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Engineering Ethics for North Carolina Professional Engineers

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Chapter 1

Overview of the North Carolina Engineering Ethics, Laws and Rules

Engineering Ethics

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

North Carolina Board of Examiners for Engineers and Land Surveyors

The North Carolina Board of Examiners for Engineers and Land Surveyors (Board) is organized under the provisions of The North Carolina Engineering and Land Surveying Act, Chapter 89C of the North Carolina General Statutes (G.S 89C). The Board consists of four Professional Engineers, three Professional Land Surveyors, and two Public Members, appointed by the Governor of the State of North Carolina. Members of the Board serve for staggered five-year terms, and no member may be appointed more than two full terms.

The Board reviews applications, administers examinations, licenses qualified applicants, and regulates the professional practice of the licensees throughout the State. The Board investigates alleged violations of provisions of the licensure law.

The Board is responsible for the administration and regulation of the professions of engineering and land surveying in North Carolina. The Board has the authority to implement provisions of the North Carolina Engineering and Land Surveying Act: Chapter 89C, NCGS and the NC Board Rules: Title 21, Chapter 56, NCAC.

North Carolina General Statutes

The North Carolina General Statutes are a collection of state laws organized by subject area into a code made up of chapters. Chapter 89C, "Engineering and Land Surveying Act" was created by the North Carolina General Assembly in the interest of public health and safety to regulate the practice of engineering in the State of North Carolina. It is continuously updated by laws that create, amend, or repeal statutory material. The North Carolina General Statutes state the law followed by the history of the law which indicates when the law was originally filed and subsequent effective dates of enactment.

Pertinent sections of Chapter 89C, which relate to the code of professional conduct and responsibility, are presented in Chapter 2 below.

North Carolina Administrative Code

The North Carolina Administrative Code is a compilation of the rules and regulations of the North Carolina regulatory agencies. It is organized by titles and chapters with each chapter number representing a department, commission, board or other agency. Title 21, Chapter 56 of the rules was created and is continuously updated by the North Carolina State Board of Examiners for Engineers and Land Surveyors. The Board rules state 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.

Pertinent sections of Title 21, Chapter 56, which relate to the code of professional conduct and responsibility, are presented in Chapter 3 below.

North Carolina Board Disciplinary Authority

The North Carolina Board of Examiners for Engineers and Surveyors is charged with the responsibility of administering the provisions of the North Carolina Engineering and Land Surveying Act (G.S. 89C), which includes promoting the general welfare and protecting the public by safeguarding life, health and property.

In addition to evaluating candidates for licensure and administering examinations, the Board investigates alleged violations of provisions of the licensure law. Any person may submit evidence of unlawful practice of engineering or land surveying, or fraud, deceit, gross negligence, incompetence, misconduct or violations of the Board Rules against any individual licensee or any business holding a certificate of authorization.

The Board has the authority to levy a civil penalty not in excess of five thousand dollars (\$5,000) for any engineer or not in excess of two thousand dollars (\$2,000) for any land surveyor who violates any of the provisions of subdivisions (1) through (4) of subsection (a) of this section. The clear proceeds of all civil penalties collected by the Board, including civil penalties collected pursuant to G.S. 89C-22(c), are remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

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

NC General Statutes - Chapter 89C

Chapter 89C: Engineering and Land Surveying Act

The following are excerpts from Chapter 89C of the North Carolina General Statutes. If you wish to review the entire chapter, please visit the website of the North Carolina Board at:

https://www.ncbels.org/wp-content/uploads/2019/03/Chapter_89C-thru-2022-Session-Law.pdf

§ 89C-20. Rules of professional conduct.

In the interest of protecting the safety, health, and welfare of the public, the Board shall adopt rules of professional conduct applicable to the practice of engineering and land surveying. These rules, when adopted, shall be construed to be a reasonable exercise of the police power vested in the Board of Examiners for Engineers and Land Surveyors. Every person licensed by the Board shall subscribe to and observe the adopted rules as the standard of professional conduct for the practice of engineering and land surveying and shall cooperate fully with the Board in the course of any investigation. In the case of violation of the rules of professional conduct, the Board shall proceed in accordance with G.S. 89C-22.

