional (engineer or geologist or combination thereof) would be best suited to author and stamp a geotechnical report?

Answer: *Because geotechnical engineering does not have a scope of practice defined it is difficult to respond to your question with a simple yes or no. It is possible, depending upon what work is being required, that either is qualified.*

On-Site Wastewater Designers

Question: In the 2011 legislative session a bill was passed that amended several of the provisions of the licensing law. Why did those changes occur?

Answer: *The following is a summary of the changes and the effect they are intended to have:*

Deleted all references to Practice Permits, Advisory Committee and other obsolete content.

Throughout the bill reference to content and requirements that had expired or been affected by other law changes was removed.

Revised definition of Unprofessional Conduct. *The original law did not include reference to fraudulent applications as unprofessional conduct. That was added in this amendment.*

Revised eligible experience requirements to include internships or mentoring.

When first adopted the requirements for practical experience required supervision by a PE, On-site professional or Local Health Official. The revision now allows other sources for experience.

Revised license renewal period from one to two years.

All professional license renewals with DOL are

on a two year cycle. This change brought the OS program consistent with that process.

Revised method for calculating renewal fees. Originally, a separate licensing program had to set fees to offset its expense requirements. With this amendment, the licensees in the OS program were combined with all engineers and surveyors into one fee setting group.

Added scope of practice definition for comity licensure.

Original law did not include specific reference to the technical skills and knowledge areas that were required by those taking the exam. This amendment brings agreement to those two elements of licensure.

Removed continuing education requirements for certificate of competency holders.

While the original law's requirements were still seen as valid in regard to continuing education, there was the belief by some that continuing education requirements for local health officials were being satisfied by the training programs in those jurisdictions.

Clarifying local health jurisdiction's authorities to:

- (a) Administer state and local regulations and codes for approval or disapproval of designs for on-site wastewater treatment systems;
- (b) Issue permits for construction;
- (c) Evaluate soils and site conditions for compliance with code requirements; and
- (d) Perform on-site wastewater treatment design work as authorized in state and local board of health rules.

Question: When do the new experience rules become effective?

Answer: The bill became effective on July 11, 2011. The changes on how experience can be gained for exam eligibility were effective at that time. However, the rules that clarify on how that experience is defined are still being developed and will include input from licensed designers across the state. It is estimated the rules will be adopted by July of 2012. Yet, when the rules are in place applicants will be able to report on experienced gained under the new provisions for any time after July 11, 2011.



This article provides information of administrative and court actions that have taken place in the US involving professional licensure. This information is provided to help educate readers on actions that were taken affecting a professional license. In this case, the summary is not about engineering or land surveying practice. It is about the status and affect of out-of-state discipline.

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No admission of guilt required for reciprocal discipline

An out-of-state consent order in which a licensee did not admit guilt can be used by the state dental board to impose reciprocal discipline, the Commonwealth Court of Pennsylvania ruled November 9, upholding the board's discipline of dentist Jeffrey R. Leidy (Jeffrey R. Leidy v. Bureau of Professional and Occupational Affairs, The State Board of Dentistry).

Leidy had earlier been disciplined by Virginia, where he also has a license. The records of the Virginia Board of Dentistry show a dentist distracted and prone to organizational problems; of the six incidents catalogued in the Consent Order issued by the Virginia board against Leidy, three were mistakes that injured the patient, one would have done so, and two were serious lapses in record keeping and billing. In one incident, Leidy left the tip of an instrument embedded in a tooth. In another, his office

filed a warrant in debt for \$10,295 against a patient who had actually paid Leidy \$500 more than the stated bill.

The board sent notice to Leidy that a hearing of inquiry was to be held for the allegations, but the dentist opted instead to enter into a consent order, denying four of the charges but foregoing any ability to contest the facts alleged by the order during future hearings. Leidy agreed to pay a \$6,000 fine, attend classes, and open up his books for better monitoring.

Eventually, the dental board of Pennsylvania, where Leidy had a second license, received a copy of the consent order and initiated a civil penalty process, which Leidy contested. After a hearing, the board fined Leidy \$1,000 and he appealed to the Commonwealth Court.

On appeal, Leidy argued that an older case, *Khan v. State Board of Auctioneer*

Examiners, prevented the dental board from labeling the Virginia consent order as

a disciplinary action and using it as a base of discipline in Pennsylvania.

