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Mississippi Code of Conduct for Professional Land Surveyors

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Chapter 1

Overview of the Mississippi Professional Land Surveying Ethics

Land Surveying Ethics

Land surveying ethics is (1) the study of moral issues and decisions confronting individuals and organizations involved in land surveying and (2) the study of related questions about moral conduct, character, ideals and relationships of peoples and organizations involved in professional land surveying practice (Martin and Schinzinger, *Ethics in Engineering*).

Mississippi Board of Licensure for Professional Engineers and Surveyors

The Mississippi Legislature created the Mississippi Board of Licensure for Professional Engineers and Surveyors (Board) in 1928 with the charge of protecting life, health, and property and to promote the public welfare. The Board originally governed only professional engineers; the enabling legislation was expanded in 1962 to include the licensure of land surveyors. The Board has the power to adopt rules, set standards for licensure, and investigate and discipline unauthorized, negligent, or incompetent practice. The Board reviews applications, administers examinations, licenses qualified applicants, and regulates the professional practice of licensees throughout the state. The Board consists of nine members appointed by the Governor of Mississippi for a term of four years: six licensed professional engineers, appointed from nominees recommended by the Mississippi Engineering Society, and three licensed professional surveyors who are not also licensed as professional engineers, appointed from nominees recommended by the Mississippi Association of Professional Surveyors.

Mississippi Statutory Laws

The Mississippi statutory laws are a collection of state laws organized by subject area into a code made up of titles and chapters. The Mississippi Code of 1972, Title 73, Chapter 13 (Sections 73-13-1 through 73-13-105) was enacted by the Mississippi Legislature in the interest of public health and safety to regulate the practice of engineering and surveying in the State of Mississippi. It is continuously updated by laws that create, amend, or repeal statutory material. The Mississippi statutory laws state the law followed by the history of the law, which indicates when it was originally filed and subsequent effective dates of enactment.

Mississippi Board Rules

The Mississippi Administrative Code is a compilation of the rules and regulations of Mississippi's regulatory agencies. It is organized by titles and parts, with each part representing a department, board, or other agency. Title 30, Part 901 of the Mississippi Administrative Code, commonly referred to as the Rules and Regulations of the Board, was made under the authority of Title 73, Chapter 13 of the Mississippi Code and states the Board's functions with respect to the practice of engineering and surveying. They are continuously updated by the Board. The Board Rules record the rule followed by the history of the rule, which indicates when the rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date.

Mississippi Board Disciplinary Authority

The Mississippi Board of Licensure for Professional Engineers and Surveyors is charged with the duty of issuing licenses to those professional surveyors it has determined to be qualified. Under Section 73-13-37 of the Mississippi Code, it has the authority and responsibility to reprimand, place on probation, suspend, or revoke a license when charges such as gross incompetence, negligence, or unethical conduct are proven against a licensee. The Board is not authorized to settle boundary line disputes, establish costs for services, correct miscalculations or errors in a survey of real property, or settle contractual disputes. These types of problems are civil matters and are usually settled between the parties involved either in or out of the courts. If wrongdoing by a licensee is proven in court, the Board would like to have certified copies of any orders issued to prevent the wrongdoing from happening again and to take other action as considered appropriate. Likewise, the Board has no powers of restitution, as these are reserved for the courts.

Selected provisions of the Mississippi Code of Professional Conduct are presented in Chapter 2 below. Selected disciplinary case studies illustrating violations of Mississippi's ethics and professional conduct standards for land surveyors are presented in Chapter 3 below.

Chapter 2

Mississippi Code of Professional Conduct for Professional Land Surveyors

Mississippi Code of Professional Conduct, Title 30, Part 901, Chapter 6

The following are excerpts from the Rules and Regulations of the Mississippi Board of Licensure for Professional Engineers and Surveyors, governing the professional conduct of engineers and surveyors in Mississippi. If you wish to review the complete Mississippi Administrative Code and Code of Professional Conduct, please visit the website at:

<https://www.pepls.ms.gov/sites/pepls/files/PEPLS%202020/Rules%20&%20Regulation/Final%20Admin.%20Rules%2008-20-25.pdf>

§Part 901, Chapter 6, Rule 6.3 Code of Professional Conduct

The rules of professional conduct provided in this section are intended to safeguard the health, safety, and welfare of the public. They assure high standards of skill and practice in the engineering and surveying professions and maintain the integrity and reputation of the professions. The rules of professional conduct provided in this section shall be binding upon every licensee and on all Firms authorized to offer or perform engineering or surveying services in the State of Mississippi.

