



# North Dakota– Statutes, Rules and Ethics for Professional Engineers

Three (3) Continuing Education Hours  
Course #ND101

Approved Continuing Education for Licensed Professional Engineers

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### **Course Description:**

The North Dakota Statutes, Rules and Ethics course satisfies 3 of the 30 hours of continuing professional competency (CPC) required for North Dakota licensed professional engineers.

The course is designed as a distance learning interactive course that enables the practicing professional engineer to examine 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 North Dakota.

### **Objectives:**

The primary objective of this course is to familiarize the student with the canons of ethics and familiarize the student with the statutes and rules regulating the practice of engineering in the state of North Dakota.

Upon successful completion of the course, the student will have increased understanding of ethical practices and be well versed with the ND state laws and board 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 to successful pass and complete the course.

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# North Dakota Statutes

## TITLE 43. PROFESSIONAL, OCCUPATIONS AND BUSINESSES, CH. 43-19.1 PROFESSIONAL ENGINEERS AND LAND SURVEYORS

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### **43-19.1-01. General provisions.**

In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering and land surveying in this state is hereby declared to be subject to regulation in the public interest, and it hereby is declared necessary that a state board of registration for professional engineers and land surveyors be established, which in the exercise of its powers is deemed to be an administrative agency within the purview of chapter 28-32. It is unlawful for any person to practice, or to offer to practice, professional engineering or land surveying in this state, as defined in the provisions of this chapter, or to use in connection with the person's name or otherwise assume, or advertise any title or description tending to convey the impression that the person is an engineer or land surveyor, unless such person has been duly registered or exempted under the provisions of this chapter. The right to engage in the practice of engineering or land surveying is deemed a personal right, based on the qualifications of the individual as evidenced by the individual's certificate of registration, which is not transferable.

### **43-19.1-02. Definitions.**

In this chapter unless the context otherwise requires:

1. "Board" means the state board of registration for professional engineers and land surveyors.
2. "Engineer" means a professional engineer.
3. "Engineer intern" means an individual who complies with the requirements for education, experience, and character and who has passed an examination in the fundamental engineering subjects, as provided in sections 43-19.1-12 and 43-19.1-15.

4. "Engineering surveys" means all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, which include locating or laying out alignments, positions, or elevations for the construction of fixed works. The term does not include the surveying of real property for the establishment of land boundaries, rights of way, easements, and the dependent or independent surveys or resurveys of the public land survey system.

5. "Land surveyor" means an individual engaged in the practice of land surveying.

6. "Land surveyor intern" means an individual who complies with the requirements for education, experience, and character and who has passed an examination in the fundamentals of mathematics and the basic principles of land surveying as required in this chapter and as established by the board.

7. "Practice of engineering and practice of professional engineering" means any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems, engineering teaching of advanced engineering subjects or courses related thereto, engineering surveys, and the inspection of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects as are incidental to the practice of engineering. A person must be construed to practice or offer to practice engineering if the person practices any branch of the profession of engineering; if the person, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents that the person is an engineer and is able to practice engineering in this state if the person through the use of some other title implies that the person is an engineer or that the person is registered under this chapter; or if the person holds out as able to perform, or does perform any engineering service or work or any other service that is recognized as engineering, for a valuable consideration for others, including the public at large.

8. "Practice of land surveying":

a. Means making land boundary determinations by providing or offering to provide professional services using such sciences as mathematics, geodesy, and photogrammetry and involving the making of geometric measurements and gathering related information pertaining to the physical or legal features of the earth; improvements on the earth; and improvements on the space above, on,

or below the earth and providing, utilizing, or developing the same into land survey products such as graphics, data, maps, plans, reports, descriptions, or projects. As used in this subsection, professional services include acts of consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling, and interpreting gathered measurements and information related to any one or more of the following:

- (1) Determining by measurement the configuration or contour of the earth's surface or the position of fixed objects on the earth's surface;
- (2) Determining by performing geodetic land surveys the size and shape of the earth or the position of any point on the earth;
- (3) Locating, relocating, establishing, re-establishing, or retracing property lines or boundaries of any tract of land, road, right of way, or easement;
- (4) Making any land survey for the division, subdivision, or consolidation of any tract of land;
- (5) Locating or laying out alignments, positions, or elevations for the construction of fixed works;
- (6) Determining by the use of principles of land surveying the position for any survey monument, boundary or non-boundary, or reference point and establishing or replacing any such monument or reference point; and
- (7) Creating, preparing, or modifying electronic or computerized or other data for the purpose of making land boundary determinations relative to the performance of the activities in paragraphs 1 through 6.

b. Includes:

- (1) Engaging in land surveying;
- (2) By verbal claim, sign, advertisement, letterhead, card, or any other way representing to a person to be a professional land surveyor;
- (3) Through the use of some other title implying to be a professional land surveyor or that the person is licensed or authorized under this chapter; and

(4) Holding out as able to perform or performing any land surveying service or work or any other service designated by the practitioner which is recognized as land surveying.

9. "Professional engineer" means an individual who by reason of special knowledge or use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design, acquired by engineering education and engineering experience, is qualified to practice engineering, and who has been registered and licensed by the state board of registration for professional engineers and land surveyors.

10. "Professional land surveyor" means a land surveyor who complies with the requirements for education, experience, and character and who has been registered and licensed by the board.

11. "Responsible charge" means direct control and personal supervision of engineering or surveying work.

12. "Retired registrant" means a duly registered professional engineer or land surveyor who is not engaged in active professional practice and is not required to meet the continuing professional education requirements as prescribed by the board. A retired registrant is issued a certificate of registration indicating "retired" status.

### **43-19.1-03. Board - Appointments - Terms.**

A state board of registration for professional engineers and land surveyors is hereby created the duty of which is to administer this chapter. The board consists of one professional land surveyor and four professional engineers. The board members who are professional engineers must be appointed by the governor from among a list of nominees submitted to the governor by the North Dakota society of professional engineers who must have the qualifications required by section 43-19.1-04, such list must include the names of at least three nominees for each vacancy to be filled. The governor shall appoint the professional land surveyor member of the board from a list of nominees submitted by the North Dakota society of professional land surveyors. The list must include the names of at least three nominees for the vacancy to be filled. The members must possess the qualifications required by section 43-19.1-04. The members of the board must be appointed for five-year terms that are staggered so the term of one member expires June thirtieth of each year. Each member of the board shall receive a certificate of appointment from the governor and shall file with the secretary of state a written oath or affirmation for the faithful discharge of the member's official

duties. On the expiration of the term of any member, the governor shall appoint for a term of five years a board member having the qualifications required in section 43-19.1-04 to take the place of the member whose term on the board is about to expire. A member may be reappointed. Each member shall hold office until the expiration of the term for which appointed or until a successor has been duly appointed and has qualified.

#### **43-19.1-04. Board - Qualifications.**

Each professional engineer board member must be a professional engineer who is a citizen and resident of this state, has been registered in this state a minimum of eight years, has been engaged in the lawful practice of engineering for at least twelve years, and has had responsible charge of important engineering work for at least five years. Each professional land surveyor board member must be a professional land surveyor who is a citizen and resident of this state, has been registered as a professional land surveyor in this state a minimum of eight years, and has been responsible for important land surveying work for at least five years.

#### **43-19.1-05. Board - Compensation and expenses.**

Each member of the board is entitled to receive per diem, in an amount established by the board which may not exceed one hundred thirty-five dollars, when attending to the work of the board or any of the board's committees and for the time spent in necessary travel and is entitled to be reimbursed for all actual traveling, incidental, and clerical expenses necessarily incurred in carrying out the provisions of this chapter.

#### **43-19.1-06. Board - Removal of members - Vacancies.**

The governor may remove any member of the board for misconduct, incompetency, neglect of duty, or for any sufficient cause, in the manner prescribed by law for removal of state officials. Vacancies in the membership of the board must be filled for the unexpired term by appointment by the governor as provided in section 43-19.1-03.

#### **43-19.1-07. Board - Organization and meetings.**

The board shall hold at least two regular meetings each year. The board shall elect or appoint annually the following officers: a chairman, a vice chairman, and a secretary. A quorum of the board consists of not fewer than three members.



### **43-19.1-08. Board - Powers.**

The board may:

1. Adopt and amend all bylaws, rules of procedure, and regulations to administer and carry out the provisions of this chapter and for the conduct of the board's affairs and functions which may be reasonably necessary for the proper performance of the board's duties and the regulation of the board's proceedings, meetings, records, and examinations and the conduct thereof, and to adopt a code of ethics that must be binding upon all persons registered under or subject to this chapter.
2. Adopt and have an official seal, which must be affixed to each certificate issued.
3. Employ such clerks, technical experts, and attorneys as the board determines necessary or desirable to carry out this chapter.
4. Hold hearings, administer oaths, and take and record testimony; under the hand of the board's chairman and the seal of the board, subpoena witnesses and compel the witnesses' attendance; require the submission of books, papers, documents, or other pertinent data in any disciplinary matters, or in any case when a violation of this chapter or of the rules or regulations adopted by the board is alleged; and make findings, orders, and determinations that have the force and effect of law which are subject to review by the courts of this state in the manner provided by chapter 28-32. Upon failure or refusal of any person to comply with any such order of the board or to honor the board's subpoena, the board may apply to a court of any jurisdiction to enforce compliance with the order or subpoena.
5. Apply in the name of the state for relief by injunction, without bond, to enforce the provisions of this chapter or to restrain any violation of this chapter. In such proceedings, it is not necessary to allege or prove, either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation thereof. The members of the board are not personally liable under this proceeding.

### **43-19.1-09. Receipts and disbursements.**

The secretary of the board shall receive and account for all moneys derived under the provisions of this chapter and shall deposit and disburse the money derived under this chapter in accordance with section 54-44-12. The secretary shall give a surety bond to the state in such sum as may be required by the board. The premium on the bond is a proper and necessary expense of the board. The secretary shall receive such salary as

the board shall determine. The board shall employ clerical or other assistants as are necessary for the proper performance of the board's work and shall make expenditures of this fund for any purpose the board determines is reasonably necessary for the proper performance of the board's duties under this chapter, including the expenses of the board's delegates to meetings of and membership fees to the national council of examiners for engineering and surveying and any of the organization's subdivisions. Under no circumstances may the total amount of warrants issued in payment of the expenses and compensation provided for in this chapter exceed the amount of moneys collected.

#### **43-19.1-10. Records and reports.**

The board shall:

1. Keep a record of the board's proceedings and of all applications for registration. The record must show the name, age, and last-known address of each applicant; the date of application, the place of business of such applicant, the applicant's education, experience, and other qualifications; type of examination required; whether the applicant was rejected; whether a certificate of registration was granted; the date of the action of the board; and such other information as may be deemed necessary by the board. The record of the board is prima facie evidence of the proceeding of the board and a transcript of board proceedings which is certified by the secretary under seal is admissible as evidence with the same force and effect as if the original were produced.
2. Annually, in compliance with state law, submit a report of the board's transactions of the preceding year.