The court was not persuaded by this argument. *Khan* was a case involving auctioneers, who have their own regulating statutes which differ in many ways from those of Pennsylvania dentists. For instance, as the hearing examiner in this case noted, the consent order at issue in *Khan* was rejected because it did not involve a finding or admission of guilt by the licensee, which the regulating auctioneer statutes require for reciprocal discipline.

Further, the court continued, because Leidy had waived the right to contest the violations in later proceedings with the Virginia board, the violations were officially deemed to have occurred. So “there can be no question that the Virginia consent order, which levied a \$6,000 civil penalty and imposed other requirements on Licensee, was a disciplinary action taken by the Virginia board against him.”

What Does Washington Law Say?

The following two provisions enable the Washington Board to consider taking disciplinary action based upon discipline occurring against its licensees in another jurisdiction. However,

in the assessment of whether such reciprocal discipline is appropriate one consideration is whether the offending conduct from the other jurisdiction would be a violation of Washington law had it occurred in Washington.

RCW 18.43.105, Disciplinary action — Prohibited conduct, acts, conditions.

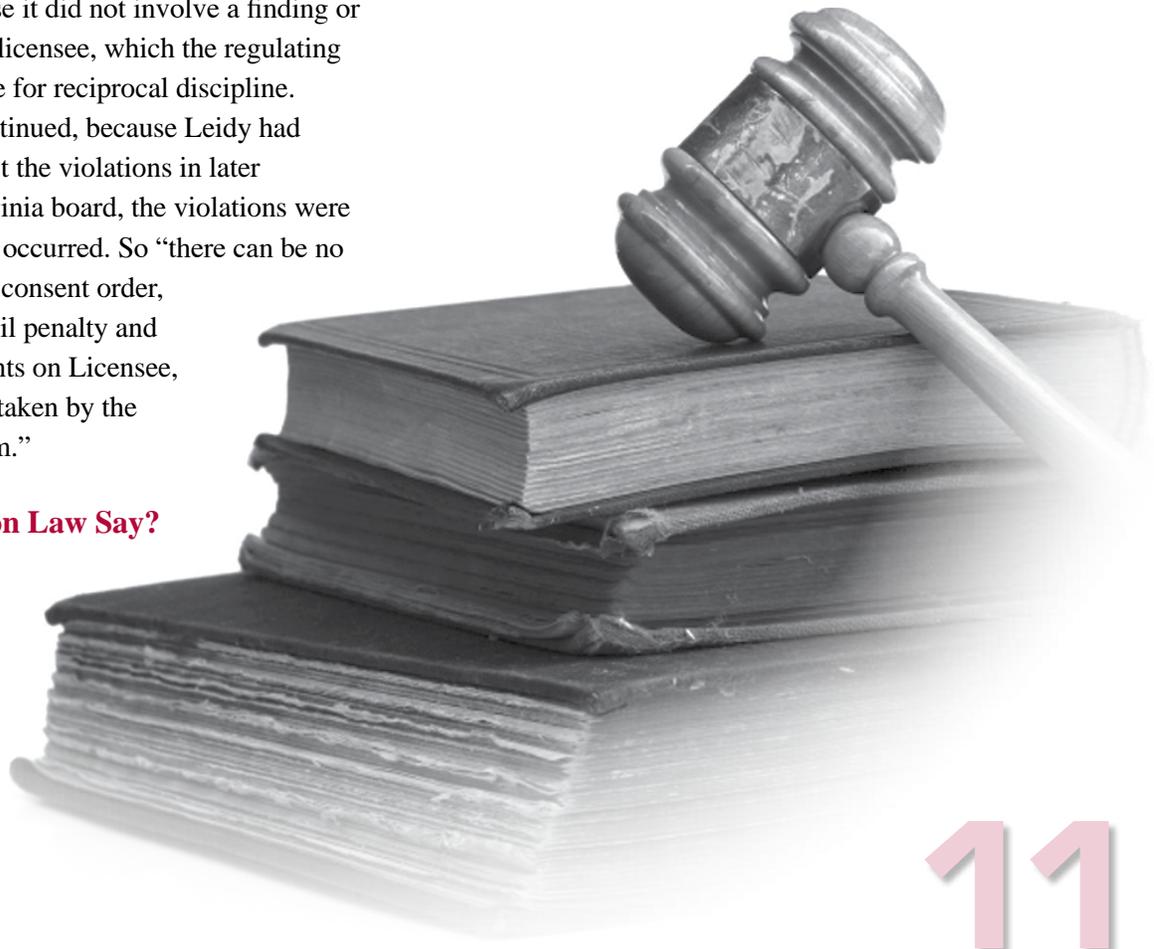
(10) Committing *any other act, or failing to act, which act or failure are customarily regarded as being contrary to the accepted professional conduct or standard generally expected of those practicing professional engineering or land surveying.*

