



Washington Board

JOURNAL

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Your Board Members

Chun Lau, PE, SE
Chair
Bellevue
Term expires 7/2016

Nirmala Gnanapragasam, PE
Vice-Chair
Seattle
Term expires 7/2018

Stephen Shrope, PE, SE
Spokane
Term expires 7/2020

Neil Norman, PE
Richland
Term expires 7/2017

James Wengler, PLS
Port Angeles
Term expires 7/2019

Ivan VanDeWege, PE
Battle Ground
Term expires 7/2019

Aaron Blaisdell, PLS
Tacoma
Term expires 7/2020

Michael Villnave, PE
Executive Director, Olympia

Message From The Chair

Articles appearing in this Journal are a reflection of the personal opinions and experiences of the author. Opinions 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 indicated.

From Chun C. Lau, PE, SE

In the Fall Board Chair Message, I discussed several changes that occurred with the Board last year and now is the time for me to report one more change that will be take place in June, my retirement from the Board. As the saying goes, "Time flies when you are having fun." Yes, I used the word fun to describe my time serving on the Board. It was fun, because I always find learning to be fun. When I was appointed to the Board back in 2006, I quickly realized that I had a lot to learn before I could truly contribute. I served on the two standing committees that carried out the board mission to safeguard life, health, and property, and to promote the public welfare in regards to engineering, land surveying and on-site wastewater system designs. Reflecting back on the time served on these committees, I was fortunate to be in the company of seasoned board members each having unique professional backgrounds and experiences that helped me learn and I fully appreciate the check and balance the board carries

out in its mission. We never created a rule or a process without considering whether or not it will be good and fair for the public and the licensees that we regulated with the ultimate goal that the public is protected.

Looking Back

I would like to reflect on some of the significant changes that occurred during my 10 years on the Board.

Did I use the term "significant"? In 2007, the Engineer's Registration Act, chapter 18.43 RCW, was amended to incorporate 'significant structures' and structural licensure requirements to design 'significant structures.' In 2011, our structural engineering examination transitioned from the state specific examination to the national structural examination developed through the National Council of Examiners for Engineering and Surveying (NCEES). There are three out of 54 licensing boards that are not offering this structural

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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.

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Washington Board
JOURNAL

Board Vacancy

If you are interested or have thought about applying for a position on the Board, there is still time to apply. The Board will be retiring one member in July 2016, as Chun Lau, PE, SE completes his second term of service. This retirement will open an appointment for one structural engineer position.

Eligibility for appointment qualifications:

- Must be actively engaged in the practice for at least ten years subsequent to registration, five of which shall have been immediately prior to appointment,
- Must be a US citizen
- Must be a resident of Washington State for at least five years immediately preceding appointment

The Governor's office accepts applications throughout the year and considers all eligible candidates for upcoming vacancies. The application and instructions are available on the Governor's website at www.governor.wa.gov/boards.

The review of applications by the Governor's office usually starts around May and results in a decision in June or July. This timeline is variable depending upon a variety of factors. The members of the Board and their staff are not directly involved in screening applicants, however, we may be asked to detail what experience characteristics are most needed to keep the Board as diverse as possible.

Service as a board member is a position of high responsibility on behalf of the citizens of Washington. Not only does the Board establish and maintain the standards for new licensure, but they also are called upon to evaluate the competency and level of professionalism when licensees and applicants are found to have violated rules of professional conduct.

On average, a board member will spend about 3 days per month (8-hour days) performing the work of the Board. It may be attending board meetings, making presentations to stakeholder groups, participating in regional and national meetings of the NCEES, or serving as a technical expert over investigations, exam item

writing, and administrative rule development.

It is very important for all members to attend and participate in the Board's business activities. While member roles and responsibilities may vary over their terms of service, all members perform the above work so no one member carries more than their share.

If you have any interest in applying, but have questions before you decide, please contact me at your convenience.

Michael Villnave, PE, Executive Director

Ph. 360-664-1565 or email: mvillnave@dol.wa.gov.

Registrant's Responsibility To The Board When Responding To A Complaint

When a complaint is received by the Board of Registration for Professional Engineers and Land Surveyors (Board) against a Professional Engineer, a Professional Land Surveyor or an On-site wastewater treatment systems designer, the registrant against whom the complaint was made must be immediately informed of such complaint by the Board pursuant to Chapter 18.43.110 RCW.

This is usually addressed by sending a letter to the registrant along with a copy of the complaint. The letter informs the registrant that a preliminary investigation has been opened and provides them with a case number assigned to the complaint.

