



Michigan – Ethics including MI Laws and Rules for Professional Engineers

Four (4) Continuing Education Hours
Course #MI101

Approved Continuing Education for Licensed Professional Engineers

EZ-pdh.com
Ezekiel Enterprises, LLC
301 Mission Dr. Unit 571
New Smyrna Beach, FL 32170
800-433-1487
support@ez-pdh.com



Course Description

The Michigan four (4) hours Ethics and Laws & Rules course satisfies the continuing education requirement of minimum of two (2) hours of Ethics.

This course also overviews the Michigan State laws governing the profession of engineering. An extra two (2) hours is awarded and applies to the overall 30 hours of continuing education required for each MI licensed engineer.

The course consists of three major sections as outlined below.

1. Code of Ethics
 - a. General Code of Ethics for all Professional Engineers
2. Ethics Case Reviews
3. Michigan Laws and Rules
 - a. Michigan Statutes Ch. 339 Occupational Code, Article 20
 - b. Michigan Administrative Code R339-16001 To 16044, Professional Engineers – General Rules
 - c. Michigan Statutes Ch. 339 Occupational Code, Article 1

The course is designed as a distance learning interactive course that enables the practicing professional engineer to keep up to date on the legal aspects that govern the practice of engineering in the state of Michigan as well as revisit the emphasis that the holder of a professional license has a direct and vital impact on the safety, health, and welfare of the public.

Objectives

The objectives of this course is to:

1. Familiarize the student with the standards of professional behavior for adherence to the highest principles of ethical conduct,
2. Apply those principles in reviewing real case studies,
3. Familiarize the student with the laws and rules regulating the practice of engineering in the state of Michigan.

Upon successful completion of the course, the student will be well versed to exhibit the highest standards of honesty and integrity deemed paramount to his or her license and profession as well as be well versed in the Michigan state laws governing the practice of the engineering profession.

Grading

Students must achieve a minimum score of 70% on the 30-question online quiz to pass this course.

The quiz may be taken as many times as necessary in order to successfully pass this course.

The quiz may be taken as many times as required until the student successfully passes.

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Code of Ethics

Preamble

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

- 1) Hold paramount the safety, health, and welfare of the public.
- 2) Perform services only in areas of their competence.
- 3) Issue public statements only in an objective and truthful manner.
- 4) Act for each employer or client as faithful agents or trustees.
- 5) Avoid deceptive acts.
- 6) Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

II. Rules of Practice

1. Engineers shall hold paramount the safety, health, and welfare of the public.

- 1) If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
- 2) Engineers shall approve only those engineering documents that are in conformity with applicable standards.

- 3) Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.
- 4) Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
- 5) Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
- 6) Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.

2. Engineers shall perform services only in the areas of their competence.

- 1) Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
- 2) Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.
- 3) Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.

3. Engineers shall issue public statements only in an objective and truthful manner.

- 1) Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.
- 2) Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.
- 3) Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose

behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

4. Engineers shall act for each employer or client as faithful agents or trustees.

- 1) Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.
- 2) Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.
- 3) Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.
- 4) Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.
- 5) Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

5. Engineers shall avoid deceptive acts.

- 1) Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.
- 2) Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide

employee or bona fide established commercial or marketing agencies retained by them.

III. Professional Obligations

1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.

- 1) Engineers shall acknowledge their errors and shall not distort or alter the facts.
- 2) Engineers shall advise their clients or employers when they believe a project will not be successful.
- 3) Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.
- 4) Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.
- 5) Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.

2. Engineers shall at all times strive to serve the public interest.

- 1) Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
- 2) Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.
- 3) Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.
- 4) Engineers are encouraged to adhere to the principles of sustainable development¹ in order to protect the environment for future generations.

3. Engineers shall avoid all conduct or practice that deceives the public.

- 1) Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
- 2) Consistent with the foregoing, engineers may advertise for recruitment of personnel.
- 3) Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.

4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.

- 1) Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.
- 2) Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.

5. Engineers shall not be influenced in their professional duties by conflicting interests.

- 1) Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
- 2) Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible.

6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.

- 1) Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.

2) Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.

3) Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.

1) Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.

2) Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.

3) Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.

8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.

1) Engineers shall conform with state registration laws in the practice of engineering.

2) Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.

9. Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.

1) Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.

- 2) Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.
- 3) Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.
- 4) Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.
- 5) Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminars.

Engineering Ethics Case Reviews

CASE 1: INCOMPLETE PLANS AND SPECIFICATIONS – ENGINEER, GOVERNMENT, AND CONTRACTOR RESPONSIBILITIES

Facts:

Engineer A responds to an RFP from a small local public agency to build a new dam to be financed in part by a federal grant. Engineer A's firm's impressive brochure and personal interview results in the award of a contract for the design, drawings, and specifications.

The signed and sealed drawings and specifications are ultimately approved by Engineer B of the engineering staff of the federal agency funding the project, and the project is thereafter duly advertised for bids and a contract is awarded to the low bidder, Hi-Lo Construction. The local public agency does not have the in-house technical resources to review the drawings and specifications.

At the pre-construction conference, it is pointed out by Engineer C, owner of Hi-Lo Construction, that much of the design detail is lacking in the drawings and specifications and that Hi-Lo Construction declares that certain parts of the project are "unbuildable" without major changes. Engineer A generally agrees with Hi-Lo's characterization, but in his defense responds that he felt pressured to deliver the drawings and specifications on a specified date, but did not inform anyone as to their incompleteness. While much of the information was missing from the drawings and specifications, Engineer A was confident that sufficient federal funds (and not local funding) would cover any potential increased costs.

References:

Section I.1. - Code of Ethics: Engineers, in the fulfillment of their professional duties, shall hold paramount the safety, health and welfare of the public.

Section II.3.a. - Code of Ethics: Engineers shall be objective and truthful in professional reports, statements or testimony. They shall include all relevant and pertinent

information in such reports, statements or testimony, which should bear the date indicating when it was current.

Section II.5. - Code of Ethics: Engineers shall avoid deceptive acts.

Section III.1.b. - Code of Ethics: Engineers shall advise their clients or employers when they believe a project will not be successful.

Section III.2.b. - Code of Ethics: Engineers shall not complete, sign or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.

Discussion:

The Board has considered cases involving similar situations in the past. In BER Case No. 82-5, where an engineer employed by a large defense industry firm documented and reported to his employer excessive costs and time delays by sub-contractors, the Board ruled that the engineer did not have an ethical obligation to continue his efforts to secure a change in the policy after his employer rejected his reports or to report his concerns to proper authority, but has an ethical right to do so as a matter of personal conscience. The Board noted that the case did not involve a danger to the public health or safety, but related to a claim of unsatisfactory plans and the unjustified expenditure of public funds. The Board indicated that it could dismiss the case on the narrow ground that the NSPE Code does not apply to a claim not involving public health and safety, but that was too narrow a reading of the ethical duties of engineers engaged in such activities. The Board also stated that if an engineer feels strongly that an employer's course of conduct is improper when related to public concerns, and if the engineer feels compelled to blow the whistle to expose facts as he sees them, he may well have to pay the price of loss of employment. In this type of situation, the Board felt that the ethical duty or right of the engineer becomes a matter of personal conscience, but the Board was unwilling to make a blanket statement that there is an ethical duty in these kinds of situations for the engineer to continue the campaign within the company and make the issue one for public discussion.

As in Case No. 82-5, the issue does not allege a danger to public health or safety, but is premised upon a claim of unsatisfactory plans and the unjustified expenditure of public funds. In Case No. 82-5, the Board found that, while the Code did not require disclosure, the engineer did have an ethical right to pursue the matter further, even to the point of public disclosure. Unlike Case No. 82-5, this case does not involve a conflict with the ethical requirement of confidentiality, but concerns the

affirmative responsibility of engineers to complete plans in conformity with applicable engineering standards and avoid deceptive acts.

While the Board certainly hopes that the facts involved in this case are very unique and do not represent more than a small fraction of public design and construction projects in the United States, it appears that the facts as presented in this case are, unfortunately, not as unique as one might hope.

It is clear that Engineer A had an obligation to provide a complete set of design drawings and specifications on the project in which Engineer A was engaged. Unlike what is required on some projects (e.g., design/build or construction contracts with specific design delegation clauses or provisions) where the engineer is expected to only design a certain percentage of the project prior to the selection of the contractor, here, Engineer A was fully required to provide the complete design on the project. Engineer A's bold assertion that the work was incomplete, but that this was due to time pressures and his expectation that Federal funds would be awarded to complete the work is wholly unconvincing. Engineer A was selected for his expertise, which presumably included Engineer A's ability to fully perform the work based on project time parameters.

Engineer A's comment about Federal funds borders on fraud and misrepresentation and is a clear violation of the NSPE Code.

Engineer B's approval of Engineer A's incomplete plans is troubling, although we do not know all of the facts and circumstances relating to the decision to approve. Engineers have an obligation to perform services within their area of competence. If Engineer B was not able to perform the necessary reviews of Engineer A's work, Engineer B should have provided this information to a supervisor who would have assigned an appropriate engineer to perform the review. Not possessing adequate competency to perform a task is not in and of itself a violation of the NSPE Code, but the failure to recognize the lack of competency and take appropriate action to address the situation is a violation of the NSPE Code.

Finally, the Board believes that Engineer C's actions in bidding on an "unbuildable" contract is also very troubling. Presumably, Engineer C had an opportunity to review the bidding documents which included appropriate engineering drawings, plans, and specifications. From such a review, Engineer C should have had a sense of what would be necessary to complete the project. If the engineering documents were incomplete or inadequate, then Engineer C's bid should have reflected that fact and contained appropriate bid items for additional services required to complete the work for the benefit of the owner. In addition, Engineer C could have

requested further clarification from the owner or Engineer A in order to better understand the engineering drawings.

As an engineer and a contractor presumably, Engineer C had the necessary background and experience to carefully evaluate the engineering drawings as well as other aspects of the work in order to make an informed decision as to whether to bid on the project. Engineer C had no one to fault but himself for the problems Engineer C encountered in attempting to build the project. Engineer C submitted the low bid on the project, presumably knowing inadequacies of the documents as well as the obvious risks involved.

CASE 2: INCOMPLETE PLANS AND SPECIFICATIONS

Use of P.E. Designation Not Licensed In State in Which Complaint Is Filed

Facts:

Engineer A is a safety engineer for a federal agency. He is responsible for independently overseeing the proper implementation of worker and nuclear safety programs in the agency's facilities, which are located in many different states, including the state in which Engineer A is licensed, State Y. Engineer A is not required to be licensed by the federal agency, but has become licensed because of his personal commitment to the engineering profession.

Engineer A has never used his seal in the course of his employment. When Engineer A moves to State Z, he does not obtain an engineering license in State Z. Engineer A reads a newspaper account about LMN Engineering, a subcontractor to the federal agency in which he works, having a conflict of interest with the agency. Engineer A, acting on his ethical obligation to report violations of the NSPE Code of Ethics to a public authority, files a complaint against LMN Engineering. In the text of the complaint, Engineer A indicates that he is licensed in State Y but not licensed in State Z and signs the letter "Engineer A, P.E."

Engineer A is thereafter notified by the State Z engineering licensure board that his use of the title "P.E." in the letter is inappropriate because he is not licensed in State Z.

References:

Section II.1. - Code of Ethics: Engineers shall hold paramount the safety, health, and welfare of the public.

Section II.1.e. - Code of Ethics: Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.

Section II.3. - Code of Ethics: Engineers shall issue public statements only in an objective and truthful manner.

Section II.3.b. - Code of Ethics: Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.

Section III.3.a. -Code of Ethics:Engineers shall avoid the use of statements containing a material mis-representation of fact or omitting a material fact.

Discussion:

The use of appropriate engineering titles has long been an important issue within the engineering profession. Misuse of engineering titles has the effect of misleading and deceiving the general public, as well as diminishing the image and stature of qualified engineering professionals. In recent years, efforts have been undertaken to educate individuals and companies about the inappropriate use of engineering titles or references by many engineering organizations and state engineering licensure boards. State engineering licensure boards have also increasingly taken a stricter position on the use of the reference, "P.E.," by licensed engineers not licensed in the state in which the reference is being used. In fact, some states have developed guidelines on appropriate use of the "P.E." reference.

The NSPE Board of Ethical Review has had recent occasion to consider the use of appropriate engineering titles. For example, the Board has had three occasions to consider cases involving alleged misrepresentation of credentials or status. BER Case No. 90-4 involved the question of whether it was ethical for Engineer Z, a principal in an engineering firm, to continue to represent Engineer X as an employee of his Firm. Engineer X had been employed by Firm Y, a medium-sized engineering consulting firm controlled by Engineer Z. Engineer X was one of a few engineers in Firm Y with expertise in hydrology, but the firm's work in the field of hydrology did not constitute a significant percentage of its work. Engineer X, an associate with the firm, gave two

weeks notice of her intent to move to another firm. Thereafter, Engineer Z continued to distribute a brochure identifying Engineer X as an employee of Firm Y and list Engineer X on the firm's resume.

In concluding that Engineer Z's actions were not unethical, the Board noted that under the facts of the case, there was no suggestion that any of the brochures or other promotional material describe Engineer X as a "key employee" in the firm. Nor was there any effort or attempt on the part of Firm Y to highlight the activities or achievements of Engineer X in the field of hydrology. While the facts reveal that Engineer X was one of the few engineers in the firm with expertise in the field of hydrology, Engineer X was not the only engineer in the firm who possessed such expertise. In addition, it appeared that this area of practice did not constitute a significant portion of the services provided by Firm Y. Therefore, the Board concluded that the inclusion of Engineer X's name in the firm's brochure and resume did not constitute a misrepresentation of "pertinent facts."

Importantly, however, in BER Case No. 90-4, the Board went on to note that "We must make clear that we are not condoning the failure of an engineering firm to correct material (brochures, resumes, etc.) which might have the unintentional effect of misleading clients, potential clients, and others. While we recognize the realities of firm practice and the logistical problems involved in marketing and promotion, we do believe it is important for firms to take actions to expeditiously correct any false impressions which might exist." The Board continued by noting that "we believe engineering firms that use printed material as part of their marketing efforts should take reasonable steps to assure that such written matter is as accurate and up-to-date as possible. In the case of marketing brochures and other similar materials, errata sheets, cover letters, strike-outs and, if necessary, reprints should be employed within a reasonable period of time to correct inaccuracies, particularly where a firm has reason to believe that a misunderstanding might occur. Firms that fail to take such measures run the risk of breaching ethical behavior."

Later, in BER Case No. 91-9, the Board considered a case involving Engineer A, who misrepresented his educational credentials. In carefully considering earlier BER opinions, the Board again noted that the issue of falsification or misrepresentation of academic or professional qualifications is a core ethical issue because it goes to the heart of engineering ethics—the protection of the public health and safety through the establishment of rules of conduct that help to assure that the public receives the highest quality engineering services possible.