[emphasis provided]

RCW 18.235.130, Unprofessional conduct — Acts or conditions that constitute.

(5) The suspension, revocation, or restriction of a license to engage in any business or profession by competent authority in any state, federal, or foreign jurisdiction. A certified copy of the order, stipulation, or agreement is conclusive evidence of the revocation, suspension, or restriction;

[emphasis provided]



Examinations

National Exam Results: 10/2011

October 2011 Examination Results

	Total	Pass	% Pass
Fundamentals of Engineering (EIT)	528	371	70%
Principles & Practice of Engineering			
Agricultural	2	2	100%
Chemical	9	6	66%
Civil	196	107	55%
Control Systems	9	7	77%
Electrical	47	32	68%
Environmental	11	5	45%
Fire Protection	4	4	100%
Industrial	3	2	66%
Mechanical	64	51	80%
Metallurgical	1	0	0%
Nuclear	2	2	100%
16 Hr Structural	63	23	37%
Fundamentals of Land Surveying (LSIT)	22	9	41%
Principles & Practice of Land Surveying			
NCEES – 6 Hour	15	12	80%
WA Specific L S (2-hour)	50	26	52%
On-Site Designer	0	0	0 %
On-Site Inspector	2	1	50%
WA Structural III	114	28	25%

FE EXAM

FE pass rates for examinees who attended EAC/ABET-accredited engineering programs:

Exam Module	First-Time Takers	Repeat Takers
Chemical	83%	47%
Civil	79%	37%
Electrical	67%	26%
Environmental	83%	46%
Industrial	67%	30%
Mechanical	79%	40%
Other Disciplines	72%	32%

FE EXAM—OTHER DISCIPLINES MODULE ONLY

Only EAC/ABET degrees with more than 50 examinees are reported.

Examinees' Degree Discipline	First-Time Takers	Repeat Takers
Aeronautical/Aerospace	87%	50%
Agricultural	74%	60%
Architectural	79%	36%
Biological	69%	21%
Biomedical	78%	33%
Chemical	89%	36%
Civil	64%	25%
Electrical	58%	29%
Mechanical	79%	43%
Mining/Mineral	52%	43%
Nuclear	86%	100%
Petroleum	65%	62%
Structural	74%	56%

PE EXAM

Exam	First-Time Takers	Repeat Takers
Agricultural	31%	25%
Architectural*	76%	35%
Chemical	75%	29%
Civil	65%	28%
Control Systems	71%	46%
Electrical/Computer	61%	27%
Environmental	61%	23%
Fire Protection	68%	44%
Industrial	66%	24%
Mechanical	73%	37%
Metallurgical/Materials	53%	46%
Mining/Mineral Proc.	80%	47%
Naval Arch./Marine Eng.*	94%	67%
Nuclear	93%	83%
Petroleum	78%	50%

*These exams are given only in April. Pass rates shown are for April 2011.

SE EXAM

Exam	First-Time Takers	Repeat Takers
Vertical Forces	47%	30%
Lateral Forces	35%	25%

The above pass rate reflects the percentage of candidates who attained acceptable results by component. To pass the SE exam, candidates must obtain acceptable results on both components.

