

BOARD NEWS

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April 2005

Volume XV

Legislature Changes the Laws...What's Next?

by Peter D. Monroe, PE, Board Chair

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Background

During the 2004 legislative session, legislation concerning the review and evaluation of the Board was considered. In preparation for this process, the Board, in collaboration with many industry and association representatives, reviewed its statutes in detail over many months of meetings and discussions. The Board's recommendations are found in the "Sunset Review Committee Report May 2003" that is on the Board's website at www.dora.state.co.us/engineers_surveyors under "Board Publications."

The next step in the process was the development of the Sunset Review Report analyzing the Board's laws and activities by the Office of Policy and Research in the Department of Regulatory Agencies (DORA). That report can be accessed from www.dora.state.co.us/opr.

After the report was submitted to the legislature in October 2003, a bill was written based on its recommendations and went through the House and Senate. If you'd like to review the final bill, look for HB04-1115 on the Colorado General Assembly's website at www.leg.state.co.us. The updated version of the Land Surveying Practice Act can be found at www.dora.state.co.us/engineers_surveyors/Laws.htm, and I strongly encourage you to print out a copy for your use. If you prefer a printed booklet, you are welcome to contact the Board office and a copy will be mailed to you.

Substance of the Legislative Changes

In a summary format, the following are some of

the important changes affecting engineering and land surveying. **Please refer to the statutes for exact wording.** Briefly, the results of the sunset legislation are...

- ▶ CONTINUATION: Of the regulation of the practice of engineering and land surveying to July 1, 2013.
- ▶ BOARD COMPOSITION: Changed the composition of the Board to eliminate the requirement that one board member be a dual PE-PLS licensee, so that there are three land surveyors on the board, four engineers, and two public members.
- ▶ TERMINOLOGY CHANGE OF "REGISTRATION" TO "LICENSURE": Changed the name of the board from a "registration" board to a "licensure" board, and throughout the bill, changes were made to reflect this transition from registration to licensure.
- ▶ "CERTIFICANT" TO "ENROLLMENT": Several of the terminology changes in the bill eliminated the term "certificant" and "certification" in the Surveying statutes, and replaced them with "enrollment" to align with the terms used in the Engineering statutes.
- ▶ ENGINEERING DEFINITIONS:
 - "Practice of Engineering" – A paragraph was added to clarify that anyone representing oneself as practicing or offering to practice professional engineering must be licensed to

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Have You Moved Lately?

It's imperative that you notify the Board office of your new address when you move so that we can keep you informed. It's also required by law!

Change your address online at <https://www.doradls.state.co.us> or send us your new address in writing by mail, fax or email to 1560 Broadway, Suite 1350, Denver, Colorado 80202
FAX: 303/894-7790
Email: engineers_surveyors@dora.state.co.us

A change of address form can also be found at www.dora.state.co.us/registrations/NameandAddress-Changes.htm and on the back page of this newsletter.

Board "People" News

Board Members

In the last year, two invaluable Board members completed their second term and were ineligible to be reappointed to the Board. Not that they would have wanted to serve more than eight years, but it was a sad moment to see them off after such distinguished service. Dawn Bookhardt, Esq., Public Member, and Jill S. Tietjen, PE, were both heavily involved in Board activities and committees during their terms. The Board issues a warm thank you to Dawn and Jill for their generosity of time and effort.

New appointments to the Board include William "Bud" Starker, from Denver, who is the President of Starker Construction Company, and Sandra Scanlon, PE, of Littleton, who is a principal of Scan-

lon Consulting Services and is an electrical engineer.

Board Counsel

The Board is fortunate to have the services of John J. Roberts, Esq., after a few months of various attorneys stepping into the position. John's background includes working with the Public Utilities Commission and therefore he has a strong familiarity with the technical aspects of the Board's cases.

The Board warmly welcomes the new Board Members and its new attorney.

Monument Record Form Changes

Throughout the fall, there were discussions at the Survey Quorum meetings about the desire and need to change the Monument Record form to reflect the date of field work. The result has been to change Item #2 on the form to, "Description *and Date of Monument Found*" [change shown in italics], to specifically enable documentation of the date of field work. Also, in Item #4b, because the statute references "Control corner", not "control", it was changed to, "Date monument was used as a Control *corner*" [change shown in italics]. A new version of the form and the instructions can be

found on the Board's website at www.dora.state.co.us/engineers_surveyors/MonumentRecords.

A word of appreciation is due to Doyle Abrahamson and Mike Drissel for providing information and input to the Quorum and the Board in the course of the deliberations about the proposed changes to the form. In addition, thanks to the time and effort provided by Doyle Abrahamson and Merrick & Company, there are several electronic versions of the form on the Board's website to meet surveyors' needs.

Update on the Division of Registrations

The Division of Registrations is the umbrella agency within the Colorado Department of Regulatory Agencies that provides administrative support to the Engineers/Surveyors Board along with more than thirty other licensing programs, such as those for Doctors, Architects, Plumbers, etc. The Division has been going through a major effort to upgrade its licensing database system and concurrently, centralize and standardize duplicative functions throughout the Division. The purpose of this endeavor, called "Project T: Transformation" was to make all of our business processes more efficient and provide you with enhanced customer service.

The transition has included the relocation of personnel into centralized areas, the reconfiguration of workspace, the implementation of a myriad of new processes, the conversion of data into the new licensing system, and of course, a learning curve for the entire division. We hope that if you have had any interaction with us during this time

that these changes were transparent, but you may have witnessed some of our "challenges" and we appreciate your patience through this period.