(1975, c. 681, s. 1; 1987, c. 827, s. 73; 1998-118, s. 18.)

§ 89C-21. Disciplinary action – Reexamination, revocation, suspension, reprimand, or civil penalty.

(a) The Board may reprimand the licensee, suspend, refuse to renew, refuse to reinstate, or revoke the certificate of licensure, require additional education or, as appropriate, require reexamination, for any engineer or land surveyor, who is found guilty of any of the following:

- (1) Fraud or deceit in obtaining or renewing a certificate of licensure or certificate of authorization.
- (2) Gross negligence, incompetence, or misconduct in the practice of the profession.
- (3) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime that is a felony, whether or not related to the practice of engineering or surveying; conviction of, or entry of a plea of guilty or nolo contendere to, any crime, whether a felony, misdemeanor, or otherwise, where an essential element of the crime is dishonesty or when the crime is directly related to the practice of engineering or surveying; or conviction of, or entry of a plea of guilty or nolo contendere, of any crime involving moral turpitude.

(4) Violation of any provisions of this Chapter, the Rules of Professional Conduct, or any rules as adopted by the Board.

(5) Being declared insane or incompetent by a court of competent jurisdiction and having not later been lawfully declared sane or competent.

(6) Professional incompetence. In the event the Board finds that a certificate holder is incompetent the Board may, in its discretion, require oral or written examinations, or other indication of the certificate holder's fitness to practice engineering or land surveying and suspend the license during any such period.

(b) The Board may (i) revoke a certificate of authorization, or (ii) to suspend a certificate of authorization for a period of time not exceeding two years, of any corporation or business firm where one or more of its officers or directors have committed any act or have been guilty of any conduct which would authorize a revocation or suspension of their certificates of licensure under the provision of this section.

(c) The Board may levy a civil penalty not in excess of five thousand dollars (\$5,000) for any engineer or not in excess of two thousand dollars (\$2,000) for any land surveyor who violates any of the provisions of subdivisions (1) through (4) of subsection (a) of this section. The clear proceeds of all civil penalties collected by the Board, including civil penalties collected pursuant to G.S. 89C-22(c), shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Before imposing and assessing a civil penalty and fixing the amount, the Board shall, as a part of its deliberation, take into consideration the following factors:

(1) The nature, gravity, and persistence of the particular violations;

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment;

(3) Whether the violation(s) were done willfully and maliciously; and

(4) Any other factors which would tend to either mitigate or aggravate the violation(s) found to exist.

(1921, c. 1, s. 10; C.S., s. 6055(l); 1939, c. 218, s. 2; 1951, c. 1084, s. 1; 1953, c. 1041, s. 10; 1957, c. 1060, s. 5; 1973, c. 1331, s. 3; 1975, c. 681, s. 1; 1989, c. 669, s. 1; 1993 (Reg. Sess., 1994), c. 671, s. 6; 1998-118, s. 19; 1998-215, s. 134; 2003-347, s. 2; 2011-304, s. 5.)

§ 89C-22. Disciplinary action – Charges; procedure.

(a) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct, or violations of this Chapter, the rules of professional conduct, or any rules adopted by the Board against any Board licensee. The charges shall be in writing or submitted electronically and shall be filed with the Board.

(b) All charges, unless dismissed by the Board as unfounded or trivial or unless settled informally, shall be heard by the Board as provided under the requirements of Chapter 150B of the General Statutes.

(c) If, after a hearing, a majority of the Board votes in favor of sustaining the charges, the Board shall reprimand, levy a civil penalty, suspend, refuse to renew, refuse to reinstate, or revoke the licensee's certificate, require additional education or, as appropriate, require reexamination.

(d) A licensee who is aggrieved by a final decision of the Board may appeal for judicial review as provided by Article 4 of Chapter 150B.

(e) The Board may, upon petition of an individual or an entity whose certificate has been revoked, for sufficient reasons as it may determine, reissue a certificate of licensure or authorization, provided that a majority of the members of the Board vote in favor of such issuance.