The Board has noted its deep concern over situations and circumstances in which an individual expressly or implicitly falsifies or misrepresents academic or professional qualifications to employers, clients, or members of the public.

More recently, in BER Case No. 97-8, Engineer A was licensed as a professional engineer in State B, the state in which Engineer A resided. Engineer A was about to retire from his full-time employment with ENG Co. As part of this transition and because Engineer A would no longer be engaged in the practice of engineering under his state's law, Engineer A planned to discontinue his professional engineering license, which was paid for by his former employer. Engineer A planned to continue serving on several local governmental boards. Because of his association with and the pride he had for engineering, Engineer A wanted to continue to use the P.E. designation after his name on his board business card and on the board's letterhead. Engineer A took pride in his longstanding status as a professional engineer and believed he would be giving professional engineering added recognition by including the reference on the letterhead, which included other individuals such as attorneys and architects. State B did not have a provision in its law addressing the issue of "inactive status." In reviewing this issue, the Board noted that at first blush, the facts appeared to present a set of circumstances that would dictate an obvious result. It would appear on its face that an individual who has a close affinity with the engineering profession during his or her lifetime should be permitted to continue to use the P.E. designation after retirement. Once earned, it would seem unjust to deny one the right to call oneself a professional engineer (P.E.), particularly where the individual is seeking to enhance the recognition of professional engineers and professional engineering.

However, upon further examination, the Board deemed the issue to be more complex than first thought and raised the question of misrepresentation of credentials or status. The facts in BER Case No. 97-8 were quite different in degree than those involved in the earlier cases reviewed, and the Board noted that the facts did involve a degree, albeit slight, of misrepresentation. While it was true that Engineer A had demonstrated the necessary qualifications to be licensed as a professional engineer, Engineer A made a conscious and intentional decision to cease maintaining his status as a professional engineer in his state. While the Board recognized and appreciated Engineer A's desire to enhance the status and image of all professional engineers by indicating his professional status, they believed it was important that this status be represented in a manner that is above reproach, particularly because of the very public nature of Engineer A's position on several local governmental boards. The Board concluded that at a minimum, Engineer A should have indicated his inactive or retired status next to the P.E. designation. To do otherwise would create a misleading

impression that Engineer A was currently licensed under state law in the jurisdiction in which he resided, and this could potentially cause embarrassment to all professional engineers. There was nothing demeaning or derogatory for an engineer to provide this straightforward and simple clarification in his status. To do so would clearly be consistent with the letter and the spirit of the law and avoid any possible questions or doubts about any actions, however unintentional, to mislead or deceive anyone concerning Engineer A's current status as an engineer. The Board concluded that it would be ethical for Engineer A to continue to use the P.E. designation after his name, as long as Engineer A indicated his inactive or retired status next to the P.E. designation, and as long as this was done in compliance with the state engineering licensing laws and regulations.

Turning to the facts in the instant case, the Board believes that the conclusion reached in BER Case No. 97-8 is partly applicable to the discussion in the present case. As noted earlier, the Board recognizes that state engineering licensure boards are becoming increasingly strict on the use of engineering titles and references. However, in view of Engineer A's clarification in the body of his letter to the engineering licensure board concerning his licensure status in states Y and Z, and the fact that the complaint letter was sent to a limited group of individuals, the Board believes that Engineer A was not attempting to mislead or deceive the board or any other group or individual concerning his licensure status. Instead, the Board believes Engineer A's actions were probably an oversight, or at worst, a misunderstanding of the law or requirements of State Z.

Therefore, the Board cannot conclude that Engineer A's actions, although criticized by a state engineering licensure board, amount to a violation of the NSPE Code. At the same time, the Board must caution all engineering licensees on the need to be familiar with the technical requirements contained in applicable state engineering licensure statutes and regulations to avoid unintended violations of the law.

The NSPE Code of Ethics is a national code of ethics and this Board believes the NSPE Code obligates NSPE members to report ethical violations to the appropriate authorities in whatever jurisdiction the NSPE member observes the violation. This obligation is separate and apart from the obligation a professional engineer may have under state law.

As to the second question, Engineer A's actions are fully consistent with the professional and ethical obligation to hold paramount the health, safety and welfare of the public. While this obligation is codified in state laws, its application cannot be restricted within state boundaries. The NSPE Code of Ethics is a national code of ethics

and this Board believes the NSPE Code obligates NSPE members to report ethical violations to the appropriate authorities in whatever jurisdiction the NSPE member observes the violation. This obligation is separate and apart from the obligation a Professional Engineer may have under state law.

CASE 3: RESPONSIBLE CHARGE WORKING PART-TIME FOR FIRM

FACTS:

Engineer A is a licensed professional engineer and land surveyor in state A. Engineer A is associated with a firm, XYZ Engineering and Surveying (which offers professional engineering and surveying), as the licensed professional engineer in charge under the state's certificate of authorization requirement. The firm has not performed any work outside of state A. Engineer A's understanding of the law of state A is that a licensed professional engineer is to be in "responsible charge" of engineering and a person licensed as a professional land surveyor is to be in "responsible charge" of land surveying. These persons in responsible charge can be a principal of the firm or an employee of the firm under the state's laws.

The agreement Engineer A has with XYZ Engineering and Surveying is that XYZ grants Engineer A 10% share of the stock in the firm and as compensation for his engineering services, Engineer A will receive 5% of the gross billings for engineering work for which the seal of a licensed engineer in responsible charge of engineering is required. This agreement is contingent on the understanding that if any one of the three principals of XYZ Engineering and Surveying becomes licensed as a professional engineer in state A, the agreement will become void and the 10% stock will be returned to XYZ Engineering and Surveying.

In addition to working with XYZ Engineering and Surveying, Engineer A has a full-time engineering position for a state governmental agency. This work requires no engineering license. Engineer A works thirty-five hours per week on a flex-time basis and provides about twenty hours per week supervising engineering services at the firm, plus an additional twelve hours of work on the weekends. Engineer A does not normally go into the field for XYZ Engineering and Surveying but is available for consultation, twenty-four hours a day.

Both the state governmental agency and the engineering firm are aware of Engineer A's activities as a dual employee and do not object to these activities.

REFERENCES:

II.2.b. - Code of Ethics: Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.

II.2.c. - Code of Ethics: Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.

II.4.d. - Code of Ethics: Engineers in public service as members, advisors or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.

II.4.e. - Code of Ethics: Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

II.5.a. - Code of Ethics: Engineers shall not falsify their qualifications or permit misrepresentation of their, or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers or past accomplishments.

III.1.c. - Code of Ethics: Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.

III.6.a. - Code of Ethics: Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.

III.6.b. - Code of Ethics: Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.

DISCUSSION:

The circumstances faced by Engineer A in this case are not unlike circumstances occasionally faced by other engineers who seek to explore career opportunities beyond a full-time position. A key question involved in such activities is whether the engineer can devote sufficient attention to the responsibilities involved in an ethical manner.

Engineers are frequently required to provide oversight and review of the work of others under their supervision and sign and seal the drawings. As noted in NSPE Code Section II.2.b. it states that engineers are not permitted to affix their signatures to any plans and documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control. This principle is one of the most basic and fundamental ethical principles to which professional engineers are required to adhere because it goes to the heart of the public trust upon which their professional status is based.

The BER has in the past had occasion to consider cases similar to this case. In BER Case No. 91-8, an Engineer's firm was retained by a major fuel company to perform site investigations in connection with certain requirements under state and federal environmental regulations. Under the procedures established by the Engineer's firm, the site visits would be conducted by engineering technicians under direct supervision of Engineer A who would perform all observations, sampling, and preliminary report preparation. Engineering technicians would also take photographs of the sites. No professional engineers were present during the site visits. Following site visits, all pertinent information and material was presented to Engineer A who was competent in this field. Following a careful review, Engineer A would certify that the evaluations were conducted in accordance with engineering principles.

In considering whether it was ethical for Engineer A to certify that the evaluations were conducted in accordance with engineering principles, the Board noted that the NSPE Code of Ethics is very clear concerning the requirements of engineers not to affix their signatures to any plans or documents dealing with subject matter in which the engineers lack competence, nor to any plan or document not prepared under their direction and control (See NSPE Code Section II.2.b.). The BER concluded that it was ethical for the engineer to certify that the evaluations were conducted in accordance with engineering principles so long as the engineer exercising direction and control performs a careful and detailed review of the material submitted by the engineer's staff and there has been full compliance with NSPE Code Section II.2.c.

Also, in BER Case No. 86-2, an engineer was the chief engineer within a large engineering firm, and affixed his seal to some of the plans prepared by licensed

engineers working under his general direction who did not affix their seals to the plans. At times, the engineer also sealed plans prepared by unlicensed graduate engineers working under his general supervision. Because of the size of the organization and the large number of projects being designed at any one time, the engineer found it impossible to give a detailed review or check of the design. He believed he was ethically and legally correct in not doing so because of his confidence in the ability of those he had hired and who were working under his general direction and supervision. By general direction and supervision, the engineer meant that he was involved in helping to establish the concept, the design requirements, and review elements of the design or project status as the design progressed. The engineer was consulted about technical questions and he provided answers and direction in these matters. In evaluation of the facts and circumstances in this case, the Board focused on the language in the NSPE Code Section II.2.b. relating to the obligation of engineers not to affix their signature to documents or plans ... not prepared under their "direction and control." Following a careful review of the plain meaning of the terms "direction" and "control," the Board concluded that the terms have meaning which, when combined, would suggest that an engineer would be required to perform all tasks related to the preparation of the drawings, plans, and specifications in order for the engineer ethically to affix his seal. The Board also noted at the time that the NCEES Model Law would require that an engineer must be in "responsible charge" -- meaning "direct control and personal supervision of engineering work" -- in order to affix his seal. After careful evaluation, the Board concluded that it would not be ethical for the engineer to seal plans that have not been prepared by him or which he has not checked and reviewed in detail.

In BER Case No. 90-6, the Board considered two separate fact situations involving the signing and sealing by an engineer of documents prepared using a CADD system. In considering the facts, the Board noted that the rendering of the Board's decision in BER Case No. 86-2 raised a considerable degree of discussion within the engineering community because to many it appeared to be inconsistent with customary and general prevailing practices within the engineering profession and would therefore place a significant number of practitioners in conflict with the provisions of the Code. The Board noted at the time that the Code of Ethics is not a static document and must reflect and be in consonance with general prevailing practices within the engineering profession. Said the Board, "the Code must not impose an impossible or idealistic standard upon engineers, but rather must establish a benchmark of reasonable and rational methods of practice for it to maintain its credibility and adherence." The Board determined that the conclusion in BER Case No. 86-2 should be modified to reflect actual practices which exist within engineering and not impose an impossible standard upon practice. Said the Board, "Were the Board to decide BER Case No. 86-2 today, the

Board would conclude that it was not unethical for the engineer in that instance to seal plans that were not personally prepared by him as long as those plans were checked and reviewed by the engineer in some detail. The Board does not believe this represents a reversal of the Board's decision in BER Case No. 86-2, but rather a clarification, particularly for those who were troubled by the Board's discussion and conclusion in that case."

Once again, we follow the reasoning in BER Case No. 90-6 and its clarification of BER Case No. 86-2. Under the facts in the instant case, we believe it was appropriate for Engineer A to sign and seal the drawings under the facts and circumstance involved in this case. Engineer A is providing approximately thirty-two hours each week of engineering services to the firm and is on call twenty-four hours a day to provide engineering field services for the benefit of the firm and its clients. His responsibilities appear to be consistent with the state's certificate of authorization requirements, are limited to professional engineering services and do not involve land surveying services. As noted under the facts, Engineer A has a flexible schedule with his other employer and presumably is able to adjust his schedule to meet the needs of his employers. While it appears that Engineer A may be stretching his role as an engineer in responsible charge for the firm, without more evidence to suggest improper activity, we are hesitant to conclude that Engineer A was violating the NSPE Code of Ethics.

The manner in which Engineer A is compensated does not appear to contain any specific provision which would necessarily run afoul of the NSPE Code of Ethics. Under NSPE Code Section III.6.a., engineers are not permitted to request, propose or accept a commission on a contingency basis under circumstances in which their judgment may be compromised. Although it could be argued that Engineer A's receiving 5% of the gross billings for engineering work for which the seal of a licensed engineer is required could potentially compromise Engineer A's judgment, we believe that would stretch this provision of the NSPE Code of Ethics beyond its actual intent. Otherwise, virtually any compensation scheme that was not based upon the number of hours worked could be held to be in violation of the NSPE Code of Ethics and that would be an impractical conclusion.

In addition, the Board views the transfer provision ("The agreement is contingent on the understanding that if any one of the three principals of XYZ Engineering and Surveying becomes licensed as a professional engineer in state A, the agreement will become void and the 10% stock will be returned to XYZ Engineering and Surveying") is not of a nature that would compromise Engineer A's judgment. Instead, the Board views this provision as a means of the firm's principals' maintaining control over the management of the firm.

With regard to Engineer A's dual role as an governmental employee and a private employee, as noted under the facts, both the state governmental agency and the engineering firm are aware of Engineer A's activities as a dual employee and do not object to these activities. However, the Board must note that should a conflict-of-interest arise (e.g., where Engineer A or the firm's activities conflict with the governmental employer's activities or interests) Engineer A will need to carefully address those activities consistent with NSPE Code Sections III.6.b., II.4.d., II.4.e. and other applicable provisions of the NSPE Code.

As has been noted in cases similar to this one, while the actions of Engineer A may be consistent with the NSPE Code of Ethics, it is critical for an engineer under these circumstances to understand the need to perform a careful review of all pertinent material before signing and sealing appropriate plans and drawings. We are of the view that so long as the professional engineer exercising direction and control performs a careful and detailed review of the material submitted by the engineer's staff, there has been compliance with NSPE Code Section II.2.c. In addition, Engineer A must carefully review and understand all state requirements regarding "responsible charge" activities including possible local office and employment restrictions.