In January 2005, the Division entered the last phase of the transformation with the implementation of its Registrations Online Services, an online system that allows you to change your address, renew your license, and check the status of an application via the Internet. Check it out at <https://www.doradls.state.co.us>. That means that the next time your license needs to be renewed, you will be able to complete the task electronically.

As we move toward completion of Project T and beyond, some Board policies and processes may change in order to streamline functions across the Division, as well as increase the level of consistency in how various professions are treated. In the end, we hope you will be able to witness improvements in timeliness, automation, access to information and ease of interaction with the Board and the Division.

Doing business with the Division of Registrations just got easier!

Introducing **REGISTRATIONS ONLINE SERVICES** <https://www.doradls.state.co.us>

After a simple online registration process, you can now:

Renew your license

- Anytime 45 days before your license expires whether you receive a renewal notice or not;
- Use your Visa, MasterCard, Discover, or American Express card;
- Get instant payment confirmation;
- Cut the renewal processing time in half.

Change your mailing address

- Update your contact information in “real time”: no more waiting for your written request to be received and processed by staff.

Check the status of a pending application

- Track your application from the date we log it into our database to the date your license is printed.

...and more!

Visit us on the Web at <https://www.doradls.state.co.us>

Registrations Online Services is the final phase of Project T, the Division of Registrations’ ongoing effort to streamline, standardize, and improve the way we do business. For the latest updates on Registrations Online Services, visit the Division’s home page at www.dora.state.co.us/registrations.

**REGISTRATIONS ONLINE SERVICES:
Open 24 hours a day, 7 days a week.**



Remember!

You are obligated by law to keep the Board informed of your current address. If you fail to notify us that you have changed your address, you won’t receive your renewal notice. Then, if you fail to renew your license and you continue to practice, you will be in violation of the law!

Your license expires every two years. We send you a renewal notice approximately one month in advance of expiration. But, if you don’t let us know when you change your address, you may not receive the renewal notice.

Regardless, it’s **YOUR** responsibility to make sure that you renew on time.

If your license lapses for more than two years, you must formally re-apply to the Board for reinstatement.

So remember, renew your license every two years and let the Board know of any address changes.

“Legislature Changes the Laws...What’s Next?” continued...

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- do so. This is already in the Surveying Practice Act. See *section 12-25-102 (10)(b)*.
- The term “surveying” within the definition of the practice of engineering was eliminated because its use in this context is misleading given the companion Surveying Practice Act; it is confused with land surveying in this context when it really means the evaluation of existing conditions. This part of the practice of engineering is covered in the definition by the term “investigation.” See *section 12-25-102 (10)(a)*.
 - “Responsible charge” – was strengthened to clarify that whether one works within an engineering company or is a contract engineer, “responsible charge” means direct personal responsibility for the work performed within his/her supervision. See *section 12-25-102 (14)*.
- ▶ **SURVEYING DEFINITION:**
- “...Property descriptions that result from the practice of professional land surveying...” now require a PLS license. See *section 12-25-202 (6)(a)(VIII)*.
 - “Surveying to establish basic control for engineering projects...” requires a PLS license. See *section 12-25-202 (6)(a)(X)*.
- ▶ **EAC vs. TAC GRADS:** Both engineering and engineering technology students in their senior year may take the FE (Fundamentals of Engineering) exam. Previously, only engineering seniors could take the FE. See *section 12-25-112 (2)(b)(II)*
- ▶ **REQUIREMENTS FOR LAND SURVEYOR-INTERNS:** The changes require that applicants have 4 years, regardless of education, to qualify for the Fundamentals of Surveying exam in order to become enrolled as a LSI: for example, 4 years of experience with only a high school diploma; 2 years of experience with a 2-year surveying degree; or a 4-year surveying degree. See *sections 12-25-212 (2) and (3)*.
- ▶ **FINING AUTHORITY FOR UNLICENSED PRACTICE:** Raised the amount that the board can fine an individual who has unlawfully practiced engineering or surveying from \$750 to \$5000. See *sections 12-25-105 (9) and 205 (8)*.
- ▶ **FINING AUTHORITY FOR LICENSEES:** Allows the board to fine licensees up to \$5000 in a second enforcement action, an increase of \$2500 in fining authority. See *sections 12-25-108 and 208 (4)(a)(II)*.
- ▶ **LETTERS OF CONCERN:** Gives the board the authority to issue confidential letters of concern. This would be an added enforcement tool for the board and allows the board to put the licensee on notice without taking permanent disciplinary action. See *sections 12-25-108 and 208 (5)*.
- ▶ **TIMEFRAME FOR REQUIRED PLATS:** When monuments are set or accepted in subdivisions that were platted within the past 20 years, plats are not required to be filed, thus eliminating the previous timeframe that was from July 1, 1975 to the present. See *section 38-51-107*.
- ▶ **ELECTRONIC SEALS:** Allows the use of electronically applied seals, in addition to the crimp and rubber type stamps. See *sections 12-25-117 and 217 (1)*.
- ▶ **ADDED INFORMATION OF WHAT IS REQUIRED ON SURVEY PLATS:** Requires surveyors to include information on land survey plats as to how they established or restored the public land survey monuments that are shown, so that this information is readily available to other surveyors and the public and makes the surveyor’s research and decision process more transparent. See *section 38-51-106 (1)(f)*.

