



Minnesota – Ethics, Statutes, and Rules for Professional Engineers

Four (4) Continuing Education Hours
Course #MN101

Approved Continuing Education for Licensed Professional Engineers

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Course Description:

The Minnesota Ethics, Statutes and Rules course satisfies the continuing education requirements of two (2) hours of Professional Practice Ethics.

Additionally, the current Minnesota Statutes & Rules are covered with an extra two (2) hours awarded which applies to the overall 24 hours of continuing education credit required for each MN licensed engineer.

The course is designed as a distance learning interactive course that enables the practicing professional engineer to examine and practice the canons of ethics as well as keep up to date on the legal aspects that govern the practice of engineering in the state of Minnesota.

Objectives:

The primary objective of this course is to familiarize the student with the standards of professional behavior for adherence to the highest principles of ethical conduct as well as apply those principles in reviewing real case studies.

The secondary objective of this course is to familiarize the student with the laws and rules regulating the practice of engineering in the state of Minnesota.

Upon successful completion of the course, the student will have a thorough understanding of ethical practices and be well versed with the MN statutes and rules.

Grading:

Students must achieve a minimum score of 70% on the online quiz to pass this course. The quiz may be taken as many times as necessary in order to successfully pass.

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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.

MINNESOTA STATUTES:

CHAPTER 326. EMPLOYMENTS LICENSED BY STATE

326.01 DEFINITIONS.

Subdivision 1. **Words, terms and phrases.** For the purpose of this chapter, the terms defined in this section have the meanings ascribed to them.

Subd. 14. Person. The term "person" includes an individual, partnership, association, joint stock company, trust, or corporation.

Subd. 15. Distributor. The term "distributor" includes any person who engages, or contracts to engage, in the distribution of motion picture films and is a resident of, or legally authorized to do business in, this state.

Subd. 16. Exhibitor. The term "exhibitor" includes any person who engages, or contracts to engage, in the exhibition of motion picture films and is a resident of, or legally authorized to do business in, this state.

Subd. 17. License. The term "license" includes the offering, intending or making of a license agreement, contract, or any type of agreement whereby a film, the distribution of which is controlled by one of the parties is to be supplied to and exhibited in a theatre owned, controlled, or operated by the other party.

Subd. 18. Feature motion picture film. The term "feature motion picture film" means all motion pictures, whether copyrighted or uncopyrighted, including positive and negative prints and copies or reproductions of such prints, which films contain photoplays or other subjects and are produced for public exhibition. The term shall not include films commonly known as short subjects, newsreels, trailers, serials, reissues, foreign, and western pictures, and road shows.

Subd. 19. Exhibition season. The term "exhibition season" means a period of 12 months as may be selected by the producer-distributor, but there shall be no lapse of time between the termination of one season and the beginning of the next.

326.02 LICENSURE OR CERTIFICATION.

Subdivision 1. **Licensure or certification mandatory.** In order to safeguard life, health, and property, and to promote the public welfare, any person in either public or private capacity practicing, or offering to practice, architecture, professional engineering, land surveying, landscape architecture, or professional geoscience, or using the title certified interior designer in this state, either as an individual, a copartner, or as agent of another, shall be licensed or certified as hereinafter provided. It shall be unlawful for any person to practice, or to offer to practice, in this state, architecture, professional engineering, land surveying, landscape architecture, or professional geoscience, or to use the title certified interior designer, or to solicit or to contract to furnish work within the terms of sections 326.02 to 326.15, or to use in connection with the person's name, or to otherwise assume, use or advertise any title or description tending to convey the impression that the person is an architect, professional engineer (hereinafter called engineer), land surveyor, landscape architect, professional geoscientist (hereinafter called geoscientist), or certified interior designer, unless such person is qualified by licensure or certification under sections 326.02 to 326.15. This subdivision does not preclude an individual who retired from one of the professions listed in this subdivision from using the designation architect, professional engineer, land surveyor, landscape architect, professional geoscientist, or certified interior designer as long as the designation is preceded by the word "retired" and the individual was licensed or certified in the designated profession in the state of Minnesota on the date the individual retired from the designated profession and the individual's license or certification was not subsequently revoked by the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design.

Subd. 2. **Practice of architecture.** Any person shall be deemed to be practicing architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service, such as planning, design, or supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any private or public buildings, structures or projects, or the equipment or utilities thereof, or the accessories thereto, wherein the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the art and science of construction based upon the principles of mathematics, aesthetics, and the physical sciences, acquired by education or training, and by experience. For the purposes of this subdivision "supervision" is a professional service as distinguished from superintending of construction and means the performance or the supervision thereof, of reasonable and

ordinary on the site observations to determine that the construction is in substantial compliance with the approved drawings, plans and specifications.

Subd. 3. **Practice of professional engineering.** (a) Any person shall be deemed to be practicing professional engineering within the meaning of sections 326.02 to 326.15 who holds out as being able to perform or who does perform any technical professional service, such as planning, design or observation of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private structures, buildings, utilities, machines, equipment, processes, works, or projects wherein the public welfare or the safeguarding of life, health, or property is concerned or involved, when such professional service requires the application of the principles of mathematics and the physical and applied engineering sciences, acquired by education or training, and by experience.

(b) No person other than one licensed under sections 326.02 to 326.15 as a professional engineer may:

(1) use the term "professional engineer";

(2) use any other abbreviation or term, including the initials "P.E." or "PE" by signature, verbal claim, sign, advertisement, letterhead, card, or similar means that would lead the public to believe that the person was a professional engineer; or

(3) use any means or in any other way make a representation that would lead the public to believe that the person was a professional engineer.

(c) A professional engineering license satisfies any requirements by the state or its political subdivisions to perform any actions authorized under the professional engineering license. A person licensed as a professional engineer under sections 326.02 to 326.15 shall only be required to obtain a license, certification, or other form of approval for a skill or service in addition to a professional engineering license if the state or political subdivision has made an affirmative written determination in statute, rule, or ordinance that such additional license or certification is necessary to safeguard life, health, or property, or promote the public welfare. This section does not preclude the state or a political subdivision from including additional requirements when soliciting public contracts for engineering services. This paragraph does not apply to practice areas where licenses or certifications are required prior to August 1, 2015.

Subd. 3a. **Practice of professional geoscience.** A person is considered to be practicing professional geoscience within the meaning of sections 326.02 to 326.15 who holds out as being able to perform or who does perform any technical professional

services, the adequate performance of which requires professional geoscience education, training, and experience in the application of special knowledge of the mathematical, physical, chemical, biological, and earth sciences to such services or creative work as consultation, investigation, evaluation, planning, mapping, and inspection of geoscientific work and its responsible supervision.

A person is considered to practice or offer to practice professional geoscience, within the meaning and intent of sections 326.02 to 326.15 who practices any of the geoscience disciplines defined by the board; who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents oneself to be a professional geoscientist; through the use of some other title implies that the person is a professional geoscientist; or who presents oneself as able to perform or who does perform any geoscience services or that constitutes the practice of a professional geoscience discipline as defined by the board.

"Geoscience" means the science which includes treatment of the earth and its origin and history; the investigation, measurement or sampling, of the earth's constituent rocks, natural and induced fields of force, minerals, fossils, solids, soils, fluids including surface and underground waters, gases, and other materials; and the study, interpretation, and analysis of the natural agents, forces, and processes which cause changes in the earth. Nothing in this subdivision shall be construed to prevent a professional engineer, as defined in sections 326.02 to 326.15, from acquiring engineering data involving soil, rock, groundwater, and other earth materials; evaluating physical and chemical properties of soil, rock, groundwater, and other earth materials for engineering; and from utilizing these data for analysis, design, and construction.

Nothing in this subdivision shall be construed to permit a professional geoscientist to engage in the practice of professional engineering, architecture, landscape architecture, or land surveying or to use the title "certified interior design" as those terms are defined in this section. Nothing in this subdivision shall be construed to regulate persons who take soil samples for the purpose of providing recommendations on crop production.

Subd. 4. Practice of land surveying. Land surveying means the application of the principles of mathematics, physical and applied sciences and law to measuring and locating lines, angles, elevations and natural or artificial features in the air, on the surface of the earth, underground and on the beds of bodies of water for the purpose of:

(1) determining, monumenting, establishing, or reestablishing property boundaries;

- (2) determining, monumenting, or reestablishing the position for any public land survey system corner or line;
- (3) planning, designing, and platting of land and subdivisions including the topography, alignment and grades of streets; and
- (4) preparing and perpetuating maps, record plats, and property descriptions.

Any person who offers to perform, holds out as being able to perform, or does perform land surveying for others shall be practicing land surveying.

Nothing contained in the provisions of sections 326.02 to 326.15, shall prohibit a licensed professional engineer, architect, landscape architect, or professional geoscientist from doing any work included in the practice of engineering, architecture, landscape architecture, and professional geoscience, if the work does not involve the establishment or reestablishment of property corners, property lines, or public land survey system corners or lines.

Subd. 4a. **Practice of landscape architecture.** Any person shall be deemed to be practicing landscape architecture, within the meaning of sections 326.02 to 326.15, who holds out as being able to perform or who does perform any professional service in connection with the development of land areas where the dominant purpose of the service is the preservation, enhancement or determination of proper land uses, natural land features, ground cover and planting, naturalistic and aesthetic values, the settings, approaches or environment for structures or other improvements, and the consideration and determination of inherent problems of the land relating to erosion, wear and tear, blight and hazards. This practice shall include the location and arrangement of tangible objects and features incidental and necessary to the purposes outlined but shall not include the design of structures or facilities with separate and self-contained purposes as ordinarily included in the practice of engineering or architecture or the preparation of boundary surveys or final land plats, as ordinarily included in the practice of land surveying.

Nothing contained in sections 326.02 to 326.15 concerning landscape architects shall be construed:

- (1) to apply to a professional engineer duly registered under the laws of this state;
- (2) to apply to an architect registered under the laws of this state;
- (3) to apply to a land surveyor registered under the laws of this state;

- (4) to prevent a registered architect or professional engineer from doing landscape planning and designing;
- (5) to exclude nursery operators or other small business people from the preparation of landscape plans appropriate to the normal operation of their business;
- (6) to authorize a landscape architect to engage in the practice of architecture, engineering, land surveying, or geoscience.

No person shall use the designation landscape architect or any title or device indicating or representing that the person is a landscape architect or is practicing landscape architecture unless the person is registered under the provisions of sections 326.02 to 326.15.

Subd. 4b. **Certified interior designer.** (a) For the purposes of sections 326.02 to 326.15, "certified interior designer" means a person who is certified under section 326.10, to use the title certified interior designer and who provides services in connection with the design of public interior spaces, including preparation of documents relative to non-load-bearing interior construction, space planning, finish materials, and furnishings.

(b) No person may use the title certified interior designer unless that person has been certified as an interior designer or has been exempted by the board. Registered architects may be certified without additional testing. Persons represent themselves to the public as certified interior designers if they use a title that incorporates the words certified interior designer.

(c) Nothing in this section prohibits the use of the title interior designer or the term interior design by persons not certified by the board.

(d) Nothing in this section restricts persons not certified by the board from providing interior design services and from saying that they provide such services, as long as they do not use the title certified interior designer.

(e) Nothing in this section authorizes certified interior designers to engage in the practice of architecture as defined in subdivision 2 or the practice of engineering as defined in subdivision 3.

Subd. 5. **Limitation.** The provisions of sections 326.02 to 326.15 shall not apply to the preparation of plans and specifications for the erection, enlargement, or alteration of any building or other structure by any person, for that person's exclusive occupancy or

use, unless such occupancy or use involves the public health or safety or the health or safety of the employees of said person, or of the buildings listed in section 326.03, subdivision 2, nor to any detailed or shop plans required to be furnished by a contractor to a registered engineer, landscape architect, architect, or certified interior designer, nor to any standardized manufactured product, nor to any construction superintendent supervising the execution of work designed by an architect, landscape architect, engineer, or certified interior designer licensed or certified in accordance with section 326.03, nor to the planning for and supervision of the construction and installation of work by an electrical or elevator contractor or master plumber as defined in and licensed pursuant to chapter 326B, where such work is within the scope of such licensed activity and not within the practice of professional engineering, or architecture, or where the person does not claim to be a certified interior designer as defined in subdivision 2, 3, or 4b.