(1921, c. 1, s. 10; C.S., s. 6055(l); 1939, c. 218, s. 2; 1951, c. 1084, s. 1; 1953, c. 1041, s. 10; 1957, c. 1060, s. 5; 1973, c. 1331, s. 3; 1975, c. 681, s. 1; 1981, c. 789; 1989, c. 669, s. 2; 1993 (Reg. Sess., 1994), c. 671, s. 7; 1998-118, s. 20; 2011-304, s. 6; 2022-1, s. 1(f).)

§ 89C-25.1. Supervision of unlicensed individuals by licensed person.

In all circumstances in which unlicensed individuals are permitted under this Chapter to perform engineering or land surveying work, or both, under the supervision of a licensed engineer, land surveyor, or both, the Board may by regulation establish a reasonable limit on the number of unlicensed individuals which a licensee of the Board may directly or personally supervise at one time.

(1979, c. 819, s. 5; 1998-118, s. 24.)

Chapter 3

NC Administrative Code - Title 21, Chapter 56

Title 21, Chapter 56: Board Rules

The following are excerpts from Title 21, Chapter 56 of the North Carolina Administrative Code. If you wish to review the entire chapter, please visit the website of the North Carolina Board at:

<http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 21 - Occupational Licensing Boards and Commissions\Chapter 56 - Engineers and Surveyors>

SECTION .0700 – RULES OF PROFESSIONAL CONDUCT

21 NCAC 56 .0701 RULES OF PROFESSIONAL CONDUCT

(a) In order to safeguard the life, health, property and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the Rules of Professional Conduct in this Rule are adopted in accordance with G.S. 89C-20 and are binding upon every person holding a certificate of licensure as a Professional Engineer or Professional Land Surveyor (licensee), and on all business entities authorized to offer or perform engineering or land surveying services in this state. All persons licensed under the provisions of Chapter 89C of the General Statutes are charged with having knowledge of the Board Rules, including the Rules of Professional Conduct, and are deemed to be familiar with their provisions and to understand them.

(b) A licensee shall conduct the practice in order to protect the public health, safety and welfare. The licensee shall at all times recognize the primary obligation to protect the public in the performance of the professional duties. If the licensee's engineering or land surveying judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the licensee shall inform the employer, the client, the contractor, other affected parties and any appropriate regulatory agency of the possible consequences of the situation.

(c) A licensee shall perform services only in areas of the licensee's competence and:

(1) Shall undertake to perform engineering and land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or land surveying involved;

(2) May accept an assignment or project requiring education or experience outside of the licensee's own field of competence, but only to the extent that the services are restricted to those portions or disciplines of the project in which the licensee is qualified. All other portions or disciplines of such project shall be performed by associates, consultants, or employees who are licensed and competent in those portions or disciplines;

(3) Shall not affix the signature or seal to any engineering or land surveying plan or document dealing with subject matter for which the licensee lacks competence by virtue of education or experience, nor to any such plan or document not prepared under the licensee's direct supervisory control. Direct supervisory control (responsible charge) requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. Direct supervisory control may be accomplished face to face or by other means of communication. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided that individual is qualified or licensed to provide such service and provided the licensee reviews the work. The licensee may affix the seal and signature to drawings and documents depicting the work of two or more professionals provided it is designated by a note under the seal the specific subject matter for which each is responsible; and

(4) In circumstances where a licensee in responsible charge of the work is unavailable to complete the work, or the work is a design plan signed and sealed by an out-of-jurisdiction licensee (not a site adaptation of a standard design plan under Rule 21 NCAC 56 .1106) a successor licensee may take responsible charge by performing and documenting all professional services to include developing a design file including work or design criteria, calculations, code research, and any necessary and appropriate changes to the work. The non-professional services, such as drafting, need not be redone by the successor licensee but must distinguish in a clean and obvious manner and accurately reflect the successor licensee's work. The burden is on the successor licensee to show such compliance. The successor licensee shall have control of and responsibility for the work product and the signed and sealed originals of all documents.