If you read the above-referenced “Sunset Review Committee Report May 2003”, you will find that several recommendations from the Board and industry were enacted, but many of the desired changes did not end up in the final legislation. It was not for lack of a very dedicated effort on the part of many industry groups and individuals. That is the reality of the legislative process.

When you read the above summary, you may have questions about how to implement some parts of the new law. First, please review the exact language in the statute. Then, if you still have questions, please address them to the Board in writing for evaluation and interpretation.

Rule Changes

The changes in the law mandated parallel changes in the Board’s rules. To accomplish this, the Board’s Rulemaking Committee, which is made up of several Board members, industry representatives, and other interested parties, held several meetings last fall.

Most of the proposed changes are of the housekeeping type, such as changing all the references from “registration” to “licensure” and similar derivatives. There are two changes of significance, however. The first is elimination of a Board rule that a company that offers engineering or surveying services must have a Colorado licensee in its employ that is in responsible charge. This means that such a company may offer engineering and/or surveying services and contract them out to another entity that has a Colorado licensed professional in responsible charge. The reason for this change is that during the sunset evaluation process, DORA made it clear that the law did not require that the licensee in responsible charge be employed in the company offering the services, and therefore, the Board didn’t have the authority to institute such a requirement. Efforts to change the law to include this requirement were unsuccessful.

The other change that you should be aware of has to do with the validity of seals now that the law refers to “licensees”

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rather than “registrants”. All seals that are obtained prior to July 1, 2005, that conform to the existing Board Rule 6.1.1 Seal Specifications, will be deemed acceptable. From that date forward, the wording must be “Colorado Licensed Professional Land Surveyor” or “Colorado Professional Engineer” instead of “Colorado Registered Professional Land Surveyor” or “Colorado Registered Professional Engineer.”

The hearing on the proposed revised rules was held at the Board’s January 14, 2005, meeting and the revisions will be effective July 1, 2005. Please review the coming changes on the Board’s website at www.dora.state.co.us/engineers_surveyors/RulemakingActivity.htm.

Policy Changes

Though major changes in the rules weren’t required, this was a prime opportunity to address some confusion in the surveying laws: specifically, what is required when monumenting the exterior boundary of a parcel in the course of performing a land survey, and whether ALTA surveys are monumented land surveys. It was the committee’s decision to clarify these issues through Board policies rather than rules at this time. In addition, the Board’s Policy 60.1 “Basis of Bearing Statements” was revised to clarify that a graphic and mathematical relationship between the basis of bearing and the land parcel is necessary.

Thus, the Board policies were updated at the same time that changes to the Board rules were being considered, to address the change in terminology from “registered” to “licensed”, as well as to eliminate outdated procedures due to changes in the licensing examinations and to tackle the issues mentioned above. For a full draft of the policy changes, refer to the “Rulemaking Activity” page on the Board’s website at www.dora.state.co.us/engineers_surveyors/RulemakingActivity.htm. The changes went into effect at the Board meeting on January 14, 2005. Find the final version at www.dora.state.co.us/engineers_surveyors/PolicyStatements.htm.

The proposed new policies regarding the above issues follow.

60.3 – Required Monumentation for Land Survey Plats.

The board recognizes the ambiguities that exist in statutes 38-51-102 through 38-51-107 pertaining to land survey plats [38-51-102 (12)], monumented land surveys [38-51-102 (13)], and monumentation of land surveys [38-51-104 (1) (a)]. The purpose of this policy is to clarify when the complete monumentation of a land survey or monumented land survey is required.

(a) Monumented land survey [38-51-102 (13)]. For

the words, “to mark the **boundaries** of a **specified parcel** of land” [emphasis added], the board interprets the word “boundaries” as plural and the words “specified parcel” to mean that all corners of the parcel must be found or set.

(b) Land survey plat [38-51-102 (12)]. For the words, “shows the information developed by a **monumented land survey**” [emphasis added], the board’s interpretation of a monumented land survey requires that all corners of the parcel must be found or set.

(c) Monumentation of land surveys [38-51-104 (1) (a)]. For the words, “**any** line points or reference points which are set to perpetuate the location of any land **boundary**” [emphasis added], the board interprets the words “any” and “boundary” to be singular and thus **not** requiring all corners of the boundary of a parcel to be set. The surveyor may set only the corners marking the line, or lines, of the boundary requested by the client and any resultant drawing would **not** be labeled a Land Survey Plat, but shall be deposited pursuant to section 38-51-107, C.R.S.

60.4 – Monumentation of ALTA/ACSM Land Title Surveys.

It is the board’s interpretation that the 1999 Minimum Standard Detail requirements for ALTA/ACSM Land Title Surveys cannot be met without all pins of the parcel being found or set, even if item 1 of Table A Optional Survey Responsibilities and Specification is not requested. The ALTA/ACSM Land Title Survey is considered by the board to be a monumented land survey and a land survey plat must be recorded if required by section 38-51-107, C.R.S.



Legal Actions

The following actions were taken by the Board from April 1, 2004 through March 31, 2005. Many thanks are in order for the professional assistance from the Office of Investigations within the Division of Registrations and the Office of the Attorney General. As a result of such efforts, the Board is able to pursue enforcement of the engineering and surveying licensing laws and rules. Disciplinary files are of public record and if you need additional information regarding any of the actions listed below, please contact Angie Kinnaird, Program Director, or Joyce Young, Administrative Assistant, at the Board office.

Scott W. Andrae, PLS 26590, was issued a Letter of Admonition on September 10, 2004, for practicing surveying with a lapsed license.