The letter also informs the registrant there has been no determination as to whether any laws or rules under the Board's authority have been violated and the preliminary investigation process is merely the method to obtain relevant information pertaining to the allegations made.

It also states that the purpose of the letter is to request a detailed response to the complaint and the registrant's response should include, at a minimum, information relating to the allegations. (The information requested is generally tailored based on the discipline and the complaint received.)

Continues next page

The Board understands that in most circumstances it takes a substantial amount of time for the registrant to compile the requested information, however, the completeness of this information may determine what action the Board's Practice Committee will take.

Once all the information is received from the registrant, it is compiled for review by the Practice Committee of the Board. It should be understood that no Board or committee member has seen the complaint or the responses up to this point. However, with complex cases, the file may be assigned to either a Professional Land Surveyor or Professional Engineer member of the Practice Committee for review prior to making a recommendation at the next practice committee meeting.

At the practice committee meeting, the three members of the committee evaluate the complaint and decide whether to open a formal investigation, table the complaint until additional information is obtained to make an informed decision, or not open the investigation.

In the majority of the cases, the registrant provides the Board with all of the requested information vital to the committee to make an informed decision regarding the disposition of the complaint.

However, in a small, but increasing number of cases, we are experiencing instances where the registrant is only providing portions of the requested information or in some cases no information at all.

If you do not believe that any specific item requested is pertinent to your complaint, it is your responsibility to

contact the investigator assigned to the complaint to discuss the reasons why you believe you should be exempt from providing the requested information. If the investigator agrees with your reasons, he/she may grant you a waiver and note it in the complaint file.

It is not acceptable to simply not provide the requested information.

Chapter 196-27A-020 (4) (a) WAC states: "*Registrants shall cooperate with the board by providing, in a timely manner, all records and information requested in writing by the board, or their designee.*"

Chapter 196-09-110 WAC states: "*In the course of an investigation and request by the board under its authority in chapter 18.43 RCW, a licensee or registrant must provide any papers, records, or documents in their possession or accessible to them that pertain to the allegations in a complaint or investigation, and a written explanation addressing such complaint/investigation or other information requested by the board. A facility related to a complaint or investigation shall be made accessible by the licensee during regular business hours.*"

Chapter 18.235.130 RCW (6) states in part: *Unprofessional conduct—Acts or conditions that constitute. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:*

Failure to cooperate with the disciplinary authority in the course of an investigation, audit, or inspection authorized by law by:

- *Not furnishing any papers or documents requested by the disciplinary authority;*
- *Not furnishing in writing an explanation covering the matter contained in a complaint when requested by the disciplinary authority;*

If the Practice Committee authorizes an investigation of a complaint, it should only be seen as confirmation that they need to look into the allegation more thoroughly. Opening an investigation does not mean that any conclusion has been reached that the allegations are correct and that violations have occurred. The investigation is used to collect additional material and information so a determination can be made by a Board member on whether administrative actions are appropriate.

Did You Know?

NCEES Announces Final Pencil-and-Paper PLS Exam

NCEES offered the PLS exam in pencil-and-paper format for the last time in April 2016. Beginning October 2016, the exam will be offered via computer based testing (CBT) at Pearson VUE testing centers. Registration for the computer-based PLS exam will open in June.

Enough Is Enough

As most surveyors will attest to, a dilemma frequently surfaces when they are in the process of making the final map or plat. That is, how much documentation is needed to comply with the requirements of the Survey Recording Act, Chapter 58.09 RCW and the Surveys Standards, Chapter 332-130 WAC?

While the cited statute and rules offer some clarification, the language is sometimes subject to various interpretations. Whether that is good or bad is not the purpose of this article. The fact that various interpretations are applied is somewhat the nature of the beast. Surveyors are an independent group who work in a profession that require they exercise independent judgment. Not to mention that no two surveys (or surveyors) are alike. Vive la difference.

Actually, the dilemma that is seen, is not as problematic as one would think. After all, the purpose of the survey map (plat or record of survey) is to provide both a graphic and narrative report of the history, existing conditions, analysis and professional judgment of the surveyor.

What does develop as the problem is that surveyors tend to assume that everyone who will use the survey map will know what is meant by “conc mon, i.p and fnd.” Also, surveyors tend to draw lines on paper that lack defining characteristics such as adjoiner calls, indicators of occupation and apparent conflicts of ownership.

When the user of the map information is a professional land surveyor, cryptic terms and defects mentioned can usually be overcome due to the expertise involved. However, the surveying community is not the exclusive user of survey documents. While clients are a recognized group, there is also the community of support professionals that rely on the work surveyors perform. In their view, they would like to know that the survey is more than “smoke and mirrors” and that they do not need to hire another surveyor to interpret the meaning of what was done.