MICHIGAN STATUTES

CH. 339 OCCUPATIONAL CODE, ARTICLE 20

339.2001 Definitions.

As used in this article:

- (a) "Architect" means a person who, by reason of knowledge of mathematics, the physical sciences, and the principles of architectural design, acquired by professional education and practical experience, is qualified to engage in the practice of architecture.
- (b) "Firm" means a sole proprietorship, partnership, corporation, or limited liability company through which a person licensed under this article offers or provides a service to the public.
- (c) "Person" means a natural person notwithstanding section 105(5).
- (d) "Person in responsible charge" means a person licensed under this article who determines technical questions of design and policy; advises the client; supervises and is in responsible charge of the work of subordinates; is the person whose professional skill and judgment are embodied in the plans, designs, plats, surveys, and advice involved in the services; and who supervises the review of material and completed phases of construction.
- (e) "Practice of architecture" means professional services, such as consultation, investigation, evaluation, planning, design, or review of material and completed phases of work in construction, alteration, or repair in connection with a public or private structure, building, equipment, works, or project if the professional service requires the application of a principle of architecture or architectural design.
- (f) "Practice of professional surveying" means providing professional services such as consultation, investigation, testimony, evaluation, planning, mapping, assembling, and interpreting reliable scientific measurements and information relative to the location, size, shape, or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, and the utilization and development of these facts and interpretations into an orderly survey map, plan, report, description, or project. The practice of professional surveying includes all of the following:

- (i) Land surveying that is the surveying of an area for its correct determination or description for its conveyance, or for the establishment or reestablishment of a land boundary and the designing or design coordination of the plotting of land and the subdivision of land.
- (ii) Geodetic surveying that includes surveying for determination of the size and shape of the earth both horizontally and vertically and the precise positioning of points on the earth utilizing angular and linear measurements through spatially oriented spherical geometry.
- (iii) Utilizing and managing land information systems through establishment of datums and local coordinate systems and points of reference.
- (iv) Engineering and architectural surveying for design and construction layout of infrastructure.
- (v) Cartographic surveying for making maps, including topographic and hydrographic mapping.
- (g) "Practice of professional engineering" means professional services, such as consultation, investigation, evaluation, planning, design, or review of material and completed phases of work in construction, alteration, or repair in connection with a public or private utility, structure, building, machine, equipment, process, work, or project, if the professional service requires the application of engineering principles or data.
- (h) "Principal" means a sole proprietor, partner, the president, vice-president, secretary, treasurer, or director of a corporation, or a member or manager of a limited liability company.
- (i) "Professional engineer" means a person who, by reason of knowledge of mathematics, the physical sciences, and the principles of engineering, acquired by professional education and practical experience, is qualified to engage in the practice of professional engineering.
- (j) "Professional surveyor" means a person who, by reason of knowledge of law, mathematics, physical sciences, and techniques of measuring acquired by professional education and practical experience, is qualified to engage in the practice of professional surveying.
- (k) "Services" means professional service offered or provided by an architect in the practice of architecture, a professional engineer in the practice of professional engineering, or a professional surveyor in the practice of professional surveying.

339.2002 Boards of architects, professional engineers, and professional surveyors; creation; membership; terms; resignation, disability, or removal for cause.

(1) The boards of architects, of professional engineers, and of professional surveyors are created.

(2) The board of architects consists of 5 architects, 1 professional engineer who is a member of the board of professional engineers, and 1 professional surveyor who is a member of the board of professional surveyors. Two members of the board shall represent the general public.

(3) The board of professional engineers consists of 5 professional engineers, 1 architect who is a member of the board of architects, and 1 professional surveyor who is a member of the board of professional surveyors. Two members of the board shall represent the general public.

(4) The board of professional surveyors consists of 5 professional surveyors, 1 professional engineer who is a member of the board of professional engineers, and 1 architect who is a member of the board of architects. Two members of the board shall represent the general public.

(5) Of the initial members of the board of architects, the terms of 3 of the members, including 2 of the members who are licensed architects and 1 of the members representing the general public, shall be 4 years; the term of 1 of the members who is a licensed architect shall be 3 years; the term of 1 of the members who is a licensed architect shall be 2 years; and the terms of 2 of the members, including 1 of the members who is a licensed architect and 1 of the members of the general public, shall be 1 year. The term of the member who is a licensed professional engineer shall coincide with that member's term on the board of professional engineers. The term of the member who is a licensed professional surveyor shall coincide with that member's term on the board of professional surveyors.

(6) Of the initial members of the board of professional engineers, the terms of 3 of the members, including 2 of the members who are licensed professional engineers and 1 of the members representing the general public, shall be 4 years; the term of 1 of the members who is a licensed professional engineer shall be 3 years; the term of 1 of the members who is a licensed professional engineer shall be 2 years; and the terms of 2 of the members, including 1 of the members who is a licensed professional engineer and 1 of the members of the general public shall be 1 year. The term of the member who is a licensed architect shall coincide with that member's term on the board of architects. The term of the member who is a licensed professional surveyor shall coincide with that member's term on the board of professional surveyors.

(7) Of the initial members of the board of professional surveyors, the terms of 3 of the members, including 2 of the members who are licensed professional surveyors and 1 of the members representing the general public, shall be 4 years; the term of 1 of the members who is a licensed professional surveyor shall be 3 years; the term of 1 of the members who is a licensed professional surveyor shall be 2 years; and the terms of 2 of the members, including 1 of the members who is a licensed professional surveyor and 1 of the members of the general public, shall be 1 year. The term of the member who is a licensed professional engineer shall coincide with that member's term on the board of professional engineers. The term of the member who is a licensed architect shall coincide with that member's term on the board of architects.

(8) A licensee who serves on more than 1 board created under this article, and who resigns, is disabled, or is removed for cause by the governor from the board under which he or she is licensed, shall no longer represent that board on any other board created under this article.

339.2003 Joint meetings of boards.

A joint meeting of the boards created by this article shall be held at least once annually at a time and place determined by the department. Two or more of the boards created by this article may meet jointly at the call of the chairperson of a board created by this article.

339.2004 Architect, professional engineer, and land surveyor; licensing requirements.

(1) In order to be licensed as an architect, an individual must meet all of the following:

- (a) Provide evidence of completion of a first professional degree or further degree in architecture satisfactory to the board of architects.
- (b) Pass an examination that tests the applicant's qualifications to practice architecture or provide equivalent proof of qualification acceptable to the department and the board of architects.
- (c) Be of good moral character.
- (d) Provide documentation of professional experience in architectural work satisfactory to the board.

(2) In order to be licensed as a professional engineer, an individual must meet all of the following:

- (a) Provide documentation of at least 8 years of professional experience in engineering work acceptable to the board of professional engineers, including not more than 5 years of education.
 - (b) Provide evidence of completion of a baccalaureate degree in engineering from an accredited program or its equivalent, as determined by the board of professional engineers.
 - (c) Pass the engineering fundamentals and professional practice examinations or provide equivalent proof of qualification to practice professional engineering acceptable to the department and the board.
 - (d) Be of good moral character.
- (3) In order to be licensed as a professional surveyor, an individual must meet all of the following:
- (a) Provide documentation of at least 8 years of professional experience in professional surveying satisfactory to the board of professional surveyors, including not more than 5 years of education.
 - (b) Provide evidence of completion of a degree in professional surveying or a related degree that included professional surveying courses acceptable to the board of professional surveyors.
 - (c) Pass the professional surveying fundamentals and professional practice examinations or provide equivalent proof of qualification to practice professional surveying acceptable to the department and the board.
 - (d) Be of good moral character.

339.2005 Repealed. 2016, Act 435, Eff. Apr. 4, 2017.

339.2006 Maintenance of court action; allegation and proof of licensure; failure to make restitution.

(1) A person, a qualifying officer, a licensee, or an agent for a licensee under this article shall not bring or maintain an action in a court of this state for the collection of compensation for the performance of an act or contract for which licensure is required under this article without alleging and proving that the person, qualifying officer, licensee, or agent was licensed under this article during the performance of the act or contract. A person who has utilized the services of a person engaging in or attempting to engage in an occupation regulated under this article or using a title designated by

this article without being licensed by the department may bring an action in a court of competent jurisdiction, or offer as a counterclaim to an action brought by an unlicensed person, for a refund of compensation after deducting the value of the goods or services retained by the person.

(2) If the department suspends a license for failure to make restitution, in whole or in part, the restitution in the form of repair or remedial corrective work shall be performed by a person appropriately licensed under this article and shall be paid for by the licensee.

339.2007 Seal; signature.

(1) When he or she is licensed, a licensee shall obtain or adopt a seal, in a form authorized by the appropriate board, that bears the licensee's name and the legend indicating either "licensed architect", "licensed professional engineer", or "licensed professional surveyor". However, a seal that exists on September 1, 1992 and bears the legend "registered architect", "registered professional engineer", "registered land surveyor", or "licensed land surveyor" is acceptable if a seal is required under state law.

(2) A licensee shall apply his or her seal and signature to a plan, specification, plat, or report that is issued by the licensee and filed with a public authority. If the license of the licensee named on a document has expired or is suspended or revoked, a person shall not apply the licensee's seal or signature to the document unless the license is renewed, reinstated, or reissued.

(3) As used in this section and section 2008:

(a) "Electronic seal" means a seal created by electronic or optical means and affixed electronically to a document or electronic document.

(b) "Electronic signature" means a signature created by electronic or optical means and affixed electronically to a document or electronic document with intent to sign the document.

(c) "Seal" includes an electronic seal.

(d) "Signature" includes an electronic signature.

339.2008 Sealing documents requiring governmental agency approval or record; projects involving overlapping of architecture and engineering professions; sealing documents not prepared by licensee prohibited.

- (1) A plan, plat, drawing, map, and the title sheet of specifications, an addendum, bulletin, or report or, if a bound copy is submitted, the index sheets of a plan, specification, or report, if prepared by a licensee and required to be submitted to a governmental agency for approval or record, shall carry the embossed, printed, or electronic seal of the person in responsible charge.
- (2) If the overlapping of the professions of architecture and engineering is involved in a project, a licensed architect or licensed professional engineer who seals the plans, drawings, specifications, and reports may perform services in the field of the other practice if the services are incidental to the architectural or engineering project as a whole.
- (3) A licensee shall not seal a plan, drawing, map, plat, report, specification, or other document that is not prepared by the licensee or under the supervision of the licensee as the person in responsible charge.

339.2009 Renewal of license; continuing education.

- (1) Beginning the license cycle after the effective date of the rules promulgated under subsection (2), a demonstration of the completion of a program of continuing education shall be required for renewal of a license issued under this article.
- (2) The department shall, by rule, establish a program of continuing education for all licensees under this article.

339.2010 Firm; practice of architecture, professional engineering, or professional surveying; approval of nonlicensed principal and principal's firm; report; person in responsible charge at each place of business; exception.

- (1) A firm may engage in the practice of architecture, professional engineering, or professional surveying in this state, if not less than 2/3 of the principals of the firm are licensees.
- (2) However, a nonlicensed principal and the principal's firm shall apply for and receive an approval from the department to engage in the practice of architecture,

professional engineering, or professional surveying, if the conduct of the firm and its principals comply with rules promulgated by the department.

(3) Upon request by the department, a firm shall report to the department the names and addresses of its principals, persons in responsible charge, unlicensed principals, and any other information the department considers necessary.

(4) A firm shall employ a person in responsible charge in the field of services offered at each place of business in this state where services are offered by the firm, except at a field office which provides only a review of construction.

339.2011 Construction of public work involving architecture or professional engineering; requirements; exception.

(1) Except as otherwise provided in subsection (2), the state or a county, city, township, village, school district, or other political subdivision of this state shall not engage in the construction of a public work involving the practice of architecture or professional engineering unless all of the following requirements are met:

(a) The plans and specifications and estimates have been prepared by a licensed architect or licensed professional engineer.

(b) The review of the materials used and completed phases of construction is made under the direct supervision of a licensed architect or licensed professional engineer.

(c) Each survey of land on which the public work has been or is to be constructed is made under the supervision of a licensed professional surveyor.

(2) This section does not apply to a public work for which the contemplated expenditure for the completed project is less than \$15,000.00.

339.2012 Persons exempted.

(1) The following persons are exempt from the requirements of this article:

(a) A professional engineer employed by a railroad or other interstate corporation, whose employment and practice is confined to the property of the corporation.

(b) A designer of a manufactured product, if the manufacturer of the product assumes responsibility for the quality of the product.

- (c) An owner doing architectural, engineering, or surveying work upon or in connection with the construction of a building on the owner's property for the owner's own use to which employees and the public are not generally to have access.
- (d) A person not licensed under this article who is planning, designing, or directing the construction of a detached 1- and 2-family residence building not exceeding 3,500 square feet in calculated floor area. For purposes of this subdivision, detached 1- and 2-family residence building does not include an adult foster care home licensed under the adult foster care facility licensing act, 1979 PA 218, MCL 400.701 to 400.737.
- (e) A person who is licensed to engage in the practice of architecture, professional engineering, or professional surveying in another state while temporarily in this state to present a proposal for services.
- (2) As used in this section:
- (a) "Calculated floor area" means that portion of the total gross area measured to the outside surfaces of exterior walls intended to be habitable space.
- (b) "Habitable space" means space in a building used for living, sleeping, eating, or cooking. Habitable space does not include a heater or utility room, a crawl space, a basement, an attic, a garage, an open porch, a balcony, a terrace, a court, a deck, a bathroom, a toilet room, a closet, a hallway, a storage space, and other similar spaces not used for living, sleeping, eating, or cooking.

339.2013 Issuing license to person holding certificate of qualification or registration of another state or national council; equivalency; temporary license prohibited; review of application of individual seeking relicensure or reinstatement.

- (1) The department, upon application, shall issue a license to a person who holds an appropriate certificate of qualification or registration issued by proper authority of a board of registration examiners of another state or national council acceptable to the department and the board, if the requirements for the registration of architects, professional engineers, or professional surveyors under which the certificate of qualification or registration was issued are determined to be equivalent by the appropriate board. A board under this article shall not issue a temporary license as provided under section 213.

(2) The appropriate board shall review the application of an individual who seeks relicensure or reinstatement 3 or more years after the expiration of the individual's most recent license if the individual does not meet the requirements for licensure in force at the time of application for relicensure or reinstatement.

339.2014 Prohibited conduct; penalties.

A person is subject to the penalties set forth in article 6 who commits 1 of the following:

- (a) Uses the term "architect", "professional engineer", "land surveyor", "professional surveyor", or a similar term in connection with the person's name unless the person is licensed in the appropriate practice under this article.
- (b) Presents or attempts to use as the person's own the license or seal of another.
- (c) Attempts to use an expired, suspended, or revoked license.
- (d) Uses the words "architecture", "professional engineering", "land surveying", "professional surveying", or a similar term in a firm name without authorization by the appropriate board.
- (e) Submits to a public official of this state or a political subdivision of this state for approval, a permit or a plan for filing as a public record, a specification, a report, or a land survey that does not bear 1 or more seals of a licensee as required by this article. This subdivision does not apply to a public work costing less than \$15,000.00 or a residential building containing not more than 3,500 square feet of calculated floor area. As used in this subdivision, "calculated floor area" means that term as defined in section 2012(2)(a).

MICHIGAN ADMINISTRATIVE CODE

R339-16001 TO 16044, PROFESSIONAL ENGINEERS – GENERAL RULES

PART 1. GENERAL PROVISIONS

R 339.16001 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Board" means the board of professional engineers created under section 2002 of the code, MCL 339.2002.
 - (b) "CEAB" mean the Canadian Engineering Accreditation Board.
 - (c) "Code" means the occupational code, 1980 PA 299, MCL 339.101 to 339.2677.
 - (d) "Continuing education" means a course or activity designed to bring licensees up to date on a particular area of knowledge or skills relevant to the licensee's area of professional practice.
 - (e) "Course" means any qualifying activity with a clear purpose and goal that keeps, improves, or expands the skills and knowledge relevant to the licensee's area of professional practice.
 - (f) "Department" means the department of licensing and regulatory affairs.
 - (g) "EAC/ABET" means the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology, Inc.
 - (h) "NCEES" means the National Council of Examiners for Engineering and Surveying.
- (2) A term defined in the code has the same meaning when used in these rules. .