SURVEYING EXAMS

Exam	First-Time Takers	Repeat Takers
FS	63%	24%
PS	66%	30%

Investigations & Enforcement

Statistics of Actions Taken By The Board

JULY 1, 2011 THROUGH DECEMBER 31, 2011

Active investigations as of July 1, 2011	24
Investigations Opened	49
Investigations Closed	57
Active Investigations as of December 31, 2011	16

SUMMARY BY MONTH:

	Complaints Received	Inquiries Received	Investigations Opened*
July	4	1	4
August	8	0	8
September	3	1	3
October	16	0	16
November	8	0	8
December	10	1	10
Totals	49	3	49

**Investigations can be opened by either a complaint or an inquiry received.*

SUMMARY BY PROFESSION AS OF DECEMBER 31, 2011

	Active Investigations	Legal Status	Compliance Orders
Prof. Engineers	5	1	0
Prof. Land Surveyors	5	3	2
Unlic. Engineers	0	2	0
Unlic. Land Surveyors	1	0	0
On-site Designers	5	0	1
Totals	16	6	3

Legal status refers to the investigations that the Case Manager has referred to legal for violations and the Board Order is in progress of being issued.

Summaries Of Investigations And Actions By The Board

The following case summaries cover the disciplinary actions against licensees from July 1, 2011 - December 31, 2011. In each disposition the Board accepted the recommendations of the case manager, unless stated otherwise. For those cases involving a Board order, each licensee may be monitored for compliance with the conditions imposed in the order.

The summary information provided under "INFORMAL ACTIONS" is provided to educate licensees on events and circumstances that come before the Board for investigation. In those cases no disciplinary action is taken because either the allegations are unsubstantiated, fall outside the scope of jurisdiction of the Board or it becomes unnecessary because of corrective measures taken. Any investigations that reveal clear and convincing evidence of wrongdoing, and where a Board Order is issued, will be listed under "FORMAL ACTIONS".

The decisions of the Board members who work as Case Managers of the investigations are based upon their personal opinions of the severity of the infraction and the best course of action to take to appropriately resolve issues. Interpreting any one or several dispositions as indicative of the Board's view of how all such cases will be handled in the future would be incorrect.

These summaries are not intended to disclose complete details related to any given investigation or action. While every effort is made to ensure accuracy of the information shown, anyone intending to make a decision based upon this information should contact Robert Fuller, Deputy Executive Director at (360) 664-1578 for more details.

FORMAL ACTIONS:

Land Surveying

Kevin Bluhm, PLS, Case Nos. 10-10-0009 & 11-01-0003

The Board's investigation of Mr. Bluhm was based upon two complaints alleging that he failed to perform the necessary research prior to establishing a property

boundary survey in the field. . In one instance, after Mr. Bluhm performed a survey in the field and prepared a preliminary Record of Survey, he was advised by the Complainant that he had failed to take into consideration junior-senior rights and that his survey was in error. After performing the necessary research, Mr. Bluhm agreed with the Complainant concerning the junior-senior rights issue and resurveyed the subject parcel. Mr. Bluhm claimed he knew there may be a junior-senior rights situation but did not think it important enough to inquire prior to his survey. Also, the Record of Survey did have a number of omissions and errors and Mr. Bluhm stated that his drafter omitted making the edits that he had redlined and he made the assumption that the changes had been made.

In the other instance, Mr. Bluhm performed a field survey and recorded a Short Plat which did not agree with a prior recorded Short Plat by the firm which employed the Complainant. In his response to the Board, Mr. Bluhm stated he reviewed the job file and the Complainant was correct about Bluhm's survey being incorrect and that it was clear the wrong points were held, thus calling the wrong points off. He blamed his former drafter but stated that it was ultimately his responsibility to make sure this does not happen and has taken steps within his company to prohibit this from happening again.

After reviewing the investigation files, the case manager found that each original survey was in error because of improper research and Mr. Bluhm agreed that he was in error. The original surveys were considerably different from the amended surveys and the amended surveys showed a major shift in professional judgment on the part of Mr. Bluhm.

The case manager authorized the issuance of a Statement of Charges on November 3, 2011, and a settlement option in the form of a Stipulated Findings of Fact, Conclusions of Law, and Agreed Order. On November 14, 2011, Mr. Bluhm accepted the settlement option with modifications and signed the Agreed Order. The terms of the Agreed Order are that his license shall be placed on probation for a period of two (2) years. During the probation period, he is required to submit a report to the Board listing the survey projects he had completed in the previous 90 days, whether or not a map was prepared or recorded.

A random auditing of recorded surveys by the Board will be done to ensure consistent professional standards are maintained.