1. Licensee's Obligation to the Public

- a. Licensees shall be cognizant that their first and foremost responsibility is to safeguard the health, safety, and welfare of the public when performing services for clients and employers.
- b. Licensees shall sign and seal only those plans, surveys, and other documents that conform to accepted engineering and surveying standards and that safeguard the health, safety, and welfare of the public.
- c. Licensees shall notify their employer or client, and such other authority as may be appropriate when their professional judgment is overruled when the health, safety, or welfare of the public is endangered.
- d. Licensees shall, to the best of their knowledge, include all relevant and pertinent information in an objective and truthful manner within all professional documents, statements, and testimony.
- e. Licensees shall express a professional opinion publicly only when it is founded upon adequate knowledge of the facts and a competent evaluation of the subject matter.

- f. Licensees shall issue no statements, criticisms, or arguments on engineering and surveying matters that are inspired or paid for by interested parties, unless they explicitly identify the interested parties on whose behalf they are speaking and reveal any interest they have in the matters.
- g. Licensees shall not partner, practice, or offer to practice with any person or Firm that they know is engaged in fraudulent or dishonest business or professional practices.
- h. Licensees who have knowledge or reason to believe that any person or Firm has violated any rules or Statutes applying to the practice of engineering or surveying shall report it to the Board, may report it to appropriate legal authorities, and shall cooperate with the Board and those authorities as requested.
- i. Licensees shall not knowingly provide false or incomplete information regarding an applicant seeking licensure.
- j. Licensees shall comply with the licensing Statutes and rules governing their professional practice in each of the areas in which they practice.

§Part 901, Chapter 6, Rule 6.3: Licensee's Obligation to Employer and Clients

- a. Licensees shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or surveying involved.
- b. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competence, nor to any such plan or document not prepared under their responsible charge.
- c. Licensees may accept assignments and assume responsibility for coordination of an entire project if each technical segment is signed and sealed by the licensee responsible for preparation of that technical segment.
- d. Licensees shall not reveal facts, data, or information obtained in a professional capacity without the prior consent of the client, employer, or public body on which they serve except as authorized or required by Statute or rules.
- e. Licensees shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties in connection with work for employers or clients.
- f. Licensees shall disclose to their employers or clients all known or potential conflicts of interest or other circumstances that could influence or appear to influence their judgment or the quality of their professional service or engagement.
- g. Licensees shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to in writing by all interested parties.

- h. Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member. Conversely, licensees serving as members, advisors, or employees of a government body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by said concern to the governmental body that they serve.
- i. Licensees shall not use confidential information received during their assignments as a means of making personal profit without the consent of the party from whom the information was obtained.

§Part 901, Chapter 6, Rule 6.3: Licensee's Obligation to Other Licensees

- a. Licensees shall not falsify or permit misrepresentation of their academic or professional qualifications or those of their associates. They shall not misrepresent or exaggerate their degree of responsibility in prior assignments nor the complexity of said assignments. Presentations incidental to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments.
- b. Licensees shall not offer, give, solicit, or receive, either directly or indirectly, any commission, or gift, or other valuable consideration to secure work, and shall not make any political contribution with the intent to influence the award of a contract by public authority.
- c. Licensees shall not injure or attempt to injure, maliciously or falsely, directly, or indirectly, the professional reputation, prospects, practice, or employment of other licensees, nor indiscriminately criticize other licensees' work.
- d. Licensees shall make a reasonable effort to inform another licensee whose work is believed to contain a material discrepancy, error, or omission that may impact the health, safety, or welfare of the public, unless such reporting is legally prohibited.

§Part 901, Chapter 6, Rule 6.3: Character and Reputation

The licensee shall be responsible for maintaining good character and reputation. Grounds for a disciplinary hearing which may result in the revocation of their license include suspension of a license by another jurisdiction, being a habitual drunkard, demonstrating gross immorality, being addicted to narcotics or illegal drugs, have been adjudged insane or incompetent by a court of competent jurisdiction, or being convicted of a felony or misdemeanor.