(d) A licensee shall issue public statements only in an objective and truthful manner and:

(1) Shall be objective and truthful in all professional reports, statements or testimony. The licensee shall include all relevant and pertinent information in such reports, statements or testimony;

(2) When serving as an expert or technical witness before any court, commission, or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony;

(3) Shall issue no statements, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee's name, by disclosing the identities of the party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the matters; and

(4) Shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. Indiscriminate criticism includes statements without valid basis or cause or that are not objective and truthful or that fail to include all relevant and pertinent information. If the licensee believes that another engineer or land surveyor is guilty of misconduct or illegal practice, such

information shall be presented to the North Carolina Board of Examiners in the form of a complaint.

(e) A licensee shall avoid conflicts of interest and:

(1) Shall inform the employer or client, and any reviewing agency, of any business association, interests, or circumstances which could influence judgment or the quality of services;

(2) Shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are disclosed to, and agreed to, in writing, by all interested parties;

(3) Shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products;

(4) Shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with the client or employer in connection with work for which the licensee is responsible;

(5) When in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or the licensee's firm in private engineering and land surveying practices;

(6) Shall not solicit or accept an engineering or land surveying contract from a governmental body on which a principal or officer of the licensee's firm serves as a member; and

(7) Shall not attempt to supplant another engineer or land surveyor in a particular employment after becoming aware that the other has been selected for the employment.

(f) A licensee shall solicit or accept work only on the basis of qualifications and:

(1) Shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;

(2) Shall compete for employment on the basis of professional qualification and competence to perform the work. The licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered;

(3) Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.); and

(4) Shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded, unless it is stated that no degree or certificate was awarded. The licensee shall not misrepresent degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not

misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent and purpose of enhancing qualifications and work.

(g) A licensee shall perform services in an ethical manner, as required by the Rules of Professional Conduct (21 NCAC 56 .0701), and in a lawful manner and:

(1) Shall not knowingly associate with or permit the use of the licensee's name or firm name in a business venture by any person or firm which the licensee knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not properly licensed; and

(2) If the licensee has knowledge or reason to believe that another person or firm may be in violation of the Board Rules (21 NCAC 56) or of the North Carolina Engineering and Land Surveying Act (G.S. 89C), shall present such information to the Board in writing in the form of a complaint and shall cooperate with the Board in furnishing such further information or assistance as may be required by the Board. The licensee shall timely respond to all inquiries and correspondence from the Board and shall timely claim correspondence from the U. S. Postal Service, or other delivery service, sent to the licensee from the Board. Timely is defined as within the time specified in the correspondence, or if no time is specified, within 30 days of receipt. Certified mail is timely claimed if prior to being returned by the Post Office to the Board office.

(h) A Professional Engineer or Professional Land Surveyor who has received a reprimand or civil penalty or whose professional license is revoked, suspended, denied, refused renewal, refused reinstatement, put on probation, restricted, or surrendered as a result of disciplinary action by another jurisdiction is subject to discipline by the Board if the licensee's action constitutes a violation of G.S. 89C or the rules adopted by the Board.

History Note: Authority G.S. 89C-17; 89C-20; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. September 1, 2011; May 1, 2009; August 1, 2002; August 1, 2000; August 1, 1998; November 2, 1992; April 1, 1989; January 1, 1982; March 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

SECTION .1100 - SEAL

21 NCAC 56 .1101 GENERAL

It is misconduct for a Professional Engineer or Professional Land Surveyor to seal work done by another individual unless the work is performed under the "responsible charge" of the Professional Engineer or Professional Land Surveyor.

History Note: Authority G.S. 89C-3(10); 89C-10; 89C-16; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 2000; April 1, 1989; December 1, 1984; January 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1102 DESIGN

The standard design of the seal shall be two concentric circles in which North Carolina and the name of the licensee are placed within the outermost circle and in which the license number of the licensee and either "Professional Engineer" or "Professional Land Surveyor," is placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter.

History Note: Authority G.S. 89C-10; 89C-16; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998; April 1, 1989; January 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1105 FIRM SEAL

The use of a seal by a firm is not required for certification. A firm seal is not authorized for use in lieu of the required seal of a Professional Engineer or Professional Land Surveyor. When a firm seal is used, it does not relieve the individual licensee of the requirements and responsibilities pertaining to the individual's seal.