#### **43-19.1-11. Roster.**

A complete roster showing the names and last-known addresses of all professional engineers and land surveyors must be made available by the secretary of the board at intervals as established by board regulations. Copies of this roster must be made available to each registrant and all county auditors and city auditors and may be distributed or sold to the public.

### **43-19.1-12. General requirements for registration.**

To be eligible for registration as a professional engineer or land surveyor or for certification as an engineer intern or land surveyor intern, an applicant must be of good character and reputation and shall submit a written application to the board containing such information as the board may require together with five references, three of which references must be professional engineers in the case of engineers or three of which references must be professional land surveyors in the case of land surveyors, having personal knowledge of the applicant's engineering or land surveying experience, or in the case of an application for certification as an engineer intern or land surveyor intern, by three character references.

#### **43-19.1-12.1. Conviction not bar to registration - Exceptions.**

Conviction of an offense does not disqualify an individual from registration under this chapter unless the board determines that the offense has a direct bearing upon an individual's ability to serve the public as an engineer or land surveyor or that following conviction of any offense the individual is not sufficiently rehabilitated under section 12.1-33-02.1.

### **43-19.1-13. Registration without examination - Professional engineers.**

An applicant otherwise qualified must be admitted to registration as a professional engineer without examination if the applicant is:

1. An individual holding a certificate of registration to engage in the practice of engineering, on the basis of comparable qualifications, issued to that applicant by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or any foreign country and who, in the opinion of the board, based upon verified evidence, meets the requirements of this chapter; or
2. An individual registered as a professional engineer by the state of North Dakota under chapter 43-19, on the thirtieth day of June 1967.

### **43-19.1-14. Registration with examination - Professional engineers.**

An applicant otherwise qualified must be admitted to registration as a professional engineer if the applicant has successfully passed a written examination of at least eight hours in the principles and practice of engineering, as prescribed by the board, and has one of the following additional qualifications:

1. Is an engineer intern with a baccalaureate degree in engineering from an institution offering accredited programs approved by the board as being of satisfactory standing, who has a specific record of an additional four years or more of experience in engineering work of a grade and character which indicates to the board that the applicant may be competent to practice engineering.
2. Is an engineer intern with a baccalaureate degree in engineering from a program that is not accredited but is approved by the board, who has eight years or more of progressive experience in engineering work of a character and grade which indicates to the board that the applicant is competent to practice engineering.
3. Is an engineer intern with a specific record of at least twenty years of lawful practice in engineering work during at least ten years of which the applicant has been in responsible charge of important engineering work which is of a grade and character that indicates to the board that the applicant is competent to practice engineering, who has been approved for the fundamentals of engineering examination by the board before July 1, 2004, and who holds a valid engineer intern certificate as of January 1, 2006.
4. Is an engineer intern who meets one of the educational requirements listed in subsection 1, 2, or 5, who has been a teacher of engineering in a college or university offering an approved engineering curriculum of four years or more, and who has had a minimum of two years of nonteaching engineering experience that is of a character and grade that indicates to the board that the applicant is competent to practice engineering.
5. Is an engineer intern with a baccalaureate degree in an engineering-related program, who has at least twelve years of progressive experience in engineering work of a character and grade which indicates to the board that the applicant is competent to practice engineering.

### **43-19.1-15. Additional qualifications of engineer interns.**

Except in the case of an individual who filed an application before July 1, 1967, and any subsequent reapplication by such individual, an applicant otherwise qualified must be admitted to certification as an engineer intern. An engineer intern is an individual who has:

1. A baccalaureate degree in engineering from an institution that offers accredited programs approved by the board and has passed the board's written examination of at least eight hours in the fundamentals of engineering shall be certified or enrolled as an engineer intern.
2. A baccalaureate degree in engineering from a program that is not accredited but is approved by the board, who has a specific record of at least four years of experience in engineering work of a grade and character satisfactory to the board, and who passes the board's written examination of at least eight hours in the fundamentals of engineering.
3. A baccalaureate degree in an engineering-related program, who has a specific record of at least six years of experience in engineering work of a grade and character satisfactory to the board, and who passes the board's written examination of at least eight hours in the fundamentals of engineering.

### **43-19.1-16. Registration - Professional land surveyor.**

Any individual who shows, to the satisfaction of the board, that the individual is otherwise qualified and is over the age of eighteen years is eligible for registration as a professional land surveyor, if the individual:

1. Holds a certificate of registration to engage in the practice of land surveying issued on the basis of a minimum sixteen-hour written examination by proper authority of a state, territory, possession of the United States, the District of Columbia, or any foreign country, based on requirements and qualifications as shown by the individual's application which, in the opinion of the board, are equal to or higher than the requirements of this chapter;
2. Has a baccalaureate degree in engineering or surveying from an institution that offers accredited programs approved by the board, followed by at least four years of land surveying experience of a character satisfactory to the board, who has passed a written examination of at least sixteen hours designed to show that the individual is qualified to practice land surveying;

3. Has at least eight years of active experience in land surveying of a character satisfactory to the board, and who has passed a written examination of at least sixteen hours designed to show that the individual is qualified to practice land surveying; or
4. Is registered as a land surveyor by the state of North Dakota, under the provisions of former chapter 43-24, on the thirtieth day of June 1967.

#### **43-19.1-16.1. Qualifications of land surveyor interns.**

An applicant for certification as a land surveyor intern who has at least four years of qualifying land surveying experience of a character satisfactory to the board, of which a formal education in an accredited engineering or land surveying curriculum may constitute a part thereof, may receive from the board, upon passing a written examination on the fundamentals of mathematics and the basic principles of land surveying, a certificate stating that the applicant has passed the examination and been recorded as a land surveyor intern.

#### **43-19.1-17. Application for registration.**

Application for registration as a professional engineer or land surveyor or for certification as an engineer intern or land surveyor intern must be on a form prescribed and furnished by the board containing statements made under oath, showing the applicant's education, a detailed summary of the applicant's technical experience, and references as required by this chapter and must be accompanied by registration fees.

#### **43-19.1-17.1. Retired registrant.**

The board may recognize an individual who is no longer practicing as an engineer or land surveyor as a retired registrant.

#### **43-19.1-18. Registration fees.**

The board shall establish registration fees for professional engineers, land surveyors, engineer interns, and land surveyor interns in the amount the board determines necessary to accomplish the purposes of the board as provided in this chapter. The registration fees may not exceed the amount of one hundred dollars for a one-year period or two hundred dollars for a two-year period. If the board denies the issuance of a certificate to an applicant, the fee paid may be retained as an application fee.

### **43-19.1-19. Examinations.**

Written examinations must be held at such times and places as the board shall determine. Examinations required on fundamental engineering or land surveying subjects may be taken at any time prescribed by the board. The final examinations may not be taken until the applicant has completed a period of engineering or land surveying experience as provided in this chapter. The board shall establish the minimum passing grade on any examination. A candidate failing one examination may apply for re-examination, which may be granted upon payment of a fee established by the board. Any candidate for registration having an average grade that does not meet the standards set by the board may not apply for re-examination for one year from the date of such examination.

### **43-19.1-20. Certificates.**

The board shall issue a certificate of registration upon payment of the registration fee as provided for in this chapter to any applicant who in the opinion of the board has met the requirements of this chapter. Enrollment cards must be issued to those who qualify as engineer interns or land surveyor interns. Certificates of registration must carry the designation "professional engineer" or "professional land surveyor", must show the full name of the registrant without any titles, must be numbered, and must be signed by the chairman and the secretary under seal of the board. The issuance of a certificate of registration by the board is prima facie evidence the individual named on the certificate is entitled to all rights and privileges of a professional engineer or land surveyor during the term of which the certificate providing the same has not been revoked or suspended.

### **43-19.1-21. Seals.**

Each registrant under this chapter upon registration may obtain a seal of the design authorized by the board, bearing the registrant's name, registration number, and the legend "registered professional engineer" or "registered professional land surveyor". Final engineering drawings, specifications, maps, plats, reports, or other documents prepared by a person required to be registered under this chapter, when presented to a client, contractor, subconsultant, or any public agency, must be signed, dated, and stamped with the seal or facsimile of the seal. A working drawing or unfinished document must contain a statement to the effect the drawing or document is preliminary and not for construction, recording purposes, or implementation. It is unlawful for a registrant to affix or permit the registrant's seal and signature or

facsimiles thereof to be affixed to any engineering drawings, specifications, maps, plats, reports, or other documents after the expiration or revocation or during the suspension of a certificate, or for the purpose of aiding and abetting any other person to evade or attempt to evade any provision of this chapter.

#### **43-19.1-22. Expirations and renewals.**

A certificate of registration expires on December thirty-first of the year of issuance if registration is on an annual basis and of the year after issuance if issued on a biennial basis and becomes invalid after that date unless renewed. The secretary of the board shall notify every registrant under this chapter of the date of the expiration of the registrant's certificate of registration and the amount of fee required for its renewal. The notice must be mailed to the registrant at the registrant's last-known address at least one month in advance of the expiration of the registrant's certificate. Renewal may be effected at any time before or during the month of December by the payment of a fee as established by the board, not to exceed the fees established in section 43-19.1-18. Renewal of an expired certificate may be effected under rules adopted by the board regarding requirements for re-examination and penalty fees.

#### **43-19.1-23. Reissuance of certificates.**

A new certificate of registration to replace any certificate lost, destroyed, or mutilated may be issued subject to the rules of the board. The board may establish a reasonable charge for such issuance.

#### **43-19.1-24. Code of ethics.**

The board shall cause to have prepared and shall adopt a code of ethics, a copy of which must be made available to every registrant and applicant for registration under this chapter, and which must be published in the roster provided under this chapter. Such publication constitutes due notice to all registrants. The board may revise and amend this code of ethics from time to time and shall notify each registrant of such revisions or amendments. The code of ethics applies to all certificate holders, including specialists in a particular branch of the engineering or surveying profession.



### **43-19.1-24.1. Engineer not liable for contractor's fault unless responsibility assumed - Liability for own negligence.**

An engineer is not liable for the safety of persons or property on or about a construction project site, or for the construction techniques, procedures, sequences and schedules, or for the conduct, action, errors, or omissions of any construction contractor, subcontractor, or material supplier, their agents or employees, unless the engineer assumes responsibility therefor by contract or by the engineer's actual conduct. Nothing herein may be construed to relieve an engineer from liability for negligence, whether in the engineer's design work or otherwise.

### **43-19.1-25. Disciplinary action - Revocations, suspensions, or reprimand.**

The board may suspend, refuse to renew, or revoke the certificate of registration of and may reprimand any registrant. These powers apply to any registrant who is found guilty of any of the following:

1. The practice of any fraud or deceit in obtaining a certificate of registration.
2. Any gross negligence, incompetence, or misconduct in the practice of engineering or land surveying.
3. Any offense determined by the board to have a direct bearing upon an individual's ability to serve the public as a professional engineer and land surveyor; or when the board determines, following conviction of any offense, that an individual is not sufficiently rehabilitated under section 12.1-33-02.1.
4. The violation of the code of ethics adopted by the board.