326.03 LICENSE OR CERTIFICATE REQUIRED.

Subdivision 1. **Plans; documents.** No person, except an architect, engineer, land surveyor, landscape architect, geoscientist, or certified interior designer, licensed or certified as provided for in sections 326.02 to 326.15 shall practice architecture, professional engineering, land surveying, landscape architecture, or professional geoscience, or use the title certified interior designer, respectively, in the preparation of plans, specifications, reports, plats or other architectural, engineering, land surveying, landscape architectural, geoscientific, or interior design documents, or in the observation of architectural, engineering, land surveying, landscape architectural, geoscientific, or interior design projects. In preparation of such documents, reasonable care shall be given to compliance with applicable laws, ordinances, and building codes relating to design.

Subd. 2. **Exceptions.** Nothing contained in sections 326.02 to 326.15 shall prevent persons from advertising and performing services such as consultation, investigation, or evaluation in connection with, or from making plans and specifications for, or from supervising, the erection, enlargement, or alteration of any of the following buildings:

- (1) dwellings for single families, and outbuildings in connection therewith, such as barns and private garages;
- (2) two family dwellings;
- (3) any farm building or accessory thereto; or

(4) temporary buildings or sheds used exclusively for construction purposes, not exceeding two stories in height, and not used for living quarters.

Subd. 3. Recording. No plat, map, or drawing of any survey or subdivision of lands required by law to be filed or recorded with the county recorder or registered with the registrar of titles of any county, shall be filed, recorded, or registered therein unless there shall be endorsed thereon a certification by a licensed land surveyor.

Subd. 4. Exception for persons elected in office. The provisions hereof shall not apply to any person holding an elective office when in discharging the duties thereof such person is required to do work or perform service of the character of work or service usually done or performed by an architect, engineer, land surveyor, landscape architect, or geoscientist.

Subd. 5. Insurance companies; rating bureaus. The provisions of sections 326.02 to 326.15 shall not apply to inspection and service work done by employees of insurance companies, their agents, or insurance rating bureaus.

326.031 SPECIFICATIONS FOR PUBLIC FACILITIES, USE OF BRAND NAMES.

Any engineer, architect, certified interior designer, or other person preparing specifications with respect to a contract for the construction of any facility for the state, or any agency or department thereof, or for any county, city, town, or school district, shall at the time of submitting such specifications to the governing body of the organization requesting the specifications, submit to such body, in writing, a list showing each item in the specifications which has been specified by brand name, unless such specifications allow for the consideration of an equal.

326.04 BOARD ESTABLISHED.

Subdivision 1. **Board composition.** To carry out the provisions of sections 326.02 to 326.15 there is hereby created a Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design consisting of 21 members, who shall be appointed by the governor. Three members shall be licensed architects, five members shall be licensed engineers, two members shall be licensed landscape architects, two members shall be licensed land surveyors, two members shall be certified interior designers, two members shall be licensed geoscientists, and five members shall be public members. Not more than one member of the board shall be

from the same branch of the profession of engineering. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. Members shall be limited to two terms. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions relating to board operations shall be as provided in chapter 214.

Subd. 2. Temporary military certificate. The board shall establish a temporary military certificate in accordance with section 197.4552.

326.05 QUALIFICATIONS OF BOARD MEMBERS.

Each member of the board shall be a resident of this state at the time of and throughout the member's appointment. Each member except the public members shall have been engaged in the practice of the relevant profession for at least ten years and shall have been in responsible charge of professional work requiring licensure as an architect, engineer, land surveyor, landscape architect, or geoscientist, or certification as an interior designer for at least five years.

326.06 GENERAL POWERS AND DUTIES OF BOARD.

Each member of the board shall receive a certificate of appointment from the governor, and, before beginning a term of office, shall file with the secretary of state the constitutional oath of office. The board shall adopt and have an official seal, which shall be affixed to all licenses granted; shall make all rules, not inconsistent with law, needed in performing its duties; and shall fix standards for determining the qualifications of applicants for certificates, which shall not exceed the requirements contained in the curriculum of a recognized school of architecture, landscape architecture, engineering, geoscience, or interior design. The board shall make rules to define classes of buildings with respect to which persons performing services described in section 326.03, subdivision 2, may be exempted from the provisions of sections 326.02 to 326.15, by a finding of no probable risk to life, health, property or public welfare.

326.07 BOARD, MEETINGS, OFFICERS, QUORUM.

The board shall hold meetings at such times the board shall specify. Notice of all meetings shall be given in such manner as the bylaws may provide as described in chapter 13D. The board shall elect annually from its members a chair, a vice-chair, a

secretary and a treasurer. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question.

326.09 RECORDS OF BOARD.

The board shall keep a record of its proceedings and a register of all applicants for licensing, showing for each the date of application, name, age, educational and other qualifications, place of business, and the place of residence, whether or not an examination was required and whether the applicant was rejected or a license granted, and the date of such action. The books and register of the board shall be prima facie evidence of all matters recorded therein. A roster showing the names and places of business or of residence of all licensed architects, engineers, land surveyors, landscape architects, geoscientists, and certified interior designers shall be prepared annually. Rosters may be printed out of the funds of the board.

326.10 LICENSURE AND CERTIFICATION.

Subdivision 1. Issuance. The board shall on application therefor on a prescribed form, and upon payment of a fee prescribed by rule of the board, issue a license or certificate as an architect, engineer, land surveyor, landscape architect, geoscientist, or certified interior designer. A separate fee shall be paid for each profession licensed.

(1) To any person over 25 years of age, who is of good moral character and repute, and who has the experience and educational qualifications which the board by rule may prescribe.

(2) To any person who holds an unexpired certificate of registration or license issued by proper authority in the District of Columbia, any state or territory of the United States, or any foreign country, in which the requirements for registration or licensure of architects, engineers, land surveyors, landscape architects, geoscientists, or certified interior designers, respectively, at the time of registration or licensure in the other jurisdiction, were equal, in the opinion of the board, to those fixed by the board and by the laws of this state, and in which similar privileges are extended to the holders of certificates of registration or licensure issued by this state. The board may require such person to submit a certificate of technical qualification from the National Council of Architectural Registration Boards in the case of an architect, from the National Council of Examiners for Engineering and Surveying in the case of an engineer, from the Council of Landscape Architectural Registration Boards in the case of a landscape

architect, and from the National Council for Interior Design Qualification in the case of a certified interior designer.

Subd. 2. **Examination.** The board, or a committee of the board, may subject any applicant for licensure or certification to such examinations as may be deemed necessary to establish qualifications.

In determining the qualifications of applicants, at least one member determining the qualifications must be licensed or certified in the same profession as that being evaluated.

Subd. 2a. **Needs of physically disabled, inclusion in examination.** Examinations for architect, civil structural engineer, landscape architect, and certified interior designer shall include questions which require the applicant to demonstrate knowledge of the design needs of people with physical disabilities and of the relevant statutes and codes.

Subd. 7. **Engineer, land surveyor, geoscientist; in-training.** (1) An applicant for certification as an engineer-in-training who is a graduate with a bachelor of engineering degree from a school or college having an accredited engineering curriculum or whose education, in the opinion of the board, is equivalent thereto, shall receive from the board, upon passing an examination in fundamental engineering subjects, a certificate stating that the applicant has passed such examination and that the applicant's name has been recorded as an engineer-in-training.

(2) An applicant for certification as a land surveyor-in-training who is a graduate with a bachelor's degree from a school or college having an accredited engineering or land surveying curriculum or who has equivalent education, in the opinion of the board, shall receive from the board, upon passing a written examination in the fundamentals of mathematics and the basic principles of land surveying, a certificate stating that the applicant has passed such examination and that the applicant's name has been recorded as a land surveyor-in-training.

(3) An applicant for certification as a geoscientist-in-training who is a graduate with a baccalaureate degree from a school or college having accreditation defined by the board and a geoscience or associated science curriculum approved by the board, shall receive from the board, upon passing the appropriate examination in fundamental geoscience subjects for the applicant's discipline as approved by the board, a certificate stating that the applicant's name has been recorded as a geoscientist-in-training with the appropriate geoscientist-in-training legend as approved by the board.

Subd. 8. **Expiration and renewal.** All licenses and certificates, other than in-training certificates, issued by the board expire at midnight on June 30 of each even-numbered calendar year if not renewed. A holder of a license or certificate issued by the board may renew it by completing and filing with the board an application for renewal consisting of a fully completed form provided by the board and the fee specified in section 326.105. Both the fee and the application must be submitted at the same time and by June 30 of each even-numbered calendar year. The form must be signed by the applicant, contain all of the information requested, and clearly show that the licensee or certificate holder has completed the minimum number of required professional development hours, has provided a certification under section 326.107, subdivision 5, to the board, or has been granted an exemption under section 326.107, subdivision 4. An application for renewal that does not comply with the requirements of this subdivision is an incomplete application and must not be accepted by the board.

Subd. 9. **Reinstatement of expired license or certificate.** A licensee or certificate holder whose license or certificate has expired may reinstate the expired license or certificate by satisfying all prior continuing education requirements to a maximum of 48 professional development hours, by paying all of the renewal fees due for all prior renewal periods that the license or certificate was expired and the current renewal period, and paying a delayed renewal fee in the amount set by the board. The continuing education requirement must be satisfied with professional development hours completed within the four years immediately prior to reinstatement and may not include any professional development hours that had previously been used to renew the license or certificate being reinstated.

To reinstate an expired license or certificate, the licensee or certificate holder must file with the board an application for reinstatement consisting of a fully completed form provided by the board and the fees specified in this subdivision. The form must be signed, contain all of the information requested, and clearly show that the licensee or certificate holder either has completed the minimum number of required professional development hours, has provided a certification under section 326.107, subdivision 5, to the board, or has been granted an exemption under section 326.107, subdivision 4. An application for reinstatement that does not comply with the requirements of this subdivision is an incomplete application and must not be accepted by the board.

Subd. 10. **Temporary military license.** The board shall establish a temporary license in accordance with section 197.4552 for the practice of architecture, professional engineering, geosciences, land surveying, landscape architecture, and interior design. The fee for the temporary license under this subdivision for the practice of architecture,

professional engineering, geosciences, land surveying, landscape architecture, or interior design is \$132.

326.105 FEES.

The fee for licensure or renewal of licensure as an architect, professional engineer, land surveyor, landscape architect, or geoscience professional is \$120 per biennium. The fee for certification as a certified interior designer or for renewal of the certificate is \$120 per biennium. The fee for an architect applying for original certification as a certified interior designer is \$50 per biennium. The initial license or certification fee for all professions is \$120. The renewal fee shall be paid biennially on or before June 30 of each even numbered year. The renewal fee, when paid by mail, is not timely paid unless it is postmarked on or before June 30 of each even-numbered year. The application fee is \$25 for in-training applicants and \$75 for professional license applicants.

326.106 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in section 326.107 have the meanings given them in this section.

Subd. 2. **Biennial renewal.** "Biennial renewal" means a period of time consisting of two consecutive 12-month periods ending on June 30 of each even-numbered year.

Subd. 3. **Dual license or certificate holder.** "Dual license or certificate holder" means a person who is licensed or certified in two professions regulated by the board.

Subd. 4. **Professional development hours.** "Professional development hours" means contact hours consisting of not less than 50 minutes each of instruction or presentation meeting the requirements of section 326.107.

326.107 CONTINUING EDUCATION.

Subdivision 1. **Requirements.** (a) Architects, professional engineers, land surveyors, landscape architects, geoscientists, and interior designers licensed or certified by this board must obtain the number of professional development hours described in paragraphs (b) to (d) during each two-year period of licensure or certification identified in section 326.105. This requirement must be satisfied during the two-year period prior to biennial renewal except for a carryover permitted from the previous renewal period,

which must not exceed 50 percent of the biennial requirement of professional development hours.

(b) Licensed professional engineers must earn a minimum of 24 professional development hours, of which two must be dedicated to professional ethics, per biennial renewal except for the carryover permitted.

The ethics hours must have been earned during the biennium to which they are applied and shall not be used toward carryover.

(c) Licensed architects, land surveyors, landscape architects, geoscientists, and certified interior designers must earn a minimum of 24 professional development hours, of which two must be dedicated to professional ethics, per biennial renewal except for the carryover permitted. The ethics hours must have been earned during the biennium to which they are applied and shall not be used toward carryover.

(d) Dual license or certificate holders who have obtained a license or certificate for two professions must earn professional development hours required by the license or certificate requiring the greatest number of professional development hours and must obtain in each profession a minimum of one-third of the total professional development hours required. The remaining one-third requirement may be obtained in either profession at the sole discretion of the licensee or certificate holder.