R 339.16002 Rescinded.

R 339.16003 Conduct of public meetings; "chairperson" defined.

Rule 3. Board meetings are held in accordance with 1976 PA 267, MCL 15.261 to MCL 15.275, and are open to the public.

R 339.16004 Rescinded.**R 339.16006 Rescission.**

Rule 6. R 338.551 to R 338.563 and R 338.581 to R 338.588 of the Michigan Administrative Code, appearing on pages 2446 to 2453 of the 1979 Michigan Administrative Code, are rescinded insofar as these rules pertain to professional engineers.

PART 2. LICENSURE

R 339.16021 Educational requirement.

Rule 21. An applicant for licensure shall provide proof, as directed by the department, verifying 1 of the following to satisfy the educational requirement under the code:

(a) Transcripts verifying that the applicant received a baccalaureate degree or higher in engineering from a program accredited by the EAC/ABET or the CEAB.

(b) Transcripts verifying that the applicant received a master's degree or doctorate in engineering from a school and program with an EAC/ABET-accredited or a CEAB-accredited baccalaureate degree program that is in the same engineering discipline as the applicant's master's degree or doctorate.

(c) A credentials evaluation from NCEES that verifies all the following:

(i) The applicant for licensure received either of the following:

(A) A baccalaureate degree in engineering from a non-United States-based program.

(B) A master's degree or doctorate in engineering from a non-EAC/ABET-accredited program.

(ii) The applicant for licensure completed not less than 32 college semester credit hours in the areas of mathematics and basic science.

(iii) The applicant for licensure completed not less than 48 college semester credit hours in engineering science or engineering design courses that satisfy the course requirements established under the NCEES Engineering Education Standard.

(d) A credentials evaluation that verifies the applicant received a baccalaureate degree in engineering from an educational program that is substantially equivalent to an EAC/ABET-accredited baccalaureate degree program in engineering. The credentials evaluation must be generated by a company that is a current member of the National Association of Credential Evaluation Services (NACES).

R 339.16022 Professional engineering experience; credit for work experience; credit for educational experience.

Rule 22. (1) Under section 2004(2)(a) of the code, MCL 339.2004, an applicant for licensure shall document not less than 8 years of professional experience in engineering work, including not more than 5 years of education granted under subrule (4) of this rule. An applicant shall satisfy the requirements of this rule to receive credit for professional experience.

(2) An applicant for licensure shall provide proof, as directed by the department, verifying either of the following to receive credit for professional experience in engineering work:

(a) Except as otherwise provided under subrules (1) and (4) of this rule, the applicant has obtained not less than 4 years of experience practicing as a licensed or registered professional engineer in another state or a province of Canada.

(b) All of the following:

(i) The dates of performing engineering work that qualifies as professional experience under subrule (3) of this rule.

(ii) The supervising individual's name and license or registration number and the state or province of Canada in which the supervising individual is licensed or registered as a professional engineer.

(iii) Documentation from the supervising individual attesting to the work experience, dates of work, and supervision.

(3) Engineering work that satisfies all the following requirements qualifies as professional experience:

(a) The work involves the use of engineering principles and data.

(b) The work is in the form of consultation, investigation, evaluation, planning, design, or review of materials or completed phases of work in the construction, alteration, or repair in connection with a public or private utility, structure, building, machine, equipment, process, work, or project.

(c) The work is performed while under the direction of a professional engineer licensed in this state or licensed or registered in another state or a province of Canada.

(4) The department shall grant not more than 5 years of professional experience credit to an applicant holding a degree that satisfies the requirements under R 339.16021. Credit is limited to the following amounts:

(a) Not more than 4 years of professional experience for a baccalaureate degree in engineering. Experience is granted for only 1 baccalaureate degree.

(b) Not more than 1 year of professional experience for a post-baccalaureate degree in engineering. Experience is granted for only 1 post-baccalaureate degree.

R 339.16023 Rescinded.

R 339.16024 Rescinded.

R 339.16025 Relicensure requirements.

Rule 25. (1) An applicant whose license has lapsed for less than 3 years after the expiration date of the last license may be relicensed under section 411(3) of the code, MCL 339.411, by satisfying all the following requirements:

(a) Provides a completed application on a form provided by the department.

(b) Pays the required fee to the department.

(c) Provides proof, as directed by the department, verifying that the applicant has completed 15 hours of continuing education in activities approved under R 339.16041, during the 12 months immediately before the date of filing the relicensure application. Of the 15 hours, at least 1 hour of continuing education must be earned in ethics, as it relates to professional engineering. If the department determines that the amount of continuing education hours provided with the application is deficient, the applicant has 1 year after the date of filing the application to provide proof of completing the deficient hours.

(2) An applicant whose license has lapsed for 3 years or more after the expiration date of the last license may be relicensed under section 411(4) of the code, MCL 339.411, by satisfying all the following requirements:

- (a) Provides a completed application on a form provided by the department.
- (b) Pays the required fee to the department.
- (c) Establishes that the applicant has met all the requirements for initial licensure under the code and these rules.
- (d) Provides proof, as directed by the department, verifying 1 of the following:
 - (i) The completion of 30 hours of continuing education in activities approved under R 339.16041, during the 24 months immediately before the date of filing the relicensure application. Of the 30 hours, not less than 2 hours of continuing education must be earned in ethics, as it relates to professional engineering. If the department determines that the amount of continuing education hours provided with the application is deficient, the applicant has 1 year after the date of filing the application to provide proof of completing the deficient hours.
 - (ii) The applicant holds or has held a valid and unrestricted license or registration in another state or a province of Canada during the 24 months immediately before the date of filing the relicensure application.

R 339.16026 Examination requirements.

Rule 26. An applicant for licensure shall provide proof, as directed by the department, verifying both of the following to satisfy the examination requirements under the code:

- (a) The applicant achieved a passing score as determined by NCEES on either of the following examinations:
 - (i) The NCEES Principals and Practice of Engineering examination.
 - (ii) Both parts of the NCEES Structural Engineering examination, known as SE-I and SE-II.
- (b) Either of the following:
 - (i) The applicant achieved a passing score as determined by NCEES on the NCEES Fundamentals of Engineering examination.

(ii) The applicant received a doctorate in engineering from a school and program with an EAC/ABET-accredited or a CEAB-accredited baccalaureate degree program that is in the same engineering discipline as the applicant's doctorate in engineering.

PART 3. STANDARDS OF PRACTICE AND PROFESSIONAL CONDUCT

R 339.16031 Professional conduct; requirements; restrictions.

Rule 31. (1) A licensee shall follow all the rules of conduct under this part.

(2) A licensee shall do all the following:

(a) If the licensee is the individual in responsible charge, the licensee shall notify the licensee's employer or client, and any other appropriate authority, when the licensee's judgment is overruled under circumstances that endanger life or property.

(b) If the licensee is not the individual in responsible charge, the licensee shall notify the individual in responsible charge when the licensee's judgment is overruled under circumstances that endanger life or property.

(c) Participate in phases of a project in which the licensee is competent.

(d) Undertake assignments in which the licensee is qualified by education or experience in the specific technical field or fields involved.

(e) Complete, sign, seal, or approve engineering documents that conform with the law and applicable professional standards.

(f) Be objective and truthful in professional reports, statements, or testimony and include all relevant information in these reports, statements, or testimony.

(g) Disclose to an employer, client, or public body that the licensee serves, all known or potential conflicts of interest that could influence or appear to influence the licensee's judgment or the quality of the licensee's services.

(3) A licensee shall not do any of the following:

- (a) Disclose confidential information obtained in a professional capacity without the prior consent of the client or employer, unless authorized or required by law or these rules.
- (b) Partner, practice, or offer to practice with any individual or firm or assist any individual or firm that the licensee knows is engaged in fraudulent or dishonest business or professional practices or the unlawful practice of professional engineering.
- (c) Falsify the licensee's qualifications or the qualifications of the licensee's associates or allow misrepresentations of the licensee's qualifications or the qualifications of the licensee's associates.
- (d) Misrepresent or exaggerate the licensee's experience or qualifications.
- (e) Knowingly make statements containing a material misrepresentation of fact, omitting a material fact, or knowingly make statements that deceive the public.
- (f) Attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other licensed professional engineers.
- (g) Give or offer to give, directly or indirectly, to a client, potential client, the agent of a client, or the agent of a potential client, a commission, contribution, gift, or other valuable consideration to secure or retain engineering work. This restriction does not include payments to an employment agency for securing employment or employees for salaried positions.
- (h) Solicit or accept a compensation, contribution, gift, or other valuable consideration, directly or indirectly, from more than 1 individual for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.
- (i) Solicit or accept a commission, contribution, gift, or other valuable consideration, directly or indirectly, from other parties dealing with the licensee's clients or employers, or from outside agents who have no dealings with the licensee's client or employer, in connection with the work for which the licensee is responsible, unless the circumstances are fully disclosed and agreed to by all interested parties.

(j) Solicit or accept a commission, contribution, gift, or other valuable consideration, directly or indirectly, when the licensee's judgment may be compromised.

(k) Complete, sign, seal, or approve engineering documents that do not conform with the law or applicable professional standards.

(4) Work for which the licensee is responsible, the procedures followed, and the decisions made by individuals under the licensee's supervision must be subject to sustained review and approval by the licensee.

R 339.16032 Professional engineer seal.

Rule 32. (1) The seal of a professional engineer must include the licensee's name and full license number, as shown on the licensee's state-issued professional engineer license and indicate "State of Michigan" and "Licensed Professional Engineer" in the legend surrounding the seal. The seal must have a design substantially equivalent to figure 32 below.

(2) A licensee's seal must be used by the licensee whose name appears on the seal for as long as the license is in effect. A licensee is responsible for the security of the licensee's seal..

FIGURE 32



R 339.16033 Rescinded.

R 339.16034 Rescinded.

PART 4. CONTINUING EDUCATION

R 339.16040 Continuing education required for renewal; certification of compliance; document retention; continuing education waiver.

Rule 40. (1) An applicant for license renewal who has been licensed during the 2- year period immediately before the expiration date of the license shall obtain not less than 30 hours of continuing education in activities approved under R 339.16041, during the 2- year period immediately before the expiration date of the license. Of the 30 hours, not less than 2 hours of continuing education must be earned in ethics, as it relates to professional engineering.

(2) Submission of an application for renewal constitutes the applicant's certification of compliance with this rule and R 339.16041.

(3) A licensee shall maintain documentation of satisfying the requirements of this rule and R 339.16041 for a period of 4 years after the date of filing the application for license renewal.

(4) A licensee is subject to an audit under this part and may have to provide documentation as described by R 339.16041 on request of the department.

(5) The department must receive a request for a waiver of continuing education requirements for the board's consideration not less than 30 days before the last regularly scheduled board meeting before the expiration date of the license..

R 339.16041 Acceptable continuing education; limitations.

Rule 41. (1) The department shall grant credit for in-person or online continuing education hours that satisfy the requirements in the following chart:

Activity Code	Activity and Proof Required	Number of Continuing Education Hours Granted for Activity
(a)	Completing a continuing education program or activity related to professional engineering that is approved or offered for continuing education credit by any of the following: Another state's board of engineers. A professional engineering association, organization, or society. NCEES.	The number of continuing education hours approved by the approving entity are granted for this activity.

	<p>ABET.</p> <p>If audited, a licensee shall submit documentation or certificate of completion showing the licensee's name, total continuing education credits earned, sponsor name and contact information, program title, and the date the program was held or completed.</p>	
(b)	<p>Passing an academic course related to professional engineering offered by a college or university that offers a baccalaureate degree or higher degree in an engineering program that is accredited by EAC/ABET or CEAB.</p> <p>If audited, a licensee shall submit a copy of the transcript showing the number of credit hours of the academic courses related to professional engineering.</p>	<p>Fifteen continuing education hours are granted for each semester credit or 10 continuing education hours are granted for each quarter credit.</p>
(c)	<p>Attending a seminar, in-house course, workshop, or professional or technical presentation related to professional engineering.</p> <p>If audited, the licensee shall submit a copy of the presentation notice or advertisement showing the date of the presentation, the licensee's name listed as a presenter or attendee, and the name of the organization that approved or offered the presentation.</p>	<p>One continuing education hour is granted for every 50 minutes attending the activity.</p>
(d)	<p>Teaching, instructing, or presenting a subject related to professional engineering.</p> <p>If audited, a licensee shall submit documentation by the college or university confirming the licensee as the teacher, instructor, or presenter of the academic course, the dates of the course or presentation, the number of classroom hours spent teaching, instructing, or presenting, and the course title.</p>	<p>Two continuing education hours are granted for every 50 minutes of teaching, instruction or presenting.</p> <p>A maximum of 12 continuing education hours are granted for this activity during each renewal period.</p>
(e)	<p>Publication of a peer-reviewed paper, article, or book related to professional engineering.</p> <p>If audited, the licensee shall submit a copy of the publication that identifies the licensee as the author or a publication acceptance letter.</p>	<p>Six continuing education hours are granted for this activity.</p> <p>Credit is not granted for multiple publications of the same peer-review paper, article, or book.</p> <p>A maximum of 18 continuing education hours are granted for this activity during each renewal period.</p>

(f)	Serving as a voting member on a state or national committee, board, council, or association related to professional engineering. To receive credit, a licensee must participate in at least 50% of the regularly scheduled meetings of the committee, board, council, or association. If audited, a licensee shall submit documentation satisfactory to the department verifying the licensee's participation in at least 50% of the regularly scheduled meetings of the committee, board, council, or association and provide verification of the licensee's status as a voting member on the committee, board, council, or association.	Three continuing education hours are granted for the year in which the licensee serves as a member. A maximum of 6 continuing education hours are granted for this activity during each renewal period.
(g)	Attending a Michigan board of professional engineers meeting. To receive credit, the licensee shall obtain a form provided by the department from a department employee present at the meeting and have that employee complete, sign, and date the form. The licensee shall present a valid government-issued photo identification to the department employee for verification. If audited, the licensee shall submit a copy of the form completed, signed, and dated by the department employee who was present at the meeting.	One continuing education hour is granted for each meeting attended. A maximum of 6 continuing education hour are granted for this activity during each renewal period.
(h)	Serving as a school-sponsored mentor to an engineering student in a school-sponsored program. To receive credit, this activity must not be part of the licensee's regular job description. If audited, the licensee shall submit a letter from an authorized official from the school verifying the licensee's role and the number of mentoring hours the licensee provided.	Four continuing education hours are granted for this activity. A maximum of 8 continuing education hours are granted for this activity during each renewal period.
(i)	Participating in a company-sponsored or hosted seminar or training that is designed to enhance professional development in the licensee's area of professional practice. If audited, a licensee shall submit documentation or a certificate of completion issued by the company presenting the seminar or training showing the licensee's name, company name, subject of seminar or training, and the date on which the seminar or training was held.	One continuing education hour is granted for every 50 minutes of the seminar or training.
(j)	Studying an article related to professional engineering published in a peer-reviewed journal or professional or scientific journal that expands the licensee's knowledge of the professional engineering field. If audited, a licensee shall provide the title and author of the article, publication name of the peer-reviewed journal or professional or scientific journal, and date,	Two continuing education hours are granted for each article studied. A maximum of 4 continuing education hours are granted for this activity during each renewal period.

	volume, and issue of publication, as applicable, as well as date read.	
(k)	Obtaining a patent related to professional engineering. If audited, a licensee shall provide a copy of the patent grant letters showing the licensee as the author of the patent and the date in which the patent was issued.	Ten continuing education hours are granted for each patent. A maximum of 20 continuing education hours are granted for this activity during each renewal period.