### **43-19.1-26. Disciplinary action - Procedure.**

Any person may file charges of fraud, deceit, gross negligence, incompetence, misconduct, or violation of the code of ethics against any individual registrant. Such charges must be in writing and must be filed with the secretary of the board. All charges, unless dismissed by the board as unfounded or trivial, must be heard by the board within six months following the filing of charges unless the accused registrant waives this requirement. The matters considered at the hearing must include all charges made in the original filing, together with any related or additional matters or charges that arise in connection with the investigation of the original charges, and

which are set forth in a specification of issues for the hearing. The time and place for the hearing must be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, and a specification of the issues to be considered at the hearing must be served upon the accused registrant either personally or sent by registered mail to the last-known address of the registrant at least thirty days before the date fixed for hearing. At any hearing the accused registrant has the right to appear in person or by counsel, or both; to cross-examine witnesses appearing against the accused; and to produce evidence and witnesses in defense of the accused. If the accused fails or refuses to appear, the board may proceed to hear and determine the validity of the issues set forth in the specification of issues. Following the hearing, the board members who did not serve on the investigative panel shall deliberate in executive session and if a majority of the board members who did not serve on the investigative panel vote in favor of sustaining all or part of the issues set forth in the specification of issues, the board shall make findings of fact and conclusions of law and shall issue the board's order and serve the findings, conclusions, and order upon the accused. In the order the board may reprimand, suspend, refuse to renew, or revoke the accused registrant's certificate of registration. Any registrant who feels aggrieved by any action of the board in denying, suspending, refusing to renew, or revoking that registrant's certificate of registration may appeal the board's action to the district court under the procedures provided by chapter 28-32.

### **43-19.1-27. Right to practice.**

1. A person may not practice or offer to practice professional engineering or land surveying unless the person is an individual registered to practice under or exempt from the provisions of this chapter. The practice of engineering by a professional engineer which includes service or creative work that is included in both the definition of the practice of engineering and the definition of land surveying does not require registration as a professional land surveyor. The practice of land surveying by a professional land surveyor which includes a service or creative work that is included in both the definition of the practice of engineering and the definition of land surveying does not require registration as a professional engineer.
2. The following are not considered offering to practice engineering or surveying in the solicitation of work if the engineer or surveyor is licensed in another jurisdiction:
  - a. Advertising in a publication or electronic media if there is no holding out of professional services in jurisdictions in which not licensed.

- b. Responding to a letter of inquiry regarding a request for proposals if there is written disclosure the engineer, surveyor, or firm is not licensed in this state and the response is limited to inquiries regarding scope of project and to demonstrate interest.
      - c. Responding to a letter of inquiry from a prospective client if there is written disclosure that the engineer, surveyor, or firm is not licensed in this state and the response is limited to inquiries regarding scope of project and to demonstrate interest.
      - d. Using the title or designation "professional engineer", "licensed engineer", "P.E.", "professional surveyor", "licensed surveyor", "P.L.S.", or similar title or designation in correspondence or on business cards from an office in the jurisdiction in which licensure is held.
3. Notwithstanding subsection 2, a proposal may not be submitted, a contract may not be signed, or work may not be commenced until an engineer, surveyor, or firm becomes licensed as provided under this chapter.
4. A registered professional engineer or registered land surveyor may practice or offer to practice professional engineering or land surveying as an organization or as an individual operating under a trade name if the organization is registered under or exempt from the provisions of this chapter.
5. In addition to and without impairing any rights or exemptions granted others in this chapter, the practice of or offer to practice professional engineering or land surveying by an organization or by an individual operating under a trade name is permitted in this state if:
  - a. All officers, employees, and agents of such an organization or the individual operating under a trade name who will perform the practice of engineering or of land surveying within this state are registered under this chapter;
  - b. Each person in responsible charge of the activities of any organization or individual operating under a trade name which activities constitute the practice of professional engineering and land surveying, is a professional engineer or land surveyor registered in this state or an individual authorized to practice professional engineering or land surveying as provided in this chapter;

- c. Such organization or individual operating under a trade name has been issued a certificate of commercial practice by the board as provided by subsection 6;
- d. Each organization or individual operating under a trade name is jointly and severally responsible with and for the conduct or acts of its agents, employees, officers, or managers in respect to any professional engineering or land surveying services performed or to be executed in this state. An individual practicing professional engineering or land surveying may not be relieved of the responsibility for the individual's conduct or acts performed by reason of the individual's employment by or relationship with such organization or individual operating under a trade name; and
- e. All final drawings, specifications, plans, reports, or other engineering or land surveying papers or documents involving the practice of professional engineering or land surveying, when presented to a client, contractor, subconsultant, or any public agency, must be dated and bear the seals and signatures of the professional engineers or land surveyors registered under this chapter by whom or under whose responsible charge they were prepared. A working drawing or unfinished document must contain a statement to the effect the drawing or document is preliminary and not for construction, recording purposes, or implementation. It is unlawful for a registrant to affix or permit the registrant's seal and signature or facsimiles thereof to be affixed to any engineering drawing, specification, map, plat, report, or other document after the expiration or revocation or during the suspension of a certificate or for the purpose of aiding and abetting any other person to evade or attempt to evade any provision of this chapter.
6. An organization or individual operating under a trade name desiring a certificate of commercial practice or the renewal thereof shall file a written application with the board setting forth the names and addresses of all partners, officers, directors, managers, or governors, if any, of such organization and the names and addresses of all employees who are duly registered to practice professional engineering or land surveying in this state, and who are or will be in responsible charge of any engineering or land surveying in this state by such organization or individual operating under a trade name, together with other information as the board may require. Upon the receipt of an application, and of a fee in an amount established by the board for the initial certificate or renewal thereof, but not to exceed the amount of two hundred dollars per year, the board shall issue to such organization or individual operating under a trade name a certificate of commercial practice or a renewal thereof, which certificate of commercial

practice is not transferable. If the board finds an error in an application or that facts exist which would entitle the board to suspend or revoke a certificate if issued to the applicant, the board shall deny the application. If a change occurs in any of the information submitted on the application of any organization or individual operating under a trade name within the term of the certificate of commercial practice, the organization or individual operating under a trade name shall file with the board a written report with respect to the change within thirty days after the change occurs. The provisions with respect to issuance, expiration, renewal, and reissuance of the certificates of registration of individuals contained in this chapter also apply to certificates of commercial practice issued to an organization or individual operating under a trade name under this subsection. An organization or individual operating under a trade name is subject to disciplinary proceedings and penalties and certificates of commercial practice are subject to suspension or revocation for cause in the same manner and to the same extent as is provided with respect to an individual and the individual's certificates of registration in sections 43-19.1-26, 43-19.1-29, and 43-19.1-31. "Registrant" and "certificate of registration" in sections 43-19.1-26, 43-19.1-29, and 43-19.1-31, and the provisions of such sections, include and apply respectively to any organization or individual operating under a trade name that holds a certificate of commercial practice issued under this chapter, and to such certificate of commercial practice.

#### **43-19.1-28. Public works.**

Except as otherwise provided by law, the state and its political subdivisions may not engage in the construction of public works involving the practice of professional engineering when the contemplated expenditure for the project exceeds the sum of one hundred fifty thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction administration and construction observation services are executed under the supervision of, a registered professional engineer. Any engineering contract executed in violation of this section is void.

#### **43-19.1-29. Exemption clause.**

This chapter does not prevent or affect:

1. The practice or offer to practice engineering by an individual not a resident or having no established place of business in this state, if that individual is legally qualified by registration to practice engineering in another state or country that extends similar

privileges to individuals registered under this chapter. However, that individual shall make an application accompanied by the appropriate application fee to the board in writing before practicing or offering to practice engineering, and may be granted a one-time temporary permit for a definite period of time not to exceed one year to do a specific job. No right to practice engineering accrues to any applicant with respect to any other work not set forth in the temporary permit. A land surveyor may not receive a temporary permit under this subsection.

2. The work of an employee or a subordinate of an individual holding a certificate of registration under this chapter, or an employee of an individual practicing lawfully under subsection 1; provided such work does not include final engineering or surveying designs or decisions and is done under the direct supervision of and verified by an individual holding a certificate of registration under this chapter, or an individual practicing lawfully under subsection 1.

3. The practice of any other legally recognized profession or trade, nor does the chapter permit registered professional engineers to perform duties requiring the services of a licensed architect, as provided by the laws of the state of North Dakota licensing and regulating architects and architecture.

4. The practice of engineering or land surveying by any individual regularly employed to perform engineering services solely for that individual's employer or for a subsidiary or affiliated corporation or limited liability company of that individual's employer, providing the services performed are in connection with the property, products, or services of that individual's employer, unless the board determines the property, products, or services are of a unique type requiring registration to protect the public.

5. The performance of work ordinarily performed by a person that operates or maintains machinery or equipment.

#### **43-19.1-30. Duties of recorder.**

It is unlawful for the recorder of any county or any county or any proper public authority to file or record any map, plat, survey, or other document within the definition of land surveying which does not have impressed thereon and affixed thereto the personal signature and seal of a registered professional land surveyor by whom the map, plat, survey, or other document was prepared.

### **43-19.1-31. Violation and penalties.**

Any person that practices or offers to practice engineering or land surveying in this state without being registered in accordance with the provisions of this chapter; any person using or employing the words "engineer", "engineering", "professional engineer", "surveyor", "land surveyor", "professional land surveyor", or any modification or derivative of these terms in that person's name, form of business, or activity, except as authorized in this chapter; any person presenting or attempting to use the certificate of registration or the seal of another; any person giving any false or forged evidence of any kind to the board or to any member of the board in obtaining or attempting to obtain a certificate of registration; or any person falsely impersonating any other registrant of like or different name; any person attempting to use an expired or revoked or nonexistent certificate of registration practicing or offering to practice when not qualified; any person falsely claiming that person is registered under this chapter; or any person violating any of the provisions of this chapter is guilty of a class B misdemeanor. It is the duty of all duly constituted officers of the state, and of all political subdivisions of the state, to enforce the provisions of this chapter.

### **43-19.1-32. Duty of attorney general - Legal counsel.**

The attorney general of the state or the attorney general's assistant shall act as legal adviser to the board and render such legal assistance as may be necessary in carrying out the provisions of this chapter. The board may employ other counsel and necessary assistance to aid in the enforcement or administration of this chapter, and the compensation and expenses therefor must be paid from funds of the board.

### **43-19.1-33. Continuing professional education - Rules.**

The board shall adopt rules to establish continuing education requirements for professional engineers and land surveyors. Compliance with these rules must be documented at the times, and in the manner, as is required by the board. A professional engineer or land surveyor who is exempt under subsection 4 of section 43-19.1-29 but who has voluntarily registered under this chapter is exempt from the continuing professional education requirements under this section.