So where does that put us? How much is enough? Perhaps the best way to sort through this sea of uncertainty is to develop your plat or survey map with the following conditions in mind. It may not result in perfection, but it will certainly result in more clarity.

If the monuments I set today were removed and I

was not available to resurvey the parcel, is there enough information on my map for another surveyor to retrace my work exactly the way I did it? Would that surveyor’s reset monuments be in exactly the same place as my originals, IF HE/SHE COULD NOT REACH ME TO HAVE QUESTIONS ANSWERED?

In the event that all my records (field notes, calculations, etc.) were unavailable, and I was asked to resurvey a parcel I staked a couple years ago, is there enough information on my plat so that I can understand (and recall) what I did and why, OR DO I HAVE TO DO THE CONTROL WORK ALL OVER AGAIN?

Is it possible for a non-surveyor to look at my map and be able to understand what parcel was surveyed; where the parcel is located; where I set my corners; what I set as corners and where those corners are in respect to lines of occupation? Have I included nomenclature, abbreviations or local jargon that has not been fully defined in the legend? OR SHOULD I BE PREPARED TO ANSWER THOSE QUESTIONS AFTER THE SURVEY IS RECORDED?

While neither the Survey Recording Act nor the Survey Standards make it a specific requirement, surveyors should consider using a *survey narrative* to provide the necessary enhancement to the graphic information. The decisions made can be outlined in clear and understandable terms that most everyone can understand, including another surveyor.



CBT Reduces Exam Invalidations

Bob Whorton, P.E.

NCEES Manager Of Compliance And Security

Licensure Exchange February 2016 Volume 20, Issue 1

EXAM SECURITY IS A TOP PRIORITY FOR NCEES. It is key to ensuring fair testing practices and valid test results. NCEES exam rules, including prohibiting certain items from the exam room or talking with others during the exam, are in place to protect exam integrity and give everyone the same advantage. Sometimes, examinees either don't know the rules or choose to ignore them. Such infractions may result in having exam results invalidated.

The number of invalidations for Fundamentals of Engineering (FE) and Fundamentals of Surveying (FS) examinees has sharply declined since the introduction of computer-based testing (CBT). During the four pencil-and-paper administrations prior to CBT (from 2012 to 2013), there were 112 invalidations for the three most common irregularities: 32 for possessing a cell phone, 26 for failing to cease work, and 54 for possessing an unapproved calculator.

During the last two years, there have been only 10 invalidations:

- 2 for accessing a cell phone during an unscheduled break
- 2 for communicating with each other
- 1 for leaving the test center during an unscheduled break
- 1 for possessing a prohibited item in the testing room
- 4 for testing twice during a window

Fifty pairs of FE/FS examinees were also flagged for copying/collusion during those four pencil-and-paper administrations. The FE and FS exams currently use a linear-on-the-fly testing model, which uses algorithms to create a unique exam for each examinee from a pool of questions, essentially eliminating the possibility of one examinee copying from another.

FE and FS exams are administered at approved Pearson VUE test centers. Pearson VUE provides secure testing environments, employing enhanced security measures such as palm vein scans to identify examinees

Did You Know?

Did You Know... New NCEES Exam Guidelines

As technology and exam formats change, so does NCEES Exam guidelines for those preparing for exams. If you are planning on taking an exam, either CBT or Pencil-and-Paper, please visit ncees.org/exams to get the latest information of what you can or cannot bring into the exam room.

and video monitoring. The only items allowed in the testing room are ID, approved calculator, reusable booklet and marker (for scratch work), eyeglasses, light sweater or jacket, and comfort aid items (such as cough drops, inhaler, pillow, or crutches). Other personal items (such as cell phones, watches, wallets, purses, hats, coats, books, pens, pencils, erasers, and food) must be stored in designated areas, usually in small lockers.

The CBT format has not been free of issues, but we try to work around them when possible. Some of the most common are:

Timing of the exam — Examinees have 5 hours and 20 minutes to complete the exam. They can take a 25-minute break after completing approximately half of the questions. Some examinees have difficulty managing their time before the break to allow adequate time for the remaining questions.

Late arrival — Test centers try to accommodate examinees who arrive after their appointment time if their testing schedule allows. Approximately 60 percent of late arrivals have been allowed to take their exam.

Unapproved calculator — NCEES limits the types of calculators that examinees may bring to the test centers. Anyone who does not have an approved model can use the on-screen calculator.