§Part 901, Chapter 6, Rule 6.3: Competency for Assignments

- a. The licensee may accept an assignment requiring education or experience outside his or her area of competence, but only to the extent that his or her services are restricted to those phases of the project in which he or she is qualified. All other phases of such projects shall be performed by licensees who may be associates, consultants or employees, qualified in the specific disciplines involved.

- b. Professional Engineer, if properly qualified by training, education and experience, may perform construction management services without obtaining any additional license or certification, provided that the Professional Engineer does not perform any construction work on the project being managed.

§Part 901, Chapter 6, Rule 6.3: Solicitation of Work

- 1. The Professional Engineer and the Engineering Firm, is to seek professional employment based primarily on the qualifications and competencies required for proper accomplishment of the work. This process restricts the Professional Engineer or Firm from submitting a price for services until the prospective client has selected that Engineer or Firm, based primarily on stated qualifications and competencies, for final contractual negotiations.

Competitive price proposals may not be submitted or solicited for professional services unless all of the following restrictions are met:

- 1) the prospective client has first sought statements of qualifications from interested licensees,
 - 2) a short-list of no more than five (5) licensees chosen by the client based on qualifications and competence for proper accomplishment of the work received in writing a comprehensive and specific Scope of Work,
 - 3) when the Scope of Work has been prepared, signed and sealed by a licensed Professional Engineer who has attested to the completeness and adequacy of the Scope of Work assuring that it fully identifies and describes the factors affecting the required engineering services,
 - 4) assurances have been given by the prospective client that factors in addition to price were considered in selecting the Professional Engineer, and
 - 5) neither the Professional Engineer that sealed the Scope of Work, nor this Professional Engineer's Firm will be allowed to submit a price proposal.
- b. The Professional Surveyor, and the surveying Firm, is to seek professional employment based primarily on the qualifications and competencies required for proper accomplishment of the work. This process restricts the Professional Surveyor or Firm from submitting a price for services until the prospective client has selected that Surveyor or Firm, based primarily on stated qualifications and competencies, for final contractual negotiations.

Competitive price proposals may not be submitted or solicited for professional surveying services unless all the following restrictions are met:

- 1) the prospective client has first sought statements of qualifications from interested licensees,

- 2) a short-list of no more than five (5) licensees chosen by the client based on qualifications and competence for proper accomplishment of the work received in writing in response to a comprehensive and specific Scope of Work prepared by the client or the client's representative that completely describes the factors affecting the required surveying services, and
- 3) assurances have been given by the prospective client that factors in addition to price were considered in selecting the Professional Surveyor.

§Part 901, Chapter 1, Rule 1.2: Definitions

Disciplinary Action - The term "Disciplinary Action" shall mean any final written decision or settlement taken against an individual or Firm by a licensing board based upon a violation of the Board's Statutes and rules. Disciplinary actions include reprimands; sanctions; administrative fines; the Board's refusal to issue, restore, or renew a license; settlement agreements or consent orders; probation; suspension; revocation; surrendering, relinquishing, or agreeing not to renew the license as part of an agreement or Board order; or any combination thereof.

Gross Negligence - The term "gross negligence" as used in the Statute shall mean the practice of engineering or surveying by a licensee characterized by reckless disregard for the rights, health, safety, or welfare of others, which could result in personal injury, damage to property, or financial loss.

Incompetency - The term "incompetency" as used in the Statute shall mean the practice of engineering or surveying by a licensee who is either incapable of exercising ordinary care and diligence or who lacks the ability and skill necessary to properly perform the duties undertaken.