David E. Archer, PLS 6935, entered into an Agreement with the Board on November 12, 2004, for failure to file monument records and cooperate with a Board investigation. On that basis, Mr. Archer paid a fine of \$1,000.

Joseph F. Asmus, PLS 27258, entered into a Stipulation with the Board on July 9, 2004, for failure to comply with the terms of a previous Stipulation. The Board ordered that Mr. Asmus' license to practice surveying be put on probation for 2 years, that he correct and deposit the plat at issue in the previous Stipulation, successfully complete 6 hours of continuing education coursework in boundary law and surveying principles, and pass the Colorado State Specific Surveying exam.

Jason E. Baker, PE 33739, entered into a Stipulation with the Board on May 3, 2004, for substandard engineering. The Board ordered that Mr. Baker's license to practice engineering be put on probation for 2 years and that he complete an advanced engineering ethics course.

Jose U. Barnes, PE 19894, entered into a Stipulation with the Board to voluntarily relinquish his license to practice engineering with the Board on July 9, 2004, based on disciplinary action taken by Texas for felony mail fraud.

Ronald K. Blatchley, PE 3630, was issued a Letter of Admonition and fined \$250 on February 2, 2005, for practicing engineering with a lapsed license.

Robert J. Bolton, PE 24981, was issued a Letter of Admonition and fined \$500 on September 10, 2004, for his second incident of practicing engineering with a lapsed license.

Thomas W. Browning, Jr., PE 29790, was issued a Letter of Admonition on April 6, 2004, for practicing engineering with a lapsed license.

Paul R. Campbell, PLS 13460, was issued a Letter of Admonition on June 11, 2004, based on disciplinary action taken by Wyoming for substandard surveying.

James A. Cherry, PE 32055, entered into a Stipulation with the Board on May 3, 2004, for substandard engineering. The Board ordered that Mr. Cherry's license to practice engineering be put on probation for 2 years and that he complete an advanced engineering ethics course.

John S. Cowan, PE 22607, was issued a Letter of Admonition on February 15, 2005, for practicing engineering with a lapsed license.

Joel B. Crowe, PLS 25937, entered into a Stipulation with the Board on August 16, 2004, for failure to file monument records. The Board ordered that Mr. Crowe's license to practice surveying be placed under

a stayed suspension pending satisfactory completion of a 2 year probation requiring that he file the monument records at issue and all other outstanding records, successfully complete coursework in surveying ethics, and pay a fine of \$2,000.

Kevin Dasgupta, PE 37623, entered into a Stipulation with the Board on March 11, 2005, for practicing outside his area of expertise. The Board ordered that Mr. Dasgupta's license to practice engineering be put on probation for a minimum of 1 year and be restricted from structural engineering until he passes the structural PE exam, that he successfully complete coursework in engineering ethics, and that he pay a fine of \$500.

Gordon R. Dowling, PLS 30090, was issued a Letter of Admonition on January 26, 2005, for practicing surveying with a lapsed license.

Don W. Deere, PE 19930, was issued a Letter of Admonition on September 8, 2004, for practicing engineering with a lapsed license.

Clarke F. Echols, Unlicensed, entered into a Stipulated Cease and Desist Order with the Board on July 20, 2004, for fraudulently using a lapsed engineering license, and preparing, sealing, and signing engineering plans without an engineering license. The Board ordered Mr.

Echols to cease and desist and pay a fine of \$750.

William J. Gibbs, PLS 13485, was issued a Letter of Admonition on April 19, 2004, for practicing surveying with a lapsed license.

Geraldine M. Gilman, PE 18248, was issued a Letter of Admonition on November 23, 2004, for practicing engineering with a lapsed license.

Ronald L. Gronewold, PLS 16405, entered into a Stipulation with the Board on August 6, 2004, for substandard surveying. The Board ordered that Mr. Gronewold's license to practice surveying be put on probation for 3 years, that he correct the plat at issue, satisfactorily complete a course in surveying ethics, pass the Colorado

State Specific Surveying exam, and pay a fine of \$750.

Michael J. Hegarty, PE 24226, was issued a Letter of Admonition on April 6, 2004, for practicing engineering with a lapsed license.

Michael S. Heller, PE 28759, was issued a Letter of Admonition on February 3, 2005, for practicing engineering with a lapsed license.

Richard D. Holstad, PE 13359, was issued a Letter of Admonition on July 21, 2004, for practicing engineering with a lapsed license.

Dennis E. Jones, PE 16866, was issued a Letter of Admonition on September 8, 2004, for practicing engineering with a lapsed license.

Jawed I. Khan, PE 28447, was issued a Letter of Admonition on April 20, 2004, for practicing engineering with a lapsed license.

Allison L. Kroeger, PLS 17494, entered into a Stipulation with the Board on June 11, 2004, for practicing surveying with a lapsed license, preparation of substandard plats, failure to sign and date his seal, and failure to file monument records. The Board ordered Mr. Kroeger to correct and deposit the plats at issue, file all outstanding monument records, and pay a fine of \$750.

Joseph E. Kub, Jr., PE 18166, was issued a Letter of Admonition on June 11, 2004, based on disciplinary action taken by Wyoming for substandard engineering practice.

James R. Landry, PE 35695, was issued a Letter of Admonition on

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Legal Actions

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February 3, 2005, for practicing engineering with a lapsed license.

Brian D. Len, PE 25750, entered into a Stipulation with the Board on August 17, 2004, for unethical behavior. The Board ordered that Mr. Len's license to practice engineering be put on probation for 1 year and that he complete an advanced engineering ethics course.