ID problems — NCEES requires Pearson VUE to adhere to strict identification requirements. IDs must be

current and include an expiration date, name and date of birth, a recognizable photo, and a signature. Also, the examinee's first and last name that they registered with must match their ID. When examinees fail to meet these requirements, they are not admitted for testing.

Technical issues — When dealing with computers, technical issues can and do occur (such as the exam freezing, error messages, or Internet connectivity problems). Most of the time, these issues are resolved with no impact to an examinee's results. If not, examinees are rescheduled or receive a refund of their exam fees.

Communications from NCEES staff have helped reduce the number of invalidations. In 2014, we introduced the NCEES Examinee Guide, the official guide to policies and procedures for all NCEES exams. This guide is available online, and all examinees must attest that they have read it before starting the exam registration process. Our social media sites, including Facebook and Twitter, give us an outlet to share reminders and videos about what to expect at test centers.

While we are glad that our efforts have helped reduce invalidations for the FE and FS exam, NCEES staff will continue to look for ways to make examinees aware of the rules and the possible penalties for not following them.

Did You Know?

DID You Know....NCEES Expands Testing Windows for CBT Exams

NCEES is extending the testing windows for its computer-based exams beginning January 2016. The four windows for computer-based testing (CBT) will expand from two months to three months, making testing for these exams available 12 months of the year.

NCEES Hosts Forum to Strengthen Future of Surveying Profession

Licensure Exchange February 2016 Volume 20, Issue 1

The National Council of Examiners for Engineering and Surveying (NCEES) Future of Surveying Forum, held January 22 in San Diego, California, brought together representatives from 18 surveying-related organizations to identify key elements and strategies to strengthen the future of the surveying profession. This is the first time organizations with varying perspectives on the profession have come together to discuss its challenges and collaborate on increasing the number of professional surveyors.

A significant element identified during the forum is improving the image of the profession. Participants believe that boosting the profession's image and increasing public awareness will help keep surveying relevant in the future. Other important elements include addressing changes in technology and the varying definitions of the practice of surveying.

Some of the strategies identified to address these elements include rebranding the profession to promote an updated image and increase public understanding of surveying and developing a consistent message to support the new image.

"Collaboration within the profession is crucial to reversing the declining number of professional surveyors," explained NCEES Chief Executive Officer Jerry Carter. "Working together to create a consistent message for everyone to use will provide a more effective approach to addressing this issue. The full forum report will provide recommendations on how professional organizations can continue what we started with this meeting."

The forum was organized by the NCEES Future of Surveying Task Force. Now in its second year, this group has been evaluating the current state of the surveying profession to determine how NCEES can mitigate the low number of candidates seeking licensure as professional surveyors and better market the value of a career in the surveying profession.



As The

COURTS

See It

Board, not court, must judge licensee's "good faith"

Professional Licensing Report – December 8, 2015

A trial court could not substitute its judgment of a licensee's "good faith" to overrule a state licensing board's discipline, the Court of Civil Appeals of Alabama held July 10.

The factual finding that Bostick acted in "good faith" could not be made by the trial court in the judicial-review process, the Court of Appeals said. "Judicial review of an administrative decision by the Court of Civil Appeals, just like that of the circuit court, is limited to ascertaining whether the decision is supported by substantial evidence, that is, evidence of such weight and quality that fair-minded persons in the exercise of impartial judgment can reasonably infer the existence of the fact sought to be proved.... A court reviewing an administrative decision is not authorized to reweigh the evidence or to substitute its decisions as to the weight and credibility of the evidence for those of the agency."

Restoring a licensing board's administrative order and sanction against a licensee for fraud, the appellate court reversed the holding of a circuit court and remanded the case to the trial court (*Alabama Bd. of Examiners of Landscape Architects v. Bostick*).

Chad Bostick became a landscape architect in 2009. Soon after, due to a dispute, Bostick resigned from a position he held with GRC Design Group.

In February 2010, a complaint was filed alleging that Bostick, while still employed with GRC, "misrepresented himself to clients as part owner in [GRC] and as a result had clients write checks payable to him which he cashed for his own personal use."

The complaint also noted that Bostick denied the fraud allegations, stating "the clients in question paid me directly for the intellectual property that I provided for them, and were completely satisfied with the work that they received. Their payment was not directed by me, nor was it based upon any misrepresentation or fraudulent act whatsoever."

The hearing officer, however, found that Bostick committed several violations including fraud, negligence, and willful misconduct, which the board accepted in their ruling, suspending Bostick's license for one year and imposing a \$250 fine.