Misconduct - The term "misconduct" as used in the Statute shall mean the practice of engineering or surveying by a licensee who performs any acts, causes omissions or makes any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever discredits or tends to discredit the profession of engineering or surveying

§Part 901, Chapter 9, Rule 9.2: Grounds for Disciplinary Action

1. The Board shall have the power to impose such disciplinary action as provided by Miss. Code Ann. Section 73-13-37 for any of the following reasons:
 - a. fraud or deceit in obtaining or attempting to obtain or renew a License or Certificate of Authority,
 - b. gross negligence, incompetence, or misconduct in the practice of engineering or surveying,
 - c. conviction of, or entry of a plea of guilty or nolo contendere, to any crime that is a felony, whether related to the practice of engineering or surveying or not,

- d. conviction of, or entry of a plea of guilty or nolo contendere, to any crime, when an essential element of which is dishonesty or which is related to the practice of engineering or surveying,
 - e. violating any of the provisions of Statute, these administrative rules or the standards of ethics or conduct duly adopted and promulgated by the Board,
 - f. discipline (including voluntary surrender of an engineering or surveying license to avoid disciplinary action) by another jurisdiction,
 - g. failure to provide information requested by the Board,
 - h. knowingly making false statements or signing false statements, certifications, or affidavits in connection with the practice of engineering or surveying,
 - i. violating the terms of a Board Order or assisting another in violating the Statute, rules or Order of the Board,
 - j. violating the Code of Professional Conduct, and
 - k. providing false testimony or information to the Board.
2. In addition to any other sanction provided in this section, the Board shall have the power to sanction any Firm when one or more of its managing agents, officers, directors, owners, or managers have been found guilty of any conduct which would constitute a violation under the provisions of the Statute or the Rules, Regulations, or Orders of the Board:
- a. place on probation, fine, recover costs from, or reprimand, and
 - b. revoke, suspend, or refuse to issue, or renew the Certificate of Authority.

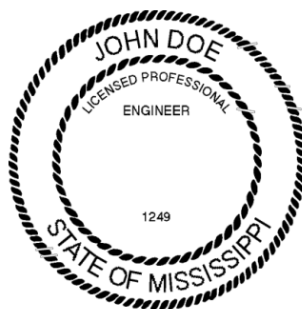
§Part 901, Chapter 9, Rule 9.10: Discipline

In determining the sanction to impose upon a respondent found to have violated the Statute, rules, or code of conduct, the Board shall consider all relevant factors, including, but not limited, to the following:

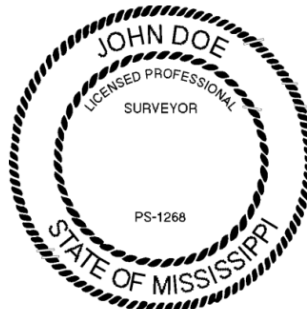
- 1. the severity of the violation(s),
- 2. the actual or possible danger to the public resulting from the accused's past and present violation(s),
- 3. the actual damage resulting from the accused's past and present violation(s),
- 4. the number of past repetitions of the accused's present violation(s),
- 5. the length of time since the occurrence of the accused's present violation(s),
- 6. the number and seriousness of previous violations,
- 7. the length of time the licensee has practiced,
- 8. the deterrent effect of the penalty imposed,
- 9. the effect of the penalty upon the accused's livelihood,
- 10. any efforts of rehabilitation, and
- 11. any other mitigating or aggravating circumstances.

§Part 901, Chapter 6, Rule 6.2: Seals

- a. Seal of the Board - The seal of the Board shall be circular in form two (2) inches in diameter and shall be imprinted on all certificates issued by the Board.
- b. Seal of the Licensee
 - a. Upon completion of licensure, the licensee will be advised that he or she shall secure an official seal which shall be applied to engineering drawings, specifications, reports and other engineering or surveying documents prepared by the licensee or under his or her responsible supervisory control. Failure to secure a seal may result in disciplinary action by the Board.
 - b. The seals to be used by the licensees are to be circular in form and from 1 5/8 inches to 2 inches in diameter. Illustrations of the seal designs are below:



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- c. Seals obtained prior to the adoption of this rule, and which are in conformance with prior Board rules are acceptable.
3. Seal on Documents
- a. The seal, signature and date on a document constitute a certification that the document was prepared by the licensee or under his or her Responsible Charge. The board has final authority regarding the determination of whether work was prepared under the Responsible Charge of a licensee.
 - 1) Each sheet of plans, drawings, documents, specifications and reports for engineering practice and of maps, plats, charts shall be signed, sealed and dated by the licensee in Responsible Charge.
 - 2) Each sheet of maps, plats, charts, documents, and reports for land surveying practice shall be signed, sealed, and dated by the licensee in Responsible Charge.
 - b. Where more than one (1) sheet is bound together in one (1) volume, the licensee who is in Responsible Charge may sign, seal and date only the title or index sheet, providing that the signed sheet clearly identifies all of the other sheets comprising the bound volume, and provided that any of the other sheets which were prepared under the Responsible Charge of another licensee must be signed, sealed and dated by that licensee.