# NORT DAKOTA ADMINISTRATIVE CODE

## TITLE 28 BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

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### ORGANIZATION OF BOARD

#### **28-01-01-01. Organization of board of registration for professional engineers and land surveyors.**

1. History and function. The 1943 legislative assembly first provided for registration of professional engineers by a law codified as North Dakota Century Code chapter 43-19. The 1957 legislative assembly first provided for registration of land surveyors by a law codified as North Dakota Century Code chapter 43-24. In 1967 the legislative assembly repealed both of these chapters and replaced them with one chapter regulating professional engineers and land surveyors under the board of registration for professional engineers and land surveyors. The chapter is codified as North Dakota Century Code chapter 43-19.1. The function of the board is to regulate the practice of engineering and land surveying by registering qualified engineers and land surveyors.

2. Executive director. The executive director is appointed by the board and is responsible for administration of the board's activities.

3. Inquiries. Inquiries regarding the board may be addressed to the executive director:

North Dakota State Board of Registration for Professional Engineers and Land Surveyors  
P.O. Box 1357  
Bismarck, ND 58502

### BOARD BYLAWS AND ADMINISTRATION

#### **28-01-02.1-01. Meetings.**

The board shall hold meetings at least twice each year, including at least one in January and one in July. The chairman may call special meetings when the chairman deems such meetings necessary. The executive director shall give notice as required by law. The date, time, and place of each meeting must be mutually agreed upon by a quorum



of the board. All meetings of the board, whether regular meetings or special meetings, must be open public meetings.

### **28-01-02.1-02. Rules of procedure.**

Robert's Rules of Order must govern procedure of the board except as otherwise provided by this chapter.

### **28-01-02.1-03. Board quorum.**

A quorum of the board is required to transact business. History:

28-01-02.1-04. Officers and board staff.

1. The board shall hold an election at the first meeting after July first of each year and elect a chairman, vice chairman, and secretary.
2. Each officer will be elected for one year and may be reelected.
3. The chairman: 1
  - a. Shall be the executive head of the board.
  - b. Shall preside at all meetings when present.
  - c. Shall call meetings of the board when the chairman deems such meetings necessary.
  - d. Shall sign all certificates of registration.
4. The vice chairman shall in the absence or incapacity of the chairman exercise the duties and shall possess all the powers of the chairman.
5. The secretary shall sign all official documents prepared by the board and shall sign all certificates of registration.
6. The executive director shall perform all duties as may be prescribed by the board. The associate executive director shall in the absence or incapacity of the executive director exercise the duties and shall possess all the powers of the executive director.
7. The executive director and any other person with signatory authority on the board's accounts shall give a surety bond in an amount determined by the board.

8. The office of the board may be established at a place designated by the board.
9. The board shall establish, appoint, and create ad hoc or standing committees to study, research, and evaluate such matters as assigned. For each committee a chairman must be designated.
10. Board officers and members serve without compensation except for per diem when engaged in state business approved by the board and for subsistence, lodging, and travel expenses at the rates established for state employees. All per diem and expenses must be requested on the travel voucher approved by the state.
11. The board staff members must be reimbursed expenses for approved travel, lodging, and subsistence at rates established for state employees. All per diem and expenses must be requested on the travel voucher approved by the state.

### **28-01-02.1-05. Forms - Records - Roster - Reports.**

1. Forms. The board shall prescribe forms for applications and other documents. Copies of the forms and the instructions for completing the forms must be made available by the board office. All applications and documents must be completed in accordance with the board's instructions.
2. Records.
  - a. The open records law requires that most records, papers, and reports of the board are public in nature and may be obtained through the executive director or designee upon request and payment of costs of reproduction, handling, and mailing.
  - b. The board shall keep a record of all its proceedings, including its action on each application coming before the board.
  - c. The board shall keep a record of all applications received.
  - d. The board shall keep a record of all certificates issued.
  - e. The board shall keep a record of all complaints received and of any actions taken on those complaints.
  - f. All applications, approved or deferred, unless otherwise specified in this or other sections of this chapter, will be retained in accordance with North Dakota Century Code section 54-46-10.

*28-01-02.1-06. Statement of purpose of rules - Amendments. Repealed effective October 1, 2010.*

### **28-01-02.1-07. Gender and definitions.**

1. Gender. This title is to be read and interpreted in a nongender context without regard to race, creed, or sex.

2. Definitions. The terms used throughout this title have the same meaning as in North Dakota Century Code chapter 43-19.1, except:

a. "Accreditation board for engineering and technology accredited curriculum" means those academic programs offered by institutions of higher learning that the accreditation board for engineering and technology (ABET) certify to have met the criteria and qualifications required to receive the designations as accredited programs in the education, training, and preparation of the graduates from such programs; engineering curriculum must have the accreditation of the engineering accreditation commission (EAC) within the accreditation board for engineering and technology and land surveying curriculum must have either engineering accreditation commission or technology accreditation commission (TAC) or applied science accreditation commission (ASAC) of the accreditation board for engineering and technology to be acceptable to the board.

b. "Application" means the act of furnishing data, documents, and such information under oath as may be required by the board and on forms prescribed by the board.

c. "Code of ethics" means that set of rules prescribed by the board and adopted herein that govern the professional conduct of all registrants.

d. "Direct supervision" means the activities of that person who is in responsible charge of technical, engineering, or land surveying work in progress, whose professional skill and judgment are embodied in the plans, specifications, reports, plats, or other documents required to be certified pursuant to section 28-02.1-08-01. A person in direct supervision of work directs the work of other registrants, interns, draftspersons, technicians, or clerical persons assigned to that work.

e. "Engineering intern" and "land surveyor (surveying) intern" are recognized by the board as synonymous with engineer-in-training and land surveyor-in-training provided the intern designations are conferred under the same requirements as the "in-training" designations pursuant to these rules.

f. "Examination" means that series of tests prescribed by the board that are developed to ascertain the level of proficiency in the fundamentals and in the practices of the professions regulated by the board.

g. "Gross negligence" means a substantial deviation in professional practice from the standard of professional care exercised by members of the registrant's profession, or a substantial deviation from any technical standards issued by a nationally recognized or state-recognized professional organization, or both, comprised of members of the registrant's profession, or a substantial deviation from requirements contained in state laws, board regulations, local ordinances, or regulations related to the registrant's professional practice.

h. "Incompetence" means to lack the professional qualifications, experience, education, or combination thereof to undertake a professional engagement or assignment. The following acts or omissions, among others, may be deemed to be "incompetence" and to be cause for denial, suspension, or revocation of a certificate of registration to practice

(1) Recklessness or excessive errors, omissions, or failures in the registrant's record of professional practice.

(2) Mental or physical disability or addiction to alcohol or drugs that leads to the impairment of the registrant's ability to exercise due skill and care in providing professional services so as to endanger the health, safety, and welfare of the public.

i. "Misconduct" means:

(1) Conviction of any crime reasonably related to the practice of the registrant's profession;

(2) An adverse civil adjudication involving dishonesty, gross negligence, or incompetence;

(3) Suspension or revocation or voluntary surrender of a professional license or registration by this state or by any other jurisdiction;

(4) Any act or practice in violation of the rules of professional conduct as set forth in sections 28-03.1-01-01 through 28-03.1-01-17;

(5) Violation of any of the administrative rules set forth in this title; or

(6) Knowingly fail to comply with continuing professional competency requirements set forth in article 28-04.

j. "Registrant" means any individual or organization who has been approved for a certificate of registration as an engineer intern, land surveyor intern, a professional engineer, a professional land surveyor, or any combination thereof, or a temporary permit to practice engineering, or a certificate of commercial practice.

## ENGINEER AND LAND SURVEYOR REGISTRATION

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### APPLICATIONS

#### **28-02.1-01-01. Applications - Kinds of applications.**

Applications may be submitted to the board for registration as a:

1. Engineer intern.
2. Land surveyor intern.
3. Professional engineer.
  - a. Examination.
  - b. Endorsement.
4. Professional land surveyor.
  - a. Examination.
  - b. Endorsement.
5. Professional engineer temporary permit-holder.
6. Business with a certificate of commercial practice to practice engineering or land surveying.
7. Reinstatement for lapsed registration of a certificate holder.

## PROCESSING OF APPLICATIONS.

### 28-02.1-01-02. Completing applications.

1. All data and information requested on the board's application forms must be furnished accurately and completely.
2. When space provided on forms is inadequate, use supplementary sheets of a good grade of white paper, eight and one-half by eleven inches [215.90 by 279.40 millimeters].
3. All applications made to this board must be subscribed and sworn to on the forms used by the applicant before a notary public or other persons qualified to administer oaths.
4. In order to allow sufficient time for processing and for securing examinations, all applications for examinations must be filed with this board prior to January first for the spring examinations and July first for the fall examinations.
5. Withholding information or providing statements that are untrue or misrepresent the facts may be cause for denial of an application.
6. It is the responsibility of the applicant to supply correct addresses of all references and to be sure that the completed references forms are supplied as requested.
7. In relating experience, the applicant must account for all employment or work experience for the period of time that has elapsed since the beginning of the employment record. If not employed, or employed in other kinds of work, this should be indicated in the experience record.
8. Applications for registration properly executed and issued with verification by the national council of examiners for engineers and surveyors (NCEES) may be accepted in lieu of the same information that is required on the form prescribed by this board.
9. Provide the name and address of the corporate officers and directors or the business partners.
10. To list the names and addresses of all employees who are duly registered to practice professional engineering or professional land surveying in North Dakota.
11. Provide the name and address of the registered agent for those business entities required to have a registered agent.
12. Submitted application records become the property of the board.

*28-02.1-01-03. Applications from nonresidents. Repealed effective April 1, 1999.*

#### **28-02.1-01-04. Applications from applicants with degrees from foreign schools.**

1. All foreign language documentation submitted with the completed application must be accompanied with translations certified to be accurate by a competent authority.
2. All applicants shall furnish evidence of experience that can be verified.
3. All applicants seeking registration must be prepared to write examinations that are administered in the English language.

#### **28-02.1-01-05. Disposition of applications.**

Applications may be approved; deferred for further information, more experience, acceptable references, or other reasons as determined by the board; or may be denied.

1. Approved applications. When an application is approved by the board showing that the applicant has met all the requirements for registration or certification required by the statutes of this state, the applicant must be granted registration or certification with notification by the executive director of the board.
2. Deferred applications. Applications deferred for any reason require proper remedy as requested before further consideration by the board.
3. Denied applications. Applications may be denied when in the board's judgment:
  - a. Reinstatement is requested after revocation and there is insufficient rehabilitation;
  - b. An application has been denied for cause in other jurisdictions; or
  - c. The applicant has failed to establish the applicant is of good character and reputation.

#### **28-02.1-01-06. Reconsideration of applications.**

Reconsideration may be requested of an application that has been denied or deferred when the request is based on additional information. Request must be made within one year after the decision of the board to deny or defer the original application.