"The Board finds that Bostick's actions... show fraud or deceit... show negligence or willful misconduct... show conduct involving fraud or wanton disregard of the rights of others."

Bostick appealed the board's order on May 12, 2014. On May 22, 2014, the trial court ruled in favor of Bostick, overturning the board's holding. "The section of the Board's Order labeled: 'Findings of Fact' contains no findings of fact on any significant disputed issues. It simply recited undisputed testimony and recited, but did not resolve, conflicting testimony on several relatively minor points." The court said.

Agreeing with Bostick's claim that his conduct was done in "good faith," the trial court asserted, "Neither the hearing officer's Recommended Order nor the Board's Order adopting it cited any evidence or made any specific finding that these deposits were made with fraudulent intent. The Board's Order appears to equate the making of the deposit with fraud.... The Board's Order states only in conclusory form that 'the charges against Mr. Bostick have been substantially proved,' ... and that Mr. Bostick's actions 'showed' fraud or deceit, negligence or willful misconduct, and fraud or wanton disregard of the rights of others...."

In appealing that trial court's ruling, the board raised two issues: whether the trial court "failed to apply the correct legal standards for review of an administrative decision, and whether the trial court erred in relying on inapplicable legal authority."

In reversing and remanding the trial court's decision, Judge Donaldson of the Court of Appeals noted that a court considering an administrative decision cannot reinterpret the evidence for the agency. Rather, "an agency's interpretation of its own rule or regulation must stand if it is reasonable, even though it may not appear as reasonable as some other interpretation."

“Applying the deferential standard of judicial review of an administrative agency decision, we hold that there were no grounds to set aside the Board’s administrative order and sanctions imposed against its licensee, Bostick.”

Donaldson concluded that the record contained “substantial evidence, which if believed by the Board, would support the Board’s findings and conclusion that Bostick engaged in acts of deceit and willful misconduct while in the practice of landscape architecture.”

What does Washington Law say?

Under RCW 18.43.105, the Board could consider this conduct when reviewing an investigation file if there is a nexus to a registrant’s work, and pursue disciplinary action.

RCW 18.43.105

Disciplinary action—Prohibited conduct, acts, conditions.

In addition to the unprofessional conduct described in RCW 18.235.130, the board may take disciplinary action for the following conduct, acts, or conditions:

- (1) Offering to pay, paying or accepting, either directly or indirectly, any substantial gift, bribe, or other consideration to influence the award of professional work;
- (2) Being willfully untruthful or deceptive in any professional report, statement or testimony;
- (3) Attempting to injure falsely or maliciously, directly or indirectly, the professional reputation, prospects or business of anyone;
- (4) Failure to state separately or to charge separately for professional engineering services or land surveying where other services or work are also being performed in connection with the engineering services;
- (5) Violation of any provisions of this chapter;
- (6) Conflict of interest—Having a financial interest in bidding for or performance of a contract to supply labor or materials for or to construct a project for which employed or retained as an engineer except with the consent of the client or employer after disclosure of such facts; or allowing an interest in any business to affect a decision regarding engineering work for which retained, employed, or called upon to perform;
- (7) Nondisclosure—Failure to promptly disclose to a

client or employer any interest in a business which may compete with or affect the business of the client or employer;

- (8) Unfair competition—Reducing a fee quoted for prospective employment or retainer as an engineer after being informed of the fee quoted by another engineer for the same employment or retainer;
- (9) Improper advertising—Soliciting retainer or employment by advertisement which is undignified, self-laudatory, false or misleading, or which makes or invites comparison between the advertiser and other engineers;
- (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.



Questions And Answers



Question

I work in a consulting activity that incorporates many types of contracts between me and general contractors. Sometimes the contract terms touch on issues that appear too specific that I act differently than the Board rules or law indicates. In those circumstances I negotiate appropriate changes or refuse to sign the contract.

Sometimes I am told by a contractor that the language I was objecting to was never a problem with other engineers and they challenge my decision.

Am I being too limiting in my level of responsibility?

Answer

Depending upon the project and your level of involvement, performance conditions in a civil contract can be very complicated. However, your actions appear to be correct from the information you provided. An engineer

Continues next page

or engineering firm must be mindful that their performance as a licensed professional engineer is regulated through the laws and rules of the Board. At times a client or contractor does not understand those rules or may believe the engineer has discretion on which rules they will apply to the work being performed. All professional licensees must understand that regardless of what a civil contract may say or what disclaimers the licensee may wish to incorporate to limit their civil liability, if a conflict exists between the contract and the wording of state law or administrative rules, the law and rules take precedent.