- c. By applying his or her seal or signature to the final documents they signify that they have complied with the requirements of Statute and the Rules and Regulations of the Board.
- d. Drawings, reports, documents and digitally delivered work products may use Electronic or Digital Signatures and Seals. Electronic or Digital signatures must have an electronic authentication process attached to or logically associated with the electronic document and must be:
 - 1) Unique to the individual using it
 - 2) Capable of verification
 - 3) Under the sole control of the individual using it
 - 4) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

Any hard copy printed from the transmitted electronic file shall bear the facsimile of the signature and seal and be confirmation that the electronic file was not altered after the initial digital signing of the file. Any alterations to the file shall cause the facsimile of the signature to be voided.

- e. Additions, deletions, or other revisions affecting public health and safety, or state and local codes may be made only if they are subsequently signed, sealed, and dated by the licensee who made the revisions or under whose Responsible Charge were made.

4. Prototypical Projects

Documents prepared for projects that are designed by other engineers to be built in various locations with few changes, except site adaptation, may be sealed by a Mississippi Professional Engineer licensee under the following conditions:

- a. written permission of the original engineer(s) to adapt the documents,
- b. each sheet of plans, drawings, documents, specifications, and reports shall be signed, sealed, and dated by the engineer who performed the original design and shall also be signed, sealed, and dated by the Mississippi licensee who has reviewed the documents in sufficient depth to fully coordinate and assume responsibility,
- c. documentation of all changes made to the original documents, and
- d. the following written certification shall accompany the seal and signature on each sheet: "I have reviewed this document in sufficient depth to accept full responsibility for its contents and to assure code compliance and coordination."

- 5. Seal Care and Custody - The licensee shall exercise due and reasonable care in maintaining physical possession of his or her seal and its use. The licensee shall not willingly allow others to possess or use his or her seal in any way.

§Part 901, Chapter 5, Rule 5.7: Comity Licensure

1. Requirements - Licensure as Professional Engineer or Professional Surveyor by comity will be granted provided the applicant is currently licensed and in good standing with other NCEES member Boards and meets all current Mississippi requirements. A PE comity applicant licensed prior to 1970 by examination requirements differing from these current rules may be deemed to meet current Mississippi examination requirements if the Board determines that the examinations completed are equivalent.
2. Surveyor Requirements - Licensure as a Professional Surveyor by comity will be granted only to applicants who are licensed after fourteen (14) hours of NCEES examinations, or its equivalency as determined by the Board. The Mississippi Section two-hour examination will be required of all applicants for licensure by comity.
3. Engineer Requirements - If a properly executed NCEES Record, prepared by the NCEES Records office, is provided with certified copies verifying applicant's educational qualifications, experience record, responses from references and licensure in another state or states where the sixteen (16) hour examination was passed, the applicant will be required to complete only those sections of the application form dealing with General Information, Licensure in other states, and the Affidavit.
4. License - The license issued through comity for a Professional Engineer will bear the date the application is approved by the Board in accordance with Board procedures. The license issued through comity for a Professional Surveyor will bear the date the Mississippi Section examination is successfully completed.
5. Limited Licensure for Expert Technical Testimony
 - a. Subject to the provisions of item b. below, any person not licensed to practice engineering in the State of Mississippi and who desires to provide expert testimony in the field of engineering in the form of an opinion or otherwise in any judicial or administrative proceeding, must apply to the Board for a limited license. Said license shall be 22 administratively granted, provided each such person shall:
 - 1) provide his or her full name, residence address, office address, voice and facsimile telephone numbers, and email address,
 - 2) provide the full name, office address, voice and facsimile telephone numbers, and email address for each Firm, practice group or other entity with which he or she is associated in the practice of engineering,
 - 3) provide evidence that he or she is licensed to practice engineering in another jurisdiction and is in good standing in that jurisdiction,
 - 4) bind himself or herself to adhere to the principles of ethics and professional responsibility generally applicable to persons licensed to practice engineering in Mississippi,