Subd. 2. **Programs and activities.** Continuing education must consist of learning experiences which enhance and expand the skills, knowledge, and abilities of practicing professionals to remain current and render competent professional services to the public. Practitioners may pursue technical, nontechnical, regulatory, ethical, and business practice needs for a well-rounded education provided the education directly benefits the health, safety, or welfare of the public. Continuing education activities which satisfy the professional development requirement include, but are not limited to, the following:

- (1) completing or auditing college-sponsored courses;
- (2) completing self-study college or non-college-sponsored courses, presented by correspondence, Internet, television, video, or audio, ending with examination or other verification processes;
- (3) participation in seminars, tutorials, televised or videotaped courses, or short courses;
- (4) attending self-sponsored and prepared in-house educational programs;

- (5) completing a study tour with a structured program resulting in a written or visual presentation by the licensee or certificate holder;
- (6) presenting or instructing qualifying courses or seminars. Professional development hours may be earned for preparation time for the initial presentation;
- (7) authoring published papers, articles, or books. Professional development hours earned may equal preparation time spent, may be claimed only following publication, and shall be given for authorship or presentation, but not for both;
- (8) participating in professional examination grading or writing. A maximum of five professional development hours per biennium may be applied from this source. The hours from this source must have been earned during the biennium to which they are applied and shall not be used toward carryover;
- (9) providing professional service to the public which draws upon the licensee's or certificate holder's professional expertise on boards, commissions, and committees such as planning commissions, building code advisory boards, urban renewal boards, or non-work-related volunteer service. A maximum of ten professional development hours per biennium may be applied from this source regardless of the number of boards, commissions, and committees the licensee or certificate holder serves. The hours from this source must have been earned during the biennium to which they are applied and shall not be used toward carryover; and
- (10) patents, after they are granted, for a credit of ten professional development hours. The patent must have been granted during the biennium to which the hours are applied and shall not be used toward carryover.

Subd. 3. **Criteria.** (a) Continuing education courses and activities must meet the criteria in paragraphs (b) to (f).

(b) There must be a clear purpose and objective for each activity which will maintain, improve, or expand skills and knowledge obtained prior to initial licensure or certification or develop new and relevant skills and knowledge.

(c) The content of each presentation must be well organized and presented in a sequential manner.

(d) There must be evidence of preplanning which must include the opportunity for input by the target group to be served.

(e) The presentation must be made by persons who are well qualified by education or experience.

(f) There must be a provision for documentation of the individual's participation in the activity, including information required for record keeping and reporting.

Subd. 4. **Exemptions.** The following licensees or certificate holders are exempt from the continuing education requirements:

(1) a new licensee or certificate holder for the individual's first biennial renewal;
or

(2) a licensee or certificate holder who has experienced during the biennial renewal a serious illness, injury, or other extenuating circumstances, or who has been called to active duty in the military services for a period of time exceeding 120 consecutive days, as reviewed and approved by the board, and where such activities restrict compliance with the continuing education requirements, as supported by documentation furnished to the board.

Subd. 7. **Reports and records.** The licensee or certificate holder shall maintain a file in which records of courses and activities are kept, including dates, subjects, duration of programs, sponsoring organization, professional development hours earned, registration receipts where appropriate, and other pertinent documentation, for a period of four years after the end of the licensure period for which the hours apply. This information may be required to be produced by licensees or certificate holders. The board may require a licensee or certificate holder to produce this information in connection with verification of a renewal application, a random audit conducted by the board, or upon receipt of a complaint alleging noncompliance on the part of a licensee or certificate holder.

Subd. 8. **Noncompliance.** If the board rejects professional development hours reported by a licensee or certificate holder in an amount sufficient to reduce the number of nonrejected professional development hours below the required minimum number, the licensee or certificate holder must be notified of the board's rejection of the hours. The licensee or certificate holder has 180 days after notification to substantiate the validity of the rejected hours or to earn other qualifying hours to meet the minimum requirement. The board's rejection of any professional development hours submitted during this 180-day cure period does not extend or expand the cure period. If the board does not reinstate a sufficient number of the rejected professional development hours to meet the required minimum number of professional development hours, or the licensee or certificate holder does not complete or substantiate that the

individual has completed other qualifying professional development hours to meet the required minimum number of professional development hours within the specified period of time, the individual's licensure or certification shall be suspended. Professional development hours earned within the 180-day cure period and applied to current renewal may not be applied to the requirements for the following biennial renewal.

326.11 LICENSE AND CERTIFICATE REGULATION.

Subdivision 1. **Revocation or suspension.** The board shall have the power to revoke or suspend the license or certificate of any architect, engineer, land surveyor, landscape architect, geoscientist, or certified interior designer, who is found guilty by the board of any fraud or deceit in obtaining a license or certificate, or of attaching the licensee's or certificate holder's seal or signature to any plan, specification, report, plat, or other architectural, engineering, land surveying, landscape architectural, geoscientific, or interior design document not prepared by the person signing or sealing it or under that person's direct supervision, or of gross negligence, incompetency, or misconduct in the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or interior design, or upon conviction of any violation of sections 326.02 to 326.15 or amendments thereof, or of any crime involving moral turpitude or upon adjudication of insanity or incompetency.

Subd. 5. **Reissuance.** The board may reissue a license to any person whose license has been suspended or revoked upon application for relicensure.

Subd. 6. **Replacement.** A new license to replace any license revoked, lost, destroyed, or mutilated, may be issued, subject to the rules of the board.

326.111 UNAUTHORIZED PRACTICE; DISCIPLINARY ACTION.

Subdivision 1. **Generally.** (a) If the board, or the complaint committee if authorized by the board, has a reasonable basis to believe that a person has engaged in an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may proceed as described in subdivisions 2 and 3.

(b) The board shall establish a complaint committee to investigate, mediate, or initiate administrative or legal proceedings on behalf of the board with respect to complaints filed with or information received by the board alleging or indicating the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or a violation of statute, rule, or order that the board has issued or is empowered to enforce. The complaint committee shall consist of five members of the board, with no more than one from each of the professions licensed by the board, and no more than two public members.

(c) Except as otherwise described in this section, all hearings shall be conducted in accordance with chapter 14.

Subd. 2. **Legal action.** (a) When necessary to prevent the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce, the board, or the complaint committee if authorized by the board, may bring an action in the name of the state in the district court in Ramsey County or in any county in which jurisdiction is proper to enjoin the act, practice, or violation and to enforce compliance with the statute, rule, or order. Upon a showing that a person has engaged in an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce, a permanent or temporary injunction, restraining order, or other appropriate relief shall be granted.

(b) For purposes of injunctive relief under this subdivision, irreparable harm exists when the board shows that a person has engaged in an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or a violation of a statute, rule, or order that the board has issued or is empowered to enforce.

(c) Injunctive relief granted under paragraph (a) does not relieve an enjoined person from criminal prosecution by a competent authority or from disciplinary action by the board with respect to the person's license, certificate, or application for examination, license, or renewal.

Subd. 3. **Cease and desist orders.** (a) The board, or the complaint committee if authorized by the board, may issue and have served upon a person an order requiring

the person to cease and desist from the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the titles architect, professional engineer, land surveyor, landscape architect, professional geologist, professional soil scientist, certified interior designer, or violation of the statute, rule, or order. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing and shall state the reasons for the entry of the order.

(b) Service of the order is effective if the order is served on the person or counsel of record personally or by certified mail to the most recent address provided to the board for the person or counsel of record.

(c) Unless otherwise agreed by the board, or the complaint committee if authorized by the board, and the person requesting the hearing, the hearing shall be held no later than 30 days after the request for the hearing is received by the board.

(d) The administrative law judge shall issue a report within 30 days of the close of the contested case hearing record, notwithstanding Minnesota Rules, part 1400.8100, subpart 3. Within 30 days after receiving the report and any exceptions to it, the board shall issue a further order vacating, modifying, or making permanent the cease and desist orders as the facts require.

(e) If no hearing is requested within 30 days of service of the order, the order becomes final and remains in effect until it is modified or vacated by the board.

(f) If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true.

Subd. 4. **Actions against applicants and licensees.** (a) The board may, by order, deny, refuse to renew, suspend, temporarily suspend, or revoke the application, license, or certification of a person; censure or reprimand that person; condition or limit the person's practice; refuse to permit a person to sit for examination; or refuse to release the person's examination grades if the board finds that the order is in the public interest and the applicant, licensee, or certificate holder:

(1) has violated a statute, rule, or order that the board has issued or is empowered to enforce;

(2) has engaged in conduct or acts that are fraudulent, deceptive, or dishonest whether or not the conduct or acts relate to the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or certified interior design, providing that the fraudulent, deceptive, or dishonest conduct or acts reflect adversely on the person's ability or fitness to engage in the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or certified interior design;

(3) has engaged in conduct or acts that are negligent or otherwise in violation of the standards established by Minnesota Rules, chapters 1800 and 1805, where the conduct or acts relate to the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or use of the title certified interior designer;

(4) has been convicted of or has pled guilty or nolo contendere to a felony, an element of which is dishonesty or fraud, whether or not the person admits guilt, or has been shown to have engaged in acts or practices tending to show that the applicant or licensee is incompetent or has engaged in conduct reflecting adversely on the person's ability or fitness to engage in the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or use of the title certified interior designer;

(5) employed fraud or deception in obtaining a certificate, license, renewal, or reinstatement or in passing all or a portion of the examination;

(6) has had the person's architecture, engineering, land surveying, landscape architecture, geoscience, or interior design license, certificate, right to examine, or other similar authority revoked, suspended, canceled, limited, or not renewed for cause in any state, commonwealth, or territory of the United States, in the District of Columbia, or in any foreign country;

(7) has had the person's right to practice before any federal, state, or other government agency revoked, suspended, canceled, limited, or not renewed;

(8) failed to meet any requirement for the issuance or renewal of the person's license or certificate;

(9) has attached the person's seal or signature to a plan, specification, report, plat, or other architectural, engineering, land surveying, landscape architectural, geoscientific, or interior design document not prepared by the person sealing or signing it or under that person's direct supervision; or

(10) with respect to temporary suspension orders, has committed an act, engaged in conduct, or committed practices that may, or has in the opinion of the board, or the complaint committee if authorized by the board, resulted in an immediate threat to the public.

(b) In lieu of or in addition to any remedy provided in paragraph (a), the board may require, as a condition of continued licensure, possession of certificate, termination of suspension, reinstatement of license or certificate, examination, or release of examination grades, that the person:

(1) submit to a quality review of the person's ability, skills, or quality of work, conducted in such fashion and by such persons, entity, or entities as the board may require including, but not limited to, remedial education courses; and

(2) complete to the satisfaction of the board such continuing professional education courses as the board may specify by rule.

(c) Service of the order is effective if the order is served on the licensee, certificate holder, applicant, person, or counsel of record personally or by certified mail, to the most recent address provided to the board for the licensee, certificate holder, applicant, person, or counsel of record. The order shall state the reasons for the entry of the order.

(d) All hearings required by this section shall be conducted in accordance with chapter 14, except with respect to temporary suspension orders, as provided for in subdivision 5, paragraph (d).

Subd. 5. **Procedure for temporary suspension of license or certificate.** (a) When the board, or the complaint committee if authorized by the board, issues a temporary suspension order, the suspension is in effect upon service of a written order on the licensee or counsel of record, specifying the statute, rule, or order violated. The order remains in effect until the board issues a final order in the matter after a hearing or upon agreement between the board and the licensee.

(b) Service of the order is effective if the order is served on the licensee or counsel of record personally or by certified mail, to the most recent address provided to the board for the licensee or counsel of record.

(c) The order shall set forth the rights to a hearing contained in this subdivision and shall state the reasons for the entry of the order.

(d) Within ten days after service of the order, the licensee may request a hearing in writing. The board shall hold a hearing before its own members within five working days of receipt of a request for hearing on the sole issue of whether there is a reasonable basis to continue, modify, or lift the temporary suspension. This hearing is not subject to chapter 14. Evidence presented by the board or the licensee shall be in affidavit form only. The licensee or counsel of record may appear for oral argument.

(e) Within five working days after the hearing, the board shall issue its order and, if the suspension is continued, schedule a contested case hearing within 30 days after issuance of the order. The administrative law judge shall issue a report within 30 days after closing of the contested case hearing record, notwithstanding the provisions of Minnesota Rules, part 1400.8100, subpart 3. The board shall issue a final order within 30 days after receipt of that report and any exceptions to it.

Subd. 6. Violations; penalties; costs of proceeding. (a) The board may impose a civil penalty not to exceed \$10,000 per violation upon a person who commits an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or violates a statute, rule, or order that the board has issued or is empowered to enforce.