*28-02.1-01-07. Retention of records of applications. Repealed effective October 1, 2010.*

## PROCESSING APPLICATIONS

### **28-02.1-02-01. Processing of applications.**

1. All information received from references named by the applicant must be received at the board office. No member of the board or relative of the applicant may be named as a reference.
2. An applicant for registration as a professional engineer or professional land surveyor may not be admitted to the examination until the applicant's application has been received, processed, and approved by the board.
3. An applicant may not confer with any member of the board regarding an applicant's case while it is pending before the board. Any applicant may appear before the board at a scheduled meeting.
4. Applicants for registration as a professional engineer or professional land surveyor whose applications have been approved, but who fail to appear for examination four consecutive times, must be deemed to have withdrawn their applications. Further consideration must be based on reapplication.

## TYPES OF REGISTRATION

### **28-02.1-03-01. Types of registration.**

Engineers and land surveyors may become registered professional practitioners by examination, endorsement, or by temporary permit.

1. Registration by examination. Registration by examination is generally a two-step process for those applicants who have met the general qualification requirements; who have met certain education requirements or who have the experience deemed to be satisfactory and acceptable to the board, or both; and who have successfully passed the examinations prescribed by the board.
  - a. The board accepts the written examination prepared by the national council of examiners for engineers and surveyors as its standard of examinations and qualifications.
  - b. The board may require one or more questions in examinations measuring familiarity with the code of ethics. Similarly, in furtherance of the board's



determination of rehabilitation, an examination on the code of ethics may be required.

2. Registration by endorsement. Registration by endorsement is for engineers or land surveyors who hold a current registration in another jurisdiction who substantially meet, in the opinion of the board, the requirements and qualifications required by North Dakota statutes governing registration. Registration as a professional land surveyor also requires successful completion of an orientation examination pertaining to state laws and procedures.

3. Temporary permit - Temporary registration for practicing engineering. A temporary permit must be reviewed and approved by the board and is not a means of expedited registration. Educational and experience requirements must comply with North Dakota law. A one-time temporary permit may be issued on the basis of one project and may not exceed one year. The applicant must be legally qualified to practice and hold current registration in the state or country of residence. A temporary permit must be approved prior to practicing or 1 offering to practice engineering. Temporary permits for professional land surveyors are not authorized by North Dakota law.

## **GENERAL REQUIREMENTS**

### **28-02.1-04-01. General requirements.**

All applicants must:

1. Complete the applications on forms approved by the board.
2. Complete the application under oath. An affidavit is required.
3. Furnish references as required but may not include board members or relatives of the applicant as references.

### **28-02.1-04-02. Experience.**

The following describes what the board considers acceptable experience. The applicant must provide proof that the experience meets these requirements.

1. The experience gained through military service must be substantially equivalent in character to civilian experience in similar fields or disciplines. Generally, military

experience is not favored by the board unless the applicant served in a military engineering or surveying related component of the armed services.

2. Experience must be of a grade and character that indicates to the board that the applicant is competent to practice and preferably be gained under the supervision of a registered professional engineer or professional land surveyor.

3. Experience must be substantially related to engineering or land surveying. Dual registration must fulfill experience requirements for each application without duplicate credits for time of gaining experience.

4. The board requires progressive experience in applying the principles and methods of engineering analysis and design for an applicant in fulfilling experience requirements if the applicant is seeking professional engineering registration.

5. The board requires progressive experience on surveying projects to indicate that it is of increasing quality and requiring greater responsibility. A substantial portion of the experience must be spent in charge of work related to property conveyance or boundary line determination, or both. The experience must demonstrate adequate experience in the technical field aspects of the profession.

6. An engineering or land surveying applicant may be granted one year's experience for each postgraduate degree in the field of practice following a baccalaureate degree in the field of practice, not to exceed two years.

## **QUALIFICATIONS AND REQUIREMENTS FOR ENGINEERS**

### **28-02.1-05-01. Qualifications and requirements - Engineer intern.**

Engineer intern applicants must satisfy the requirements located in North Dakota Century Code section 43-19.1-15.

### **28-02.1-05-02. Qualifications and requirements - Professional engineer by examination.**

A person applying for registration as a professional engineer by examination must have an engineer intern certificate, and appropriate experience as required by North Dakota Century Code section 43-19.1-14. The experience must be subsequent to graduation and prior to writing the principles and practice of engineering examination.

## **QUALIFICATIONS AND REQUIREMENTS FOR PROFESSIONAL LAND SURVEYORS**

### **28-02.1-06-01. Qualifications and requirements - Land surveyor intern.**

Land surveyor intern applicants must satisfy the requirements located in North Dakota Century Code section 43-19.1-16.1.

### **28-02.1-06-02. Qualifications and requirements - Professional land surveyor by examination.**

A person applying for registration as a professional land surveyor by examination must have a land surveyor intern certificate and the appropriate experience as required by North Dakota Century Code section 43-19.1-16. The experience must be prior to writing the principles and practice of surveying examination. Upon successful completion of the principles and practice of surveying examination, professional land surveyor applicants must pass an examination pertaining to land procedures and practices in North Dakota.

## **CERTIFICATES OF COMMERCIAL PRACTICE**

*28-02.1-07-01. Applications. Repealed effective October 1, 2010.*

### **28-02.1-07-02. Issuance of certificate of commercial practice.**

Certificates of commercial practice are not transferable and require the organization to:

1. Advise the board within thirty days of any change of officers, directors, partners, business addresses, registered agents, or of any disciplinary actions that impair the registration and right to practice of any employee or officer of record.
2. Renew and update annually the names and addresses of the registered agent, officers, directors, or partners, and employees licensed to practice engineering or land surveying in North Dakota.
3. Keep and maintain its annual filing requirements with the secretary of state's office current and provide a copy to the board office.
4. A certificate of commercial practice is subject to the same disciplinary actions by the board as any individual registrant.

## CERTIFICATES AND SEALS

### **28-02.1-08-01. Certificates.**

1. Certificates of registration and certificates of commercial practice issued by the board should be displayed by the registrant in a prominent place in the registrant's office or principal place of business.
2. In case a certificate is lost or destroyed, a duplicate certificate will be issued upon request. The charge for a duplicate certificate shall be determined by the board.

### **28-02.1-08-02. Seals.**

1. The board has adopted standard seals or stamps similar to those illustrated in this section for use by registered professional engineers and professional land surveyors as prescribed by law. The seal authorized by the state board of registration for professional engineers and land surveyors for registrants is of the crimp type or rubber stamp, or electronic. Seals prepared after July 1, 2005, shall be of a design so the seal consists of two concentric circles with the diameter of the outer circle being one and three-fourth inches [44.45 millimeters] and the diameter of the inner circle being one and one-fourth inches [31.75 millimeters]. The upper portion between the two circles shall bear whichever of the following phrases is applicable to the registrant: "Registered Professional Engineer", "Registered Professional Land Surveyor", or "Registered Professional Engineer & Land Surveyor". Professional land surveyors who purchased a seal with the phrase "Registered Land Surveyor" prior to January 1, 2011, are not required to purchase a new seal. At the bottom of the annular space between the two circles shall appear the inscription "North Dakota"; the inner circle shall contain the name of the registrant, registration number, and the word "Date". The registration number assigned should be centered in the inner area of the seal in the space occupied by the word "NUMBER" and the size of the numbers should not be larger than the word "NAME". The words and parentheses "(NUMBER)" and "(NAME)" should not appear on the seal.
2. Seals may be of rubber stamp, metal impression type, computer-generated, or electronically generated. Electronic seals may not be used in any document unless the document contains a signature that meets the requirements of a digital signature.
3. A registrant shall also apply the registrant's signature across the face of the seals for a nondigital signature. A digital signature is not required to be across the face of the

seal. A rubber stamp or facsimile signature is not allowed. The signature and seal must also be dated. No further certification need accompany the seal and signature.

4. The term "signature", as used herein, shall mean a handwritten identification containing the name of the person who applied it; or for electronic or digital documents shall mean a digital signature that shall include an electronic authentication process in a secure mode that is attached to or logically associated with the electronic document to which it is applied. The digital signature must be unique to, and under the sole control of, the person using it; it must also be capable of verification and be linked to a document in such manner that the digital signature is invalidated if any data on the document is altered.



### **28-02.1-08-03. Use of seals.**

1. The original copies of all drawings, plan sheets, specifications, studies, reports, plats, maps, and other engineering and surveying work product other than earthwork cross sections must receive a seal and signature.

a. Studies, reports, and project specifications need the seal and signature only on a single introductory sheet.

b. Every sheet or drawing in an original set of engineering plans must receive a seal and signature.

2. Registrants may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering and land surveying documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers or land surveyors who prepared the segment.
3. Registrants shall not affix their signatures or seals to any engineering or land surveying plan or document dealing with subject matter for which the registrant lacks competence by virtue of education or experience, nor to any such plan or document not prepared under the registrant's direct supervisory control.
4. A registrant shall not contract with a non-licensed individual to provide these professional services.
5. A registrant may affix the seal and signature to drawings and documents depicting the work of two or more professionals, either from the same or different disciplines, provided it is designated by a note under the seal the specific subject matter for which each is responsible.
6. Any changes made to the final plans, specifications, drawings, reports, or other documents after final revision and sealing by the registrant are prohibited by any person other than the registrant, or another registered individual who assumes responsible charge for the directly related documents, except as provided herein. A duly registered individual making changes to final sealed documents must assume responsible charge and reseal the directly related final documents unless the changes are construction phase revisions, including record drawings, which do not affect the functional design, and such revisions adequately reflect that changes have been made and the original plans are available for review.
7. Mere review of work prepared by another person, even if that person is the registrant's employee, does not constitute responsible charge.
8. A registrant may not affix the registrant's seal or signature to documents having titles or identities excluding the registrant's name unless:
  - a. Such documents were developed by the registrant or under the registrant's responsible charge and the registrant has exercised full authority to determine their development.
  - b. A registrant who is required to use the standard drawings of a sponsoring agency need not affix the registrant's seal and signature to said standard drawings.

c. The registrant is providing the registrant's opinion as to the compliance of the document with specific identified rules or statutes and it is clearly identified that the registrant only reviewed the document and had no technical control over the contents of the document.

9. Electronic reproductions of drawings, plan sheets, specifications, studies, reports, plats, maps, and other engineering and surveying work product that are distributed to reviewing agencies, owners, clients, contractors, suppliers, and others must either contain the electronic seal and digital signature as required by this chapter, or have a digital signed and electronic sealed statement from the registrant transmitting the same which shall read: "This document(s) was originally issued and sealed by (name), Registration Number (number) on (date)". The statement shall also include the statement that "The original documents are stored at (location)", or "The original documents have been destroyed and are no longer available", whichever is applicable. Sets of plans or drawings must have this statement attached to every sheet of the set. For specifications, reports, and studies, only the cover or introductory sheet need include this statement.

10. Paper or hard copy reproductions of drawings, plan sheets, specifications, studies, reports, plats, maps, and other engineering and surveying work product that are distributed to reviewing agencies, owners, clients, contractors, suppliers, and others shall contain a reproduction of the seal and signature. A new seal and original signature will not be required with such paper distribution.