(2) Continuing education hours are not granted for a program or activity that has substantially the same content of a program or activity for which the applicant has already earned continuing education hours during the renewal period.

(3) Not more than 12 continuing education hours shall be earned during a 24-hour period.

R 339.16042 Rescinded.

R 339.16043 Rescinded.

R 339.16044 Rescinded.

MICHIGAN STATUTES

CH. 339 OCCUPATIONAL CODE, Article 1

339.101 Short title.

This act shall be known and may be cited as the "occupational code".

339.102 Meanings of words.

For purposes of this act, the words defined in sections 103 to 105 have the meanings ascribed to them in those sections.

339.103 Definitions; A to C.

(1) "Armed forces" means the United States Army, Air Force, Navy, Marine Corps, Space Force, or Coast Guard or other military force designated by Congress as a part of the Armed Forces of the United States, including the reserve components.

(2) "Board" means, in each article that deals with a specific occupation, the agency created in that article composed principally of members of the regulated occupation. In all other contexts, board means each agency created under this act.

(3) "Censure" means an expression of disapproval of a licensee's or registrant's professional conduct, which conduct is not necessarily a violation of this act or a rule promulgated or an order issued under this act.

(4) "Competence" means a degree of expertise that enables a person to engage in an occupation at a level that meets or exceeds minimal standards of acceptable practice for the occupation.

(5) "Complaint" means an oral or written grievance.

(6) "Controlled substance" means a drug, substance, or immediate precursor as set forth in section 7212, 7214, 7216, 7218, or 7220 of the public health code, 1978 PA 368, MCL 333.7212, 333.7214, 333.7216, 333.7218, and 333.7220, not excluded under section 7227 of the public health code, 1978 PA 368, MCL 333.7227.

339.104 Definitions; D to K.

(1) "Department" means the department of licensing and regulatory affairs.

(2) "Dependent" means a spouse, surviving spouse, child under 26 years of age, or surviving child under 26 years of age.

(3) "Director" means the director of the department or his or her authorized representative.

(4) "Disability" means an infirmity that prevents a board member from performing a duty assigned to the board member.

(5) "Files" means the records, memoranda, opinions, minutes, and similar written materials that were formerly in the physical dominion of a board abolished by this act and the records, memoranda, opinions, minutes, and similar written materials of a board created under this act.

(6) "Formal complaint" means a document that states the charges of each alleged violation and is prepared by the department or the department of attorney general after a complaint is received by the department.

(7) "General public" means each individual residing in this state who is 18 years of age or older, other than an individual or the spouse of an individual who is licensed or registered in the occupation or who has a material financial interest in the occupation regulated under the specific article in which the term is used.

(8) "Good moral character" means that term as defined in, and determined under, 1974 PA 381, MCL 338.41 to 338.47.

(9) "Incompetence" means a departure from, or a failure to conform to, minimal standards of acceptable practice for an occupation.

(10) "Knowledge and skill" means the information, education, practical experience, and the facility in applying that information, education, and practical experience.

339.105 Definitions; L to V.

(1) "License" means the document issued to a person under this act that enables the person to use a designated title and practice an occupation, which practice would otherwise be prohibited by this act. License includes a document issued by the department that permits a school, institution, or person to offer training or education in an occupation or that permits the operation of a facility, establishment, or institution in which an occupation is practiced. License includes a permit or approval.

(2) "Licensee" means either of the following, as applicable:

(a) In articles 1 to 6, a person that is licensed or required to be licensed under this act.

(b) In a specific article of this act, a person that is licensed or required to be licensed under that article.

(3) "Limitation" means a condition, stricture, constraint, restriction, or probation attached to a license or registration relative to the scope of practice, including the following:

(a) A requirement that the licensee or registrant perform only specified functions of the licensee's or registrant's occupation.

(b) A requirement that the licensee or registrant perform the licensee's or registrant's occupation only for a specified period of time.

(c) A requirement that the licensee or registrant perform the licensee's or registrant's occupation only within a specified geographical area.

(d) A requirement that restitution be made or certain work be performed before a license or registration is issued, renewed, or reinstated.

(e) A requirement that a financial statement certified by an individual who is licensed as a certified public accountant be filed with the department at regular intervals.

(f) A requirement that reasonably ensures a licensee's or registrant's competence to perform the licensee's or registrant's occupation.

(g) A requirement that an attorney review all contracts of a licensee or registrant.

(h) A requirement that a licensee or registrant have on file with the department a bond that is issued by a surety insurer approved by the department or cash in an amount determined by the department.

(i) A requirement that a licensee or registrant deposit money received in an escrow account that can be disbursed only under certain conditions as determined by the licensee or registrant and another party.

(j) A requirement that a licensee or registrant file reports with the department at intervals determined by the department.

(4) "Occupation" means a field of endeavor regulated under this act.

- (5) "Person" means any of the following:
- (a) An individual.
 - (b) A sole proprietorship, partnership, association, corporation, limited liability company, or common law trust.
 - (c) A combination of persons described in subdivision (a) or (b).
 - (d) A department, board, school, institution, establishment, or governmental entity.
- (6) "Physical dominion" means control and possession.
- (7) "Physician" means that term as defined in sections 17001 and 17501 of the public health code, 1978 PA 368, MCL 333.17001 and 333.17501.
- (8) "Probation" means a sanction that permits a board to evaluate over a period of time a licensee's or registrant's fitness to practice an occupation regulated under this act.
- (9) "Public access" means the right of a person to view and copy files under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.
- (10) "Registrant" means a person that is registered under this act.
- (11) "Registration" means the document issued to a person under this act that enables the person to use a designated title, which use would be otherwise prohibited by this act.
- (12) "Rule" means a rule promulgated under this act and under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.
- (13) "State" means the District of Columbia or a commonwealth, state, or territory of the United States.
- (14) "Uniformed services" means the Commissioned Corps of the United States Public Health Service and the National Oceanic and Atmospheric Administration Commissioned Officer Corps.
- (15) "Veteran" means that term as defined in section 1 of 1965 PA 190, MCL 35.61.

Article 2

339.201 Department of licensing and regulation; appointment of director; designation of persons to investigate licensees or persons against whom complaints lodged.

The department shall consist of a director as its executive head and other officers and employees appointed or employed by the department. The director shall be appointed by the governor, subject to the advice and consent of the senate, and shall hold office at the pleasure of the governor. The department shall designate only those persons who meet the qualifications for licensure established for an occupation regulated under article 7, 20, or 22 to investigate licensees or persons against whom complaints have been lodged.

339.202 Licensure or registration; application; form; fees; requirements for issuance of license or registration; expiration date.

(1) An application for licensure or registration shall be made on a form provided by the department and accompanied by the appropriate fees prescribed in article 4. Except as otherwise provided in this act, the department shall issue a license or registration to a person who meets the licensure or registration requirements set forth in a specific article and in rules promulgated under this act, subject to the exceptions set forth in section 203.

(2) The expiration date of a license or registration issued under this act shall be established by rule promulgated by the department under section 205, which rule shall not permit the issuance of a permanent license or registration.

339.202a Preliminary determination; procedure; effect.

(1) The department shall establish a procedure that allows an individual to obtain a preliminary determination from the department concerning whether any court judgments against him or her would likely result in a denial of a license or registration for failing to meet the good moral character requirement for that license or registration.

(2) All of the following apply for purposes of subsection (1):

(a) To obtain a preliminary determination under this section, an individual must file a request that meets all of the following:

- (i) Is submitted on a form provided by the department.
 - (ii) Identifies the license or registration for which he or she may apply.
 - (iii) Includes a detailed description of any criminal proceedings that resulted in a judgment against him or her.
 - (iv) Includes the nonrefundable fee required by the department.
- (b) The department shall only consider the information provided by an individual under subdivision (a)(ii) and (iii) in making a preliminary determination.
- (c) A preliminary determination under this section that is adverse to an individual does not prevent the individual from subsequently applying for a license or registration.
- (d) The department or a board is not bound by a preliminary determination under this section if the individual applies for a license or registration under this act.
- (e) The issuance of a preliminary determination under this section does not limit the authority of the department to review applications for a license or registration, or to issue or deny a license or registration.
- (f) The department shall notify an individual of a preliminary determination by delivering a preliminary determination letter to the individual, in a form determined by the department.
- (3) An individual shall not request more than 1 preliminary determination under this section in any 120-day period.

339.203 License or registration; issuance upon demonstration of unfair or inadequate requirements; review; fees; limitation; notice; approval or disapproval; practice by person licensed, registered, or certified under repealed act.

(1) The department may issue a license or registration to a person pursuant to a specific article, if the person demonstrates to the satisfaction of the department and a board that the licensure or registration requirements do not constitute a fair and adequate measure of the person's knowledge and skills or that a required examination for receipt of a license or registration does not serve as an adequate basis for determining whether a person could perform an occupation with competence. The

procedure to be followed in obtaining the review by the director and a board is prescribed in article 5. A person shall not have a license or registration issued under this section until the person pays the appropriate fees as prescribed in article 4.

(2) A license or registration issued under this article may be issued with a limitation. The department shall notify the appropriate board of the department's intent to impose a limitation on the issuance of a license or registration of a person seeking a license or registration in the occupation for which the board serves. The department may impose the limitation only with the approval of the notified board. However, if the notified board, within 60 days after receipt of the notification by the department, neither approves nor disapproves the imposition of a limitation, the department may impose the limitation. A person who receives a license or registration with a limitation may receive a review of the limitation as provided in section 519.

(3) Notwithstanding any other provision of this act, a person licensed, registered, or certified under an act repealed by this act to practice an occupation on the day immediately preceding the effective date of this act shall be considered to be appropriately licensed, registered, or certified under this act until the expiration of the licensure, registration, or certification granted under the repealed act.

339.204 License or registration; renewal; requirements; continuing education requirement not subject to waiver; review procedure; fees; limitation; review; renewal as responsibility of licensee or registrant; renewal application; failure to notify department of change of address.

(1) Unless otherwise provided in this act and subject to the limitations under this section, the department shall renew the license or registration of a person that does all of the following:

- (a) Applies to the department on a form provided by the department for renewal of a license or registration. The applicant must deliver the application for renewal to the department on or before the expiration date of the person's current license or registration.
- (b) Pays the appropriate fees under article 4.
- (c) Meets the renewal requirements set forth in a specific article or a rule or order issued under this act.

(2) Except as otherwise provided in this act, a board that requires evidence of attendance in a continuing education program as a condition to license renewal may waive that requirement if, after receiving a written application, the board finds the failure of the licensee to attend was due to the licensee's disability, military service, or absence from the continental United States or due to circumstances beyond the control of the licensee that the board considers sufficient cause to waive the requirement.

(3) Except as otherwise provided in article 7, the department may renew a license or registration under this act with a limitation. The department shall notify the appropriate board of the department's intent to impose a limitation on the renewal of a license of a person seeking license renewal in the occupation for which the board serves. The department may impose the limitation only with the approval of the notified board. However, if the notified board, within 30 days after receipt of the notification by the department, does not approve or disapprove the imposition of a limitation, the department may impose the limitation. A person that receives a license or registration renewed with a limitation may receive a review of that limitation under section 519.

(4) It is the responsibility of the licensee or registrant to renew a license or registration. The department shall send a renewal application to the last known address of a licensee or registrant on file with the department. The failure of a licensee or registrant to notify the department of a change of address does not extend the expiration date of a license or registration and may result in disciplinary action.

(5) A licensee or registrant shall report to the department a change in name or mailing address, or a change of electronic mail address if the licensee or registrant has provided an electronic mail address under subsection (6), not later than 30 days after the change occurs.

(6) If the department is required or permitted under this act to deliver or serve a notice or other communication to a licensee or registrant by mail, the department may deliver or serve the notice or communication by electronic mail rather than by first-class mail if the licensee or registrant has provided an electronic mail address to the department, authorized the department in writing to deliver or serve notices and communications to the licensee or registrant at the electronic mail address, and agreed in writing that the licensee or registrant consents to the service of any notice or communication sent to the electronic mail address that the department would otherwise serve by mail.

339.205 Promulgation of rules.

The department shall promulgate rules to implement articles 1 to 6 and rules which are necessary and appropriate to enable the department to fulfill its role under this act.

339.206 Examination or test; review and approval of form and content; administration, scoring, and monitoring; providing equipment, examination room, written form, and other items; delegation of duties.

- (1) Before an examination or other test required under this act is administered and except as otherwise provided in this act, the department and the appropriate board, acting jointly, shall review and approve the form and content of the examination or other test. The examination or test shall be structured to provide a measure of whether a person has sufficient knowledge and skills to perform an occupation with competence.
- (2) Except as otherwise provided in this act, the department shall administer, score, and monitor the examination or test, but may delegate any or all of those duties to a board or to any other person.
- (3) Except as otherwise provided in this act, the department shall provide the equipment, examination room, written form, and any other item needed to administer the examination or test, but may delegate all or any of these duties to a board or any other person.

339.207 Licensing or approval of school, institution, or other person offering training or education; approval or recognition of continuing education program; processing request within certain period of time; recommendation by board; request.

- (1) If provided in an article, the department may issue a license to, or grant approval to, a school, institution, or other person offering training or education in an occupation.
- (2) If provided in an article, the department may grant approval or recognition to a program of continuing education, unless the approval or recognition of the program is the responsibility of a board.
- (3) The department shall process a request under subsection (1) within 90 days after the submission of the completed application in the manner described in section 411(6), which 90-day period includes the time period described in subsection (4) regarding board approval.

(4) A board shall make a recommendation on the licensure or approval or recognition of a school, institution, or other person or a program within 90 days after a request for that recommendation is made by the department.

339.208 Files of board; physical dominion; public access.

The department shall have physical dominion over the files of each board. The department shall ensure that applicable laws concerning public access to the files are met.

