



**STATE BOARD FOR ENGINEERING, LAND SURVEYING AND GEOLOGY
OFFICE OF THE PROFESSIONS**

89 Washington Avenue, Albany, NY 12234

September 12, 2024 - 9:30 A.M.

OPEN SESSION MINUTES

Primary Board Members Present:

- M. Noviello, P.E., L.S. (Chair)
- J. Martin, P.E. (Vice Chair)
- D. D'Angelo, P.E., arrived at 9:51 A.M.
- L. Woods, P.E.
- W. Kelly, P.G.
- J. Patota, P.G., arrived at 9:41 A.M.
- R. Nogle, P.E.
- S. Porter, L.S., left at 12:00 P.M., returned at 12:18 P.M.
- M. Rygel, P.G.
- R. Watt, P.G.
- J. Janora, P.G.
- F. Flanagan, L.S.
- S. Alampalli, P.E.
- R. Frandina, P.E., L.S.
- D. Franzl, P.G.
- B. Holbritter, L.S.

Extended Board Members Present:

- None

Primary Board Members Absent:

- G. Marcus, P.E.
- T. Mitchell, P.E.
- P. VanHaverbeke, L.S.

Department Personnel:

- E. Greppo, P.E. – Executive Secretary (ES)
- K. Fitzgerald – Associate in Professional Education
- H. Lienteigne – Administrative Assistant I, arrived at 12:00 P.M.
- D. Hamilton, L.M.S.W, Ph.D. – Office of Professions (OP) Deputy Commissioner, left at 10:52 A.M.
- R. Lopez, R.A. – Executive Secretary, left at 10:52 A.M.
- J. Szober, Esq., C.F.E. – Office of Professional Discipline (OPD) Prosecuting Attorney, left at 10:52 A.M.
- W. Bowler, Esq. – OPD Prosecuting Attorney, arrived at 10:03 A.M., left at 10:52 A.M.

Visitors:

- Herbert Stoughton, P.E., L.S., Ph.D. – Former Board Member
- Catherine Stoughton
- Mark Kriss – NYSSPE
- Emily Whalen – NYSAPLS
- Kate Knight – Catalyst Government Relations, representing Rochester Institute of Technology,
- Campbell Wallace – NYSCPG, arrived at 10:10 A.M.

1. Call to Order – Open Session

Chair Noviello called the Open Session to order at 9:31 A.M.

2. Introductions

Board members, department staff, and visitors provided brief introductions.

3. NYSED OPD Discussion on Fee-Splitting and Profit Sharing

The information presented by J. Szober and W. Bowler provided a high-level overview related to fee-splitting/sharing and illegal practice.

Section 29 of the Rules of the Board of Regents (BOR) describe Unprofessional Conduct. Illegal practice and fee-sharing are often related. The design professional fee sharing Rule is outlined in 29.3(a)(6). There should typically not be any intermediary between the design professional and the client/owner.

Section 29.1(b)(4) of the Rules of the BOR contains a specific reference to ‘professional’ subcontractor, whereas 29.3(a)(6) does not. After research, a definitive answer for the difference was not found.

OPD staff rely on Board Member (BM) expertise of the profession. BM assists the Department to evaluate the unlicensed individual’s actions against professional practice law and rules.

Cease and desist letters may be sent to entities without NYSED Certificate of Authorization (COA). There are laws, rules, and regulations regarding corporate practice: What can be done, what cannot be done, and how the corporation can be organized.

OP commonly administers investigations dealing with unlicensed practice and/or aiding and abetting.

There are few illegal practice cases. In those cases, there is no hearing panel and a hearing officer makes determinations.

When a licensed professional is involved in a disciplinary case, an outside expert/consultant may be used.

Class E felony cases may be enforced, and most commonly where there was documented harm.

Case law decisions that were briefly discussed including Charlebois, SKR Design and Lombardo.

J. Szober will follow-up with ES on questions raised by Board Members related to illegal practice, work referrals, non-licensed people interpretation of work produced by a licensee and fee splitting guidance for non-licensed work directed by a licensed professional (e.g., drilling & lab services).

When attending public meetings, W. Bowler suggested that a public speaker may be asked if they are speaking as a citizen or as a person connected to the project.

It is important to note that the specific facts of a case will determine the charge(s) and it is hard to provide generalizations or hypotheticals.

4. Break

A brief break was taken from 10:52 A.M. to 10:59 A.M.

5. Meeting Minutes

The Open Session meeting minutes from the June 13, 2024 Board meeting were reviewed. Approval has been delayed until additional details are added to the Engineering Technology (ET) Bill Technical Review section. Two (2) other minor corrections will be incorporated as well.

6. Chair and Vice Chair Reports

Chair Noviello reported that seven (7) Board Members, the ES, and W. Bowler attended the 2024 NCEES annual meeting. Of note, the State Plane Coordinates module will be removed from the NCEES PS exam for colonial states. Therefore, questions regarding this topic will be developed for the Land NYS-specific Land Surveying exam.

At Chair Noviello's request, Member Nogle gave an overview of the Engineering Technology motion developed by the NCEES Northeast Zone this spring and presented at the annual meeting. The motion was approved at the national conference which charges NCEES to review and develop a resultant motion proposing a pathway in Model Law for ETAC/ABET BS graduates.

The Vice Chair mentioned that there were vibrant discussions in the NCEES Annual Conference Engineering sessions on ET vs Engineering degrees.

