Engineering Ethics for Minnesota Professional Engineers

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Chapter 1
Overview of Minnesota Engineering Board Regulations

Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design (AELSLAGID)

The Minnesota Board of Architecture, Engineering, Land Surveying, Landscape Architecture, Geoscience and Interior Design (Board) is the primary government body that regulates the practice of engineering (among other professions) within the State of Minnesota.

The Board has 21 members appointed by the Governor for four-year terms. The regulated professions are represented by 16 individuals, complemented by 5 members of the general public. Each member serves on one of three committees: Complaint, Rules, or Credentialing. Each member also serves on one of two Sections: ALACID (Architects, Landscape Architects and Certified Interior Designers) and ELSGEO (Engineers, Land Surveyors, Geologists and Soil Scientists). Anything acted upon in a Committee or Section meeting must come to the full Board for approval.

The Board has the authority to implement provisions of Chapter 326 of the Minnesota Statutes, “Employments Licensed by State”, as well as Chapters 1800 “Licensing and Operation” and 1805 “Rules of Professional Conduct” of the Minnesota Administrative Rules.

Minnesota Statutes

The Minnesota Statutes are a compilation of the general and permanent laws of the state, incorporating new laws, amendments, or repeals of old law. Minnesota Statutes generally do not contain special laws, local laws, proposed constitutional amendments, appropriation acts, curative and validating acts, and temporary acts. All laws not included in Minnesota Statutes can be found in Laws of Minnesota (Minnesota Session Laws), in the volumes published in the year of their enactment.

The Minnesota Statutes are divided into chapters, but a reference to Minnesota Statutes will usually be to a section number. For example, chapter 335 of the statutes will be divided into sections, perhaps beginning with 335.01. The proper citation for this would be "Minnesota Statutes, section 335.01" or "Minnesota Statutes 1990, section 335.01."

The numbers at the end of a section represent the history of that particular section. For example, [1959 c 67 s 3; 1963 c 861 s 10; 1974 c 370 s20] means that the section was new in 1959 and was contained in the Laws of Minnesota 1959, chapter 67, section 3. It was amended in Laws 1963, chapter 861, section 10, and amended again in Laws 1974, chapter 370, section 20. If you look up those chapters of those particular Session Laws, you will find what changes were made.
Sections 326.02 through 362.15 of the Minnesota Statutes pertain exclusively to the Board of Architects, Engineers, Surveyors, Landscape Architects, Geoscientists and Interior Designers as well as its functions with respect to the practice of engineering and the other professions.

**Minnesota Administrative Rules**

An administrative rule is a general statement adopted by an agency to make the law it enforces or administers more specific or to govern the agency’s organization or procedure. An agency may adopt a rule only after the legislature has enacted a law granting this authority to the agency. An agency rule that is adopted under the rulemaking provisions of Minnesota Statutes, chapter 14, has the force and effect of law. Rulemaking in Minnesota: A Guide explains each step of the rulemaking process in Minnesota.

Rules are usually grouped under the agency that administers them. Some agencies are assigned one chapter in Minnesota Rules; others have many chapters. The chapters appear in alphabetical order by agency or department name. You can also find a rule by looking at the numerical arrangement of chapters.

Within each chapter the rules are arranged in a decimal numbering system. In a part number, the four digits to the left of the decimal point match the chapter number. The four digits to the right of the decimal point assign a unique number to each rule in the chapter. No part number is smaller than .0001 or larger than .9999. You can get a specific rule if you know the part number assigned to it.

Chapter 1800 of the Minnesota Administrative Rules pertains exclusively to the Licensing and Operation Rules implemented by the Board as they relate to the practice of engineering as well as the other professions regulated by the Board.

Chapter 1805 of the Minnesota Administrative Rules pertains exclusively to the Rules of Professional Conduct implemented by the Board as they relate to the practice of engineering as well as the other professions regulated by the Board. These rules are presented in Chapter 2 below.

**Minnesota Board Disciplinary Process**

Under Minnesota Statutes Chapter 214 and Sections 326.02-326.15 as well as Minnesota Rules Chapters 1800 and 1805, the Board has the authority to take disciplinary action against any licensee or certificate holder who is found by the Board to be guilty of any of the acts or offenses under the laws and rules of the engineering profession as well as the other professions regulated by the Board. That disciplinary action can include reprimand, probation, suspension, revocation of license or certificate, refusal to renew license or certificate, or fine in an amount not to exceed ten thousand dollars ($10,000.00) per violation.