339.209 Office services; administrative and secretarial staff, clerks, and employees.

- (1) The department shall furnish office services to each board and perform managerial, administrative, and budgetary functions for each board.
- (2) The department shall appoint administrative and secretarial staff, clerks, and employees necessary for the proper exercise of the powers and duties of a board.
- (3) The department, subject to the strictures imposed by the civil service commission, may fire, suspend, promote, demote, or transfer a person providing administrative or secretarial service for a board.

339.210 Contracting with persons or agencies to implement act and fulfill responsibilities of department or board.

The department, on its own behalf and on behalf of a board created under this act, may contract with persons or agencies who are not employees or agencies of the department to implement this act and to fulfill the responsibilities of the department or a board.

339.211 Orientation program for board members.

The department shall provide a comprehensive orientation program for each individual appointed and confirmed as a member of a board.

339.212 Annual report.

The department shall prepare and publish an annual report describing the activities of the department and each agency created pursuant to this act. The annual report shall be filed with the governor and the legislature.

339.213 Temporary license or certificate of registration; nonrenewable; validity; applicant married to member of armed forces; limitation.

(1) If a person has not previously been denied a license or a certificate of registration or had a license or a certificate of registration revoked or suspended, the department may grant a nonrenewable temporary license or certificate of registration to an applicant for licensure or registration or transfer of licensure or registration under any of articles 7 to 26a. If approved by a board, a temporary license or certificate of registration issued under this subsection is valid until 1 or more of the following occurs:

- (a) The results of the next scheduled examination are available.
- (b) The results of the next required evaluation procedure are available.
- (c) A license or certificate of registration is issued.
- (d) The next examination date of an examination for licensure or registration in the applicable occupation, if the applicant does not take the examination.
- (e) The applicant fails to meet the requirements for a license or certificate of registration.
- (f) A change in employment is made.

(2) In addition to a temporary license or certificate of registration under subsection (1), beginning September 9, 2014, the department shall grant a temporary license or certificate of registration for an occupation under this act to an applicant who meets both of the following:

- (a) He or she provides proof acceptable to the department that he or she is a dependent of a member of the armed forces, a dependent of a member of the uniformed services, or a dependent of a veteran.
- (b) He or she provides proof acceptable to the department that he or she holds a current license in good standing, or a current registration in good standing, in that occupation, issued by an equivalent licensing department, board, or authority, as determined by the department, in consultation with the board, in another state of the United States or a foreign country.

(3) A temporary license or registration issued under subsection (2) is valid for 6 months and may be renewed for 1 additional 6-month term if the department determines the temporary licensee or registrant continues to meet the requirements of

subsection (2) and needs additional time to fulfill the requirements for initial licensure or registration in this state. The department may place a limitation on a temporary license or certificate of registration granted under this section.

339.214 Applicant whose records unavailable from foreign country; examination; reciprocal license.

An applicant for licensure or registration pursuant to articles 8 to 25 whose records relative to education or experience required by an article are unavailable from a foreign country shall be allowed, upon approval of the board and the department, to take an examination or apply for a reciprocal license upon submitting the following to the department:

- (a) A notarized affidavit approved by the department stating the total number of years of education received, the name of the school or schools attended, the dates each school was attended, the degree obtained, the courses taken, the grades received, and the names of each former employer.
- (b) A notarized statement approved by the department from a governmental official testifying to unavailability of the necessary records.

339.217 License or certificate of registration without examination; member of armed forces, veteran, or dependent of member or veteran; requirements.

(1) Subject to subsection (2), the department shall issue a license or a certificate of registration for an occupation under this act without examination to an individual who demonstrates to the satisfaction of the department that he or she meets all of the following at the time of application:

- (a) Provides proof that the individual is 1 of the following:
 - (i) A member of the armed forces or uniformed services.
 - (ii) A veteran.
 - (iii) A dependent of a member of the armed forces, a member of the uniformed services, or a veteran.

(b) Holds a valid license or registration in that occupation from an equivalent licensing department, board, or authority, as determined by the department, in at least 1 other state of the United States. For each license or registration described in this subdivision that he or she holds, all of the following must be met:

(i) The license or registration is in good standing and he or she has held that license or registration for at least 1 year.

(ii) There were minimum education requirements and, if applicable, work experience requirements in effect for licensure or registration in the other state, and the other state verifies that he or she met those requirements for licensure or registration in that state.

(iii) If the other state required an examination for licensure or registration, he or she passed the examination.

(iv) The requirements for licensure or registration in the other state are substantially equivalent to or exceed the requirements of this act and any rule promulgated under this act for the license or registration.

(c) Has not had a license or registration revoked, and has not voluntarily surrendered a license or registration, in any other state of the United States or a foreign country while under investigation for unprofessional conduct.

(d) Has not had discipline imposed by any equivalent licensing department, board, or authority in another state of the United States. If another state of the United States has taken disciplinary action against the applicant, the department shall determine if the cause for the action was corrected and the matter resolved. If the matter has not been resolved by that other state, the department shall not issue or deny a license or registration until the matter is resolved.

(e) Does not have a complaint, allegation, or investigation pending before an equivalent licensing department, board, or authority in another state of the United States or a foreign country that relates to unprofessional conduct. If the applicant has any complaints, allegations, or investigations pending, the department shall suspend the application process and shall not issue or deny a license or registration to the applicant until the complaint, allegation, or investigation is resolved.

(f) Pays all applicable fees.

(g) Is of good moral character.

(h) Meets the age requirement of that occupation under this act, if applicable.

(2) If the department determines that the issuance of a license or a certificate of registration under subsection (1) for an occupation under this act may result in a violation of a federal oversight or licensing guideline for that occupation, the department shall not issue a license or a certificate of registration.

(3) This section does not prevent the department from issuing a temporary license under section 213, a courtesy license under section 1806a, or issuing a license under section 726, 1108(2), 1211, 1806(9), 2013, 2209, or 2623.

Article 3

339.301 Boards; composition; qualifications of members; director as ex officio member.

Each board shall consist of 9 voting members. Except as otherwise provided in this act, 6 of the members of a board shall be individuals who have a license or registration in the occupation which the board monitors. Except as otherwise provided in this act, 3 of the members of a board shall represent the general public. The director shall be an ex officio member without vote of a board, but is not a member for purposes of section 5 of article V of the state constitution of 1963 or for determining a quorum. A member, in addition to fulfilling the requirements set forth in an article, shall be not less than 18 years of age and shall be a resident of this state.

339.302 Nomination and appointment of board members.

The governor shall appoint an individual as a member of a board with the advice and consent of the senate, including an individual appointed to fill a vacancy on a board. In making an appointment, the governor shall seek nominations from a wide range of interested groups and persons, including appropriate professional associations, consumer associations, labor unions, and other organizations or individuals.

339.303 Terms of board members; vacancy; appointment and removal of members; qualifications; terms.

(1) The term of a member appointed to a board shall be 4 years except that an individual appointed to fill a vacancy on a board which vacancy results from a member's resignation, death, disability, or removal for cause by the governor shall serve for the balance of the term of the member replaced and may be reappointed for not more than 2 full terms. A vacancy shall be filled in the same manner as the original appointment was made. The governor shall appoint an individual as a member of a board, subject to the advice and consent of the senate, within 60 days after a vacancy occurs and within 60 days after the senate disapproves an appointment by the governor. The governor may remove a member of a board or committee in accordance with section 10 of article V of the state constitution of 1963.

(2) Except as provided in subsection (1), an individual shall not be appointed to or serve for more than 2 consecutive terms.

(3) Subject to subsection (4), for a board created or first appointed on or after January 1, 1990, the governor may appoint, as the initial members of the board who are required to be licensed or registered, individuals who meet either or both of the following qualifications:

(a) Are certified or otherwise approved by a national organization that certifies or otherwise approves individuals in the occupation to be licensed or registered by the board.

(b) Have actively practiced the occupation licensed or registered by the board or taught in an educational institution which prepares applicants for licensure or registration in that occupation, or a combination of both, for not less than the 2 years immediately preceding their appointment.

(4) Within 3 years after October 17, 1990, each individual appointed under subsection (3) shall be licensed or registered in the occupation licensed or registered by the board to which the individual was appointed.

(5) Of the initial members of a board created or first appointed after January 1, 1990, the terms of 3 of the members, including 2 of the members who have a license or registration in the occupation which the board monitors and 1 of the members representing the general public, shall be 4 years; the terms of 2 of the members, including 1 of the members who has a license or registration in the occupation which the board monitors and 1 of the members representing the general public, shall be 3

years; the terms of 2 of the members, including 1 of the members who has a license or registration in the occupation which the board monitors and 1 of the members who represents the general public, shall be 2 years; and the terms of the remaining members shall be 1 year.

339.303a Commencement of terms; dates.

The term of office of a member of a board appointed under this article shall commence on 1 of the following dates, as applicable:

Accountancy July 1

Architects April 1

Barbers October 1

Collection agencies July 1

Cosmetology January 1

Employment agencies October 1

Hearing aid dealers October 1

Land surveyors April 1

Landscape architects July 1

Mortuary science July 1

Professional engineers April 1

Real estate appraisers July 1

Real estate brokers and salespersons July 1

Residential builders April 1

339.304 Compensation and expenses of board members.

Annually the legislature shall fix the per diem compensation of a member of a board. Travel or other expenses incurred by a member of a board in the performance of an official function shall be payable by the department pursuant to the standardized travel regulations of the department of management and budget.

339.305 Board; meetings; quorum; voting by proxy prohibited; conduct of meeting; availability of files.

(1) A board shall meet as often as necessary to fulfill its duties under this act, but shall meet not less than 2 times a year and at other dates set by the director. A majority of the members appointed and serving shall constitute a quorum. A member of a board shall not vote by proxy. A board shall conduct its meetings pursuant to Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) The files of the board shall be available to the public under section 208.

339.306 Board; election of officers; vacancy; bylaws; report.

(1) Annually a board shall elect a chairperson, a vice-chairperson, and other officers the board determines necessary. A board may fill a vacancy in an office of the board for the balance of the 1-year term.

(2) A board may adopt bylaws for the regulation of its internal affairs.

(3) A board shall report its activities to the department annually and as often as the director orders.

339.307 Board; creation within department; duties; attendance of board member at informal conference; assisting department.

(1) Each board created by this act shall be created within the department.

(2) A board's duties shall include the interpretation of a licensure or registration requirement of an article, and, if necessary, the furnishing of aid in an investigation conducted under article 5. At the discretion of the board, a member of that board may attend an informal conference conducted under section 508. A board shall assist the department in the implementation of this act.

339.308 Promulgation of rules.

(1) A board shall promulgate rules as required in the article in which it is created as are necessary and appropriate to fulfill its role.

(2) A board may promulgate rules to set the minimal standards of acceptable practice for an occupation for which the board is created.

339.309 Assessment of penalties.

A board, upon completion of a hearing conducted pursuant to section 511, shall assess a penalty or penalties as provided in article 6.

339.310 Aiding department in interpreting licensure or registration requirements.

A board shall aid the department in interpreting a licensure or registration requirement set forth in this act which is incomplete or subjective in nature to determine whether the person seeking a license or a certificate of registration or a renewal has met the requirements for the issuance or renewal.

339.313 Recommending licensure of school, institution, or other person; recommending approval or recognition of program offering training or education.

(1) A board shall recommend to the department whether to grant licensure to a school, institution, or other person or approval or recognition of a program which offers training or education in the occupation for which the board is created, unless it is the board's function to grant the licensure, approval, or recognition.

(2) Before recommending the licensure, approval, or recognition of a school, institution, or other person or a program, a board shall ascertain whether the school, institution, or other person or program provides the type of training which will provide a graduate with the knowledge and skills required to perform the occupation with competence.

339.314 Recommending approval or recognition of continuing education program.

A board shall recommend to the department the approval or recognition of a program of continuing education which is required by an article, unless it is the board's function to grant the approval or recognition.

339.315 Failure to receive licensure, approval, or recognition; protest; review.

A school, institution, or other person which fails to receive licensure or approval, or approval or recognition of a program offered by the school, institution, or person may

protest that decision and be granted an opportunity for review of that decision by the department under section 520 or 521.

339.316 Examination or test; development; consideration of material in closed session; alternative form of testing.

(1) Unless otherwise provided in an article, a board and the department shall develop an examination or test required by an article. The board and the department in developing an examination or test may adopt an examination or test prepared by another agency if the board and the department determine that the examination or test serves as a basis for determining whether a person has the knowledge and skills to perform an occupation with competence.

(2) The material required by the board and the department to develop an examination or test may be considered by the board in a closed session, if the board meets the requirements of section 7 of the open meetings act, 1976 PA 267, MCL 15.267.

(3) A board and the department, in determining the form the recommended examination or test shall take, shall give special emphasis to an alternative form of testing which permits a person to demonstrate a special qualification a person may have which is not evident under a written examination, but which is related to an occupation. The alternative form of testing shall be structured to give weight to a person's experience, noninstitutional training, and innate skills and shall be flexible enough to enable a person with a mental or physical disability to demonstrate that the person has the requisite knowledge and skills.

339.317 Surrendering files of abolished board; personnel, office space, and items or equipment to be utilized by successor board.

(1) A board abolished under this act shall surrender physical dominion over any files to the department.

(2) The successor board, until the department determines otherwise, shall utilize the personnel, office space, and items or equipment which were utilized by the abolished board and which are needed for the board to function.

Article 4

339.401 Specific amounts to be charged for licenses, registrations, and other activities.

The specific amounts to be charged for licenses, registrations, and other activities provided for in this act shall be as prescribed in the state license fee act, Act No. 152 of the Public Acts of 1979, being sections 338.2201 to 338.2277 of the Michigan Compiled Laws.

339.402 Definitions.

As used in this article:

- (a) "Expiration date" means the date prescribed in rules promulgated by the department in accordance with section 202(2).
- (b) "Reinstatement" means the granting of a license or registration, with or without limitations or conditions, to a person whose license or registration has been revoked.
- (c) "Relicensure" means the granting of a license to a person whose license has lapsed for failure to renew the license within 60 days after the expiration date.
- (d) "Reregistration" means the granting of a registration to a person whose registration has lapsed for failure to renew the registration within 60 days after the expiration date.

339.403 Collection of fees charged under contract; termination of contract.

- (1) This act does not prohibit a person who has a contract with the department or any other person providing direct services from collecting fees directly from an applicant, registrant, or licensee.
- (2) If the department terminates a contract with a person who has been administering a licensing or registration examination to applicants for licensure or registration in a specific profession, and the department itself begins to administer the examination, the department shall not charge an applicant a fee greater than the fee charged under the terminated contract unless the examination fee for that profession is

increased under the state license fee act, Act No. 152 of the Public Acts of 1979, being sections 338.2201 to 338.2277 of the Michigan Compiled Laws.