Question

I have been a practicing land surveyor for many years. In a recent conversation with a fellow land surveyor he relayed to me that he had no special responsibility to confirm that the information on record documents he obtains from county or city offices needs to be verified before he uses it. When questioned further, he was acting under the belief that if an error was contained in the material, the person who created the error is responsible and he would not be, even if he used it and produced something incorrect.

I have been doing surveying for long enough to know that can't be correct, but admittedly, I have not seen exact rule language that contradicts what he said. What is the Board's stand on this?

Answer

Your friend is incorrect. Anyone familiar with the practice of land surveying knows of the heavy reliance on record documents and information that is an integral part of professional practice. Most surveyors can also say they have found errors in record information that, if ignored, would bring about serious problems for client and practitioner.

Prudent practice dictates that research is more than just obtaining copies of documents. A licensee must also make a judgment/analysis on how reliable that information is. How much analysis is needed can vary based upon a lot of factors some of which are: the reputation of the one who did the work, the consistency of the information with other reliable sources, the age of the information and where the information was obtained. A licensee is expected to apply reasonable diligence research to confirm to his or her satisfaction that the information is reputable

Examinations

OCTOBER 2015 EXAMINATION RESULTS

	Total	Pass	% Pass
Principles & Practice of Engineering			
Chemical	10	3	30%
Civil	169	101	60%
Control Systems	12	8	67%
Electrical	51	31	61%
Environmental	16	8	50%
Fire Protection	9	4	44%
Mechanical	79	60	76%
Metallurgical	3	1	33%
Mining	1	1	100%
Nuclear	4	2	50%

16 Hour Structural

Lateral	24	11	46%
Vertical	27	11	41%
Lateral & Vertical	14	5	36%

Principles & Practice of

Land Surveying

NCEES – 6 Hour	12	11	92%
WA Specific (2-hour)	21	13	62%
On-Site Designer	4	1	25%
On-Site Inspector	6	4	67%

2015 COMPUTER-BASED TESTING (JULY - DECEMBER)

	Total	Pass	% Pass
Fundamentals of Engineering (EIT)			
	462	317	69%
Fundamentals of Land Surveying (LSIT)			
	9	4	44%

Continues page 14

Investigations & Enforcements

Statistics Of Actions Taken By The Board

JULY 1, 2015 THROUGH DECEMBER 31, 2015

Active investigations as of July 1, 2015	15
Investigations Opened	74
Investigations Closed	58
Active Investigations as of December 31, 2015	31

SUMMARY BY MONTH:

	Complaints Received	Inquiries Received	Investigations Opened *
July	27	1	27
August	9	2	9
September	12	1	12
October	5	0	5
November	9	0	9
December	12	0	12
Totals	74	4	74

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

SUMMARY BY PROFESSION AS OF DECEMBER 31, 2015

	Active Investigations	Legal Status	Compliance Orders
Prof. Engineers	15	4	1
Prof. Land Surveyors	9	9	2
Unlic. Engineers	4	0	0
Unlic. Land Surveyors	2	1	1
On-Site Designers	1	2	0
Totals	31	16	4

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, 2015 through December 31, 2015. 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 the Board office for more details.

FORMAL BOARD ACTIONS:

Land Surveying

Benjamin Hodde PLS, Case No. 14-06-0003

In July 2013, Mr. Hodde performed a boundary survey for his clients by locating existing property corners, setting missing property corners, locating irrigation

Continues next page

structures and setting line stakes for a fence. As of June 2014, the boundary survey performed by Mr. Hodde had not been recorded with the County Auditor.

During the course of the investigation, Mr. Hodde failed to respond to numerous written requests from the Board's investigator and failed to submit any information to the Board as requested.

After reviewing the investigation file, the case manager authorized the issuance of a Statement of Charges on December 3, 2014, and a settlement option in the form of a Stipulated Findings of Fact, Conclusions of Law, and Agreed Order.

As Mr. Hodde did not respond to the Statement of Charges, a Default Order was accepted by the Board on August 13, 2015. The terms of the Default Order included:

- Mr. Hodde shall not be eligible to renew his license to practice professional land surveying through December 28, 2016, representing a two year suspension from when his license expired.
- Mr. Hodde shall refund to his client money paid in connection with the July 2013 surveying services.
- After proof of reimbursement, and with the clients advance permission, Mr. Hodde shall remove any evidence in the form of monuments he set in the course of said survey, and provide the Board proof that he has done so.
- A \$5,000 fine.
- Before he is eligible to reinstate his license, which shall be no sooner than December 28, 2016, he is required to comply with the sanctions above and take and pass the Washington State 2-hour Professional Land Surveyor's Exam.