(b) The board may, in addition, impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action authorized by this section, the imposition of civil penalties, or the issuance of a cease and desist order. The fee may be imposed when the board shows that the position of the person who commits an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or violates a statute, rule, or order that the board has issued or is empowered to enforce is not substantially justified, unless special circumstances make an award unjust, notwithstanding the provisions of Minnesota Rules, part 1400.8401. The costs include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff.

Subd. 7. Reinstatement. The board may reinstate a suspended, revoked, or surrendered certificate or license upon petition of the former or suspended certificate

holder or licensee. The board may, in its sole discretion, place any other conditions, including reexamination in whole or in part, upon reinstatement of a suspended, revoked, or surrendered certificate or license that it finds appropriate and necessary to ensure that the purposes of sections 326.02 to 326.15 are met. No suspended certificate or license shall be reinstated until the former certificate holder or licensee has completed one-half of the suspension.

326.12 LICENSE OR CERTIFICATE AS EVIDENCE; SEAL.

Subdivision 1. **Judicial proof.** The issuance of a license or certificate by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a licensed architect, licensed engineer, licensed land surveyor, licensed landscape architect, licensed geoscientist, or certified interior designer while the license or certificate remains unrevoked or has not expired or has not been suspended.

Subd. 2. **Seal.** Each licensee or certificate holder may, upon licensure or certification, obtain a seal bearing the licensee's or certificate holder's name and the legend "licensed architect," "licensed professional engineer," "licensed land surveyor," "licensed landscape architect," the appropriate licensed professional geoscientist legend as defined by the board, or "certified interior designer." Plans, specifications, plats, reports, and other documents prepared by a licensee or certificate holder may be stamped with the seal during the life of the license or certificate. A rubber stamp facsimile thereof may be used in lieu of the seal on tracings from which prints are to be made or on papers which would be damaged by the regular seal. It shall be unlawful for any one to stamp or seal any document with the stamp or seal after the license or certificate has expired, been revoked or suspended, unless said license or certificate shall have been renewed or reissued.

Subd. 3. **Certified signature.** Each plan, drawing, specification, plat, report, or other document which under sections 326.02 to 326.15 is prepared by a licensed architect, licensed engineer, licensed land surveyor, licensed landscape architect, licensed geoscientist, or certified interior designer must bear the signature of the licensed or certified person preparing it, or the signature of the licensed or certified person under whose direct supervision it was prepared. Each signature shall be accompanied by a certification that the signer is licensed or certified under sections 326.02 to 326.15, by the person's license or certificate number, and by the date on which the signature was affixed. The provisions of this paragraph shall not apply to any plans, drawings, specifications, plats, reports, or other documents of an intraoffice or intracompany

nature or that are considered to be drafts or of a preliminary, schematic, or design development nature by licensed or certified individuals who would normally be responsible for their preparation. The required signature and certification must appear on all pages of plans and drawings that must be signed, but only on the first page of specifications, plats, reports, or other documents that must be signed. A stamp, printed signature, or electronically created signature has the same force and effect as an actual signature if it creates an accurate depiction of the licensed or certified professional's actual signature.

326.13 PRACTICE EXEMPT.

Practice of architecture, engineering, landscape architecture, land surveying, or geoscience, or use of the title certified interior designer in this state prior to licensure or certification by the board shall be permitted under the following conditions and limitations:

(1) By any person or firm not a resident of and having no established place of business in this state, or any person or firm resident in this state, but whose arrival in the state is recent; provided, however, such person or a person connected with such firm:

(i) is registered or licensed and qualified to practice such profession in a state or country to which the board grants licensure or certification by comity in accordance with the provisions of section 326.10, subdivision 1, clause (2); and

(ii) shall have filed an application for licensure as an architect, an engineer, a geoscientist, or a certified interior designer shall have paid the fee provided for in section 326.10, and shall have been notified by the board that the applicant meets the requirements for licensure or certification in this state and is entitled to receive a license or certificate, and has applied for and been granted a temporary permit to practice. Temporary permits shall be granted to do a specific job for the period stipulated on the permit.

(2) By a nonresident applicant who seeks to provide architecture, engineering, land surveying, landscape architecture, geoscience, or certified interior design services in this state if the applicant offers to practice only for the purpose of seeking to provide services, without having first been registered or certified by the state, if the applicant:

(i) is registered and qualified to practice such profession in a state or country to which the board grants registration or licensure by comity in accordance with section 326.10, subdivision 1, clause (2);

(ii) notified the board in writing that the applicant is not currently registered in this state, but will be present in this state for the purpose of seeking to provide services;

(iii) delivers a copy of the notice referred to in item (ii) to every potential client for whom the applicant is seeking to provide services; and

(iv) applies within ten days to the board for licensure or certification if selected as the design professional for a project in this state; the applicant is prohibited from actually rendering services as defined within the terms of sections 326.02 to 326.15 until the applicant is licensed or certified, or obtains a temporary permit as described in clause (1).

(3) Practice as an architect, an engineer, a land surveyor, a landscape architect, or a geoscientist, or use of the title certified interior designer solely as an officer or employee of the United States.

(4) Practice as a geoscientist by a person who would be qualified under sections 326.02 to 326.15 by virtue of experience and education while (i) engaged in exploration, development, extraction, and reclamation of minerals and mineral deposits or energy resources including sand, gravel, peat, industrial minerals, metallic minerals, iron ore, coal, oil, and gas and other mineral fuels; (ii) an employee of a corporation or agency engaged in such exploration, development, extraction, and reclamation of minerals and mineral deposits; (iii) acting in accordance with the provisions of section 82B.035, subdivision 3; 103I.205, subdivision 4; or 103I.601, subdivision 2; or (iv) engaged in academic geoscience research.

326.14 CORPORATIONS AND PARTNERSHIPS AUTHORIZED.

A corporation, partnership or other firm may engage in work of an architectural or engineering character, in land surveying, in landscape architecture, or in geoscience, or use the title of certified interior designer in this state, provided the person or persons connected with such corporation, partnership or other firm in responsible charge of such work is or are licensed or certified as herein required for the practice of architecture, engineering, land surveying, landscape architecture, and geoscience, and use of the title of certified interior designer.

326.15 FALSE IMPERSONATION.

It shall be unlawful for any person to present or attempt to use as the person's own the seal or certificate of another, or to give false or forged evidence of any kind to the board, or any member thereof, or to falsely impersonate any licensee or certificate holder of like or different name, or to use or attempt to use as the person's own the license of another issued by any authority outside of this state, or to use or attempt to use an expired or revoked or suspended license.

MINNESOTA ADMINISTRATIVE CODE:

CH. 1800

CHAPTER 1800 LICENSING AND OPERATION

1800.0050 DEFINITIONS.

Subpart 1. Scope. For the purposes of this chapter and chapter 1805, the terms defined in this part have the meanings given them.

Subp. 1a. Accredited institution of higher learning. "Accredited institution of higher learning" means an educational institution accredited by one or more of the regional or national accrediting agencies or successor agencies recognized by the United States Department of Education.

Subp. 2. Applicant. "Applicant" means a person applying to take the Architect Registration Examination, Fundamentals of Engineering Examination, Principles and Practice of Engineering Examination, Fundamentals of Surveying Examination, Principles and Practice of Surveying Examination, Minnesota Local Land Surveying Examination, Fundamentals of Geology Examination, Practice of Geology Examination, Fundamentals of Soil Science Examination, or Professional Practice of Soil Science Examination or a person applying for licensure as an architect, professional engineer, land surveyor, landscape architect, professional geologist, professional soil scientist, or a person applying for certification as a certified interior designer. Applicant also means a candidate and persons who have passed their respective professional examination but have not yet received their license or certificate in Minnesota.

Subp. 3. ASBOG. "ASBOG" means the National Association of State Boards of Geology.

Subp. 4. Certificate holder. "Certificate holder" means a person who is or has been certified by the board as a certified interior designer.

Subp. 5. CIDQ. "CIDQ" means the Council for Interior Design Qualification.

Subp. 6. CLARB. "CLARB" means the Council of Landscape Architectural Registration Boards.

Subp. 7. CSSE. "CSSE" means the Council of Soil Science Examiners.

Subp. 8. Examinee. "Examinee" means an applicant who has been approved by the board to take the Architect Registration Examination, Fundamentals of Engineering Examination, Principles and Practice of Engineering Examination, Fundamentals of Surveying Examination, Principles and Practice of Surveying Examination, Minnesota Land Surveying Examination, Fundamentals of Geology Examination, Practice of Geology Examination, Fundamentals of Soil Science Examination, or Professional Practice of Soil Science Examination.

Subp. 9. Graduate curriculum. "Graduate curriculum" means a curriculum of education culminating in a master's degree or doctorate degree.

Subp. 10. Graduate degree. "Graduate degree" means a master's degree or doctorate degree.

Subp. 11. Licensee. "Licensee" means a person who is or has been licensed by the Minnesota board as an architect, professional engineer, land surveyor, landscape architect, professional geologist, or professional soil scientist.

Subp. 12. NCARB. "NCARB" means the National Council of Architectural Registration Boards.

Subp. 13. NCEES. "NCEES" means the National Council of Examiners for Engineering and Surveying.

Subp. 14. NCIDQ. "NCIDQ" means the National Council for Interior Design Qualification.

Subp. 15. Semester credit. "Semester credit" means the conventional United States college semester credit. Quarter credits may be converted to semester credits by multiplying them by two-thirds.

1800.0100 COOPERATION IN COMMUNICATIONS.

An applicant, licensee, or certificate holder shall respond to communications from the board, committees of the board, or the assistant attorney general on behalf of the board within 30 days of the mailing of communications, unless an earlier response is specified. An applicant, licensee, or certificate holder shall appear before the board, committees of the board, or the attorney general when requested to do so and provide copies of all pertinent records, including handwriting samples, to assist the board in its investigations. An applicant, licensee, or certificate holder shall sign an authorization letter giving the board access to information relating to a board investigation that is

held by any federal, state, or other local government agency or professional organization, the subject matter of which pertains to conduct described in Minnesota Statutes, sections 326.02 to 326.15, when requested to do so by the board or by the attorney general.

1800.0110 APPEARANCE BEFORE BOARD.

For purposes of assisting the board in determining the person's qualifications or compliance with Minnesota Statutes or Minnesota Rules, and at the request of the board, a committee of the board, or the attorney general on behalf of the board, a holder or applicant of a certificate or license issued by the board shall:

- A. appear and provide sworn testimony before the board, a committee of the board, or the attorney general;
- B. respond to any questions of the board, a committee of the board, or the attorney general; and
- C. produce any evidence requested by the board, a committee of the board, or the attorney general.

Nothing in this part limits the board from requiring appearance before the board under any applicable statute or rule.

1800.0120 NOTIFICATION.

Subpart 1. Required information.

- A. Each applicant, licensee, or certificate holder shall provide the board a current street address and telephone number. A post office box address is not sufficient to satisfy this requirement. Each applicant, licensee, or certificate holder must notify the board in writing of any change in address within 30 days of the change.
- B. Each applicant, licensee, or certificate holder shall provide the board with a legal name change document within 30 days of any change in name.
- C. Each applicant, licensee, or certificate holder must notify the board in writing within ten days if the applicant, licensee, or certificate holder has been convicted of or has pled guilty or nolo contendere to a felony, an element of which is dishonesty or fraud, whether or not the person admits guilt.

D. Each applicant, licensee, or certificate holder must notify the board in writing within 60 days if the applicant, licensee, or certificate holder has had an architecture, engineering, land surveying, landscape architecture, geoscience license, or interior design certificate, right to exam, or other similar authority revoked, suspended, canceled, limited, or not renewed for cause in any state, commonwealth, or territory of the United States, in the District of Columbia, or in any foreign country.

1800.0130 EXAMINATION IRREGULARITIES; CHEATING.

Subpart 1. Generally. Cheating or noncompliant conduct by an applicant in applying for or taking the examination, or discovered subsequent to the examination, will result in the board initiating a complaint and investigation, which may lead to sanctions as identified in Minnesota Statutes, section 326.111.

Subp. 2. Actions constituting cheating. For purposes of Minnesota Statutes, section 326.111, subdivision 4, paragraph (a), clause (5), the following acts and practices are considered fraudulent, deceptive, or dishonest:

- A. falsifying or misrepresenting educational credentials or other information required by the board to sit for the examination;
- B. conduct that violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials;
- C. impersonating an examinee or permitting an impersonator to take the examination on one's own behalf;
- D. unauthorized access or reference to prohibited devices or materials, inside of or outside of the examination room, other than that provided to the candidate by the examination administrator as part of the examination or as authorized by the board while the candidate is taking the examination;
- E. conduct that violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination;
- F. unauthorized disclosure of examination questions or content; or

G. seeking out confidential examination questions or content.

Subp. 3. Nonlimitation of authority. This part does not limit the authority of the board from taking action against an applicant, examinee, licensee, or certificate holder for conduct not specifically described in this part.