On December 7, 2011, the Board accepted the Agreed Order.

On-Site Septic System Designers

Adam Prince, On-Site Designer, Case No. 07-08-0020, 08-06-0013, 10-05-0002, 11-01-0005, 11-01-0006, 11-01-0007

The Board's investigations of Adam Prince were based on multiple complaints alleging that he was hired and paid to complete septic system designs and never completed the work.

After reviewing the investigation files, the case manager found that in several instances, Mr. Prince submitted drawings to the local health jurisdiction, however, they were not approved and he never resubmitted the designs and the permits expired. It was also found on several occasions that he was unresponsive to the local health departments, the complainants and the Board investigator.

It was the case manager's opinion that the business practices of Mr. Prince were inadequate and not up to the professional standards expected of an on-site designer. As a result, the case manager authorized the issuance of a Statement of Charges on June 1, 2011, and a settlement option in the form of a Stipulated Findings of Fact, Conclusions of Law and Agreed Order (Agreed Order). On July 11, 2011, Mr. Prince accepted the settlement option with modifications and signed the Agreed Order. The terms of the Agreed Order were:

- Within thirty (30) days of the effective date of the Agreed Order he will surrender his license.
- He shall not apply for licensure within eight (8) years of the effective date of the Agreed Order.
- Pay a fine of \$500 within six (6) months of the effective date of the Agreed Order.

On July 29, 2011 the Board accepted the Agreed Order.

INFORMAL ACTIONS

Engineering

Case No. 10-04-0009

This investigation was opened based upon a complaint from a home owner alleging the respondent provided wood truss designs that failed under the dead load of the finished roof.

Based on the information submitted, the respondent relied on the loading and truss profile supplied by the truss company that contracted him for the engineering of the trusses for the complainant's house. There was an error on the loading for the truss provided by the truss company to the respondent causing the truss to fail under the dead load of the finished roof when constructed. It appeared that the engineer did provide the truss design based on the loading information provided as per contract. The truss company took responsibility for its error in the design information to the engineer and provided fixes to the failed trusses to the complainant.

From the information provided, the case manager concluded there was insufficient evidence to pursue any charges, and recommended the investigation be closed with no further action.

Case No. 11-03-0007

This investigation was opened following a complaint alleging the respondent, a contract engineer for a city, overcharged for municipal review, approval and inspection of engineering plans and was retaliatory, abusive and non-responsive to project developers.

During the course of the investigation it was discovered the respondent, a licensed engineer, provided engineering services for the city under contract. Services include plan review and construction inspection services on private development projects. The respondent has been conducting engineering services for the city since 1994. Developers reimburse the city for fees invoiced by the respondent.

The case manager concluded this was a contract issue, which is out of the jurisdiction of the Board and allegations of retaliatory and abusive behavior could not be substantiated. .

Case No. 11-03-0008

This investigation was based upon a complaint from a licensed professional engineer (PE) alleging that the respondent modified his work without notifying him and submitted engineering drawings with no signature. It was further alleged that the respondent certified a professional surveying work without being a licensed land surveyor.

The respondent did not contact the complainant about modifying his work, however the respondent claims that he did not modify the complainant's drawings, merely used them as the basis for an as-built. The respondent did clearly note the purpose of the as-built marks on the drawings.

After reviewing the investigation file, it was the case manager's opinion that the ownership of the drawings in question had not been clearly established. However, the drawings have since been withdrawn from the city and all other parties and upon being notified, the respondent rectified the issue of the unsigned seals in a timely manner by withdrawing the original drawings and resubmitting original drawings with the proper seals, including a land surveyor's seal.

The case manager felt that respondent appeared to have been diligent in addressing all of the issues brought up by both the complainant and the Board and that any errors or inadequacy in his work had not been intentional, and does not rise to the level of formal disciplinary action.

INFORMAL ACTIONS

Land Surveying

Case No. 10-11-0005

This investigation was opened following a complaint alleging the respondent made an error on a boundary survey and then stopped communication with the client.

During the course of the investigation the respondent admitted that he did make an error in his survey and then stopped communication with the client. However, upon being provided proof of his error and after the complaint was filed, he agreed to pay for the damage his survey caused.