11. Working drawings and unfinished documents must comply with North Dakota Century Code section 43-19.1-21.

## **EXPIRATIONS - RENEWALS - REINSTATEMENTS**

### **28-02.1-09-01. Expirations of certificates of registration.**

The certificate of registration issued to land surveyor interns or engineer interns has no expiration.

### **28-02.1-09-02. Renewals.**

Individual registrations and certificates of commercial practice may be renewed as follows:

1. Every other year, beginning with 1999, the board shall mail renewal notices prior to December first to the last address of record for each registration and certificate holder. The renewal notice shall contain the amount of the renewal fee and the pending expiration date.
2. Every year, or every other year for biennial renewals, the board shall mail certificate of commercial practice renewal notices prior to December first to the last address of record for the organization. The renewal notice shall contain the amount of the renewal fee and the pending expiration date.
3. A late fee as determined by the board shall be imposed on renewals postmarked after December thirty-first.

### **28-02.1-09-03. Reinstatements.**

1. An individual registration that has lapsed for more than one year, but less than five years, may become reinstated by paying the renewal fee for the current registration period plus two years' back renewal fee provided the lapsed registrant meets all other requirements. A holder of a certificate of commercial practice who has allowed the certificate to lapse for more than one year, but less than five years, may become reinstated by paying the current year renewal fee plus one year back renewal fee.
2. Registrations and certificates that have lapsed five years or more require reapplication updating all the required information of the applicant as if an original application. The board may require reexamination of registrants for all or a portion of the examination qualification requirements.
3. A retired registrant, upon written request to the board and payment of the current renewal fee, may resume active engineering or land surveying practice provided the retired registrant meets all other requirements. All rights and responsibilities of a valid or active registration will be in effect, including compliance with continuing professional competency requirements.
4. A registrant whose license has been lapsed or retired for one year or more and who meets all other requirements is required to file an interim continuing professional competency report within one year of the date of reinstatement verifying that a minimum of fifteen professional development hours have been accomplished.
5. A registrant whose license has been lapsed or retired for less than one year and who meets all other requirements must show compliance within the previous two years with the continuing professional competency requirements set forth in article 28-04.



## EXAMINATIONS AND FEES

### 28-02.1-10-01. Examinations.

1. The engineering and land surveying examinations are held when offered by the national council of examiners for engineering and surveying.
2. An examination for registration as a professional land surveyor pertaining to land surveying laws, procedures, and practices in North Dakota shall require a passing score determined by the board.
3. An applicant failing to pass a professional examination may take the next scheduled examination after six months by payment of the examination fee.
4. The board may require one or more questions in examinations measuring familiarity with the code of ethics. Similarly, in furtherance of the board's determination of rehabilitation of a registrant whose registration has been subject to disciplinary action, an examination on the code of ethics may be required.

### 28-02.1-10-02. Fees.

The following fees will be charged for an initial two-year period:

#### Registration Fees

Professional engineer	\$150.00
Professional land surveyor	\$150.00
Certificate of commercial practice	\$100.00
Temporary permit	\$200.00

Examination fee (in addition to the registration and renewal fees) at board cost, including scoring and proctoring and ten dollars for postage and handling.

Cost of administration of continuing education or professional competency programs may be assessed and billed annually to the registrant. Billings will be separately identified apart from the renewal fees.

#### Renewal Fees

The following biennial renewal fees may not exceed the following:

	If Renewal Received	If Renewal Received
	Prior to December 31	After
	December 31	
Professional engineer	\$150.00	
\$200.00 Professional land surveyor		\$150.00
\$200.00 Professional engineer and land surveyor		\$280.00
\$400.00 Retiree	\$20.00	
\$20.00		

The following annual renewal fees will be charged:

Certificate of commercial practice	\$100.00
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## **EMERGENCY AND REMOTE PRACTICE BY FOREIGN PRACTITIONERS**

### **28-02.1-11-01. Definitions.**

These definitions shall apply to this chapter only:

1. "Board" means the state board of registration for professional engineers and land surveyors provided for by North Dakota Century Code chapter 43-19.1.
2. "Foreign practitioner" means an individual who currently holds and maintains a license in good standing to engage in engineering or land surveying in a state or jurisdiction other than North Dakota and who is not the subject of a pending disciplinary action in any state or jurisdiction.
3. "Good standing" means a foreign practitioner holds a current license to practice engineering or land surveying that is not issued on a temporary or restricted basis and is not encumbered or on probation and is not suspended or revoked.
4. "License" means a license, certificate, permit, or similar authorization to practice engineering or land surveying that is issued by a government agency in another state or jurisdiction that imposes requirements for obtaining and maintaining a license, which are at least as stringent as the requirements imposed in North Dakota to obtain and maintain a license to practice engineering or land surveying.

**28-02.1-11-02. Indirect practice without a license.**

A foreign practitioner shall not provide services in this state without obtaining a license from the board unless such services are provided pursuant to subsection 1 of North Dakota Century Code section 43-51-03, North Dakota Century Code section 43-51-04, or the successor statutes thereto, or any other statutes or an administrative rule adopted by the board.

**28-02.1-11-03. Emergency practice without a license.**

A foreign practitioner offering land surveying services under North Dakota Century Code section 43-51-04 shall be limited to services comprising the determination of incidental topography within the meaning of subsection 4 of North Dakota Century Code section 43-19.1-02.

**28-02.1-11-04. Direct practice without a license.**

Notwithstanding the provisions of North Dakota Century Code section 43-51-05 no foreign practitioner may provide services in this state without obtaining a license from the board unless allowed to do so by some other statute or an administrative rule adopted by the board.

**RETIRED STATUS****28-02.1-12-01. Eligibility for retired status.**

Any individual who has been issued a certificate of registration, as a professional engineer or professional land surveyor, having discontinued active practice as an engineer or land surveyor, or both, may be eligible to apply for a retired status of registration. For the purpose of this provision, "active practice" is defined as exercising direct supervision and control over the development and production of an engineering or land surveying document or any related activities pertaining to the offer of or the providing of professional engineering or land surveying services.

**28-02.1-12-02. Affidavit.**

Those persons wishing to obtain the status of a retired registration shall complete an affidavit on a form as provided by the board. Affidavits shall be sent to the board office. Upon receipt of said affidavit and, if deemed eligible by the board, the retired status would become effective on the date of approval by the board. It shall not be necessary

that an expired certificate of registration be renewed to be eligible for this status. The board will not provide refund of renewal fees if the application for retired status is made and granted before the date of expiration of the certificate of registration.

### **28-02.1-12-03. Continuing professional competency exemption.**

Retired registrants are exempt from continuing professional competency requirements.

### **28-02.1-12-04. Privileges.**

A retired registrant is permitted to:

1. Retain the board-issued wall certificate of registration;
2. Use the title professional engineer or registered land surveyor, or professional land surveyor provided that it is supplemented by the term "retired", or the abbreviation "ret";
3. Work as an engineer or land surveyor in a volunteer capacity, provided that the retired registrant does not create an engineering or land surveying document, and does not use the individual's seal, except as provided for in subsection 4;
4. Provide experience verifications and references for persons seeking registration. When completing reference or experience verification forms and if using the person's professional seal, the retired registrant shall place the word "retired" in the space designated for the date of expiration;
5. Serve in an instructional capacity on engineering and land surveying topics;
6. Provide services as a technical expert before a court, or in preparation for pending litigation, on matters directly related to engineering or land surveying work performed by the registrant before the person was granted a retired registration; and
7. Serve in a function that supports the principles of registration and promotes the professions of engineering and land surveying, such as members of commissions, boards, or committees.

### **28-02.1-12-05. Restrictions.**

A retired registrant is not permitted to:

1. Perform any engineering or land surveying activity unless said activity is under the direct supervision of a North Dakota registered professional engineer or professional land surveyor who has a valid or active registration in the records of the board;
2. Act as the designated engineer or the engineer in responsible charge for a North Dakota engineering organization or act as the designated land surveyor or land surveyor in responsible charge for a North Dakota land surveying organization; or
3. Apply the person's professional engineer's or professional land surveyor's seal to any plan, specification, plat, or report, except as provided for in subsection 4 of section 28-02.1-12-04.

### **28-02.1-12-06. Ineligibility for retired status.**

Under no circumstances shall a registrant be eligible for a retired registration if the person's certificate of registration has been revoked, surrendered, or in any way permanently terminated by the board. Registrants who are suspended from practice or who are subject to terms of a board order, or both, at the time they request retirement status shall not be eligible for a retired registration until such time that the board has removed the restricting conditions.

### **28-02.1-12-07. Penalties for noncompliance.**

Any violations of this chapter shall be considered misconduct or malpractice, or both. Such violations are subject to disciplinary action.

## **DOCUMENTS USED TO CONVEY REAL PROPERTY OR ANY INTEREST THEREIN**

### **28-02.1-13-01. Survey requirements for preparation of legal descriptions and conveyance of property.**

Any registrant preparing a description, including without limitation a legal, property, or boundary description for, or assisting in the filing of, a document that will, or may, be used to convey real property or any interest therein, other than easements, including without limitation an auditor's plat, outlet, deed, or conveyance of rights of way, must conduct a survey of the property being conveyed and comply with all the requirements

related thereto contained in North Dakota Century Code sections 40-50.1-01 and 40-50.1-02.

Descriptions used in conveyances of rights of way in which possession of title is obtained may be prepared without the setting of all exterior monuments if all four of the following requirements are met:

1. The rights of way are retraceable by using established monuments;
2. Exterior monuments are set wherever there is a change of width to the rights of way;
3. Exterior monuments are set wherever there is a change in direction of the rights of way other than changes of direction at section corners; and
4. Monuments are set at intersections of rights of way with section lines or section line rights of way. Descriptions used in the conveyance of easements having a term of five years or more must be retraceable in each section of land over which they cross by using established subdivision or public land survey system monuments existing or placed at the time of the easement conveyance.

## RULES OF PROFESSIONAL CONDUCT

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### CODE OF ETHICS

#### **28-03.1-01-01. General statement.**

In order to establish and maintain a high standard of integrity, skills, and practice in the profession of engineering and land surveying, the code of ethics contained in this chapter is binding upon every person holding a certificate of registration as a professional engineer or professional land surveyor, and upon all agents, employees, officers, or partners.

This chapter is specifically designed to further safeguard the life, health, property, and public welfare of the citizens of North Dakota, and must be construed to be a reasonable exercise of the police power vested in the board of registration for professional engineers and land surveyors by virtue of North Dakota Century Code chapter 43-19.1, and as such the board can establish conduct, policy, and practices to be adopted.

These rules are to be read and interpreted without regard to race, creed, or sex.

The engineer or land surveyor who holds a certificate of registration from the board is charged with having knowledge of the existence of this chapter for professional conduct as an engineer or land surveyor, and also must be deemed to be familiar with the provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering and land surveying is a privilege as opposed to a right, and the engineer or land surveyor must be forthright and candid in statements or written responses to the board or its representatives on matters pertaining to professional conduct.