Subp. 4. Remedial action during examination. In any case in which it appears that cheating has occurred or is occurring, the board or an exam administrator will take action including summarily expelling the candidate involved from the examination or moving the candidate to a position in the test site away from other examinees where the candidate can be watched more closely.

Subp. 5. Compliance with examination policies and procedures. Examinees shall abide by the exam administrator's published examination policies and procedures. An examinee who does not fully comply with the exam administrator's requirements is subject to dismissal from the remainder of the examination in addition to any action taken by the board under Minnesota Statutes, section 326.111.

§Subp. 6. Consequences of noncompliant conduct with examination policies and procedures. Evidence of failing to comply with the exam administrator's policies and procedures subsequent to an examination will be cause for action by the board. Examinees who do not fully comply with the exam administrator's policies and procedures during and after an examination are subject to having their exam results invalidated and being prohibited from taking the examination for a period of time of up to two years. Licensure examinations taken and passed in other states are not acceptable for licensure purposes in Minnesota while an individual is barred from taking a licensure examination in Minnesota.

1800.0140 SECURITY AND IRREGULARITIES.

Notwithstanding any other provisions under this chapter, the board may postpone scheduled examinations, the grading of examinations, or the issuance of certificates due to a breach of examination security; unauthorized acquisition or disclosure of the contents of an examination; suspected or actual negligence, errors, omissions, or irregularities in conducting an examination; or for any other reasonable cause.

1800.0200 CLASSES OF LICENSEES.

There shall be three classes of licensees as follows:

A. Class 1: those who were licensed without examination:

- (1) prior to July 1, 1933; or
- (2) by exemptions after 1933.

B. Class 2: those licensed by comity under the provisions of the law.

C. Class 3: those licensed after satisfying the applicable educational requirements, meeting the applicable experience requirements, and achieving successful passage of the applicable professional examination.

1800.0300 IN-TRAINING CLASSIFICATIONS.

There shall be a classification of engineer-in-training, a classification of land surveyor-in-training, a classification of geologist-in-training, and a classification of soil scientist-in-training. For examination of engineer-in-training see parts 1800.2500 to 1800.2900, for examination of land surveyor-in-training see parts 1800.3505 to 1800.3750, for examination of geologist-in-training see parts 1800.3900 to 1800.3930, and for examination of soil scientist-in-training see parts 1800.3900 to 1800.3930.

1800.0400 APPLICATION FOR EXAMINATION, LICENSURE, AND CERTIFICATION.

Subpart 1. Forms and filing. Applications for examination, licensure, or certification must be made on forms provided by the board and must be filed with the Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience, and Interior Design and accompanied by payment of the application fee as specified in Minnesota Statutes, section 326.105. An applicant shall file an application for licensure as an architect following passage of the Architectural Registration Examination (ARE) or meeting the requirements in part 1800.0800. An applicant shall file an application for certification as a certified interior designer following passage of the National Council for Interior Design Qualification (NCIDQ) examination or meeting the requirements outlined in part 1800.0800 or 1800.2100, subpart 5. An applicant shall file an application for licensure as a landscape architect following successful passage of the Landscape Architect Registration Examination (LARE) or meeting the requirements in part 1800.0800. Applications for examination, licensure, or certification must include a signed certification as described in subpart 5.

Subp. 1a. Information required. The applicant shall submit to the board, on a form provided by the board, the following information:

- A. place and date of birth;
- B. time and place of schools attended and studies completed;
- C. status relative to graduation from such schools or completion of studies;
- D. final official transcript showing the degree or degrees awarded and date of graduation;
- E. for engineer, land surveyor, geologist, and soil scientist applicants, whether the Fundamentals of Engineering (FE), Fundamentals of Surveying (FS), geologist-in-training, or soil scientist-in-training examination has been successfully completed;
- F. for landscape architect applicants, whether the Landscape Architect Registration Examination (LARE) has been successfully completed;
- G. for certified interior designer applicants, whether the written examination administered by the Council for Interior Design Qualification (CIDQ) has been successfully completed;
- H. a record of personal employment, with all dates and with complete information relative to duties and type of work performed, and particularly outlining the applicant's responsibilities in charge of the whole or any part thereof; and
- I. a signed copy of a statement that the applicant has read the Board Rules of Professional Conduct.

Subp. 1b. Failure to complete application. The board shall consider an application withdrawn if the applicant fails to provide the board with all required information pertaining to the application within six months of the board's receipt of the application.

Subp. 2. Evaluation of information. The information required by subpart 1a shall be evaluated by the board and if the applicant is found ineligible for admission to the examination, ineligible for licensure as an architect or landscape architect, or ineligible for certification as a certified interior designer, at the time of application, the applicant shall be notified in writing and given the reasons for the ineligibility. If an applicant for licensure as an architect or landscape architect is eligible for licensure at the time of application, the applicant shall be notified by the board in writing. If an applicant for certification as a certified interior designer is eligible for certification at the time of application, the applicant shall be notified by the board in writing. If an applicant for

examination is eligible for admission to the examination at the time of application, the applicant shall be notified by the board in writing.

Subp. 3. In-training application.

A. Applications for examination and certification as a land surveyor-in-training must be made on forms provided by the board, and accompanied by the application fee as specified in Minnesota Statutes, section 326.105.

B. Applications for certification as an engineer-in-training must be made on forms provided by the board, and accompanied by the application fee as specified in Minnesota Statutes, section 326.105.

C. Applications for examination and certification as a geologist-in-training or a soil scientist-in-training must be made on forms provided by the board, and accompanied by the application fee as specified in Minnesota Statutes, section 326.105.

Subp. 4. Reinstatement application.

A. A licensee or certificate holder who applies for reinstatement of licensure as an architect, professional engineer, land surveyor, landscape architect, professional geologist, or professional soil scientist, or for reinstatement of certification as a certified interior designer, must apply on forms provided by the board, and submit the fees specified in Minnesota Statutes, section 326.10, subdivision 9.

B. The board shall evaluate completed applications and, if the licensee or certificate holder is found eligible for reinstatement of licensure or certification, the board shall reinstate the license or certificate and notify the licensee or certificate holder in writing. If the licensee or certificate holder is found ineligible for reinstatement of licensure or certifications, the board shall notify the licensee or certificate holder in writing and give the reasons for ineligibility.

C. The applicant for reinstatement shall submit to the board, on a form provided by the board, the following information:

(1) a list of professional development hours completed within the four years immediately prior to reinstatement, including the dates of the activity, sponsoring organization, description of the activity, and number of professional development hours claimed for each activity, unless the

board has granted an exemption under Minnesota Statutes, section 326.107, subdivision 4;

(2) a statement of explanation if the applicant has had a license or certificate disciplined, denied, surrendered, suspended, or revoked in any jurisdiction since the applicant's last license or certificate renewal in Minnesota; and

(3) a signed certification as described in subpart 5.

Subp. 5. Certification. An applicant for examination, licensure, certification, or reinstatement shall submit to the board, on a form provided by the board, a certification affirming that the applicant:

A. has read and will comply with Minnesota Statutes, sections 326.02 to 326.15, and any rule adopted thereunder;

B. is not under any disciplinary proceeding or action in any other jurisdiction;

C. has never been convicted of a felony;

D. has not represented himself or herself as an architect, professional engineer, land surveyor, landscape architect, professional geologist, professional soil scientist, or certified interior designer, without proper licensure or certification, either verbally or on any printed matter, in the state;

E. will not represent himself or herself as an architect, professional engineer, land surveyor, landscape architect, professional geologist, professional soil scientist, or certified interior designer, without proper licensure or certification, either verbally or on any printed matter, in the state until the applicant's license or certificate has been issued or reinstated by the board;

F. has not performed or offered to perform architectural, professional engineering, land surveying, landscape architectural, professional geological, professional soil scientific, or certified interior design services, without proper licensure or certification in the state; and

G. will not perform or offer to perform architectural, professional engineering, land surveying, landscape architectural, professional geological, professional soil scientific, or certified interior design services, without proper licensure or certification in the state until the applicant's license or certificate has been issued or reinstated by the board.

Applicants who are unable to affirm any part of the certification under this subpart must indicate which statement or statements cannot be affirmed and include an explanation for board review with the application for examination, licensure, certification, or reinstatement.

1800.0450 TEMPORARY MILITARY LICENSE OR CERTIFICATE.

Subpart 1. **Information required.** An applicant shall submit an application for a temporary military license or certificate under Minnesota Statutes, section 197.4552, accompanied by payment of the license fee as specified in Minnesota Statutes, section 326.10, subdivision 10. The application must be made under oath on a form provided by the board and must include one signed copy of a statement that the applicant has read the Board Rules of Professional Conduct. The applicant shall supply the board with evidence of all of the following:

A. military status:

- (1) active duty military member;
- (2) spouse of an active duty military member; or
- (3) confirmation of an honorable or general discharge status within the two years preceding the date of temporary military certificate application;

B. verification of current licensure or certification in another state; and

C. a current criminal background study.

Subp. 2. **Evaluation of information.** The board shall evaluate the information required by subpart 1. If the board finds the applicant is eligible for licensure or certification, the board shall issue a temporary license or certificate and notify the applicant in writing. If the board finds the applicant is ineligible for a temporary military license or certificate, the board shall notify the applicant in writing and give the reasons for ineligibility.

Subp. 3. **Temporary license or certificate period.** A temporary military license or certificate is valid for not more than six months from the date of issuance and expires on the date listed on the temporary license or certificate, upon the board's determination that the applicant is ineligible for licensure or certification, or upon issuance of a license or certificate under part **1800.4100, whichever occurs first.**

Subp. 4. **Application required.** During the temporary license or certificate period, the individual shall complete the full application required for licensure as an architect, professional engineer, land surveyor, landscape architect, or geoscientist or for certification as a certified interior designer. If the board finds an applicant is eligible for licensure, the board shall issue a certificate of licensure as provided under part 1800.4100 and notify the applicant. If the board finds the applicant is eligible for certification, the board shall issue a certificate as provided under part 1800.4100, subpart 7, and notify the applicant. If the board finds the applicant is ineligible for licensure or certification, the board shall notify the applicant in writing and give the reasons for ineligibility.

Subp. 5. **Limitations.** The board shall not issue a temporary military license or certificate to an applicant who has previously received a temporary license or certificate. A temporary military license or certificate shall not be renewed.

1800.0500 FEES.

Subpart 1. Requirements. An application for examination as a professional engineer, land surveyor, professional geologist, or professional soil scientist must be accompanied by an application fee as provided by Minnesota Statutes, section 326.105. The board shall charge, or provide for a third party to charge, each applicant a fee for examination and an examination monitoring fee as provided by Minnesota Statutes, section 326.105.

Following an applicant's completion of the requirements for licensure, the board shall supply the applicant with an application for licensure as an architect, professional engineer, land surveyor, landscape architect, professional geologist, or professional soil scientist, which the applicant shall complete and return with the initial fee for licensure as provided by Minnesota Statutes, section 326.105. Following an applicant's completion of the requirements for certification, the board shall supply the applicant with an application for certification as a certified interior designer, which the applicant shall complete and return with the initial fee for certification as provided by Minnesota Statutes, section 326.105. An applicant applying for licensure by comity under part 1800.0800, item F, G, H, or I, shall pay an application fee under subpart 7, item A. Upon approval by the board, an applicant for licensure as a land surveyor by comity under part 1800.0800, item G, shall submit an examination fee in the amount established by the local testing agency and an examination monitoring fee as provided in Minnesota Statutes, section 326.105.

An application for renewal of licensure as an architect, professional engineer, land surveyor, landscape architect, professional geologist, professional soil scientist, or

certification as a certified interior designer must be accompanied by a renewal fee as provided in Minnesota Statutes, section 326.105.

An application for examination as a land surveyor-in-training, geologist-in-training, or soil scientist-in-training must be accompanied by an application fee as provided in Minnesota Statutes, section 326.105. Upon approval by the board, an applicant for an examination administered by the board shall pay to the board a fee in the amount established by the applicable national testing agency and an examination monitoring fee as provided by Minnesota Statutes, section 326.105. For examinations administered by a third-party vendor, the applicant shall pay the actual fee for examination to the national testing agency in a manner it prescribes. Information concerning the current examination fee charged by the applicable national testing agency may be obtained by contacting the board offices.