339.405 Nonrefundable application processing fee; examination or inspection fee; fee for initial license or registration period.

An application for a license or registration shall be accompanied by a nonrefundable application processing fee. The department may also require that the application be accompanied by the fee for a required examination or inspection or the fee for the initial license or registration period.

339.407 Examination fee; forfeiture; reexamination fee; publication of application deadline.

- (1) An individual who is required to take an examination shall pay an examination fee before being scheduled for an examination.
- (2) An individual who is scheduled for examination or reexamination and who fails to appear shall forfeit the examination fee.
- (3) An individual who fails all or part of an examination may be reexamined, if eligible, after paying for the complete examination or such parts of the examination as must be repeated.
- (4) The department shall publish in its application instructions the deadline by which applications must be received in order for an applicant to be scheduled for a required examination.

339.409 Payment of fee as condition to issuance of license and registration; amount; period for completion of requirements for licensure or registration; forfeiture of fees; effect of void application.

- (1) Except as otherwise provided in section 411, the department shall not issue a license or registration to a person who has completed the requirements for a license or registration or who seeks to renew a license or registration until the person has paid the license or registration fee.
- (2) License and registration fees shall be prescribed on a per year basis. If licenses and registrations are established by rules promulgated by the department under section

202 as biennial or triennial renewals, the fee required shall be twice or 3 times, as appropriate, the per year amount.

(3) Unless otherwise provided by this act or rules promulgated under this act, all requirements for licensure or registration shall be completed by the applicant within 1 year after receipt of the application by the department or mailing of a notice of an incomplete application to the last known address on file with the department, whichever is later. If the requirements are not completed, the fees paid shall be forfeited to the department and the application shall be void. A person whose application has been determined to be void under this subsection shall submit a new application and fees and shall meet the standards in effect on the date of receipt by the department of the new application.

339.411 Failure to renew license or registration; conditions to relicensing or reregistration; report; exceptions; mobilized for military duty status; temporary exemption; "completed application" defined.

(1) Subject to subsection (2), a person that fails to renew a license or registration on or before the expiration date shall not practice the occupation, operate, or use the title of that occupation after the expiration date printed on the license or registration. A license or registration shall lapse on the day after the expiration date.

(2) A person that fails to renew a license or registration on or before the expiration date is permitted to renew the license or registration by payment of the required license or registration fee and a late renewal fee within 60 days after the expiration date.

(3) Except as otherwise provided in this act, a person that fails to renew a license or registration within the time period set forth in subsection (2) may be relicensed or reregistered without examination and without meeting additional education or training requirements in force at the time of application for relicensure or reregistration if all of the following conditions are met:

(a) The person applies within 3 years after the expiration date of the last license or registration.

(b) The person pays an application processing fee, the late renewal fee, and the per year license or registration fee for the upcoming licensure or registration period, subject to subsection (8).

(c) Any penalties or conditions imposed by disciplinary action in this state or any other jurisdiction have been satisfied.

(d) The person submits proof of having completed the equivalent of 1 year of continuing education within the 12 months immediately preceding the date of application or as otherwise provided in a specific article or by rule, if continuing education is required of licensees or registrants under a specific article.

(4) Except as otherwise provided in this act, a person may be relicensed or reregistered subsequent to 3 or more years after the expiration date of the last license or registration if the person shows that the person meets the requirements for licensure or registration as established by the department in rules or procedures, which may require a person to pass all or part of a required examination, to complete continuing education requirements, or to meet current education or training requirements.

(5) Unless otherwise provided in this act, a person that seeks reinstatement of a license or registration shall file an application on a form provided by the department, pay the application processing fee, and file a petition to the department and the appropriate board stating reasons for reinstatement and including evidence that the person can and is likely to serve the public in the regulated activity with competence and in conformance with all other requirements prescribed by law, rule, or an order of the department or board. The procedure for conducting the review of a petition for reinstatement is prescribed in article 5. If approved for reinstatement, the person shall pay the per year license or registration fee for the upcoming license or registration period if appropriate, in addition to completing any requirements imposed under section 203(2).

(6) The department shall issue an initial or renewal license or registration not later than 90 days after the applicant files a completed application. The application is considered received on the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing, or make information electronically available, within 30 days after receipt of the incomplete application, describing the deficiency and requesting the additional information. The 90-day period is tolled from the date the department notifies the applicant of a deficiency until the date the requested information is received by the department. The determination of the completeness of an application does not operate as an approval of the application for the license or registration and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license or registration.

(7) Notwithstanding the time periods described in subsection (6), in the case of a real estate broker and associate broker licensed under article 25, the time period for approval by the department of a completed application is 30 days and the time period for notification sent in writing, or made electronically available, by the department to the applicant regarding an incomplete application is 15 days after the receipt of the application by any agency or department of this state.

(8) If the department fails to issue or deny a license or registration within the time required by this section, the department shall return the license or registration fee, and shall reduce the license or registration fee for the applicant's next renewal application, if any, by 15%. A failure to issue or deny a license or registration within the time required under this section does not allow the department to otherwise delay the processing of the application, and the department shall place that application, when completed, in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the license or registration fee was refunded or discounted under this subsection.

(9) The director shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with occupational issues. The director shall include all of the following information in the report concerning the preceding state fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 90-day time period described in subsection (6) and the 30-day time period described in subsection (7).

(b) The number of applications denied by the department.

(c) The number of applicants that were not issued a license or registration within the applicable time period and the amount of money returned to licensees and registrants under subsection (8).

(d) The number of applications denied by the department because of an applicant's lack of good moral character and a summary, by category of offense, of the criminal convictions on which those denials were based.

(10) Subsection (6) does not apply to a license or registration for any of the following:

(a) A certified public accountant and registered accountant under article 7.

(b) An agency non-owner manager of a collection agency under article 9.

- (c) A barber, student barber, student instructor, or barber instructor under article 11.
- (d) An employment and consulting agent of a personnel agency under article 10.
- (e) A cosmetologist, manicurist, natural hair culturist, esthetician, electrologist, instructor, or registered student under article 12.
- (f) A hearing aid salesperson and trainee under article 13.
- (g) A mortuary science licensee, embalmer, or resident trainee in mortuary science under article 18.
- (h) An individual architect, surveyor, or engineer under article 20.
- (i) An individual landscape architect under article 22.
- (j) An individual residential builder and alteration and maintenance contractor or a salesperson for a residential builder and alteration and maintenance contractor under article 24.
- (k) A real estate salesperson under article 25.
- (l) A real estate appraiser under article 26.

(11) Notwithstanding any provision in this act to the contrary, an individual or qualifying officer who is a licensee or registrant under this act and who is mobilized for military duty in the Armed Forces of the United States by the President of the United States is temporarily exempt from any renewal license fee, continuing education requirements, or other related requirements of this act applicable to that license or registration. It is the obligation of the licensee or registrant to inform the department by written or electronic mail of the desire to exercise the temporary exemption under this subsection. If the licensee applying for the temporary exemption is the individual responsible for supervision and oversight of licensed activities, the licensee shall provide notice of arrangements for adequate provision of that supervision and oversight to the department. The licensee or registrant shall accompany the request with proof, as determined by the department, to verify the mobilized duty status. If it receives a request for a temporary exemption under this subsection, the department shall make a determination of the requestor's status and grant the temporary exemption after verification of mobilized duty status under this subsection. A temporary exemption is valid until 90 days after the licensee's or registrant's release from the mobilized duty on

which the exemption was based, but shall not exceed 36 months from the date of expiration of the license or registration.

(12) As used in this section, "completed application" means an application that is complete on its face and submitted with any applicable licensing or registration fees and any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state.

Article 5

339.501 Lodging or filing complaint.

A complaint which alleges that a person has violated this act or a rule promulgated or an order issued under this act shall be lodged with the department. The department of attorney general, the department, a board, or any other person may file a complaint.

339.501a Definitions.

As used in this article:

(a) "Complainant" means a person who has filed a complaint with the department alleging that a person has violated this act or a rule promulgated or an order issued under this act. If a complaint is made by the department, the director shall designate 1 or more employees of the department to act as the complainant.

(b) "Respondent" means a person against whom a complaint has been filed who may be a person who is or is required to be licensed or registered under this act.

339.502 Investigation; correspondence file; acknowledgment of complaint; complaint made by department.

The department, upon receipt of a complaint, immediately shall begin its investigation of the allegations of the complaint and shall open a correspondence file. The department shall make a written acknowledgment of the complaint within 15 days after receipt of the complaint to the person making the complaint. If the complaint is made by the department, the director shall designate 1 or more employees of the department to act as the person making the complaint.

339.503 Investigation; petition to issue subpoena.

The department shall conduct the investigation required under section 502. In furtherance of that investigation, the department may request that the attorney general petition the circuit court to issue a subpoena requiring a person to appear before the department and be examined with reference to a matter within the scope of the investigation and to produce books, papers, or documents pertaining to the investigation.

339.504 Investigation; status report; time extension; closing and reopening complaint; preparation of appropriate action; informal conference.

(1) The investigative unit of the department, within 30 days after the department receives the complaint, shall report to the director on the status of the investigation. If, for good cause shown, an investigation cannot be completed within 30 days, the director may extend the time in which a report may be filed. The total number of extensions permitted under this section shall be included in the report required by section 212.

(2) If the report of the investigative unit of the department does not disclose a violation of this act or a rule promulgated or an order issued under this act, the complaint shall be closed by the department. The reasons for closing the complaint shall be forwarded to the respondent and complainant, who then may provide additional information to reopen the complaint.

(3) If the report of the investigative unit made pursuant to subsection (1) discloses evidence of a violation of this act or a rule promulgated or an order issued under this act, the department or the department of attorney general shall prepare the appropriate action against the respondent which may be any of the following:

- (a) A formal complaint.
- (b) A cease and desist order.
- (c) A notice of summary suspension.
- (d) A citation.

(4) At any time during its investigation or after the issuance of a formal complaint, the department may bring together the complainant and the respondent for an informal conference. At the informal conference, the department shall attempt to resolve issues

raised in the complaint and may attempt to aid the parties in reaching a formal settlement or stipulation.

339.505 Summary suspension of license or certificate of registration; order; affidavit; petition to dissolve order; hearing; granting requested relief; record.

(1) After an investigation has been conducted, the department may issue an order summarily suspending a license or a certificate of registration issued pursuant to articles 8 to 25 based on an affidavit by a person familiar with the facts set forth in the affidavit, or, if appropriate, based upon an affidavit on information and belief, that an imminent threat to the public health, safety, and welfare exists. Thereafter, the proceedings described in this article shall be promptly commenced and decided.

(2) A person whose license or certificate of registration has been summarily suspended under this section may petition the department to dissolve the order. Upon receiving a petition, the department immediately shall schedule a hearing to decide whether to grant or deny the requested relief.

(3) An administrative law hearings examiner shall grant the requested relief dissolving the summary suspension order, unless sufficient evidence is presented that an imminent threat to the public health, safety, and welfare exists which requires emergency action and continuation of the director's summary suspension order.

(4) The record created at the hearing to dissolve a summary suspension order shall become part of the record on the complaint at a subsequent hearing in a contested case.

339.506 Cease and desist order; hearing; request; application to restrain and enjoin further violation.

(1) After an investigation has been conducted, the director may order a person to cease and desist from a violation of this act or a rule promulgated or an order issued under this act.

(2) A person ordered to cease and desist shall be entitled to a hearing before the department if a written request for a hearing is filed within 30 days after the effective date of the order.

(3) Upon a violation of a cease and desist order issued under this act, the department of the attorney general may apply in the circuit court of this state to

restrain and enjoin, temporarily or permanently, or both, a person from further violating a cease and desist order.

339.507 Informal conference; criminal prosecution; other action authorized by act.

A summary suspension order, cease and desist order, or injunctive relief issued or granted in relation to a license or certificate of registration issued pursuant to articles 8 to 25 shall be in addition to and not in place of an informal conference; criminal prosecution; or proceeding to deny, revoke, suspend, or place a limitation on, a license or certificate of registration or any other action authorized by this act.

339.508 Formal complaint and notice; service; options; attendance at informal conference; methods of settlement; representation.

(1) After an investigation has been conducted and a formal complaint prepared, the department shall serve the formal complaint upon the respondent and the complainant. At the same time, the department shall serve the respondent with a notice describing the compliance conference and hearing processes and offering the respondent a choice of 1 of the following opportunities:

(a) An opportunity to meet with the department to negotiate a settlement of the matter.

(b) If the respondent is a licensee or registrant under this act, an opportunity to demonstrate compliance prior to holding a contested case hearing, as required by section 92 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being section 24.292 of the Michigan Compiled Laws.

(c) An opportunity to proceed to a contested case hearing as set forth in section 71 of Act No. 306 of the Public Acts of 1969, being section 24.271 of the Michigan Compiled Laws.

(2) A respondent upon whom service of a formal complaint has been made pursuant to this section may select, within 15 days after the receipt of notice, 1 of the options described in subsection (1). If a respondent does not select 1 of those options within the time period described in this section, then the department shall proceed to a contested case hearing as described in subsection (1)(c).

(3) An informal conference may be attended by a member of the board, at the discretion of that board, or by a member of a committee and may result in a settlement, consent order, waiver, default, or other method of settlement agreed upon by the parties and the department. A settlement may include the revocation, suspension, or limitation of a license or registration; censure; probation; restitution; or a penalty provided for in article 6. A board may reject a settlement and require a contested case hearing under section 71 of Act No. 306 of the Public Acts of 1969, as amended, being section 24.271 of the Michigan Compiled Laws.

(4) An authorized employee or agent of the department may represent the department in any contested case hearing held pursuant to Act No. 306 of the Public Acts of 1969.

339.510 Showing compliance with act, rule, or order.

This act does not prevent a person against whom a complaint has been filed from showing compliance with this act, or a rule or an order promulgated or issued under this act, under section 92 of Act No. 306 of the Public Acts of 1969, as amended.

339.511 Hearing.

If an informal conference is not held or does not result in a settlement of a complaint, a hearing pursuant to section 92 of Act No. 306 of the Public Acts of 1969, as amended, shall be held. A hearing under this section may be attended by a member of a board.

339.512 Subpoena.

The department or the department of the attorney general may petition a circuit court to issue a subpoena which shall require the person subpoenaed to appear or testify or produce relevant documentary material for examination at a proceeding conducted under section 511 or 508.

339.513 Findings of fact and conclusions of law; hearing report; copies; complaint involving professional standards of practice.

(1) Except as provided in subsection (3), at the conclusion of a hearing conducted under section 511, the administrative law hearings examiner shall submit a determination of findings of fact and conclusions of law to the department and the department of the attorney general and the appropriate board in a hearing report. The

submitted hearing report may recommend the penalties to be assessed as prescribed in article 6.

(2) A copy of a hearing report shall be submitted to the person who made the complaint and to the person against whom the complaint was lodged.