### **28-03.1-01-02. Action by another jurisdiction.**

A registrant who acts, either as an individual or through a business entity, may be deemed by the board to be guilty of misconduct in professional practice for an action that in this state would constitute a violation of North Dakota Century Code chapter 43-19.1, or of this title, and:

1. The registrant has received a reprimand or civil penalty as a result of a disciplinary action in another jurisdiction.
2. The registrant's license has been suspended, revoked, denied, or voluntarily surrendered as a result of disciplinary action in another jurisdiction.
3. The registrant is convicted in a court of competent jurisdiction of a felony without restoration of civil rights.

### **28-03.1-01-03. Standards of integrity.**

Registrants shall be guided in all their professional relations by the highest standards of integrity. The registrant will act in professional matters as a faithful agent or trustee for each client or employer.

1. Registrants shall admit and accept their own errors when proven wrong and refrain from distorting or altering the facts in an attempt to justify their decisions.
2. Registrants shall advise their clients or employers when they believe a project will not be successful.
3. Registrants shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering or land surveying employment, registrants shall notify their employer.

4. Registrants shall not employ or attempt to employ an individual by false or misleading pretenses.
5. Registrants shall not engage in any act tending to promote their own interests to the detriment of the profession.
6. Registrants shall be truthful in professional reports, statements, or testimony. Registrants shall include all relevant and pertinent information in such reports, statements, or testimony.
7. Registrants shall not willfully engage in any conduct or practice that intentionally deceives the public.
8. Registrants shall not use statements containing a material misrepresentation of fact or omitting a material fact necessary to keep statements from being misleading or statements intended or likely to create an unjustified expectation.

#### **28-03.1-01-04. Protection of public.**

Registrants shall be cognizant that their first and foremost responsibility is to the public welfare in the performance of services to clients and employers. The registrant:

1. Will regard one's duty to the public welfare as paramount.
2. Will not complete, sign, or seal plans or specifications that are not of a design safe to the public health and welfare and in conformity with accepted standards. In the course of work on a project, if a registrant becomes aware of an action taken by the client or employer against the registrant's advice that violates applicable state or municipal laws and regulations and which, in the registrant's judgment, will adversely affect the public life, health, or safety, the registrant shall take the following actions:
  - a. Advise the client or employer in writing of the registrant's refusal to consent to the decision and give reasons for that refusal; and
  - b. If the registrant's advice is ignored despite the objection, the registrant shall provide a copy of the registrant's objection and reasoning to the public official charged with the enforcement of the applicable state or municipal laws and regulations.



**28-03.1-01-05. Advertising.**

Registrants shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the advertisement shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent and purpose of enhancing their qualifications and their work.

*28-03.1-01-06. Aid public understanding. Repealed effective October 1, 2010.*

**28-03.1-01-07. Issuance of public statements related to engineering or surveying.**

Registrants shall express a professional opinion publicly only when it is founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter.

1. Registrants shall not willfully engage in any conduct or practice that deceives the public.
2. Registrants shall not use statements containing a material misrepresentation of fact or omitting a material fact.
3. Registrants shall express an opinion only when it is founded upon accurate information.
4. The registrant shall be completely objective and truthful in all professional reports, statements, or testimony. Registrants shall include all relevant and pertinent information in such reports, statements, or testimony.
5. The registrant, when serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the testimony.
6. The registrant will issue no statements, criticisms, or arguments on professional matters connected with public policy that are inspired or paid for by an interested party or parties, unless such statement is prefaced with a comment explicitly identifying the registrant, by disclosing the identity of the party or parties on whose behalf the statement is being made, and by revealing the existence of any pecuniary interest the registrant may have in the instant matter.

**28-03.1-01-08. Qualification for work projects.**

The registrant will undertake assignments for which the registrant will be responsible only when qualified by education or experience. The registrant will engage, or advise engaging, experts and specialists whenever the client's or employer's interests are best served by such service.

1. The registrant may accept an assignment requiring education, training, or experience outside of the registrant's own field of competence, but only to the extent that such services are restricted to those phases of the project in which the registrant is qualified. All other phases of such project shall be performed by qualified associates, consultants, or employees.
2. The registrant shall not affix the registrant's signature or seal, or both, to any plan or document dealing with subject matter in which the registrant lacks competence acquired through education or experience, nor to any plan or document not prepared by the registrant or under the registrant's responsibility. In the event a question as to the competence of a registrant to perform a professional assignment in a specific technical field arises and cannot be otherwise resolved to the satisfaction of the board, the board, upon request of the registrant or by its own volition, may require the registrant to submit to whatever examination it deems appropriate.
3. In providing services, the registrant shall take into account all applicable federal, state, and local laws and regulations. The registrant shall not knowingly provide services resulting in violation of such laws and regulations.

**28-03.1-01-09. Disclosure of confidential information.**

Registrants shall not disclose confidential information concerning the business affairs or technical processes of any present or former client or employer without the client's or employer's consent.

1. Registrants in the employ of others, without the consent of all interested parties, shall not enter promotional efforts or negotiations for work or make arrangements for other employment as a principal or to practice in connection with a specific project for which the registrant has gained particular and specialized knowledge.
2. Without the consent of all interested parties, registrants shall not participate in or represent an adversary interest in connection with a specific project or proceeding in which the registrant has gained particular specialized knowledge on behalf of a former client or employer.

**28-03.1-01-10. Disclosure of conflict of interest.**

Registrants shall make full prior disclosures to their employers or clients of all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.

1. If the employer or client objects to such an association or financial interest, the registrant shall either terminate the association or interest or offer to give up the employment.
2. Registrants serving as members, advisors, or employees of a governmental body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by said concern to the governmental body that they serve.
3. Registrants shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member.
4. A registrant shall not accept employment when duty to the client or the public would conflict with the personal interest of the registrant or the interest of another client and would influence the registrant's judgment or the quality of the registrant's services.

**28-03.1-01-11. Compensation from other parties.**

The registrant will not accept compensation, financial or otherwise, from more than one interested party for the same service. The registrant:

1. Will not accept financial or other considerations, including free engineering designs or land surveying plans, from material or equipment suppliers for specifying their product.
2. Will not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with the registrant's clients or employer in connection with work for which the engineer or land surveyor is responsible.
3. Shall not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment, or other favors, directly or indirectly, from contractors, their agents, or other third parties dealing with a client or employer in connection with work for which the registrant is responsible, which can be determined to be an effort to improperly influence the registrant's professional judgment. Minor expenditures such as advertising trinkets, novelties, and meals are excluded. Neither shall a registrant make any such improper offer.

**28-03.1-01-12. Solicitation of work.**

A registrant 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.

1. A registrant shall not falsify or misrepresent the extent of the registrant's education, training, experience, or qualifications to any person or to the public or misrepresent the extent of the registrant's responsibility in connection with any prior employment or projects.
2. A registrant shall not transmit, distribute, or publish or allow to be transmitted, distributed, or published, any false or misleading information regarding the registrant's own qualifications, training, or experience or that of the registrant's employer, employees, associates, or joint venturers.
3. Registrants shall not offer, give, solicit, or receive, either directly or indirectly, any political contribution in an amount intended to influence the award of a contract by public authority, or which may be reasonably construed by the public of having the effect or intent to influence the award of a contract.
4. Registrants shall not pay a commission, percentage, or brokerage fee in order to secure work except to a bona fide employee.
5. A registrant 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 registrant is not prohibited from paying a commission to an employment agency for securing a position.
6. A registrant shall not knowingly seek or accept employment for professional services for an assignment for which another registrant is employed or contracted to perform. This prohibition shall not preclude a registrant from responding to a client-initiated or owner-initiated solicitation.

**28-03.1-01-13. Reporting of unethical or illegal practice.**

A registrant who has knowledge or reasonable grounds for believing that another registrant has violated any statute or rule regulating the practice of the profession shall have the duty of presenting such information to the board.

1. A registrant possessing knowledge of a violation shall report such knowledge to the board in writing and shall cooperate with the board in furnishing such further information or assistance as it may require.
2. A registrant, when questioned concerning any alleged violation on the part of another person by any member or authorized representative of the board commissioned or delegated to conduct an official inquiry, shall neither fail nor refuse to divulge such information as the registrant may have relative thereto.
3. Registrants must notify the board within thirty days if another state has disciplined them with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a license, or if they have voluntarily surrendered their license as part of a settlement proceeding.
4. If a registrant, during the course of the registrant's work, discovers a material discrepancy, error, or omission in the work of another registrant, which may impact the life, health, property, and welfare of the public, the discoverer shall make a reasonable effort to inform, in writing, the registrant whose work is believed to contain the discrepancy, error, or omission. Such communication shall reference specific codes, standards, or physical laws that are believed to be violated and identification of documents that are believed to contain the discrepancies. The registrant whose work is believed to contain the discrepancy shall respond in writing within thirty calendar days to any question about the work raised by another registrant. Failure to respond on the part of the registrant whose work is believed to contain the discrepancy shall be considered a violation of these rules. The discoverer shall notify the board in the event a response satisfactory to the discoverer is not obtained within thirty days.

### **28-03.1-01-14. Professional relationships.**

The registrant shall not knowingly associate professionally with or allow the use of one's name with persons not legally qualified to render the professional services for which the association is intended.

1. Registrants in private practice shall not review the work of another registrant for the same client, except with the knowledge of such registrant, or unless the connection of such registrant with the work has been terminated. This prohibition shall not preclude a registrant from responding to a client-initiated or owner-initiated solicitation for a second opinion.

2. Registrants in governmental, industrial, or educational employment may review and evaluate the work of other registrants when so required by their employment duties.
3. Registrants in sales or industrial employment may make engineering comparisons of represented products with products of other suppliers.
4. Registrants shall not use association with a nonregistrant, a corporation, or partnership, as a cloak for unethical acts.
5. The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade:
  - a. Federal, state, and local laws and regulations, including building permit requirements; or
  - b. Registration requirements.
6. The registrant may not take over, review, revise, or sign or seal drawings or revisions thereof when such plans are begun by persons not properly registered and qualified or do any other act to enable either such persons or the project owners, directly or indirectly, to evade the registration requirements.

### **28-03.1-01-15. Proprietary interests of others.**

1. Whenever possible, the registrant will name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
2. When a registrant uses designs supplied by a client, the designs remain the property of the client and should not be duplicated by the registrant for others without express permission.
3. Before undertaking work for others in which the registrant may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, the registrant should enter into an agreement regarding the ownership of the improvements, plans, designs, inventions, or other records.
4. Designs, data, records, and notes made by a registrant and referring exclusively to the employer's work are the employer's property.

*28-03.1-01-16. Professional enhancement. Repealed effective October 1, 2010.*

### **28-03.1-01-17. Professional conduct.**

1. Registrants shall indicate any reservation on a reference for an applicant if they have reason to believe the applicant is unqualified by education, training, or experience to become licensed. The registrant's opinion shall be based on the qualifications a reasonable and prudent professional would require an applicant to possess.
2. A registrant shall not submit a materially false statement or fail to disclose a material fact requested in connection with the application for certification or licensure in this state or any other state.
3. Registrants shall comply with the licensure laws and rules governing their professional practice in any United States jurisdiction.
4. A registrant shall not further the application for certification or licensure of another person known by the registrant to be unqualified in respect to character, education, or other relevant factor.