Any of these actions may be taken following an administrative disciplinary/enforcement hearing. An administrative hearing may result when results of the investigation of a sworn affidavit of complaint substantiates the allegation that a violation of the Board’s laws and/or rules may have occurred.
In situations where the Board determines after investigation that the allegations(s) filed are completely unfounded, more appropriately resolved outside the formal disciplinary or enforcement proceedings, or not within the jurisdiction of the Board, the Board will notify the respondent and complainant in writing of its decision.

Several disciplinary cases, presented in Chapter 4 below, were selected at random to further illustrate the disciplinary actions taken by the Board. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Board.
Chapter 2

Minnesota Rules of Professional Conduct

The following text is extracted from Chapter 1805 of the Minnesota Administrative rules as they relate to the rules of professional conduct. If you wish to review the chapter on the Board’s website, please click on the following link:

https://www.revisor.mn.gov/rules/?id=1805&view=chapter

Chapter 1805: Rules of Professional Conduct

1805.0100 - Professional Conduct

Subpart 1. Purpose. This rule of professional conduct is adopted for the purpose of implementing the laws and rules governing the practice of architecture, engineering, land surveying, landscape architecture, and geoscience including Minnesota Statutes, section 326.11.

Subpart 2. Scope. This rule is applicable to and binding upon each person, corporation, or partnership subject to the regulatory jurisdiction of the board and each person subject to the control of the licensee.

Subpart 3. Imputed knowledge of professional responsibility. Each licensee who holds a certificate of licensure issued by the board is charged with knowledge of this rule. In the exercise of the privileges and rights granted by the certificate of licensure, the licensee shall conform professional conduct to the public and to the board in accordance with the provisions of this rule, and shall, as a condition of licensure, subscribe to and agree to conduct the practice in accordance with the provisions of this rule.

Statutory Authority: MS s 326.06
History: 17 SR 1279; 22 SR 90
Published Electronically: May 14, 2004

1805.0200 - Personal Conduct

Subpart 1. Public confidence and personal integrity. A licensee shall avoid any act which may diminish public confidence in the profession and shall, at all times, conduct himself or herself, in all relations with clients and the public, so as to maintain its reputation for professional integrity.

Subpart 2. False statements and nondisclosure. A licensee 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.
Subpart 3. Knowledge of unqualified applicants. A licensee shall not further the application for certification or licensure of another person known by the licensee to be unqualified in respect to character, education, or other relevant factor.

Subpart 4. General prohibitions. A licensee shall not:
   A. circumvent a rule of professional conduct through actions of another;
   B. engage in illegal conduct involving moral turpitude;
   C. engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
   D. engage in conduct that adversely reflects on the licensee's fitness to practice the profession; or
   E. permit the licensee's name or seal to be affixed to plans, specifications, or other documents which were not prepared by or under the direct supervision of the licensee.

Statutory Authority: MS s 326.06
History: 17 SR 1279
Published Electronically: May 14, 2004

1805.0300 - Conflict of Interest

Subpart 1. Employment. A licensee shall avoid accepting a commission where duty to the client or the public would conflict with the personal interest of the licensee or the interest of another client. Prior to accepting such employment, the licensee shall disclose to a prospective client such facts as may give rise to a conflict of interest.

Subpart 2. Compensation. A licensee shall not accept compensation for services relating or pertaining to the same project from more than one party unless there is a unity of interest between or among the parties to the project and unless the licensee makes full disclosure and obtains the express consent of all parties from whom compensation will be received.

Subpart 3. Gifts. A licensee shall not, directly or indirectly, solicit or accept any compensation, gratuity, or item of value from contractors, their agents, or other persons dealing with the client or employer in connection with the work for which the licensee has been retained without the knowledge and approval of the client or the employer.

Statutory Authority: MS s 326.06
Published Electronically: May 14, 2004

1805.0400 - Improper Solicitation of Employment

A licensee 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.

A licensee shall not falsify or misrepresent the extent of the licensee's education, training, experience, or qualifications to any person or to the public; nor misrepresent the extent of the licensee's responsibility in connection with any prior employment.

A licensee shall not transmit, distribute, or publish or allow to be transmitted, distributed, or published, any false or misleading information regarding the licensee's own
qualifications, training, or experience or that of his or her employer, employees, associates, or joint ventures.

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

Statutory Authority:  MS s 326.06
History:  17 SR 1279
Published Electronically:  May 14, 2004

1805.0500 - False or Malicious Statements

A licensee shall make no false or malicious statements which may have the effect, directly or indirectly, or by implication, of injuring the personal or professional reputation or business of another member of the profession.