Steven G. Lewis, PE 29965, entered into a Stipulation with the Board on June 11, 2004, for substandard engineering. The Board ordered that his license to practice engineering be put on probation for two years and that he complete an advanced engineering ethics course.

Richard J. Lombardi, PE 27775, was issued a Letter of Admonition on March 12, 2004, based on disciplinary action by Tennessee for practicing engineering without a license.

Max C. Martin, PE 22658, entered into a Stipulation with the Board on March 21, 2005, for failure to comply with the terms of a previous Stipulation and performing substandard engineering in a separate case. The Board ordered that Mr. Martin's license to practice engineering be suspended for at least 1 year, that he successfully complete coursework in advanced engineering ethics and advanced horizontal loading and lateral load calculations, and that he pay a fine of \$3,500.

Todd D. Mayen, PE 34943, was issued a Letter of Admonition on September 19, 2004, for practicing engineering with a lapsed license.

Donald R. May, PE 23655, was issued a Letter of Admonition on July 9, 2004, for practicing engineering with a lapsed license.

Michael S. McGuire, PE 31501, was issued a Letter of Admonition on April 6, 2004, for practicing engineering with a lapsed license.

Max E. Morris, PLS 16413, entered into a Stipulation with the Board on August 17, 2004, for failure to comply with a previous Stipulation and Order. The Board ordered that Mr. Morris' license to practice surveying be suspended until he satisfactorily completes continuing education coursework in Boundary Law I and II and surveying ethics, and passes the Colorado State Specific Surveying exam.

Robb A. Nielsen, PE 29866, was issued a Letter of Admonition on August 21, 2004, for practicing engineering with a lapsed license.

Robert B. Nitcher, PE 26121, was issued a Letter of Admonition on December 14, 2004, for practicing engineering with a lapsed license.

Sanat K. Parikh, PE 35300, entered into a Stipulation with the Board on February 9, 2005, to voluntarily relinquish his license to practice engineering with the Board on the basis of disciplinary action taken by Florida for sealing engineering plans over which he did not have responsible charge.

Benjamin A. Pitsker, PLS 19618, entered into a Stipulation with the Board on August 8, 2004, for substandard surveying. The Board ordered that Mr. Pitsker's license to practice surveying be put on probation for 6 months and that he correct and deposit the plat at issue.

Steven W. Rich, PE 19842, entered into a Stipulation with the Board on August 21, 2004, to voluntarily relinquish his license to practice engineering for substandard engineering.

Ronald A. Roberts, PE 24918, was issued a Letter of Admonition on December 9, 2004, based on disciplinary action taken by New Jersey for practicing engineering with a lapsed license.

Warren D. Rodgers, PE 13679, entered into a Stipulation with the Board on November 12, 2004, to voluntarily relinquish his license to practice engineering for substandard engineering.

Richard A. Rutherford, PLS 5028, was issued a Letter of Admonition

on January 13, 2005, for sealing, signing and certifying to completed conditions that were incomplete. The Board also ordered him to pay a fine of \$500.

Richard J. Schmidt, PE 33238, was issued a Letter of Admonition on February 3, 2005, for practicing engineering with a lapsed license.

Brian W. Shear, PE 20262, entered into a Stipulation with the Board on May 14, 2004, for failure to comply with the terms of a previous Stipulation. The Board ordered that his license to practice engineering be suspended until he completed an advanced engineering ethics course and a course in lateral loads.

Christopher J. Sosnowski, PE 32328, was issued a Letter of Admonition on June 11, 2004, for practicing engineering with a lapsed license.

Wilbur D. Stites, PE-PLS 4769, entered into a Stipulation with the Board on November 12, 2004, to voluntarily relinquish his license to practice engineering based on disciplinary action taken by Oregon for substandard engineering. The Order became effective on December 31, 2004. The Order does not affect Mr. Stites' license to practice land surveying in Colorado.

Luke J. Studer, PE 14776, was issued a Letter of Admonition on November 19, 2004, for practicing engineering with a lapsed license.

Jeffrey D. Temple, PE 33939, was issued a Letter of Admonition on February 3, 2005, for practicing engineering with a lapsed license.

Carl E. Thompson, Jr., PE 32851, was issued a Letter of Admonition on May 14, 2004, based on disciplinary action taken by New Jersey for practicing engineering with a lapsed license.

Glenn A. True, PLS 9996, entered into a Stipulation with the Board on May 14, 2004, for substandard surveying. The Board ordered that Mr. True's license to practice surveying be placed under a stayed suspension pending satisfactory completion of a 2-year probation during which he must correct and deposit the plat at issue and complete continuing education coursework in Boundary Law I and II and surveying ethics.

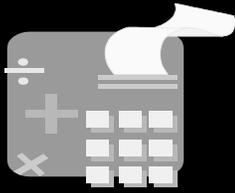
Gernot Ueblacker, PE 31808, entered into a Stipulation with the Board on May 14, 2004, based on disciplinary action taken by Nevada for fraudulent use of another engineer's license while unlicensed. The Board ordered that his license to practice engineering be placed on probation for 1 year, that he complete an advanced engineering ethics course, and that he be fined \$500.

Steven F. Wells, PE 13997, was issued a Letter of Admonition on April 6, 2004, for practicing engineering with a lapsed license.

Anthony J. Wernsman, PE 30318, entered into a Stipulation with the Board on November 12, 2004, for substandard engineering. The Board ordered that his license to practice engineering be placed on probation for 1 year, that he complete an advanced engineering ethics course, and be fined \$250.