The investigation was closed and moved to compliance monitoring.

Phil Sargent, PLS **Case No. 14-09-0002**

In August, 2014, Mr. Sargent was randomly selected for an audit by the Board for compliance with Continuing Professional Development hours and asked to provide a record of compliance for the period of August, 2012 through August 2014. In September,

2014 the Respondent replied that he had not fulfilled the obligation because he had not been able to afford it. On October 8, 2014 the Practice Committee determined that a formal investigation was warranted.

Mr. Sargent, upon online renewal of his license, certified that he had complied with the requirements for Continuing Professional Development. He willfully made a false statement in effect by affirming that he had complied with the requirements for Continuing Professional Development at the time he submitted his license renewal.

After reviewing the investigation file, the case manager authorized the issuance of a Statement of Charges on January 13, 2015, and a settlement option in the form of a Stipulated Findings of Fact, Conclusions of Law, and Agreed Order. Mr. Sargent accepted the settlement option and signed the Agreed Order. Terms of the Agreed Order include:

- Upon the effective date of this Agreed Order, his professional land surveyor's license is suspended for a period of six (6) months. Said suspension is stayed (not imposed) upon his compliance with the sanction below.
- Within sixty (60) days of the effective date of the order, he shall pay a fine of \$250.

On August 13, 2015, the Board signed and accepted the Agreed Order.

Unlicensed Land Surveying

David Wilson **Case No. 14-03-0015, &** **Case No. 14-08-0001**

The Board opened an investigation of David Wilson based on two separate complaints alleging the unlicensed practice of land surveying. The complainants provided evidence that Mr. Wilson prepared letters and drawings using GPS to determine the location of corners, lines, boundaries, and monuments. During the course of the investigation, Mr. Wilson admitted to the board investigator that he did prepare drawings and letters and is not licensed in the State of Washington as a professional land surveyor.

On May 13, 2015, the Board issued a Statement

of Charges and a settlement option in the form of Stipulated Findings of Fact, Conclusions of Law, and Agreed Order. Mr. Wilson accepted the settlement option and signed the Agreed Order.

Terms of the Agreed Order include:

- Mr. Wilson will cease and desist from offering to provide and/or providing land surveying until such time he is licensed to do so.
- Mr. Wilson shall provide to the Board a full accounting of all projects, surveys, or services provided in Washington where the services included but not limited to surveying.
- Mr. Wilson shall pay a fine of \$2,000

On August 13, 2015, the Board signed and accepted the Agreed Order.

INFORMAL ACTIONS:

Engineering

Case No. 15-07-0027

This investigation was opened based on a Professional Engineer (PE) notifying the Board that he discovered his license had lapsed for 20 days and he had stamped and signed 5 projects during this time.

The respondent's license expired on July 7, 2015. He renewed his license on July 27, 2015 after he was notified by one of his clients of the lapse. The respondent indicated a clerical error occurred which resulted in the lapsed license. In addition to self-reporting, the respondent notified the clients of the five projects he stamped while the license was expired and re-stamped the documents.

The Case Manager recommended no further action as the respondent took the lapse of his license seriously, notified the Board, and took proactive actions with his clients.

Land Surveying

Case No. 15-01-0006

This investigation was opened based on allegations that the Respondent performed a survey in 2003, and filed a Record of Survey with the County Auditor that did not meet the requirements of Chapter 58.09

RCW (The Survey Recording Act) or Chapter 332-130 (Minimum Standards For Land Boundary Surveys).

The Respondent agreed to revise the map with the remaining items and refile the survey with the County Auditor.

The Respondent satisfactorily addressed the concerns of the case manager and recorded a corrected survey, bringing it in compliance with Chapter 58.09 RCW and Chapter 332-130.

The Case Manager recommended closing the investigation with no further action based on the Respondent voluntarily working with the Case Manager and Board staff.

Unlicensed Engineering

Case No. 14-10-0001

This investigation was opened based on allegations that a proposal for water treatment services received from a firm was a fraudulent proposal. The complainant contracted for services with the firm based on the proposal, but subsequently terminated the contract.

The engineer included in the proposal was the respondent who was not licensed in Washington, but had been previously licensed in Puerto Rico. The respondent was noted on the contract as a PE. The firm's contract offer to the Church should not have noted the respondent as a PE.

A review of the signed proposal from the firm did not disclose any tasks that would require the services of a Professional Engineer.