Statutory Authority:  MS s 326.06
History:  17 SR 1279
Published Electronically:  May 14, 2004

1805.0600 - Knowledge of Improper Conduct by Others

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

A licensee, 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 licensee may have relative thereto.

Statutory Authority:  MS s 326.06
History:  17 SR 1279
Published Electronically:  May 14, 2004

1805.0700 - Action by Other Jurisdiction

Convictions of a felony without restoration of civil rights, or the revocation or suspension of the certificate of licensure of a licensee by another jurisdiction, if for cause which in the state of Minnesota would constitute a violation of law or of these rules, shall be deemed to be a violation of these rules of professional conduct. Any licensee adjudged mentally incompetent by a court of competent jurisdiction shall, until restored to mental competency, be deemed to be incompetent to practice the profession within the meaning of Minnesota Statutes, section 326.11, subdivision 2.

Statutory Authority:  MS s 326.06
History:  17 SR 1279
Published Electronically:  May 14, 2004
1805.0800 - Employment on the Basis of Merit

A licensee as an employer, shall refrain from engaging in any discriminatory practice prohibited by law and shall, in the conduct of the business, employ professional personnel solely upon the basis of merit.

Statutory Authority: MS s 326.06
History: 17 SR 1279
Published Electronically: May 14, 2004

1805.0900 - Misconduct

Misconduct within the meaning of Minnesota Statutes, section 326.11, subdivision 1 shall include any act or practice in violation of the rules of professional conduct as set forth in parts 1805.0100 to 1805.0800.

Statutory Authority: MS s 326.06
Published Electronically: May 14, 2004

1805.1500 - Registration

No corporation, partnership, or other firm engaged in the practice of architecture, engineering, land surveying, landscape architecture, or geoscience, or two or more of these professions, shall contract with or accept employment for professional services of an architectural, engineering, land surveying, landscape architectural, or geoscience character as defined in Minnesota Statutes, sections 326.02 to 326.15 unless a member or employee of the corporation, partnership, or other firm in responsible charge of the work is registered and licensed under the provisions of Minnesota Statutes, sections 326.02 to 326.15 to practice the profession called for by the employment.

Statutory Authority: MS s 326.06
History: 22 SR 90
Published Electronically: May 14, 2004

1805.1600 - Responsible Charge and Direct Supervision

Subpart 1. Responsible charge; defined. A person in responsible charge of architectural, engineering, land surveying, landscape architectural, geoscience, or certified interior design work as used in Minnesota Statutes, section 326.14 means the person who determines design policy, including technical aspects, advises with the client, superintends subordinates during the course of the work and, in general, the person whose professional skill and judgment are embodied in the plans, designs, and advice involved in the work. Plans and specifications for buildings, structures, or projects of standard design which have been designed outside the state shall bear the certification of the design professional licensed in another United States licensing jurisdiction. In addition, a Minnesota licensed architect, professional engineer, land surveyor, landscape architect, professional geologist, professional soil scientist, or certified interior designer shall review the design and certify that it is appropriate to the site on which construction is proposed and is in compliance with the State Building Code adopted by the Department of Administration where the building code is in effect.
Subpart 2. Direct supervision; defined. A person in direct supervision of work as referred to in Minnesota Statutes, section 326.12, subdivision 3, means that person who is the employer, an employee of the same firm, or who is under contract to or from another firm and who is in responsible charge of the technical aspects of the architectural, engineering, land surveying, landscape architectural, geoscience, or certified interior design work in progress, and whose professional skill and judgment are embodied in the plans, specifications, reports, plats, or other documents required to be certified pursuant to that subdivision. A person in direct supervision of work directs the work of other licensees, interns, draftspersons, technicians, and clerical persons assigned to that work and is in responsible charge of the project comprising the work being supervised.

Statutory Authority: MS s 326.06
History: 38 SR 59
Published Electronically: July 22, 2013
Chapter 3

MN Statues - Disciplinary Proceedings

The following are excerpts from Chapter 326 of the Minnesota Statutes as they relate to disciplinary and enforcement proceedings. If you wish to review the entire chapter, please visit the website of the Minnesota Board at:

https://www.revisor.mn.gov/statutes/?id=326.111

326.111 - Unauthorized Practice; Disciplinary Action

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

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

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

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

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

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

**Subdivision 3. Cease and desist orders.**

(a) The board, or the complaint committee if authorized by the board, may issue and have served upon a person an order requiring the person to cease and desist from the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the titles architect, professional engineer, land surveyor, landscape architect, professional geologist, professional soil scientist, certified interior designer, or violation of the statute, rule, or order. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing and shall state the reasons for the entry of the order.