Jay S. Zimmerman, PLS 20704, was issued a Letter of Admonition on July 9, 2004, based on disciplinary action taken by Arizona for substandard surveying.





Board Statistics

Fiscal Year 2004

*Active & Retired
Licensees*
21,619

New PE Registrants
747

New PLS Registrants
45

New Engineer Interns
1,042

*New Land Surveyor
Interns*
41

Number of Examinees
2,183

Pass Rates

<i>PE</i>	Oct '03	50.41%
	Apr '04	59.17%
<i>PLS</i>	Oct '03	48.28%
	Apr '04	77.77%
<i>EI</i>	Oct '03	75.05%
	Apr '04	74.54%
<i>LSI</i>	Oct '03	34.04%
	Apr '04	51.11%
<i>CO 1.5 hour surv. exam</i>	Oct '03	57.80%
	Apr '04	63.33%

Disciplinary Actions

<i>Complaints Filed</i>	85
<i>Dismissed</i>	45
<i>LOA</i>	27
<i>Cease & Desist</i>	3
<i>Stipulation</i>	12
<i>Suspension</i>	1
<i>Surrender</i>	0
<i>Revocation</i>	0
<i>Fines Levied</i>	4

A 5-year history of these statistics can be found at www.dora.state.co.us/engineers_surveyors/Statistics.htm

License Renewals...PLEASE, No Excuses

Colorado renews licenses for Professional Engineers and Professional Land Surveyors at the end of every month throughout the year, depending on when the license was originally issued. The renewal notice is mailed out 6 weeks before the license expires. Many licensees renew in a timely manner, but the number of those who do not is staggering and the consequences are significant.

This is what we hear...

- ◆ "I moved and forgot to change my address with your office."
- ◆ "I never received a renewal notice."
- ◆ "My company always handles paying for the renewal, so I was sure that the renewal had been sent in."
- ◆ "The renewal coupon got lost in my papers and I forgot about renewing."
- ◆ "I was going through a divorce and my ex didn't forward the renewal to me."
- ◆ "My secretary failed to send in the renewal."
- ◆ "I had no idea that my license had lapsed until someone told me."
- ◆ "I've been ill and this slipped through the cracks."

This is what we say...

- If we don't have your correct address, it's pretty tough for us to get a renewal notice to you. The law *requires* that you immediately notify the board, in writing, of any change of address.
- Whether you receive a renewal notice or not, ultimately, it is your responsibility to renew your license on a timely basis.
- It's not your company's responsibility to maintain your license, nor your secretary's, your assistant's, or your spouse's. It's YOUR responsibility as a professional.
- The expiration date of your license is on your license. It is your responsibility to be mindful of the expiration date and to ensure that you are continuously licensed by timely renewing.

- It is illegal for you to represent yourself as a licensed professional if you do not have a current license. That includes using the PE and PLS designations on business cards, in proposals, on any marketing materials, in reports, and in signature blocks, as well as soliciting for business using your licensure as a credential, being in responsible charge of current and future professional work, and sealing and signing any such work.

Ways to prevent practicing with a lapsed license...

▶ Check the status of your license annually at www.dora.state.co.us/pls/real/ARMS_Search.Disclaimer_Page.

▶ Note the date that your license next expires in your calendar and carry that over from year to year.

▶ Renew online when it's time for you to renew your license without waiting for the renewal coupon at <https://www.dorads.state.co.us>.

▶ Always keep your address up-to-date with the Board at <https://www.dorads.state.co.us> and check to make sure it is

the correct address when you check the status of your license annually.

The consequences...

If you don't renew your license before it expires, you will be subject to a \$15 late fee. If you offer to practice or practice without a current license 60 days after the license lapsed up to one year, you will be issued a letter from the Board that it does not endorse your behavior. If you offer to practice or practice without a current license from 1 to 2 years, you will automatically receive a Letter of Admonition, which is a disciplinary action that stays on your record forever and is reported to a national database. If you offer to practice or practice without a current license for more than 2 years, you must apply for reinstatement with the Board and will be subject to a Letter of Admonition and a fine from \$50-\$5,000.

So please, no excuses. Your license expires every two years. Please renew it on time.

Attributes of “Responsible Charge”

by David L. Peeler, PE, Board Chair, North Carolina Board of Examiners for Engineers and Surveyors

Editor’s Note: This article is reprinted with permission to provide a perspective on the issue of responsible charge that the Colorado Board believes to be relevant to Colorado licensees.

While the number of issues the Board deals with remains fairly consistent from year to year, the subject matter and complexity vary. Many times these issues come from violations activities; most frequently they result from inquiries as to Board policy. This year has been no exception with issues ranging from what constitutes engineering in the pharmaceutical processes to responsible charge clarification where multiple employment conditions exist.

It is interesting that the question over responsible charge continues to surface and frequently where a complaint has been filed. Occasionally articles have been written over the years that have provided interpretation, but the one that stands out as the best of all time was written by Al Bass, PE, PLS, in 1988. It has been referred to repeatedly. First, it is necessary to understand that our Statutes define “responsible charge” as having “the direct control and personal supervision, either of engineering work or land surveying, as the case may be”. The questions have been the guide for interpreting the requirement of responsible charge in the Statute and Board Rules. I am presenting an updated list of questions that reflect changes in the ensuing 16 years.