- 5) give notice to the Board of the fact of his or her initial appearance as aforesaid, in substantial compliance with a form to be made available by the Board prior to or within thirty (30) days after providing such testimony, as may be prescribed by the Board (no notice is required for subsequent appearances if the limited license is still current and in good standing),
 - 6) pay the current application fee for the initial appearance and, if desired, renew the limited license when it expires, and
 - 7) submit himself or herself to the authority of the Board of Licensure for the application, administration, and enforcement of this rule.
- b. This rule does not apply to any practice, work or service exempt from Statute and shall not be construed to prevent or affect the right of any person to provide testimony concerning any such practice, work or service. By way of example, and not of limitation, a person, who provides work or service "under the responsibility, checking and Supervision" of a licensee, may, without the limited license, testify fully in any judicial or administrative proceeding in the State of Mississippi concerning such work or services, including his or her opinions, other findings, and the grounds therefore relating to such work or services, including expert testimony in the field of engineering to the extent permitted or required by the court or agency within whose jurisdiction the testimony is provided and the judicial or administrative processes pertaining thereto.
- c. Nothing contained in this rule or in the Board's administration thereof may unreasonably burden any state or federal court or any administrative agency in the administration of rules governing the permissibility of, and admissibility of, testimony by expert witnesses in the form of an opinion or otherwise.

Chapter 3

Review of Disciplinary Cases

The following disciplinary cases were extracted from official Board meeting minutes and newsletters published by the Mississippi Board of Licensure for Professional Engineers and Surveyors. The selected cases involve professional land surveyors and illustrate different violations arising from the practice of land surveying in Mississippi.

CASE 1: Case # 0321/17

Case Review: The Board's investigation resulted in a finding warranting a formal Board hearing on a Code of Conduct violation. Notably, this case was reported in the same board session as a separately-tracked "Standards violation" case (#0321/16), confirming the Board itself distinguishes Code of Conduct matters from technical Standards of Practice matters.

Board Decision: Board Hearing scheduled as of the October 2021 meeting; final disposition not stated in the minutes reviewed.

CASE 2: Case # 0121/12

Case Review: The Board's investigation resulted in a finding warranting a formal Board hearing on an unlicensed practice matter — a violation of the licensee's obligation under Rule 6.3 to comply with the licensing Statute governing their professional practice.

Board Decision: Board Hearing scheduled as of the October 2021 meeting; final disposition not stated in the minutes reviewed.

CASE 3: Case # 0820/05

Case Review: The Board's investigation resulted in a finding warranting formal Board action on an unlicensed practice matter.

Board Decision: Proposed Consent Order, \$3,000.00 fine.

CASE 4: Case # 0919/05

Case Review: The Board's investigation resulted in a finding of negligence. The Board reviewed proposed educational classes submitted by the respondent and determined it would independently specify the remaining classes the licensee should be required to complete.

Board Decision: Proposed Consent Order delivered by certified mail; the respondent requested and received additional documentation; final class requirements were pending specification by the Board as of the October 2020 meeting.

Appendix A

References

State Board of Licensure for Professional Engineers and Land Surveyors.
Mississippi Administrative Code and Code of Professional Conduct.

<https://www.pepls.ms.gov/sites/pepls/files/PEPLS%202020/Rules%20&%20Regulation/Final%20Admin.%20Rules%2008-20-25.pdf>

Mississippi Board of Licensure for Professional Engineers and Surveyors. (2021, October 6).
Board Meeting Minutes.

<https://www.pepls.ms.gov/sites/pepls/files/PEPLS%202020/Board%20Meeting%20Minutes/Final%20Minutes%20October%206,%202021.pdf>

Mississippi Board of Licensure for Professional Engineers and Surveyors. (2020, October 7).
Board Meeting Minutes.

<https://www.pepls.ms.gov/sites/pepls/files/PEPLS%202020/Board%20Meeting%20Minutes/MINUTES%20October%207%202020%20-%20%20final%20digitally%20signed.pdf>