The case manager concluded that even though the respondent made an error and did not remain in contact with his client, he eventually agreed to rectify the situation by purchasing land from the adjacent owner and to perform a BLA to adjust the property line to accommodate the fence line that was constructed on his erroneous line.

Because the respondent was very cooperative during the investigation and corrected the situation the Case Manager recommended closing the investigation with no further action. However, the respondent was reminded on how important client communication is and that a situation like this could have severe consequences for a licensee.

Case No. 11-09-0001

This investigation was opened following a complaint from a land owner alleging that an erroneous survey done by the respondent in 2006 resulted in illegal trespass and approximately \$90,000 worth of damage done on the complainant's property by a contractor for a state agency. The complainant further alleges that neither the original 2006 survey nor the amended 2009 survey reference or acknowledge the survey done in 1988 by another PLS.

The respondent was a contract surveyor for an engineering firm. The respondent was hired to perform a topographic survey and a survey of existing monuments for the application of permits for removal or destruction.

According to a professional engineer hired by the complainant, the project contractor destroyed the complainant's well and water line systems, existing native vegetation and trees, fence and culvert and caused unstable soils and foundation conditions.

The respondent stated the complainant's well house was destroyed when the contractor removed black berries and that a portion of the well house was on an adjoining road right of way. The 1988 survey showed the center of the well house being on the complainant's parcel.

The case manager determined that a review of the respondent's recorded original and amended surveys exhibits a more than acceptable degree of competence and that this is a case of professional judgment where

one Professional Land Surveyor determines a prior survey by another as inadequate.

On-site wastewater designers

Case No. 11-01-0001

This investigation was opened following a complaint alleging that in October 2007, the respondent was paid to complete two on-site septic system designs and never completed the work.

The septic system designs were for two existing structures on property the complainant purchased. The existing structures include a main residence and a garage/apartment. The local health department considers the garage/apartment an 'accessory dwelling unit' (ADU). One septic system currently exists on the property for the main residence with a connection to ADU. Separate septic systems are required be in compliance with local health regulations.

In February 2008 the respondent sent a letter to the realtor that upgrades would be needed to the water system prior to submission of the septic designs. The respondent indicated water system upgrades were necessary to comply with local health regulations because the ADU contained kitchen facilities. Water system design modification approval was issued by the local health department on June 8, 2009. However, the water system upgrade installation needed to occur before the septic system designs could be submitted and approved.

In his response to the Board, the respondent indicated he was going to return the fees he was paid to the complainant's attorney. The attorney's office has no record of receiving the refund.

Also during the course of the investigation, it was found that the respondent's license expired on May 17, 2011 and has not been renewed, and that he had completed no on-site professional development hours.

After reviewing the investigation file, the case manager concluded that there was insufficient evidence to support violations of RCW 18.235 or Chapter 193-33 WAC. But the case manager found that the respondent violated Chapter 196-34 WAC by being in non-compliance with continuing education requirements and has not requested, or been granted a waiver per Chapter 196-34-145 WAC.

It was the case manager opinion that since the respondent's on-site designer's license is expired and has not been renewed, and violations found were based on non-compliance with continuing education requirements; the case manager recommended this case be closed with the condition the respondent's PDH's are audited and met for that renewal period.

Case No. 11-01-0015

This investigation was opened following a complaint from a county building department official alleging the respondent consistently falls significantly short of meeting WAC 246-272A requirements for on-site designs on many projects over several years leading to an often, iterative and argumentative, "design-by-review" process that has resulted in failure to achieve approval of numerous projects.

The case manager's review revealed several specific cases of apparent substandard performance cited by the complainant where the respondent countered with his own reasoning. The case manager felt that on the whole, there did not appear to be sufficient evidence of malfeasance on the respondent's part that would justify charges or disciplinary action.

However, the case manager noted that with the customary client/consultant/regulatory agency oversight design development model, it is incumbent upon the On-site professional in the best interests of the client, to strive to provide an on-site design that meets the regulatory requirements to the satisfaction of the administrating agency. If the professional disagrees with the agency, then he is generally responsible for exploring or at least responding to avenues for compromise, supporting his position with solid evidence and/or independent validation.

The Case Manager felt that following a meeting between the respondent and the Board staff, the respondent had a better understanding of these requirements. Therefore, the Case Manager recommended the investigation be closed.