Key Ingredients of Being in Responsible Charge

The following attributes serve as indicators of compliance with the responsible charge requirement over professional services:

1. Do you supervise the individual performing the work?
2. Do you obtain or set the project parameters or criteria?
3. Can you require changes to the work and dictate the manner and methods by which the work is performed or the scope of involvement by the individual? (over the individual’s objections without negative impact on your job status, advancement or compensation)
4. Are you involved from start to finish as the individual performs the work?
5. Are there procedures for quality control and authority over the work that assure that you,

as the professional licensee, are in control of the work and the individual performing the work?

6. Is the extent of time spent with the individual during the course of the performance of the work sufficient for you to be familiar with the details of the work?
7. How familiar are you with the capabilities and methods of the individual performing the work and over what period of time? (This goes to the question of how closely you must directly supervise the details of the individual’s work.)
8. Did you train the individual?
9. Are you in close proximity or do you have readily accessible contact with the individual, either by physical location or by frequent, clear and full communication in verbal and visual form of the work being performed? (This allows consideration of electronic communication where it is the equivalent of personal contact in the extent of information exchanged.)
10. Are you competent by training and experience in the field of engineering or land surveying which is represented by the drawings or work in question?

While not all of these attributes are necessary to exercise responsible charge, there would be little question that the intent of the Statute was met if they all were applicable. In the profession today where design production work is being shipped abroad, how many of these attributes can truly be complied with? Likewise, how does this apply to multiple employment situations? Clearly both issues test the interpretation and application of these attributes. While we must recognize the industry is changing, logic and common sense must be applied.



Colorado licensees: please refer to Board Rule 2.2 “Definitions on Responsible Charge” at www.dora.state.co.us/engineers_surveyors/BoardRules.htm for specific requirements of those in responsible charge.

Board Meeting Calendar

The Board meets on the second Friday of every month, excluding April and October. All meetings are open to the public except during the Executive Session when the Board considers disciplinary matters that are required to be kept confidential pursuant to sections 12-25-109 and 209, C.R.S. Below is the schedule of board meeting dates which is subject to change. Please refer to the General Board Information link on the Board’s website for the current list of meeting dates, agendas, and minutes.

2005 Board Meeting Dates

January 14
February 9
March 11*
May 13
June 10*
July 8
August 12
September 9*
November 11
December 9*

*Indicates Survey Quorum Meeting prior to Board Meeting

All Board meetings are held in Conference Room 1380 at 1560 Broadway, Denver, Colorado.

The Key to Happy Surveying Customers: Communication

by Thomas J. Mathis, Board Member & Professional Land Surveying Division Chair, Missouri Board for Architects, Professional Engineers, Professional Land Surveyors & Landscape Architects

Editor's Note: This article is reprinted with permission to provide a perspective on land surveying and communication that the Colorado Board believes to be relevant to Colorado licensees.

In an 1879 history book about pioneer families of Missouri, the author relates an anecdote about a rather windy pioneer settler who presumed to use big words to impress his neighbors. It seems that the old fellow was trying to explain how a surveyor could measure across the Cuivre River: "You see, gentlemen, the surveyor first gets an obligation across the stream, and sticks down his compass. Then he leanders up or down the river, as the case may be, and gits another obligation from that; then he leanders back to the first obligation and works it out by figgers. It's simple enough, and I could do it myself, although I don't know a darn thing about figgers."

Take the Time to Explain What You Do

Like the old pioneer, sometimes it seems that professional land surveyors struggle to explain just what it is they are doing, whether it be to clients, their client's neighbors, attorneys or the courts. Surveyors are (hopefully) experts at research, measuring, recovering physical corner evidence, geometry, application of the law, running a business, managing employees, and drafting plats. But too often we lack good communication skills. We often get too busy trying to earn a living to take the time to sit down with our clients and explain what it is we're doing, why it's taking so long to complete the work, or why the initial cost estimate turned out to be too low. And too often that lack of communication ends up in the Board's lap in the form of formal complaints. Upon investigation, it often becomes evident that the inherent problem is simply a lack of understanding between the surveyor and the complainant.

Communication problems which come to the attention of the Board in the form of formal complaints seem to fall into three broad categories: 1) unrealistic expectations by the client over what the final product should be; 2) fee disputes where the client feels that the surveyor is taking advantage; and 3) a disgruntled client's neighbor who feels that the surveyor is "stealing his land."

Educate the Client on How the Process Works

Unrealistic expectations by the client may involve something as simple as expecting stakes between corners without ordering them, or a misinterpretation as to what those marks on the ground represent. For example, it often takes several trips to the field to complete a given job. How many times

have you had a client call after the initial field traverse has been completed but before the corners have been established to complain that the "corners" are not right, or worse yet, that he started building a fence along your line but it's obviously crooked? Maybe if we had taken the time to determine exactly why the prospective client needed the survey, and explained, in some detail, about how the survey would be completed and what the final product would be, we could have avoided these unrealistic expectations.

Talk About the Money

Complaints over fee disputes are probably the most aggravating to the client, and perplexing to the Board. Although the Board doesn't get involved in outright fee disputes, we do feel it our obligation to attempt to determine whether or not the licensee adhered to the Board Rules of Conduct. Did the surveyor "low ball" the initial estimate in order to gain an unfair advantage over other licensees? Most often it turns out that the fee dispute arises from the surveyor's inability to fully explain to the potential client how his fee structure works, and under what conditions the final cost may exceed the estimate. Perhaps the simplest way to avoid this problem is to formulate a contract that outlines the unit prices charged with a not-to-exceed amount. True, the surveyor may have to occasionally "eat" some of his/her fees, but these are usually balanced out and his/her resulting client relations will ultimately work to his/her advantage. Another option may be to simply use a lump-sum price, where the client knows up front what the final bill will be, and there are no surprises.