For applicants who are found to be ineligible for admission to the examination or fail the examination, a new application for examination shall be submitted each time the applicant applies to take the examination.

An application for certification as an engineer-in-training must be accompanied by an application fee as provided in Minnesota Statutes, section 326.105.

Subp. 2. Refunds. Application fees are not refundable. Examination, licensure, or certification fees must not be refunded except for those circumstances when an applicant does not meet the education, examination, or experience requirements for examination, licensure, or certification.

Subp. 4. Delayed renewal fee. A renewal fee is a delayed renewal fee within the meaning of Minnesota Statutes, section 326.10, subdivision 9, if it is not postmarked on or before June 30 of the year specified in Minnesota Statutes, section 326.105. The delayed renewal fee is \$30 for the first three months of the lapsed period and \$60 for months four to 24. The delayed renewal fee is computed from July 1 of any even-numbered year and is in addition to the renewal fee provided in Minnesota Statutes, section 326.105.

Subp. 7. Additional fees. In addition to all other fees for examination, licensure, or certification, as provided in this part or Minnesota Statutes, section 326.10, subdivision 1, the following schedule of fees is applicable:

A. for each application for licensure by comity under Minnesota Statutes, section 326.10, subdivision 1, clause (2), applicable to any person registered in another

state or territory of the United States, or in any province of Canada, or in any foreign country, a fee of \$100;

B. for reissuance of a revoked, lost, destroyed, duplicated, or mutilated certificate of licensure or certificate as a certified interior designer, \$25;

C. for certified copies or reproduction of any document required to be supplied on behalf of any applicant for registration or licensure in another state, the cost of reproducing the document will be ten cents per sheet;

D. for monitoring licensing examinations for applicants of boards of other states, the fee shall be \$25, payable by the applicant;

E. an applicant for examination in more than one branch of engineering shall submit a separate examination fee for each additional branch of engineering for which the applicant has applied for examination; and

F. for retaking all or any part of any examination for certification or licensure, the fee shall be established by the national testing agency.

1800.0600 CERTIFICATE OF REGISTRATION.

Certification of an applicant's technical qualifications by the National Council of Architectural Registration Boards (NCARB), the National Council of Examiners for Engineering and Surveying (NCEES), the Council of Landscape Architectural Registration Boards (CLARB), or the Council for Interior Design Qualification (CIDQ) may be accepted by the board as establishing such qualifications, and the applicant, in such instances, will not be required to pass further examination.

1800.0800 PROOF OF QUALIFICATION TO PRACTICE.

An applicant shall submit evidence to the board indicating that the applicant is qualified to practice in the profession or field of major practice in which the applicant seeks licensure or certification. The burden of proof is upon the applicant who should make every effort to present qualifications fully and clearly. Qualifications shall be established by one or more of the following methods:

A. by passing a written examination;

B. by submitting satisfactory exhibits of technical qualifications;

- C. by submitting a council certificate prepared by the National Council of Architectural Registration Boards (NCARB), for architect applicants only;
- D. by submitting a council record prepared by the National Council of Examiners for Engineering and Surveying (NCEES) for engineer applicants only;
- E. by submitting a council record prepared by the Council of Landscape Architectural Registration Boards (CLARB), for landscape architect applicants only;
- F. for licensure by comity as an architect, engineer, or landscape architect, by submitting documentation of completion of the requirements in Minnesota Statutes, section 326.10, subdivision 1, clause (2);
- G. for licensure by comity as a land surveyor, by submitting documentation of completion of the requirements in Minnesota Statutes, section 326.10, subdivision 1, clause (2). In addition, the applicant is required to successfully complete the local professional practice examination;
- H. for certification by comity as a certified interior designer, by submitting documentation of completion of the requirements in Minnesota Statutes, section 326.10, subdivision 1, clause (2). Applicants who were certified in other states prior to August 1, 1992, shall meet the requirements of part 1800.2100; or
- I. for licensure within a professional geoscience discipline by comity, by submitting documentation of completion of the requirements in Minnesota Statutes, sections 326.10, subdivision 1, clause (2).

1800.0900 QUALIFICATION PROCEDURES.

Subpart 1. Exhibits. Exhibits in connection with oral interview or written examination shall be submitted when requested by the board.

Subp. 3. Examination required. An applicant for certification as an engineer-in-training, a land surveyor-in-training, a geologist-in-training, or a soil scientist-in-training must take all parts of the applicable fundamentals examination at one time. An applicant for licensure as a professional engineer, land surveyor, professional geologist, or professional soil scientist must pass the applicable fundamentals examination prior to taking the professional examination, except for an applicant who meets the requirements for waiver of the fundamentals examination.

An applicant for licensure as a professional engineer, professional geologist, or professional soil scientist must take all parts of the professional examination at one time.

Subp. 4. Reexamination. An applicant who does not receive a passing grade in an examination may submit a new application for examination. The application must be accompanied by an application fee as required under Minnesota Statutes, section 326.105. The board shall require an applicant failing an examination three or more times to submit evidence of improved qualifications before approving a new application for examination.

Subp. 5. Date and place of examination. Oral interviews may be given each year at such times as may be designated by the board. A candidate who files an application for licensure by examination and is determined to be eligible for admission to the examination will be informed of the date and place of the examination in writing. Examinations shall be scheduled once the applicant's application is approved.

Subp. 6. Registration in another state. An applicant duly registered in another state and whose registration is current, upon application for a temporary permit and notification from the Minnesota board that the temporary permit has been granted may practice the applicant's profession according to Minnesota Statutes, section 326.13, while the application for licensure or certification is pending board review.

The plans, specifications, and reports prepared by the applicant during the period in which the application is pending must bear the certification stamp of the state in which the applicant is registered along with a statement that the applicant has applied for registration in Minnesota and that the application is pending. The applicant shall place this stamp on each sheet of the set of drawings prepared for the project and on the title sheet of specifications and reports.

The Minnesota board does not require the use of a seal. If the state in which the applicant is registered has a seal or provisions for signing and dating plans, specifications, and reports, this will be acceptable. If the seal does not provide for signing and dating the plans, the applicant shall sign and date the plans under the seal imprint on each plan certified.

Subp. 7. Application for temporary permit.

A. Concurrent with the submission of an application for licensure as an architect, engineer, or geoscientist, or certification as a certified interior designer by comity, the applicant may submit an application for temporary permit under

Minnesota Statutes, section 326.13, clause (1). The application must be made on a form provided by the board and must include details about the specific job for which the temporary permit is sought.

B. Upon receipt of all parts of an application for licensure or certification by comity under part 1800.0850, the board shall notify, in writing, an applicant who has requested a temporary permit whether the requirements for licensure or certification have been met. If the requirements for licensure or certification have been met, the board shall supply the applicant with a temporary permit that must be signed by the applicant and returned to the board office within five business days. Temporary permits are valid for not more than 60 days and expire on the date listed on the permit or upon issuance of a license or certificate number, whichever occurs first.

EXAMINATION OF ENGINEER APPLICANTS

1800.2500 EDUCATION AND EXPERIENCE.

Subpart 1. Written examination requirement. An applicant for licensure as a professional engineer shall pass written examinations as provided in part 1800.2700. An applicant for licensure under part 1800.0800, item F, shall satisfy the Minnesota licensing requirements that were in effect at the time of the applicant's original licensure in the other state. The written Fundamentals of Engineering (FE) examination shall be waived by the board if the applicant meets the requirements in part 1800.2800.

Subp. 2. Admission to written Fundamentals of Engineering (FE) examination. To qualify for admission to the written FE examination, the applicant shall present evidence of one of the following:

- A. completion of one of the education requirements in subpart 2a;
- B. being within 48 quarter or 32 semester credits of obtaining an EAC-ABET accredited bachelor's degree;
- C. completion of a minimum of 36 quarter or 24 semester credits in a graduate program in engineering where the bachelor's degree in that discipline of engineering is EAC-ABET accredited; or

D. completion of a minimum of 36 quarter or 24 semester credits toward an EAC-ABET accredited graduate degree.

Subp. 2a. Education requirements. To qualify for certification as an engineer-in-training, admission to the written PE examination, or licensure as a professional engineer, an applicant shall present evidence of one of the following:

A. graduation from an EAC-ABET accredited bachelor's engineering curriculum;

B. graduation from a bachelor's engineering curriculum that receives EAC-ABET accreditation within five years of the applicant's graduation;

C. a non-EAC-ABET accredited or nonengineering bachelor's degree with the minimum number of engineering science and design credits as required in an EAC-ABET accredited degree (48 semester or 72 quarter credits);

D. a graduate degree from an engineering program where the bachelor's degree in that discipline of engineering is EAC-ABET accredited, even though the applicant's bachelor's degree was earned in a non-EAC-ABET accredited or nonengineering program;

E. graduation from a bachelor's engineering curriculum that has EAC-ABET accreditation and a graduate degree in engineering from an institution with an EAC-ABET accredited bachelor's curriculum in that discipline of engineering;

F. graduation from an EAC-ABET accredited graduate engineering curriculum even though the applicant's bachelor's degree was earned in a non-EAC-ABET accredited or nonengineering program;

G. graduation from an EAC-ABET accredited bachelor's engineering curriculum and graduation from an EAC-ABET accredited graduate engineering curriculum;

H. a non-EAC-ABET accredited or nonengineering bachelor's degree with the minimum number of engineering science and design credits as required in an EAC-ABET accredited degree (48 semester or 72 quarter credits) and a graduate degree from an engineering program where the bachelor's degree in that discipline of engineering is EAC-ABET accredited; or

I. a non-EAC-ABET accredited or nonengineering bachelor's degree with the minimum number of engineering science and design credits as required in an EAC-ABET accredited degree (48 semester or 72 quarter credits) and a graduate degree from an EAC-ABET accredited graduate engineering curriculum.

Subp. 4. Experience requirement.

A. To qualify for licensure as a professional engineer, the applicant shall present evidence of one of the following:

(1) completion of a minimum of four years of qualifying engineering experience if the applicant meets the education requirements of subpart 2a, item A, B, D, F, H, or I;

(2) completion of a minimum of six years of qualifying engineering experience if the applicant meets the education requirements of subpart 2a, item C; or

(3) completion of a minimum of three years of qualifying engineering experience if the applicant meets the education requirements of subpart 2a, item E or G.

B. Qualifying engineering experience gained before completion of one of the education requirements in subpart 2a must meet the following conditions:

(1) experience must be credited at a rate of 50 percent;

(2) experience gained before completion of at least two full years of one of the engineering curricula in subpart 2a, item A, B, C, E, or G, must receive no credit; and

(3) experience gained before completion of at least one full year of the graduate engineering curricula in subpart 2a, item D, F, H, or I, must receive no credit.

C. Credit awarded under item D must not exceed the lesser of two years or 50 percent of the required number of years of qualifying engineering experience in this subpart.

D. One year of experience consists of full- or part-time employment that extends over a period of no less than 12 months and includes no fewer than 2,000 hours of performance of engineering work described in part 1800.2805.

1800.2600 ORAL INTERVIEW.

An applicant shall appear before the board for oral interview and shall submit two exhibits of engineering work the applicant has performed if the applicant qualifies for waiver of the fundamentals of engineering examination as provided in part 1800.2800.

The applicant shall furnish a letter to the board from the applicant's employer verifying the degree of involvement and responsibility displayed by the applicant in the conduct of the project exhibited.

1800.2700 WRITTEN EXAMINATION.

Subpart 1. Two-part examination. The written examination shall be prepared and furnished by the National Council of Examiners for Engineering and Surveying (NCEES) and shall consist of two parts described in subparts 1a and 2.

Subp. 1a. Fundamentals of Engineering (FE) examination. Part I is the FE examination. The passing of this examination and providing proof of the degree awarded and date of graduation gives the applicant the status of engineer-in-training as defined in Minnesota Statutes, section 326.10, subdivision 7. A final official transcript showing the degree awarded and date of graduation shall be submitted to the board before the Engineer-in-Training number is released to the applicant. The applicant shall take and pass the FE examination before being permitted to take the professional examination unless exempted under part 1800.2800.

Subp. 2. Principles and Practice of Engineering (PE) examination. Part II is the PE examination. The applicant may take the PE examination upon meeting the requirements of part 1800.2500, subpart 2a, and after taking and passing the FE examination, unless the FE examination is waived under part 1800.2800. The PE examination, covering the principles and practice of engineering in the field of major practice, is required consistent with the examinations prepared and furnished by NCEES. A person failing the PE examination and electing to take the examination again shall take the entire examination.