### **28-03.1-01-18. Public understanding and professional enhancement.**

Sections 28-03.1-01-01 through 28-03.1-01-17 of this code of ethics are requirements of professional conduct and noncompliance with any of those sections is subject to disciplinary action. To enhance the professions of engineering and land surveying, the board also encourages, but does not require, a registrant to:

1. Seek opportunities to be of constructive service in civic affairs and work for the advancement of the safety, health, and well-being of the registrant's community.
2. Cooperate in extending the effectiveness of the profession by interchanging information and experience with other engineers or land surveyors and students.
3. Extend public knowledge and appreciation of engineering or land surveying and its achievements and to protect the profession from misrepresentation and misunderstanding.
4. Maintain interest in the public welfare and be ready to apply the registrant's special knowledge, skill, and training for the use and benefit of the public.
5. Seek opportunities to provide career guidance for youths.

6. Provide opportunity for the professional development and advancement of engineers or land surveyors under the registrant's supervision by:

- a. Encouraging efforts to improve the registrant's education.
- b. Encouraging attendance and presentation of papers at professional and technical society meetings.
- c. Promoting professional registration at the earliest possible date.

## CONTINUING PROFESSIONAL COMPETENCY

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### CONTINUING EDUCATION

#### **28-04-01-01. Purpose.**

The purpose of mandatory continuing education is to reinforce the need for lifelong learning in order to stay current with ever-changing technology, equipment, procedures, processes, tools, and established standards. Qualifying activities must have a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the registrant's field of practice. Registrants are encouraged to select meaningful activities that will be of benefit in the pursuit of their chosen fields.

#### **28-04-01-02. Definitions.**

The terms used throughout this chapter have the same meaning as in North Dakota Century Code chapter 43-19.1 and North Dakota Administrative Code section 28-01-02.1-07. Additional terms are:

1. "Active participation" means making a regular, substantial contribution to an organization. Membership by itself does not constitute active participation.
2. "Contact hour" is a minimum of fifty minutes of actual instruction not to include any breaks.
3. "Continuing education units" is equivalent to ten contact hours of instruction, i.e., ten professional development hours. Continuing education units are nationally recognized and are a uniform unit of measure for continuing education and training.



4. "International association for continuing education and training programs" means those continuing education and training courses<sup>1</sup> offered by various organizations that meet the minimum requirements for a qualifying continuing education and training course as established by the international association for continuing education and training.

5. "Professional development hour" is defined as one contact hour of instruction or presentation. It is the common denominator for the other units of credit. Round off professional development hours to the nearest one-half hour. No activity under one-half hour will be accepted for credit.

### **28-04-01-03. General requirements.**

All individual registrants must acquire thirty professional development hours every two years before renewing their license.

1. At least twenty professional development hours must be in technical subjects that directly safeguard the public's health, safety, and welfare, including technical professional management subjects such as total quality process or technical engineering or land surveying software training.

2. A maximum of ten professional development hours may be in nontechnical professional management subjects such as ethics-oriented or administration-oriented computer classes.

3. All registrants will be required to submit a list of continuing professional development activities that they participated in and sign a statement that they have met this requirement as part of the renewal process.

4. Registrants holding both professional engineering and surveying registrations must earn a minimum of one-third, or ten professional development hours in each profession with a total of thirty professional development hours every two years. A dual registrant is not required to obtain more than thirty professional development hours per biennial renewal period because of dual registrations.

5. A maximum of fifteen qualifying professional development hours may be forwarded to the subsequent biennial renewal period.

6. Comity for continuing professional development is allowed if the registrant is currently licensed in a jurisdiction or state that requires mandatory continuing

professional competency and meets the minimum requirements as established by the North Dakota state board of registration for professional engineers and land surveyors.

7. New registrants shall comply with continuing education requirements as follows: registrants who receive their license prior to the fourth quarter in an odd-numbered year shall report the full biennial requirement of thirty professional development hours at the time of next renewal; and registrants who receive their license prior to the fourth quarter in an even-numbered year shall report one-half of the biennial requirement, i.e., fifteen professional development hours, at the time of next renewal.

#### **28-04-01-04. Recordkeeping.**

Recordkeeping is the responsibility of the registrant. Adequate records must be maintained for a minimum of four years from the date of last biennial renewal for auditing purposes. Records may be maintained by a professional registry, such as the professional development registry for engineers and surveyors. Records that are maintained by such a registry do not necessarily require approval of these courses by this board. Records required include:

1. A log showing the type of activity claimed, sponsoring organization, location, duration, date, instructor's or speaker's name, and professional development hour credits claimed. This permits the proper completion of professional development hour activities at renewal time. Specific information on each activity is required. Simply stating "attending education activities at ABC Company" is not acceptable.
2. Attendance verification records in the form of certificates or other documents supporting evidence of attendance. The registrant must have sufficient verification for all credits claimed.

#### **28-04-01-05. Qualifying activities.**

The board may preapprove courses, providers, or activities. Until the board preapproves such courses or activities, it is the responsibility of the registrant to determine whether the activity qualifies under this board's requirements. The board has final approval of professional development hour credit. Examples of typical qualifying and non-qualifying activities are available by contacting the office of the board or visiting the board's web site. All professional development hour allowances stated in this section are biennial allowances. Qualifying activities include:

1. College unit, semester, or quarter hour credit for college courses. A course must be regularly offered and participants tested with a passing grade required. One semester hour generally consists of fifteen class meetings of fifty to fifty-five minutes duration. It is assumed that twice as much study time is required as class contact time, thus equating to forty-five professional development hours. Similarly, a quarter hour qualifying course meets ten times and thus thirty professional development hours are allowed. Monitoring courses do not require a test, and therefore only the actual class contact hours are allowed. On occasion, educational institutions may offer a one-day seminar and award fractional quarter hour credit such as one-half of a quarter hour. These courses do not qualify on the quarter hour basis since they are not part of the regular curriculum of the educational institution, do not require testing, and have no provision for additional out-of-class requirements. For courses such as this, only actual contact hours will be allowed for professional development hour credit.

2. Interactive activities. Other qualifying courses, seminars, employer-sponsored educational activities, programs, and activities are allowed one professional development hour credit for each contact hour. A correspondence course, videotaped programs, and online courses (self-study) must require the participant to show evidence of achievement with a final graded test.

3. Teaching credit for short courses. Teaching credits for the instructor are twice that of the participants in qualifying courses and seminars. However, repetitive teaching of the same course will not earn additional credit.

4. Published paper, article, or book. A published paper, article, or book must be a serious effort to qualify. For example, a news article in a technical or professional bulletin is not considered a published paper. Although it is recognized that often many more hours are spent in being an author of a publication, ten professional development hours are allowed for publication. Only one publication may be claimed for professional development hours per renewal period. Repetitive publication of the same paper or article will not earn additional credit.

5. Active participation in professional and technical societies. Active participation in professional and technical societies is to encourage registrants to participate fully in appropriate technical and professional societies. Contact with one's peers at such meetings is considered one way to stay abreast of current topics, issues, technical developments, ethical situations, and learning opportunities. Two professional development hours per biennium can be earned for each organization with a maximum of six professional development hours per biennium allowed. All technical and

professional societies are included, but this does not include civic or trade organizations.

6. Patents. Patents are allowed ten professional development hours after a patent is issued and the inventor submits details to the board. The invention must be related to the registrant's profession.

### **28-04-01-06. Audit.**

Audits can be conducted anytime up to three years after the biennial renewal is submitted to ensure compliance with continuing education requirements. If selected for audit, the registrant will be contacted to provide necessary documentation. Each registrant selected for audit must respond with detailed information on the professional development hour activities within thirty days. If the audit conducted indicates a failure to comply with continuing education requirements, the registrant has sixty calendar days after receipt of written notice to further reinforce the claim of professional development hour credits or to acquire sufficient professional development hour credit to meet the requirements. The board may also audit a registrant's professional development hour activities based on complaints or charges against a registrant. Registrants who refuse to comply with continuing professional competency requirements may be subject to disciplinary action as allowed by North Dakota Century Code section 43-19.1-25.

### **28-04-01-07. Exemptions.**

A registrant may be exempt from the continuing education requirements for one of the following reasons:

1. A registrant serving on temporary active duty in the armed forces of the United States, or a registrant serving on regular active duty who is deployed for a period of time exceeding one hundred twenty consecutive days in a year, shall be exempt from obtaining the professional development hours required during that year.
2. Registrants experiencing physical disability, illness, temporary leave from professional activity, or other extenuating circumstances as reviewed and approved by the board may be exempt. Supporting documentation must be furnished to the board. In the event such a person elects to return to active practice of professional engineering or land surveying, fifteen professional development hours must be earned before returning

to active practice for each year exempted not to exceed the biennial requirement of thirty professional development hours.

3. Professional engineer registrants exempt from registration by North Dakota Century Code section 43-19.1-29 but voluntarily registered are exempt from continuing professional competency requirements. A claim of exemption under this provision must be verified by the board. This exemption is based on the registrant's primary employment. If the registrant provides engineering services outside the scope of primary employment, the exemption will be voided and the registrant will be required to comply with the continuing professional competency requirements. A person who is registered because of a requirement in the person's job description or qualification for a pay grade is not voluntarily registered. Noncompliance with the provisions of this exemption shall be grounds for disciplinary action as allowed by North Dakota Century Code section 43-19.1-25.

4. Registrants who qualify for retired status on the board-approved renewal form shall be exempt from the continuing education requirements. A registrant whose license has been retired for one year or more and who meets all other requirements may reinstate a retired license. A registrant who has reinstated a license is required to file an interim continuing professional competency report within one year of the date of reinstatement verifying that a minimum of fifteen professional development hours have been accomplished. A registrant whose license has been retired for less than one year and who meets all other requirements may reinstate a retired license. A registrant who has reinstated a license must show compliance within the previous two years with the continuing professional competency requirements set forth in this chapter.

# Code of Ethics

## Preamble

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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 development<sup>1</sup> 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.

## REFERENCES

North Dakota State Board of Registration for Professional Engineers & Land Surveyors –  
Statutes & Rules

<https://ndpelsboard.org/statutes-rules/>

North Dakota Statutes Title 43. Professional, Occupations and Businesses, Ch. 43-19.1  
Professional Engineers and Land Surveyors, (43-19.1-01. To 43-19.1-33.)

<http://legis.nd.gov/cencode/t43c19-1.pdf?20151002072438>

North Dakota Administrative Code, Title 28 Board of Registration for Professional  
Engineers And Land Surveyors, (28-01-01 To 28-04-01)

<http://www.legis.nd.gov/information/acdata/html/Title28.html>

National Society of Professional Engineers, Code of Ethics

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