Listen and Talk to the Neighbor

The third category of common complaints come from neighbors of a surveyor's client who think that the surveyor is surely guilty of misconduct and dishonesty for "moving" a line from where he/she thought it should be. These neighbors often supply reams of copies of abstracts and old plats to support their views. Although the Board often finds that such a scenario is simply a property line dispute and does not fall under the jurisdiction of the Board, it is still our obligation to determine whether the surveyor adhered to the generally accepted standards of surveying practice. Did he/she properly research the job? Did he/she follow the rules for original surveys, resurveys or subdivisions? Were the statutory requirements for subdividing a section used?

In this case, the professional land surveyor has less oppor-

"...too often that lack of communication ends up in the Board's lap in the form of formal complaints. Upon investigation, it often becomes evident that the inherent problem is simply a lack of understanding between the surveyor and the complainant."

(Continued on page 11)

Set Projects Up To Succeed...Use Written Contracts

The genesis of many complaints that come before the Board can be found in the absence of a contract with the client. Misunderstandings and miscommunications often result over the scope of services, the schedule, and the cost of the work. Much of this can be avoided by using contracts, *even with friends*. The Board strongly urges all professionals to use detailed written contracts. Following are some guidelines on what the contract should entail.

- ◆ Name, address, and license number of the professional, and client's name and address.
- ◆ Title and address of project.
- ◆ Description of services to be provided by the professional to the client.
- ◆ Timeframe agreed upon by both parties to complete the project, including milestone dates.
- ◆ Description of basis of compensation, total price required to complete the project, and method of payment agreed upon by both parties.
- ◆ Clarify if consultants are required and who pays their fees.
- ◆ State the costs not included in the base fee and specify hourly rates.
- ◆ Indicate whose approval is required before additional costs are incurred.
- ◆ Identify when and what fees must be paid, including payment upon project completion.
- ◆ Indicate amount of retainer and how it will be applied.
- ◆ Provide a procedure for either party to terminate the agreement before services are completed.
- ◆ Outline procedure for handling disputes between the parties should the need arise.
- ◆ Require written approval before proceeding with the next phase of the project.
- ◆ Identify the client's responsibilities during the project.
- ◆ Be clear as to who owns the documents produced for the project.
- ◆ Obtain signatures of the parties on the agreement and the date signed.
- ◆ State that all project activity will be documented in writing, including dates of occurrence and verbal exchanges.
- ◆ Finally...consult an attorney to review your contract content.

Editor's Note: Permission was granted to use information from a recent South Dakota Board newsletter article as the basis of the above.

Clarifying the Use of Affidavits of Correction

The Board has had recent inquiries on the use of "Affidavits of Correction" on subdivision plats, with some surveyors wanting to use them in situations that deal with more than a minor error. It is the Board's position that the only appropriate use of an affidavit of correction is for minor typographical errors, the correction of which do not affect the intent of the subdivision plat in such areas as usage, configuration, and size.

Following are some questions and answers that may help in understanding the appropriate uses for correction affidavits.

Q: Can an affidavit of correction move a lot line in a subdivision?

A: This is not an appropriate use of an affidavit. It is better to draft an amended plat.

Q: Can an affidavit add or remove a note from a subdivision plat?

A: No, this is not the appropriate use of an affidavit of correction.

Q: Can an affidavit change the bearing or distance on a subdivision?

A: Yes.

Q: Can an affidavit change a transposition or typographical error?

A: Yes.

Q: Can an affidavit change the dedication or use of an easement?

A: No, this is not the appropriate use of an affidavit of correction.

"The Key to Happy Surveying Customers: Communication" continued...

(Continued from page 10)

tunity to use communication skills, but usually it turns out that the disgruntled neighbor has visited with the licensee and come away madder than ever. As a true professional, perhaps the surveyor should try to remember that his/her primary obligation is to the general public, and try to take the time to quietly (and without anger) explain the laws regulating the establishment of that property line, and attempt to reason with the individual. Remember, one of the best communication skills is the art of listening. It might take a whole lot less

"wasted" time now, than traveling to a Board meeting later to explain your actions after a complaint has been filed.

Maybe the windy old settler of 180 years ago got his terms confused when he spoke of leandering and obligating a line, but today, as professional land surveyors, we should take the time to explain such concepts as cost and billing, controlling corners, traversing, GPS, and legal principals of boundary control to avoid potential complaints. Communicating effectively must be the ultimate goal if we wish to enhance our personal reputation and the art of surveying as a profession.

Colorado State Board of Licensure for
Professional Engineers and Professional
Land Surveyors
1560 Broadway, Suite 1300
Denver, Colorado 80202

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City _____ State _____ Zip Code _____

Employer _____

Preferred mailing address: _____ Home _____ Business _____

Current daytime telephone () _____

Signature _____ Date _____

MAIL TO: Board of Licensure for Professional Engineers and Professional Land Surveyors
1560 BROADWAY, SUITE 1350
DENVER, CO 80202

or FAX TO: 303/894-7790

or Email TO: engineers_surveyors@dora.state.co.us

or Online AT: <https://www.doradls.state.co.us>

Licensees who do not notify the Board in writing within 30 days of a change of address may be subject to disciplinary action.