Subp. 3. Scope of examinations. The scope of the Fundamentals of Engineering (FE) examination and the Principles and Practice of Engineering (PE) examination is as follows:

A. The FE examination consists of multiple-choice questions in mathematics, basic sciences, and engineering sciences as presented in accredited academic engineering curricula.

B. The PE examination consists of problems embracing knowledge of professional practice and applied economics as acquired in connection with the planning, design, and construction of engineering work during the required period of qualifying engineering experience.

Subp. 5. Equipment during examination. The board shall advise the applicant at the time of approval for admission to the PE examination what equipment and materials will be permitted for use during the examination.

1800.2800 ENGINEERS QUALIFIED BY GRADUATION, LONG EXPERIENCE, AND EXAMINATION.

The Fundamentals of Engineering (FE) examination must be waived in those cases where the applicant furnishes evidence of:

- A. being at least 40 years of age, having a verified professional engineering record of 20 years or more of qualifying engineering experience and meeting one of the education requirements of part 1800.2500, subpart 2a;
- B. holding membership in a British Institute of Engineering as a chartered engineer by examination or other national certification by examination as approved by the board; or
- C. having a doctorate degree in engineering from an educational institution whose baccalaureate curriculum is accredited by EAC-ABET or whose education is equivalent thereto.

An applicant qualifying under item A, B, or C shall pass the Principles and Practice of Engineering (PE) examination. To qualify for waiver of the FE examination under item A, the applicant's engineering experience shall show responsible charge of engineering projects for at least ten years and advancement in the character of the work performed. Experience gained before reaching the age of 20 years shall not be credited as a part of the required engineering experience.

1800.2805 QUALIFYING EXPERIENCE DEFINED.

Subpart 1. Qualifying experience; generally.

- A. As used in this part and parts 1800.2500, 1800.2800, and 1800.2900, qualifying experience consists of diverse, progressive, practical experience performing engineering work that develops the applicant's ability to apply the knowledge gained during academic training to make sound judgments in solving engineering problems and prepares the applicant to assume responsible charge of the work involved in the practice of engineering.

B. The applicant must demonstrate that qualifying experience meets the following requirements:

(1) experience must include elements of design, planning, specifications, codes and standards, research and analysis, engineering economics, safety, and observation of construction projects or products;

(2) experience must be progressive by a demonstration that it was of increasing quality and required greater responsibility; and

(3) experience must include demonstration of knowledge of engineering mathematics, physical and applied science, properties of materials, the fundamental principles of engineering design, and the application of engineering principles in the practical solution of engineering problems.

C. Experience must be written in detail, verified by the applicant's supervisor, and submitted with the application for evaluation and approval by the board.

D. Experience must not be obtained in violation of Minnesota Statutes, chapter 326.

E. Experience must have been completed at the time of application.

Subp. 2. Qualifying experience; specific.

A. Experience gained in the armed services must be equivalent to that which would have been gained in the civilian sector doing similar work.

B. For sales experience, the applicant must demonstrate that engineering principles were required and used in gaining experience.

C. Teaching experience must be in engineering or engineering-related courses at an intermediate or advanced level in an EAC-ABET accredited degree program. Intermediate or advanced level coursework includes courses taken beyond the introductory level.

D. Experience gained in engineering research and design projects by members of an engineering faculty in an EAC-ABET accredited degree program is creditable.

E. Experience in construction must demonstrate the application of engineering principles.

1800.2900 PROCEDURES.

Subpart 1. Admission to Fundamentals of Engineering (FE) examination. For admission to the FE examination, an applicant shall apply directly to the National Council of Examiners for Engineering and Surveying (NCEES) and follow the procedures outlined by NCEES.

Subp. 1a. Request for certification as an engineer-in-training. An applicant shall submit an application for certification as an engineer-in-training following passage of the FE examination and completion of the education requirement under part 1800.2500, subpart 2a. Payment of the application fee in Minnesota Statutes, section 326.105, must accompany the application. An official transcript of grades showing the degree awarded and date of graduation for all undergraduate and graduate degree programs and verification of passing the FE examination must be submitted before the applicant may be certified as an engineer-in-training.

Subp. 2. Request for admission to Principles and Practice (PE) examination. An applicant shall submit an application for admission to the PE examination under part 1800.2700, subpart 2, accompanied by payment of the application fee in Minnesota Statutes, section 326.105. The application must be made on a form provided by the board. An official transcript of grades showing the degree awarded and date of graduation for all undergraduate and graduate degree programs must accompany the completed form, unless previously submitted. The application must include one signed copy of a statement that the applicant has read the Board Rules of Professional Conduct and a signed certification as described in part 1800.0400, subpart 5.

Subp. 2a. Requirement for documentation of experience. Before a license as a professional engineer may be issued, the applicant must provide the board with a detailed listing of qualifying engineering experience gained according to part 1800.2500, subpart 4. The experience listing must include the name and mailing address of the applicant's supervisor for each period of employment. The board shall provide the applicant an experience reference form that must be signed and submitted to the board by each supervisor for each period of employment during which the qualifying engineering experience was gained.

Subp. 4. Obtaining application material. Application materials may be obtained from the board's website.

Subp. 5. PE examination administration and application deadline. An applicant may not sit for the PE examination until an application has been submitted, the board has

determined that the applicant has met the qualifications to take the examination, and the applicant has been notified of the applicant's eligibility.

The PE examination shall be administered at a time and place determined by the examination delivery vendor to those applicants determined by the board to meet the requirements for admission to the examination.

The deadline for application for an examination that is administered on a specific date and time shall be 75 days prior to the date set for the examination. Applications and supporting documentation must be postmarked on or before the deadline to be considered on time.

For an examination that is administered on multiple dates and times within an examination window, an application may be submitted at any time.

The board, if necessary, shall forward notification of the applicant's eligibility to the examination delivery vendor. Following the board's determination that an applicant is eligible to sit for an examination, the applicant shall independently contact the examination delivery vendor to schedule the time and place for the examination at an approved test site.

The board or examination delivery vendor shall report to the applicant the results of each examination. In order to pass the examination, the applicant shall attain the uniform passing grade established by the board through a psychometrically acceptable standard-setting procedure.

Subp. 6. Examination windows. The examination windows and the frequency in which an applicant may take the examination are determined by the applicable national testing agency.

Subp. 7. Validity of application.

- A. An applicant may take one examination for each application approved by the board.
- B. An applicant approved by the board for an examination administered on a specific date who fails to register, cancels, or fails to appear for the examination must submit a new application in order to take the examination on another date.
- C. An applicant approved by the board for an examination administered continuously throughout the year, who does not take the examination within three years of the date of the application, must submit a new application in order to take the examination.

D. If an applicant fails an examination, the applicant must submit a new application in order to take the examination on another date.

E. An applicant who passes the PE examination and does not provide the board with a detailed listing of qualifying engineering experience within three years of the date of the application for examination must submit a new application in order to obtain a license as a professional engineer.

CERTIFICATES

1800.4000 CERTIFICATES OF RECORD.

The board shall issue to each applicant who successfully completes the fundamentals of engineering examination, fundamentals of land surveying examination, fundamentals of geology examination, or fundamentals of soil science examination, a certificate indicating that the applicant's name has been recorded as engineer-in-training, land surveyor-in-training, geologist-in-training, or soil scientist-in-training, in the office of the board. The certificates of record as engineer-in-training, land surveyor-in-training, geologist-in-training, or soil scientist-in-training are permanent, subject only to discipline for cause in the manner provided by law or rule.

1800.4100 CERTIFICATE OF LICENSURE OR CERTIFICATION.

Subpart 1. Licensure as professional engineer. The board shall issue to each applicant who has successfully completed the education, examination, and experience requirements in part 1800.2500 a certificate of licensure giving the licensee authority to practice engineering as defined by Minnesota Statutes, section 326.02, subdivision 3. This certificate shall be in effect for a period ending June 30 of the even-numbered year of the biennium in which the certificate is issued, after which date the certificate will expire unless renewed. Applicants who are licensed by comity from other states, having met the Minnesota licensure requirements, shall be issued certificates of licensure in the same manner as provided in this part.

Subp. 2. Licensure as land surveyor. The board shall issue to each applicant who has successfully completed the education, examination, and experience requirements in part 1800.3505 a certificate of licensure giving the licensee authority to practice land

surveying as defined by Minnesota Statutes, section 326.02, subdivision 4. This certificate shall be in effect for a period ending June 30 of the even-numbered year of the biennium in which the certificate is issued, after which date the certificate will expire unless renewed. Applicants who are licensed by comity from other states, having met the Minnesota licensure requirements, shall be issued certificates of licensure in the same manner as provided in this part.

Subp. 3. Licensure as architect. The board shall issue to each applicant who has successfully completed the education, examination, and experience requirements in part 1800.1000 a certificate of licensure giving the licensee authority to practice architecture as defined by Minnesota Statutes, section 326.02, subdivision 2. This certificate shall be in effect for a period ending June 30 of the even-numbered year of the biennium in which the certificate is issued, after which date the certificate will expire unless renewed. Applicants who are licensed by comity from other states, having met the Minnesota licensure requirements, shall be issued certificates of licensure in the same manner as provided in this part.

Subp. 4. Licensure as landscape architect. The board shall issue to each applicant who has successfully completed the education, examination, and experience requirements in part 1800.1500 a certificate of licensure giving the licensee authority to practice landscape architecture as defined by Minnesota Statutes, section 326.02, subdivision 4a. This certificate shall be in effect for a period ending June 30 of the even-numbered year of the biennium in which the certificate is issued, after which date the certificate will expire unless renewed. Applicants who are licensed by comity from other states, having met the Minnesota licensure requirements, shall be issued certificates of licensure in the same manner as provided in this part.

Subp. 5. Licensure as professional geologist. The board shall issue to each applicant who has successfully completed the education, examination, and experience requirements in part 1800.3910 for geologists a certificate of licensure giving the licensee authority to practice geology as defined by Minnesota Statutes, section 326.02, subdivision 3a. This certificate shall be in effect for a period ending June 30 of the even-numbered year of the biennium in which the certificate is issued, after which date the certificate will expire unless renewed. Applicants who are licensed by comity from other states or by submission of records, having met the Minnesota licensure requirements, shall be issued certificates of licensure in the same manner as provided in this part.

Subp. 6. Licensure as professional soil scientist. The board shall issue to each applicant who has successfully completed the education, examination, and experience

requirements in part 1800.3910 for soil scientists a certificate of licensure giving the licensee authority to practice soil science as defined by Minnesota Statutes, section 326.02, subdivision 3a. This certificate shall be in effect for a period ending June 30 of the even-numbered year of the biennium in which the certificate is issued, after which date the certificate will expire unless renewed. Applicants who are licensed by comity from other states or by submission of records, having met the Minnesota licensure requirements, shall be issued certificates of licensure in the same manner as provided in this part.

Subp. 7. Certification as interior designer. The board shall issue to each applicant who has successfully completed the education, examination, and experience requirements of part 1800.2100 a certificate authorizing the certificate holder to use the title "Certified Interior Designer." This certificate shall be in effect for a period ending June 30 of the even-numbered year of the biennium in which the certificate is issued, after which the certificate shall expire unless renewed. A person whose certificate expires shall not use the title "Certified Interior Designer" until a certificate is reissued. Applicants who are certified by comity under part 1800.0800 shall be issued certificates as provided in this part.

1800.4200 CERTIFICATION AND SIGNATURE ON PLANS.

Subpart 1. Requirement; generally. The certification and signature on plans, drawings, specifications, plats, reports, and other documents that require a signature is mandatory, as provided by Minnesota Statutes, section 326.12, subdivision 3. The certification and signature may be electronic, as defined by Minnesota Statutes, section 325L.02, paragraph (h); facsimile; or digital. A person in direct supervision of work as referred to in the foregoing subdivision is construed to mean the person whose professional skill and judgment are embodied in the document signed, and who assumes responsibility for the accuracy and adequacy thereof.

Subp. 1a. Licensee or certificate holder duties.

A. A licensee or certificate holder shall sign and certify documents and surveys that safeguard the health, safety, and welfare of the public.

B. The licensee shall sign and certify only work within the licensee's or certificate holder's area of licensure or certification. Two or more licensees or certificate holders may affix their certification and signature if each licensee or certificate

holder designates the specific subject matter for which that licensee or certificate holder is responsible.

C. A licensee or certificate holder shall not affix a signature or certification to any plans or documents dealing with subject matter in which the licensee or certificate holder lacks competence.

