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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/1805/full>

Chapter 1805: Rules of Professional Conduct

1805.0100 - Professional Conduct

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

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

Subp. 3. Professional responsibility.

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

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

Statutory Authority: MS s 326.06

History: 17 SR 1279; 22 SR 90; 44 SR 485

Published Electronically: October 23, 2019

1805.0200 – Obligation to Provide Full Disclosure

Subpart 1. Public statements.

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

B. A licensee or certificate holder shall be objective and truthful in all professional documents, including but not limited to plans, reports, statements, or testimony. The licensee or certificate holder shall consider relevant and pertinent information in such documents or testimony and express professional opinions publicly only when they are

founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter.

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

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

Subp. 3. Knowledge of unqualified applicants.

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

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

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

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

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

A. circumvent a rule of professional conduct through actions of another;

B. engage in illegal conduct involving moral turpitude;

C. engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

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

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

Statutory Authority: MS s 326.06

History: 17 SR 1279; 44 SR 485

Published Electronically: October 23, 2019

1805.0300 - Conflict of Interest

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

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

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

Subp. 3. Gifts.

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

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

Subp. 4. Interpretations. When acting as the interpreter of project contract documents or as the judge of contract performance, a licensee or certificate holder shall render decisions impartially, using the professional judgment of their licensed or certified discipline.

Statutory Authority: MS s 326.06

History: 44 SR 485

Published Electronically: October 23, 2019

1805.0400 - Improper Solicitation of Employment

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

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

Statutory Authority: MS s 326.06

History: 17 SR 1279; 44 SR 485

Published Electronically: October 23, 2019

1805.0500 - False or Malicious Statements

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

Statutory Authority: MS s 326.06

History: 17 SR 1279; 44 SR 485

Published Electronically: October 23, 2019

1805.0700 – Compliance with Laws

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

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

Statutory Authority: MS s 326.06

History: 17 SR 1279; 44 SR 485

Published Electronically: October 23, 2019

1805.0800 - Employment Practices

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

Statutory Authority: MS s 326.06

History: 17 SR 1279; 44 SR 485

Published Electronically: October 23, 2019

1805.0900 – Professional Misconduct

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

Statutory Authority: MS s 326.06

History: 44 SR 485

Published Electronically: October 23, 2019

1805.1500 - Registration

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

of the corporation, partnership, or other firm in responsible charge of the work is registered and licensed under Minnesota Statutes, sections 326.02 to 326.15, to practice the profession called for by the employment.

Statutory Authority: MS s 326.06

History: 22 SR 90; 44 SR 485

Published Electronically: October 23, 2019

1805.1600 - Responsible Charge and Direct Supervision

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

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

Statutory Authority: MS s 326.06

History: 38 SR 59; 44 SR 485

Published Electronically: October 23, 2019

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/cite/326>

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. 2020-0017 - Unlicensed Practice of or Offering to Practice Engineering
2. Case No. 2019-0091 - Failure to Meet Continuing Education Requirements
3. Case No. 2019-0062 – Failure to Report to the Board Disciplinary Actions Taken in Another Jurisdiction

In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Board.

CASE. NO. 2020-0017

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

ACTION DATE: *June 25, 2020*

Case Review:

The Respondent was licensed to practice as a Professional Engineer from December 19, 2016, to June 30, 2018, and from October 25 2019, to the present. During the period in which the Respondent was not licensed, the Respondent represented himself as a professional engineer and performed professional engineering services.

Violations:

Respondent admits the facts specified above constitute violations of Minn. Stat. §§ 326.02, subdivisions 1 and 3 (2018) and are sufficient grounds for the action specified below. Specifically, it is alleged that the Respondent (a) held himself out as a Professional Engineer, within the meaning of Minn. Stat. § 326.02, subdivision 1 (2018), by using the title of "Professional Engineer" between July 1, 2018, and October 9, 2019, in connection with 15 Minnesota projects he certified as a Minnesota Professional Engineer, and (b) practiced professional engineering, as defined in Minn. Stat. § 326.02, subdivision 3 (2018) by certifying 15 projects and by working on multiple other Minnesota projects during the lapse of his Minnesota Professional Engineer license, between July 1, 2018, and October 9, 2019.