Case No. 11-07-0003

This investigation was opened based upon a complaint that the respondent installed a 'bootlegged' septic system. The respondent first denied to the county having done so but later admitted to the installation.

The respondent who is also a licensed septic system installer and Operation and Maintenance specialist was observed by a county official installing a septic system that hadn't been approved by the local health department. The respondent admitted that a septic system repair was being installed.

The respondent and the local health department signed an 'Administrative Conference Agreement' that established that an on-site system was installed at a residence in Washington without first obtaining approval by the local health department.

The board received a letter from the respondent stating that he had retired as an on-site designer and provided his designer license with the letter.

Engineer-in-Training

Case No. 11-03-0002

This investigation was opened based upon correspondence sent from another state's licensing board that included the respondent's letter that was sent requesting their professional engineer's licensing requirements. The licensing board felt that the respondent could possibly be doing unlicensed practice based upon the contents of his letter addressed to their Board.

The respondent said that he was thinking about retiring and moving to another state and getting his PE license because he would be more marketable if he had his PE license. The respondent is a licensed contractor with the state of Washington and is an EIT with the Washington Board. During visits to the respondent's office, there were never any advertisements, business cards or any other signs that he was portraying himself as a PE, or his company as an engineering firm.

The respondent stated that he was trying to get all the requirements to see if he could qualify now or if he would need to go to work for an engineering firm to obtain the required years under a licensed PE to qualify for taking the PE exam.

Based on the case manager's recommendation the Board closed this investigation with no further action.

Message from the Chair

underway and probably other engineering societies in WA do as well. If you know of ongoing actions we should send that information along to support and allow coordination of this important effort.

Software Engineering

The NCEES will be offering Software Engineering PE examinations starting in 2013. To satisfy the NCEES policy on new examination at least ten state licensing boards indicated that they needed the examination for their jurisdiction. The exam development was a shared effort between national professional organizations and the NCEES. There are now 15 U.S. Universities providing ABET accredited programs in Software Engineering and others are being evaluated. Those developing the tests have framed the following definition:

Software Engineering is the application and/or study of a systematic, disciplined, quantifiable approach to the development, operation, and maintenance of software

that has an impact on the lives, property, economy, or security of people or the national defense; that is, the application of engineering to software.

In 2007 our Journal carried an article by Ed Huston, P.E., S.E. describing the frequent inability of younger PEs to perform preliminary sizing calculations using basic principles, and instead relying on their computer programs for all calculations. As that trend probably continues, is there more and more risk that computer program errors can lead to serious engineering design errors? It is the responsible design engineer who must be accountable for the accuracy and adequacy of the design, not the software developer. Licensing software engineers will provide the assurance that the software developer has knowledge of the engineering principles behind the calculation, and also have the ethical professional commitment to assure that their program will provide protection for public health, safety and welfare?

February 2012

Engineering Licensure Month



Schedules

Examination Schedule

Fall 2012 Administration

Examination	Type	Examination Date	Application Deadline
Agricultural, Chemical, Civil, Electrical, Environmental, Control Systems, Fire Protection, Industrial, Mechanical, Metallurgical & Materials, Mining & Mineral Processing, Nuclear, Petroleum	NCEES	Friday October 26, 2012	Tuesday July 31, 2012
16-hour Structural	NCEES	Friday & Saturday October 26-27, 2012	Tuesday July 31, 2012
Land Surveying (6-hour)	NCEES	Friday October 26, 2012	Tuesday July 31, 2012
Land Surveying (2-hour)	State	Friday October 26, 2012	Tuesday July 31, 2012
Fundamentals of Engineering & Fundamentals of Land Surveying	NCEES	Saturday October 27, 2012	Tuesday July 31, 2012
On-Site Wastewater Designer / Inspector Certification	State	Friday October 26, 2012	Tuesday July 31, 2012

2012 Calendar of Events

The following is a proposed calendar of the Board's meetings, examinations, and participating events for the first half of 2012. The dates and locations noted for Board committee and Board meetings are subject to change without notice.

APRIL

13-14 Exams various locations

MAY

9-10 Committee & Special Board Meeting SeaTac

17-19 Western Zone Meeting Jackson Hole, WY

JUNE

13-14 Committee & Annual Board Meeting SeaTac



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