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

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

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

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

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

**Subdivision 4. Actions against applicants and licensees.**

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

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

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

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

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

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

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

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

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

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

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

(b) In lieu of or in addition to any remedy provided in paragraph (a), the board may require, as a condition of continued licensure, possession of certificate, termination of suspension, reinstatement of license or certificate, examination, or release of examination grades, that the person:
(1) submit to a quality review of the person’s ability, skills, or quality of work, conducted in such fashion and by such persons, entity, or entities as the board may require including, but not limited to, remedial education courses; and

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

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

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

Subdivision 5. Procedure for temporary suspension of license or certificate.

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

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

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

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

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

Subdivision 6. Violations; penalties; costs of proceeding.

(a) The board may impose a civil penalty not to exceed $10,000 per violation upon a person who commits an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or violates a statute, rule, or order that the board has issued or is empowered to enforce.
(b) The board may, in addition, impose a fee to reimburse the board for all or part of the cost of the proceedings resulting in disciplinary action authorized by this section, the imposition of civil penalties, or the issuance of a cease and desist order. The fee may be imposed when the board shows that the position of the person who commits an act or practice constituting the unauthorized practice of architecture, engineering, land surveying, landscape architecture, geoscience, or the unauthorized use of the title certified interior designer, or violates a statute, rule, or order that the board has issued or is empowered to enforce is not substantially justified, unless special circumstances make an award unjust, notwithstanding the provisions of Minnesota Rules, part 1400.8401. The costs include, but are not limited to, the amount paid by the board for services from the office of administrative hearings, attorney fees, court reporters, witnesses, reproduction of records, board members' per diem compensation, board staff time, and expense incurred by board members and staff.

Subdivision 7. Reinstatement. The board may reinstate a suspended, revoked, or surrendered certificate or license upon petition of the former or suspended certificate holder or licensee. The board may, in its sole discretion, place any other conditions, including reexamination in whole or in part, upon reinstatement of a suspended, revoked, or surrendered certificate or license that it finds appropriate and necessary to ensure that the purposes of sections 326.02 to 326.15 are met. No suspended certificate or license shall be reinstated until the former certificate holder or licensee has completed one-half of the suspension.

History: 1993 c 358 s 1; 1994 c 465 art 1 s 39; 1995 c 206 s 20-24; 1999 c 213 s 4; 2014 c 236 s 11
Chapter 4

Ethical and Disciplinary Case Studies

As explained in Chapters 2 and 3, we, as Professional Engineers, are expected to take reasonable precautions or care in the practice of our engineering profession as we must hold paramount the safety, health and welfare of the public. So, what happens when we fall short of our professional responsibilities for which we were entrusted by the public when we earned our honorable title of “Professional Engineer”?

The following disciplinary cases were extracted from the website of the Minnesota Board:

1. Case No. 2015-0030 - Unlicensed Practice of or Offering to Practice Engineering
2. Case No. 2014-0017/18/20/21 - Negligence in Performing Services as a PE
3. Case No. 2016-0004 - Outstanding Tax Liability

In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Board.
**CASE. NO. 2015-0030**

**VIOLATION:** Unlicensed Practice of or Offering to Practice Engineering

**ACTION DATE:** August 6, 2015

Case Review:

Respondent's Minnesota Professional Engineer license lapsed from July 1, 2014 to December 18, 2014. During the time that the Respondent's license was expired, the Respondent was practicing engineering in the capacity of a Professional Engineer in the state of Minnesota.

Violations:

Respondent admits that the facts specified above constitute violations of Minnesota Statutes section 326.02, subdivisions 1 and 3, and Minnesota Statutes section 326.03, subdivision 1 (2014) and are sufficient grounds for the action specified below. Specifically, it is alleged that the Respondent held himself out as a Professional Engineer in Minnesota without a license, within the meaning of Minnesota Statutes section 326.02, subdivision 1 (2014), during the lapse of his Minnesota Professional Engineer license, between July 1, 2014, to December 18, 2014, (a) on emails during the lapse by using the title "P.E.", and (b) on his 'Professional Traffic Operations Engineer' certificate renewal by certifying that he had a current professional engineering license. It is specifically further alleged that Respondent practiced professional engineering, as defined in Minnesota Statutes section 326.02, subdivision 3 (2014), during the lapse of his Minnesota Professional Engineer license, between July 1, 2014, to December 18, 2014, (a) by signing approximately 15 layout reviews as the Maintenance Operations Engineer for the Minnesota Department of Transportation, and (b) based upon the requirement of licensure as a Professional Engineer in Minnesota listed in the ESSENTIAL JOB FUNCTIONS as the Minnesota Department of Transportation, Maintenance Operations Engineer.