(3) For a complaint involving professional standards of practice under article 7, a majority of the members of the board who have not participated in an investigation of the complaint or who have not attended an informal conference, shall sit to make findings of fact in relation to the complaint.

339.514 Determination of penalties to be assessed; hearing report; transcript; time limit; board member prohibited from participating in final determination.

(1) Within 60 days after receipt of an administrative law hearings examiner's hearing report, the board receiving the hearing report shall meet and make a determination of the penalties to be assessed under article 6. The board's determination shall be made on the basis of the administrative law hearings examiner's report. A transcript of a hearing or a portion of the transcript shall be made available to a board upon request. If a transcript or a portion of the transcript is requested, the board's determination of the penalty or penalties to be assessed under article 6 shall be made at a meeting within 60 days after receipt of a transcript or portion of the transcript.

(2) If a board does not determine the appropriate penalty or penalties to be assessed within the time limits prescribed by subsection (1), the director may determine the appropriate penalty and issue a final order for occupations regulated under articles 8 to 25.

(3) A member of a board who has participated in an investigation on a complaint filed with the department or who has attended an informal conference shall not participate in making a final determination in a proceeding on that complaint.

339.515 Petition for review generally.

A person seeking a license or certificate of registration or renewal under this act may petition the department and the appropriate board for a review if that person does not receive a license or certificate of registration or renewal.

339.516 Petition for review; contents.

A petition submitted under section 515 shall be in writing and shall set forth the reasons the petitioner feels the licensure or registration should be issued.

339.517 Consideration of petition; alternative form of testing; personal interview.

In considering a petition submitted under section 515 for an occupation regulated under articles 8 to 25, the department and the appropriate board may administer an alternative form of testing to the petitioner, or conduct a personal interview with the petitioner, or both.

339.518 Issuance of license or certificate of registration or renewal based on review of petitioner's qualifications.

The department may issue a license or certificate of registration or renewal for an occupation regulated under articles 8 to 25, if based on a review of the qualifications of the person who submitted a petition under section 515, the department and the appropriate board determine that the person could perform the occupation with competence.

339.519 Petition to review limitation on license, certification of registration, or renewal; reply; removal of limitation.

- (1) A person who has had a limitation placed on a license, a certificate of registration, or the renewal of a license or certificate of registration under section 203 or 204, within 30 days after the limitation is placed on the license, certificate of registration, or renewal of the license or certificate of registration, may petition the department in writing for a review of the decision to place the limitation.
- (2) The department, in reply to a petition submitted under subsection (1), shall set forth the reasons the department determined that the limitation should be placed on the license, certificate of registration, or renewal of a license or certificate of registration. The reply to the person who submits a petition under section 519 shall be sent to the petitioner within 15 days after receipt of the petition.
- (3) The department and a board may remove the limitation, if, based on a review of the petitioner's qualifications, the department and the appropriate board determine that

the person who submitted a petition under subsection (1) could perform with competence each function of the occupation without the limitation.

339.520 Petition to review decision denying person licensure, approval, or recognition.

A school, institution, program, or other person which has been denied licensure, approval, or recognition within 30 days after the decision, may petition the department in writing for a review of that decision.

339.521 Consideration of petition; reinvestigation; reply.

In considering a petition submitted under section 520, the department and an appropriate board may reinvestigate the school, institution, or person and the curriculum of the school, institution, or program offered by the person before replying to the petition. The reply to the petition shall set forth the reasons licensure, approval, or recognition had not been granted. The reply shall be sent to the petitioning school, institution, or person.

339.522 Conducting proceedings on grievance lodged before effective date of act.

Notwithstanding any other provision of this act, if an oral or written grievance was lodged before the effective date of this act against a person licensed under an act repealed by this act, the proceedings on that grievance shall be conducted in the manner prescribed in the repealed act.

339.551 Additional definitions.

As used in sections 553 to 559:

- (a) "Employee of the department" means an individual employed by the department or a person under contract to the department whose duty it is to enforce the provisions of this act or rules promulgated or orders issued under this act.
- (b) "Citation" means a form prepared by the department pursuant to section 553.

339.553 Citation generally.

- (1) An employee of the department may issue a citation to a person licensed or registered under this act or required to be licensed or registered under this act if the employee observes or deduces from an investigation, inspection, or complaint that conduct or conditions exist or have existed which are in violation of this act or rules promulgated or orders issued under this act.
- (2) A citation may be sent to a respondent by certified mail, return receipt requested, or may be delivered in person by the issuing employee.
- (3) A citation shall contain all of the following:
 - (a) The date of the citation.
 - (b) The name and title of the individual issuing the citation.
 - (c) The name and address of the respondent, indicating that the respondent is being cited for a violation of the act or rules promulgated or orders issued under the act.
 - (d) A brief description of the conduct or conditions which are considered to be a violation of the act or rules or orders issued under the act and a reference to the section of the act, the rule, or order the respondent is alleged to have violated.
 - (e) The proposed penalties or actions required for compliance, including the payment of a fine which shall not exceed \$100.00 for each violation.
 - (f) A space for the respondent to sign as a receipt for the citation.
 - (g) A space where the respondent may accept the citation and agree to comply or may indicate that the violation contained in the citation is contested.
 - (h) A notice that the respondent must accept or reject the terms of the citation within 30 days.
 - (i) A brief description of the hearing process and the process for settlement through an informal conference as described in section 508.

339.555 Citation; notice of acceptance or denial of violation; signature; return; records; citation as final order; disclosure; removal from records; explanation; statement.

(1) A respondent shall have 30 days in which to notify the department in writing that the person accepts the conditions set forth in the citation or that the person does not admit to the violation cited.

(2) If the respondent accepts the conditions set forth in the citation, the respondent, within 30 days after receiving the citation, shall sign the citation and return it to the department along with any fine or other material required to be submitted by the terms of the citation. The citation and accompanying material shall be placed in the person's records with the department, indicating the nature of the violation and that the person accepted the conditions imposed. A citation issued under this section shall have the same force and effect as a final order issued by a board and may be disclosed to the public. If no further disciplinary actions are placed upon the person's record within 5 calendar years after the citation is issued, the department shall remove the citation and accompanying material from the records. If a respondent so chooses, a 1-page explanation prepared by the respondent shall be placed in the department's files and shall be disclosed each time the issuance of the citation is disclosed.

(3) If the respondent does not admit to the violation cited, the person may so state on the citation and return 1 copy to the department within the 30 days after the receipt of the citation. Upon receiving a copy of the citation not admitting to the violation, the process initiated by section 508 of the act shall be invoked, with the citation serving as the formal complaint.

339.557 Effect of signing citation.

The signing of a citation as an indication that the citation was received by the respondent shall be considered to be only a receipt of, not an admission to, the violation cited.

339.559 Review of pending cases; notice.

Beginning on January 1, 1990, the department may review all pending cases and identify those matters occurring before January 1, 1990 which would have been addressed by a citation, had such a program existed at the time the complaint was filed with the department. The department shall notify each respondent that the person may conclude the department's proceedings by accepting the penalties and proposed

compliance actions as set forth in a citation or may continue the proceedings under the provisions of the process initiated in section 508.

Article 6

339.601 Practicing regulated occupation or using designated title without license or registration; operation of barber college, school of cosmetology, or real estate school without license or approval; effect of suspended, revoked, or lapsed license or registration; violation as misdemeanor; penalties; person not licensed as residential builder or residential maintenance and alteration contractor; person not licensed as architect, professional engineer, or professional land surveyor; restitution; injunctive relief; exceptions; "affected person" defined; investigation; forfeiture; remedies; performance of services by interior designer; notice of conviction to department.

(1) A person shall not engage in or attempt to engage in the practice of an occupation regulated under this act or use a title designated in this act unless the person possesses a license or registration issued by the department for the occupation.

(2) A school, institution, or person shall not operate or attempt to operate a barber college, school of cosmetology, or real estate school unless the school, institution, or person is licensed or approved by the department.

(3) Subject to section 411, a person whose license or registration is suspended, revoked, or lapsed, as determined by the records of the department, is considered unlicensed or unregistered.

(4) Except as otherwise provided for in section 735, a person, school, or institution that violates subsection (1) or (2) is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or imprisonment for not more than 90 days, or both.

(5) Except as otherwise provided for in section 735, a person, school, or institution that violates subsection (1) or (2) a second or any subsequent time is guilty of a misdemeanor, punishable by a fine of not more than \$1,000.00, or imprisonment for not more than 1 year, or both.

(6) Notwithstanding subsections (4) and (5), a person that is not licensed under article 24 as a residential builder or a residential maintenance and alteration contractor and that violates subsection (1) or (2) is guilty as follows:

(a) In the case of a first offense, a misdemeanor punishable by a fine of not less than \$5,000.00 or more than \$25,000.00, or imprisonment for not more than 1 year, or both.

(b) In the case of a second or subsequent offense, a misdemeanor punishable by a fine of not less than \$5,000.00 or more than \$25,000.00, or imprisonment for not more than 2 years, or both.

(c) In the case of an offense that causes death or serious injury, a felony punishable by a fine of not less than \$5,000.00 or more than \$25,000.00, or imprisonment for not more than 4 years, or both.

(7) Notwithstanding subsections (4) and (5), a person that is not licensed under article 20 as an architect, professional engineer, or professional land surveyor and that violates subsection (1) or (2) is guilty as follows:

(a) In the case of a first offense, a misdemeanor punishable by a fine of not less than \$5,000.00 or more than \$25,000.00 or imprisonment for not more than 93 days, or both.

(b) In the case of a second or subsequent offense, a misdemeanor punishable by a fine of not less than \$5,000.00 or more than \$25,000.00 or imprisonment for not more than 1 year, or both.

(c) In the case of an offense that causes death or serious injury, a felony punishable by a fine of not less than \$5,000.00 or more than \$25,000.00 or imprisonment for not more than 4 years, or both.

(8) If a trier of fact finds that a person has violated this act, the trier of fact shall require that person to make restitution, based on proofs submitted to and findings made by the trier of fact as provided by law.

(9) Notwithstanding the existence and pursuit of any other remedy, an affected person may maintain injunctive action to restrain or prevent a person from violating subsection (1) or (2). If successful in obtaining injunctive relief, the affected person is entitled to actual costs and attorney fees.

(10) This act does not apply to a person that is engaging in or practicing any of the following:

(a) Interior design.

(b) Residential building design. As used in this subdivision, "residential building design" means the rendering of residential design services for a detached 1- and 2-family residence building by a person that is exempt from the requirements of section 2012.

(c) Any activity for which the person is licensed under article 11 of the skilled trades regulation act, MCL 339.6101 to 339.6133.

(d) Any activity for which the person is licensed under article 8 of the skilled trades regulation act, MCL 339.5801 to 339.5819.

(e) Any activity for which the person is licensed under article 7 of the skilled trades regulation act, MCL 339.5701 to 339.5739.

(11) As used in subsection (9), "affected person" means a person that is directly affected by the actions of a person suspected of violating subsection (1) or (2) and includes, but is not limited to, a licensee or registrant, a board established under this act, the department, a person that utilizes the services of the person that is engaging in or attempting to engage in an occupation that is regulated under this act or using a title that is designated by this act without being licensed or registered by the department, or a private association that is composed primarily of members of the occupation in which the person is engaging in or attempting to engage in or in which the person is using a title designated under this act without being registered or licensed by the department.

(12) An investigation may be conducted under article 5 to enforce this section. A person that violates this section is subject to this section and sections 506, 602, and 606.

(13) The department, the attorney general, or a county prosecutor may utilize forfeiture as a remedy in the manner provided for in section 606.

(14) The remedies under this section are independent and cumulative. The use of 1 remedy by a person does not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

(15) An interior designer may perform services in connection with the design of interior spaces including preparation of documents relative to finishes, systems furniture, furnishings, fixtures, equipment, and interior partitions that do not affect the building mechanical, structural, electrical, or fire safety systems.

(16) At the time a court enters a conviction under subsection (4), (5), or (6), the court shall notify, by mail, facsimile transmission, or electronic mail, the department of the conviction.

339.602 Violation of act, rule, or order; penalties.

A person, school, or institution that violates this act or a rule or order promulgated or issued under this act shall be assessed 1 or more of the following penalties:

- (a) Placement of a limitation on a license or certificate of registration for an occupation regulated under articles 8 to 25.
- (b) Suspension of a license or certificate of registration.
- (c) Denial of a license, certificate of registration, or renewal of a license or certificate of registration.
- (d) Revocation of a license or certificate of registration.
- (e) In the case of a person licensed or registered under this act and except as otherwise provided in this act, an administrative fine to be paid to the department of not more than \$10,000.00.
- (f) Censure.
- (g) Probation.
- (h) A requirement that restitution be made, based on proofs submitted to and findings made by the hearing examiner after a contested case.

339.603 Restitution; suspension of license or certificate of registration.

If restitution is required to be made under section 602, the license or certificate of registration of the person required to make the restitution may be suspended until the restitution is made.

339.604 Violation of article regulating occupation or commission of prohibited act; penalties.

A person who violates 1 or more of the provisions of an article which regulates an occupation or who commits 1 or more of the following shall be subject to the penalties prescribed in section 602:

- (a) Practices fraud or deceit in obtaining a license or registration.
- (b) Practices fraud, deceit, or dishonesty in practicing an occupation.
- (c) Violates a rule of conduct of an occupation.
- (d) Demonstrates a lack of good moral character.
- (e) Commits an act of gross negligence in practicing an occupation.
- (f) Practices false advertising.
- (g) Commits an act which demonstrates incompetence.
- (h) Violates any other provision of this act or a rule promulgated under this act for which a penalty is not otherwise prescribed.
- (i) Fails to comply with a subpoena issued under this act.
- (j) Fails to respond to a citation as required by section 555.
- (k) Violates or fails to comply with a final order issued by a board, including a stipulation, settlement agreement, or a citation.
- (l) Aids or abets another person in the unlicensed practice of an occupation.

339.605 Action in name of state; intervention and prosecution by attorney general; action by department; standing.

- (1) The department may bring any appropriate action, including mediation or other alternative dispute resolution, in the name of the people of this state to carry out this act and to enforce this act.
- (2) If the attorney general considers it necessary, the attorney general shall intervene in and prosecute all cases arising under this act.
- (3) This section does not prohibit the department from bringing any civil, criminal, or administrative action for the enforcement of section 601.
- (4) The department has standing to bring an administrative action or to directly bring an action in a court of competent jurisdiction regarding unlicensed practice of an occupation.

339.606 Forfeiture.

The department, the attorney general, and a county prosecutor may utilize the forfeiture provisions of chapter 47 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709, for items seized and determined to be proceeds of a crime, substituted proceeds of a crime, or the instrumentality of a crime as those terms are defined under section 4701 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701.

REFERENCES

Michigan Department of Licensing and Regulatory Affairs, Quick Links

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National Society of Professional Engineers, Code of Ethics

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