7. Executive Secretary Report

- Board Office Report as outlined in the Open Session Packet was reviewed.
- Joanne Darcy Crum, LS was appointed to a 2nd Extended Member term that runs from July 16, 2024 to June 15, 2029.
- The PE application queue contained 86 applications as of August 27, 2024.
- The NCEES Annual meeting was covered during the Chair report.
- ES requested nominations for the Board's newly vacant Public Member position.
- As part of the OP Modernization Project, the Board Office will be able to provide licensure and practice information to licensees via email distribution list.
- A Geology committee meeting will be held today following the conclusion of Executive Session.

8. Professional Engineering (PE) Committee Report

Chair Martin stated that ET and the NCEES Annual meeting were covered during earlier reports.

ES will have the committee review several topics, including refining ET position, future PE Board Member, NYSED Practice Guidelines, FAQs, and study of the NCEES “Mutual Recognition Agreement.”

9. Land Surveying (LS) Committee Report

Chair Holbritten shared that the committee met on June 24th and July 22nd to select items and finalize the Fall 2024 NYS Specific Land Surveying exam.

A Fall NYS Specific Land Surveying exam prep course discussion was held with NYSAPLS representatives on 7/17. A list of content areas where scores dropped were shared with the presenters.

On 8/6, committee members met with the NYSAPLS Young Professional Group and discussed initiatives.

ES shared that he held a call with NYSAPLS representatives regarding Practice Guidelines and MTS on 8/1. NYSAPLS MTS committee has also recently contacted the Board Office and will offer additional resources for the Board’s review in the early fall.

The NYSAPLS exam prep course will be held on 9/13 and 9/14. Member Flanagan will replace Chair Holbritten as LS representative on the Education Committee. The LS committee will be tasked with looking at the NYS Specific exam item bank (led by Member VanHaverbeke), practice guidelines and FAQ’s (led by Member Porter). The Board intends to provide two (2) presentations at the 2025 NYSAPLS Conference related to ethics and application preparation. Select committee members will be joined by the ES and NYSAPLS representative.

10. Professional Geology (PG) Committee Report

Chair Patota mentioned that the Board will provide an ethics presentation on 11/12 as part of Geology Days (Saratoga Springs, NY) to help participants understand the regulated practice of geology and standard of care. ES and Vice Chair Martin will attend and co-present along with PG committee members.

ASBOG will hold their annual meeting in Colorado on October 22 -23, 2024. ES may attend in-person (pending SED approval). Committee will discuss relevant topics prior to the annual meeting.

The committee will review SED webpages pertaining to consumers and professional practice.

Chair Patota is also looking into the status of ABET geology program accreditation. Will compare requirements to NYS regulations. This review will not have any impact on licensees.

The International Council on Regulation (ICOR) Consortium is developing guidelines on practice overlap. ES inquired about PG representation on the consortium, as ABSOG has not been involved to date.

ES shared an intention to again maintain a booth at the Geological Society of America's 2025 Northeastern Section Meeting in Erie, PA. Meeting dates are March 27-30.

11. Access & Outreach to the Professions Committee Report

Chair Woods mentioned that the draft STEM PowerPoint presentation is close to being completed. A meeting with Extended Member Haas is being held 9/18, who began development of the presentation when on the access committee. Once the draft presentation is completed, it will be distributed to the full Board for review and comments.

The ES shared that two PE seminars will soon be provided by the Board and hosted by NYSSPE. A virtual Ethics Presentation will be held on 9/25 and a virtual Application Preparation presentation will be held on 10/2.

The Board intends to provide an Ethics presentation during E-Week (February 13-14, 2025). Presentation abstracts are due by 12/1. The committee is looking to reinstate outreach to NYCDOB.

12. New Board Office Staff Introduction

Effective today, H. Lienteigne has joined the Board Office as an Administrative Assistant I. She introduced herself and Board Members provided introductions as well.

13. Education Committee Report

ES reported on behalf of Chair Mitchell. An orientation meeting was held on 9/5 that served as new committee member training, with a follow-up meeting scheduled for 9/19 to discuss four (4) new proposals. There committee will host more frequent virtual meetings going forward to train and integrate new committee membership.

14. Legislation Committee Report

Chair Martin commented that there is nothing new to report as the legislature has not been in session but will continue to follow the bills that are listed on the legislation tracker, including project delivery methods related legislation.

15. Project Delivery Methods Committee Report

Chair D'Angelo reported that the committee met on 7/2. The committee name reflects the practice's evolvment (from simply "Design Build"). The meeting agenda dealt with the charge and purpose of the committee, procurement procedures, contract administration, and payment provisions. Other topics included an explanation of "Progressive Design Build," methodologies, and the overlap of the PE and Legislative Board Committees.

Out of the seven (7) legislative bills of interest discussed during the committee meeting, one (1) passed both houses (A10543/ S9849) but has not yet been forwarded to the Governor for signature. The bill proposed certain instances permitting 'Construction Manager Build'.

ES will work with the committee to review an existing position statement related to project delivery methods.

16. Continuing Business

The NYS Land Survey exam was discussed within the Chair and LS committee reports. Practice Guidelines & FAQ Review were discussed within the committee reports for each profession.

17. New Business

The following were discussed within various committee reports: NEGSA, E-Week, NYCDOB, NCEES Mutual Recognition Agreement, Design Build Review and 2025 Events and Outreach.

Standard licensure application forms are under review by the Board Office, with the intent of identifying potential improvements.

Formal 2025 Chair and Vice Chair nominations and elections will be held at the December 5, 2024 Board Meeting.

Tentative 2025 Board Meeting dates will be selected at the December 5, 2024 Board Meeting.

18. Resolution for Executive Session and Adjournment

Motion – Nogle/Frandina: Move to adjourn Open Session, break for five (5) minutes at 12:29 P.M., and reconvene thereafter for Executive Session.

PASSED UNANIMOUSLY.

Respectfully Submitted,



Eric Greppo, PE
Executive Secretary