D. A licensee or certificate holder shall not affix a signature or certification to any plan or document not prepared under the licensee's or certificate holder's responsible charge.

E. A licensee or certificate holder may accept assignments for coordinating an entire project, provided that each design discipline signs and certifies as the licensee or certificate holder responsible for preparing their design.

Subp. 3. Certification. The certification by each of the professions responsible for the preparation of bound specifications, plats, reports, or other documents must be shown on the title sheet, first sheets, or certification page. The certification by each of the professions responsible for the preparation of plans or drawings must be shown on each sheet of the set of plans or drawings.

A. The board licenses applicants as an architect, a professional engineer, a land surveyor, a landscape architect, a professional geologist, or a professional soil scientist.

B. The official roster designates the branch of engineering in which the licensed engineer was examined. An applicant for licensure as a professional engineer is examined in the branch of engineering that the applicant selects and in which the applicant is deemed qualified by the board.

C. A professional engineer may engage in practice in any branch of engineering in which the professional engineer is competent and qualified by education, examination, or experience. A professional engineer who certifies and signs plans, specifications, reports, or other documents may be required to establish, to the satisfaction of the board, that the work was performed according to recognized and acceptable engineering standards and practice.

Subp. 4. Language. The following wording shall be incorporated in the certification:

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the state of Minnesota.

Signature: _____ Typed or Printed Name: _____

Date _____ Lic. No. _____

Subp. 4a. Documents requiring signature and certification. The following documents must be signed and certified:

- A. the certification page of each report;
- B. legal descriptions prepared by a land surveyor; and
- C. other documents that require a signature according to Minnesota Statutes, section 326.12, subdivision 3.

Subp. 5. Permanence of document certification. When a document has been certified with the signature of the design professional as specified in subparts 1 to 4, that signature becomes a permanent part of that document and must not be removed at a later date for any reason.

1800.4300 SEAL.

Each person may, upon licensure or certification, also obtain a seal bearing the licensee's or certificate holder's name and the legend, licensed architect, licensed professional engineer, licensed land surveyor, licensed landscape architect, licensed professional geologist, licensed professional soil scientist, or certified interior designer. Plans, specifications, plats, reports, and other documents prepared by a licensee or certificate holder may be stamped with the seal during the life of a licensee's license or certificate holder's certificate if it remains unrevoked, has not expired, or has not been suspended. The stamped seal may be used on documents in addition to the signed and dated certification required under part 1800.4200.

1800.4500 INVESTIGATOR.

To assist it in the performance of its statutory duties, the board may hire an investigator to make inquiries, ascertain facts, and obtain statements.

1800.4600 PROFESSIONAL FIRMS.

Professional firms and foreign professional firms are required to file periodic reports with the board in accordance with Minnesota Statutes, chapter 319B.

MINNESOTA ADMINISTRATIVE RULES: CH. 1805

CHAPTER 1805, RULES OF PROFESSIONAL CONDUCT

1805.0100 PROFESSIONAL CONDUCT.

Subpart 1. Purpose. This chapter on professional conduct is adopted for the purpose of implementing the laws and rules governing the practice of architecture, engineering, land surveying, landscape architecture, and geoscience, and the use of the title of certified interior design.

Subp. 2. Scope. This chapter is applicable to and binding upon each person, corporation, or partnership subject to the regulatory jurisdiction of the board.

Subp. 3. Professional responsibility.

A. The professional conduct of a licensee or certificate holder must be in accordance with this chapter.

B. When providing professional services, the licensee's or certificate holder's primary responsibility is the protection of the public's health, safety, and welfare.

1805.0200 PERSONAL CONDUCT.

Subpart 1. Public statements.

A. A licensee or certificate holder shall avoid any act that may diminish public confidence in the profession and shall, at all times, conduct himself or herself, in all relations with clients and the public, so as to maintain its reputation for professional integrity.

B. A licensee or certificate holder shall be objective and truthful in all professional documents, including but not limited to plans, reports, statements, or testimony. The licensee or certificate holder shall consider relevant and pertinent information in such documents or testimony and express professional opinions publicly only when they are founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter.

Subp. 1a. Credit. In connection with the work for which the licensee or certificate holder is claiming credit, the licensee or certificate holder shall accurately represent the licensee's or certificate holder's qualifications, education, and scope of responsibility for the work. The licensee or certificate holder shall also accurately represent the qualifications, education, and scope of responsibility of any employer, employees, or associates.

Subp. 2. False statements and nondisclosure. A licensee or certificate holder shall not make a false statement or fail to disclose a material fact requested in connection with an application for certification, licensure, or renewal in this state or any other state.

Subp. 3. Knowledge of unqualified applicants.

A. A licensee or certificate holder shall not endorse an application for certification or licensure of another person known by the licensee or certificate holder to be unqualified in respect to character, education, experience, or other relevant factor.

B. A licensee or certificate holder possessing knowledge of an applicant's qualifications for examination, licensure, or certification shall cooperate with the applicant and the board by responding regarding those qualifications when requested to do so. A licensee or certificate holder shall provide verification of employment and experience earned by an applicant under supervision if there is reasonable assurance that the facts to be verified are accurate. A licensee or certificate holder shall not knowingly sign a verification document that contains false or misleading information.

Subp. 3a. Knowledge of improper conduct by others. A licensee or certificate holder possessing knowledge of any acts prohibited by this chapter, chapter 1800, or Minnesota Statutes, sections 326.02 to 326.15, by a licensee, certificate holder, or unlicensed individual shall report such knowledge to the board.

Upon questioning by the board or its representative during an official inquiry into an alleged act, a licensee or certificate holder shall disclose any knowledge the licensee or certificate holder may have in the matter.

Subp. 4. General prohibitions. A licensee or certificate holder shall not:

- A. circumvent a rule of professional conduct through actions of another;
- B. engage in illegal conduct involving moral turpitude;
- C. engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

D. engage in conduct that adversely reflects on the licensee's fitness to practice the profession; or

E. permit the licensee's or certificate holder's name or seal to be affixed to plans, specifications, or other documents that were not prepared by or under the direct supervision of the licensee or certificate holder.

1805.0300 CONFLICT OF INTEREST.

Subpart 1. Employment. A licensee or certificate holder shall not accept a project where a duty to the client or the public would conflict with the personal interest of the licensee or certificate holder or the interest of another client. Prior to accepting a project, the licensee or certificate holder shall disclose to a prospective client such facts as may give rise to a conflict of interest.

Subp. 2. Compensation. A licensee or certificate holder shall not accept compensation for services relating or pertaining to the same project from more than one party unless:

- A. there is a unity of interest between or among the parties to the project;
- B. the licensee or certificate holder makes full disclosure; and
- C. the licensee or certificate holder obtains the express consent of all parties from whom compensation will be received.

Subp. 3. Gifts.

A. Without the knowledge and approval of the client or the employer, a licensee or certificate holder shall not, directly or indirectly, solicit or accept any compensation, gratuity, or item of value from contractors, their agents, material or equipment suppliers, or other persons dealing with the client or employer in connection with the work for which the licensee or certificate holder has been retained.

B. A licensee or certificate holder shall neither offer nor make any payment or gift to a government official, whether elected or appointed, with the intent of influencing the official's judgment in connection with a prospective or existing project in which the licensee or certificate holder is interested or involved.

Subp. 4. Interpretations. When acting as the interpreter of project contract documents or as the judge of contract performance, a licensee or certificate holder shall render

decisions impartially, using the professional judgment of their licensed or certified discipline.

1805.0400 IMPROPER SOLICITATION OF EMPLOYMENT.

A. A licensee or certificate holder shall seek and engage in only the professional work or employment the professional is competent and qualified to perform by reason of education, training, or experience.

B. A licensee or certificate holder shall not tender any gift, pay, or offer to pay, directly or indirectly, anything of substantial value, whether in the form of a commission or otherwise, as an inducement to secure employment. A licensee or certificate holder is not prohibited from paying a commission to a licensed employment agency for securing a salaried position.

1805.0500 FALSE OR MALICIOUS STATEMENTS.

A licensee or certificate holder shall not make false or malicious statements that may have the effect, directly or indirectly, or by implication, of injuring the personal or professional reputation or business of another member of the profession.

1805.0650 COMPETENCE

Subpart 1. Standards of competence. In practicing architecture, engineering, land surveying, landscape architecture, or geoscience, or when using the title of certified interior designer, each licensee or certificate holder shall act with reasonable care and competence and shall apply the knowledge and skill that is ordinarily applied by such professionals.

Subp. 2. Conformance with state and local laws and regulations. When providing professional services, a licensee or certificate holder shall not violate applicable state and local laws and regulations. Notwithstanding the duty of licensees and certificate holders to follow the law, in proceedings before the board, the board shall consider whether a licensee's or certificate holder's violation follows from incorrect advice on the meaning of a statute or regulation. In such a circumstance, the board shall consider the reasonableness of the licensee's or certificate holder's reliance on the incorrect advice in determining the appropriate sanction, if any, for the violation.

Subp. 3. Qualifications for performing professional services. A licensee or certificate holder shall perform professional services only when the licensee or certificate holder, together with those whom the licensee or certificate holder may engage as consultants, is qualified by education, training, and experience in the specific technical areas involved.

1805.0700 ACTION BY OTHER JURISDICTION.

Subpart 1. Violation of laws. Convictions of a felony without restoration of civil rights, or disciplinary action taken against a licensee or certificate holder by another jurisdiction, if for cause which in the state of Minnesota would constitute a violation of law or of these rules, shall be deemed to be a violation of these rules of professional conduct.

Subp. 2. Incompetence. A licensee or certificate holder adjudged mentally incompetent by a court of competent jurisdiction shall, until restored to mental competency, be deemed to be incompetent to practice the profession within the meaning of Minnesota Statutes, section 326.11, subdivision 1.

1805.0800 EMPLOYMENT PRACTICES.

A licensee or certificate holder, as an employer, shall refrain from engaging in any discriminatory employment practice prohibited by law.

1805.0900 PROFESSIONAL MISCONDUCT.

Misconduct within the meaning of Minnesota Statutes, section 326.11, subdivision 1, shall include any act or practice in violation of the rules of professional conduct in this chapter. A licensee or certificate holder shall not engage in conduct involving bribery, collusion, corruption, fraud, or malfeasance.

1805.1500 REGISTRATION.

No corporation, partnership, or other firm engaged in the practice of architecture, engineering, land surveying, landscape architecture, geoscience, or two or more of these professions, shall contract with or accept employment for professional services of an architectural, engineering, land surveying, landscape architectural, or geoscience character as defined in Minnesota Statutes, sections 326.02 to 326.15, unless a member or employee of the corporation, partnership, or other firm in responsible

charge of the work is registered and licensed under Minnesota Statutes, sections 326.02 to 326.15, to practice the profession called for by the employment.

1805.1600 RESPONSIBLE CHARGE AND DIRECT SUPERVISION.

Subpart 1. Responsible charge; defined. A person in responsible charge of architectural, engineering, land surveying, landscape architectural, geoscience, or certified interior design work as used in Minnesota Statutes, section 326.14, means the person who determines and reviews design criteria, including technical aspects, advises with the client, and has direct supervision of subordinates during the course of the work and, in general, the person whose professional skill and judgment are embodied in the plans, designs, and advice involved in the work.

Subp. 2. Direct supervision; defined. A person in "direct supervision" of work as referred to in Minnesota Statutes, section 326.12, subdivision 3, means that person who is the employer, an employee of the same firm, or who is under contract to or from another firm and who is in responsible charge of the technical aspects of the architectural, engineering, land surveying, landscape architectural, geoscience, or certified interior design work in progress, and whose professional skill and judgment are embodied in the plans, specifications, reports, plats, or other documents required to be certified pursuant to that subdivision. A person in direct supervision of work directs the work of other licensees, unlicensed professionals, technicians, and clerical persons assigned to that work and is in responsible charge of the project comprising the work being supervised.

REFERENCES

Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design: Laws/Policies

<https://mn.gov/aelslagid/rules.html>

2015 Minnesota Statutes: Chapter 326. Employments Licensed By State, (326.01 to 326.992)

<https://www.revisor.mn.gov/statutes/?id=326>

Minnesota Administrative Code: Chapter 1800 Licensing and Operation, (1800.0050 to 1800.5900)

<https://www.revisor.mn.gov/rules/?id=1800>

Minnesota Administrative Rules: Chapter 1805, Rules of Professional Conduct, (1805.0500 to 1805.0800)

<https://www.revisor.mn.gov/rules/?id=1805>

National Society of Professional Engineers, Code of Ethics

<http://www.nspe.org/resources/ethics/code-ethics>