Enforcement Action:

Respondent and the Committee agree that the Board should issue an Order in accordance with the following terms:

a. **Reprimand.** Respondent is reprimanded for the foregoing conduct.

b. **Civil Penalty.** Respondent shall pay to the Board a civil penalty of Five Thousand Dollars ($5,000.00). Respondent shall submit a civil penalty of Five Thousand Dollars ($5,000.00) by check or money order to the Board within sixty (60) days of the Board's approval of this Stipulation and Order.

c. **Respondent shall cease and desist from violating any laws, rules or orders entrusted to enforcement by the Board.**
CASE. NO. 2014-0017/18/20/21

VIOLATION: Negligence in Performing Services as a Professional Engineer

ACTION DATE: May 21, 2015

Case Review:

Respondent was negligent in performing services as a Professional Engineer on the "Ogilvie Land Development Access Driveway, Harbor Road (County Road 12) & 153'ct Avenue, Tire Enhanced Base Driveway Project" plans he certified. Respondent knew or should have known that this was a unique project and that it would have been prudent professional practice to utilize a special MPCA process, applying for a "case-specific beneficial use determination" to obtain a site specific permit from the MPCA. Respondent never advised the client to apply for a "case-specific beneficial use determination."

Violations:

Respondent admits that the facts specified above constitute a violation of Minnesota Statutes section 326.111, subdivision 4 (a) (3) (2014) and are sufficient grounds for the action specified below. Specifically, it is alleged that: Respondent was negligent in that he knew or should have known that the plans he certified for the "Ogilvie Land Development Access Driveway, Harbor Road (County Road 12) & 153'ct Avenue, Tire Enhanced Base Driveway Project" needed to be in compliance with the MPCA regulations and Respondent should have advised his client to apply for and receive a "case-specific beneficial use determination."

Enforcement Action:

Respondent and the Committee agree that the Board should issue an Order in accordance with the following terms:

a. Reprimand. Respondent is reprimanded for the foregoing conduct.

b. Civil Penalty. Respondent shall pay to the Board a civil penalty of Five Thousand Dollars ($5,000.00). Respondent shall submit a civil penalty of Five Thousand Dollars ($5,000.00) by check or money order to the Board within sixty (60) days of the Board's approval of this Stipulation and Order.
CASE. NO. 2016-0004

VIOLATION: Outstanding Tax Liability

ACTION DATE: July 24, 2015

Case Review:
On July 22, 2015, the Board received a Notice of License Revocation for debt from the Minnesota Department of Revenue, which advised the Board that Respondent has an outstanding tax liability.

Violations:
Under Minnesota Statutes section 270C.72 (2014), the Board must revoke Respondent's license if the license holder owes delinquent state taxes, penalties, or interest, and the Minnesota Commissioner of Revenue so notifies the Board.

Enforcement Action:
The Board issued the following order:

a. Respondent's license shall be REVOKED pursuant to Minnesota Statutes section 270C.72, subdivision 1 (2014). During the period of revocation Respondent shall not offer to perform or perform any services in this state that require licensure as a professional engineer, including holding himself out to the public as a professional engineer.

b. During the period of revocation, Respondent shall remove the designation of being a licensed professional engineer from all Respondent's advertisements, business cards, business forms, and signage.

c. Revocation shall take effect immediately and shall remain in effect until the Board receives a Tax Clearance Certificate from the Minnesota Department of Revenue indicating that Respondent does not owe the State any uncontested delinquent taxes, penalties, or interest and has filed all required returns. If a Tax Clearance Certificate is received, the Board shall then issue an Order to rescind this revocation of Respondent's license.
Appendix A

References

About the Board
http://mn.gov/aelslagid/about.html

Complaints
http://mn.gov/aelslagid/complaints.html

About Minnesota Statutes
https://www.revisor.mn.gov/statutes/?view=info

Minnesota Statutes – Employments Licensed by State (Chapter 326)
https://www.revisor.mn.gov/statutes/?id=326

Minnesota Statutes – Unauthorized Practice; Disciplinary Action (Chapter 326.111)
https://www.revisor.mn.gov/statutes/?id=326.111

About Minnesota Administrative Rules
https://www.revisor.mn.gov/rules/?view=info

Minnesota Administrative Rules - Licensing and Operation (Chapter 1800)
https://www.revisor.mn.gov/rules/?id=1800

Minnesota Administrative Rules – Rules of Professional Conduct (Chapter 1805)
https://www.revisor.mn.gov/rules/?id=1805

Enforcement
http://mn.gov/aelslagid/enforcement.html