The respondent has removed the PE designation from his business card and has also renewed his expired PE license in Puerto Rico. Because the scope of work did not include Professional Engineering services, the case manager recommended this case should be closed without further action.

Message From The Chair

exam; they are Missouri, Rhode Island and New Jersey. This exam makes it uniform for the exam component part of the licensure mobility for structural engineering across US; however, there are still the experience and education components of the licensure requirements that an individual needs to meet for a specific state licensure. Our Board has been working diligently to update our structural application form to help guide the structural engineer applicants in providing the required experience for the Board's assessment of his/her structural experience. It is important that the applicant possesses the structural experience that meets the high seismic requirements of our region in designing the significant structures as stipulated in the RCW.

On January 4, 2014, NCEES Fundamentals of Engineering (FE) and Fundamentals of Surveying (FS) examinations were administered via computer based testing (CBT) for the first time. These exams are now being offered year round via CBT. For students who have graduated or are about to graduate from an accredited academic program in engineering, these applicants had the benefit of an abbreviated application process due to academic accreditation. Also, for the PLS exam, NCEES will no longer administer our state specific 2-hour exam. However, they will continue to administer the NCEES 6-hour PLS exam via CBT beginning October 2016. The last administration of the paper and pencil PLS exam was April 2016. Furthermore, there will be professional exams that will be transitioned from paper and pencil exams to CBT in the near future, stay tuned.

Looking Forward

As I reviewed the year end report provided by staff on the licensee demographics and trends, one consistent stat that shows up for both engineers and land surveyors is the percentage of women in both professions. For professional engineers, we have 23104 male vs 2525 female. For professional land surveyors, we have 1191 male vs 36 female. It's time to focus on increasing the number of women in engineering and surveying. It was encouraging to see that NCEES elected its first female president in 2013. NCEES is working with National Society of Professional Engineers (NSPE) and the Society of Women Engineers (SWE) to develop new strategies to increase the number of women in engineering to 30 percent by 2030. At last year's NCEES annual meeting, the Washington Board supported this issue and voted to adopt the diversity statement in the first steps in providing improved diversity amongst our members. I encourage our licensees to participate within your engineering or surveying societies to help promote engineering and surveying through your local STEM programs.

Thank You

Finally, I want to thank my fellow board members and staff for allowing me to have fun while serving on the board together. It has been a humbling experience and I will treasure the 10 years that I spent on the board.

Continued

Q&A

and reliable. For your friend to suggest that he has no responsibility to check the record information would be serious error on his part.

Question

I'm a Licensed Designer and am considering expanding my practice to include the Operation and Maintenance of On-site Sewage Systems. The Local Health Department says I must be licensed with them. I think they are wrong, and my Designer's license exempts me from their requirements. Am I right?

Answer

NO. Your Designer's license authorizes you to investigate existing On-site Wastewater Systems and design possible replacement or repair. It does not give you the authority to install systems or to monitor the performance of such systems under operation and maintenance duties. You should check with the local health jurisdiction for their performance or credential requirements to perform installation or operation and maintenance services.

Schedules

Fall 2016 Administration

The following exams are offered year round as computer-based exams:

- Fundamentals of Engineering (FE)
- Fundamentals of Land Surveying (FS)
- Land Surveying (NCEES 6 hour)
- Land Surveying (State Specific 2 hour)

For more information, visit <http://ncees.org/exams/cbt/> or call (360) 664-1575.

Examination	Type	Examination Date	Application Deadline
Environmental, Chemical, Civil, Electrical, Mechanical, Control Systems, Fire Protection, Metallurgical & Materials, Mining & Mineral Processing, Nuclear, Petroleum	NCEES	Friday October 28, 2016	Friday July 29, 2016
16-hour Structural Vertical/Lateral	NCEES	Friday & Saturday October 28 & 29, 2016	Friday July 29, 2016
On-Site Wastewater Designer / Inspector Certification	State	Thursday October 13, 2016	Friday July 29, 2016

Calendar

The following calendar displays the Board's planned meetings and participating events for 2016.

Dates and locations are subject to change. For more information, visit <http://www.dol.wa.gov/business/engineerslandsurveyors/meetings.html> or call (360) 664-1564.

BOARD AND COMMITTEE MEETINGS

locations to be determined

June 15 & 16
August 10
October 12 & 13
December 8

BOARD PARTICIPATING EVENTS

May 19 – 21, 2016
NCEES Western Zone Meeting
Anchorage, AK

August 24 – 27, 2016
NCEES Annual Meeting
Indianapolis, IN



Board of Registration for Professional
Engineers and Land Surveyors
P.O. Box 9025
Olympia, WA 98507

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