Enforcement Action:

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

- a. Reprimand. Respondent is censured and reprimanded for the foregoing conduct.
- b. Civil Penalty. Respondent shall pay to the Board a civil penalty of \$5,000 payable by check to the Board.
- c. Ethics Course. Respondent shall complete 2 professional development hours related to professional ethics, and provide proof of completion of the hours to the Board.

CASE. NO. 2019-0091

VIOLATION: *Failure to Meet Continuing Education Requirements*

ACTION DATE: *November 21, 2019*

Case Review:

The Respondent failed to provide supporting documentation to substantiate two hours dedicated to professional ethics during the reporting period relevant to his license renewal and, therefore, failed to meet the continuing education requirements for renewal of his license on January 11, 2019 renewal date.

Violations:

Respondent admits that the facts specified above constitute violations of Minnesota Statutes§ 326.107, subdivision 1 (a) and (b) (2018}, Minnesota Statutes§ 326.111, 2 subdivisions 4 (a) (1), (2), (5), and (8) (2018), Minnesota Rules 1805.0200, subparts 2 and 4 C (2017), and Minnesota Rules 1805.0900 (2017) and are sufficient grounds for the action specified below.

Enforcement Action:

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

- a. Reprimand. Respondent is censured and reprimanded for the foregoing conduct.
- b. Civil Penalty. Respondent shall pay to the Board a civil penalty of \$500, payable by check to the Board within 60 days of the Board's approval of this stipulation and order.
- c. Professional Development Hours. The ethics professional development hours earned on March 27, 2019 and April 3, 2019 shall not count toward Respondent's continuing education requirements for 2018-2020 reporting period.

CASE NO. 2019-0062

VIOLATION: Failure to report to the Board disciplinary actions taken in another jurisdiction

ACTION DATE: September 24, 2019

Case Review:

The grounds for the discipline included breach of duty to loyalty, using deceptive trade practices, and engaging in dishonorable, unethical, or unprofessional conduct when the Respondent created a business in direct competition to his employer, while still being under the employ of that employer, and soliciting work from his employer's clients.

Violations:

Respondent admits that the facts specified constitute grounds for disciplinary action against his Minnesota Professional Engineer license pursuant to Minnesota Statutes sections 326.11, subdivision 1 and 326.111, subdivision 4(a) (1)-(3), (6)-(7) (2018); Minnesota Rules 1800.0120, subpart 1D (2017); Minnesota Rules 1805.0200, subparts 1 and 4C-D (2017); Minnesota Rules 1805.0700 (2017); and Minnesota Rules 1805.0900 (2017). Specifically, it is alleged that Respondent (a) engaged in acts that are deceptive, dishonest, negligent, and that reflect adversely on his ability or fitness to engage in the practice of engineering, (b) has had his right to practice revoked, suspended, cancelled, limited, or not renewed in another jurisdiction; (c) had his license revoked or suspended by another jurisdiction if for cause which in the state of Minnesota would constitute a violation of law or rules, shall be deemed to be a violation of the rules of professional conduct; and (d) failed to report to the Board disciplinary action taken in another jurisdiction within 60 days.

Enforcement Action:

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

- a. Suspension. Respondent's professional engineering license is hereby SUSPENDED effective the date of the Board's approval of this stipulation and order through June 30, 2020.
- b. Respondent may not apply for reinstatement of his professional engineer license until July 1, 2021.
- c. Civil Penalty. Respondent shall pay a civil penalty of \$2,000 by check to the Board within 60 days of the date of the Board's approval of this stipulation and order.

Appendix A

References

About the Board

<https://www.mn.gov/aelslagid/about.html>

Complaints

<https://www.mn.gov/aelslagid/complaints.html>

Statutes & Rules

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

Minnesota Statutes – Employments Licensed by State (Chapter 326)

<https://www.revisor.mn.gov/statutes/cite/326>

Minnesota Statutes – Unauthorized Practice; Disciplinary Action (Chapter 326.111)

<https://www.revisor.mn.gov/statutes/cite/326.111>

Minnesota Administrative Rules - Licensing and Operation (Chapter 1800)

<https://www.revisor.mn.gov/rules/1800/full>

Minnesota Administrative Rules – Rules of Professional Conduct (Chapter 1805)

<https://www.revisor.mn.gov/rules/1805/full>

Enforcement

<https://www.mn.gov/aelslagid/enforcement.html>