History Note: Authority G.S. 89C-10; 89C-16; 89C-25; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 2000; August 1, 1998; May 1, 1994; January 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

SECTION .1300 – BOARD DISCIPLINARY PROCEDURES

21 NCAC 56 .1301 IMPROPER PRACTICE BY A LICENSEE

(a) General. Licensee practice that may violate the rules of this Chapter or G.S. 89C is subject to Board investigation and disciplinary action by the Board.

(b) Preferring Charges. Any person who believes that any licensed Professional Engineer, Professional Land Surveyor, or business holding a certificate of licensure is in violation of the provisions of G.S. 89C or the rules in this Chapter may prefer charges against that person or business, in the form of a complaint, completed to the best of that individual's knowledge and belief, along with providing corroborative evidence that helps support the charges. An optional complaint form is provided by the Board to aid in filing the complaint.

(c) Preliminary Review:

(1) Upon receipt of a filed charge that meets requirements of G.S. 89C and the rules of the Board a case shall be opened. Other information indicating that a licensee is in violation of the provisions of G.S. 89C or the rules of the Board may be a basis for opening a case by the Board.

(2) A field investigation may be performed if determined necessary by the Executive Director in order to obtain additional information and evidence.

(3) If the Executive Director determines that the charges are corroborated by evidence, a written notice and explanation of the charge shall be forwarded to the person or business against whom the charge is made and a response requested, within 15 days, to show compliance with G.S. 89C and the rules of the Board for retention of the license. Notice of

the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt request.

(4) After preliminary evidence has been obtained, the matter shall be referred to the Board's review committee, made up of the following individuals:

(A) one member of the Board who is licensed in the respective profession;

(B) the legal counsel of the Board; and

(C) the Executive Director of the Board or Assistant Executive Director if designated by the Executive Director.

(5) Upon review of the evidence, the review committee shall:

(A) recommend that the Board dismiss the charge as unfounded or trivial;

(B) when the charge is admitted as true, recommend that the Board accept the admission of guilt by the person charged and order that person not to commit in the future the specific act or acts admitted and also not to violate any of the provisions of the Board rules or the statutes at any time in the future;

(C) present the charge, whether admitted or denied, to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .1400 of this Chapter and the provisions of G.S. 150B; or

(D) whether the charge is admitted or denied, give written notice to the licensee that:

(i) sufficient evidence exists which, if not rebutted or explained, would justify the Board in taking an action set out in Rule .1402(4) through (12) of this Chapter;

(ii) stating the nature of the evidence; and

(iii) that unless the licensee, within 20 days after service of said notice, deposits in the mail a certified letter addressed to the Board and containing a request for a hearing or settlement conference, that it will recommend that the Board take the action(s) specified in the notice, set out in Rule .1402(4) through (12) of this Chapter.

(d) Consultant. A consultant to the review committee shall be designated by the Board Chair if a board member is a complainant, witness, or respondent in a case. The consultant shall be a licensed professional engineer or professional land surveyor, depending on the nature of the case. The consultant shall review all case materials and make a recommendation for consideration by the review committee as to the merits of the case. The consultant shall review any new information presented in the event of a settlement conference and make a recommendation to the settlement conference committee.

(e) Board Decision. When the review committee proceeds pursuant to Parts (c)(5)(A) or (B) of this Rule, upon approval of the Board, notice shall be given to the party against whom the charges have been brought and the party submitting the charge. The Board is not required to notify the parties of the reasons of the Board in making its decision.

(f) Settlement Conference. When the review committee proceeds pursuant to Parts (c)(5)(C) or (D) of this Rule, the licensee may request in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If, after the completion of a settlement conference, the licensee and Board's settlement committee do not agree to a resolution of the dispute for the full Board's consideration, the original administrative proceeding shall commence. During the course of the settlement conference, no sworn testimony shall be taken, nor shall any witnesses be cross-examined.

(1) The Board's settlement committee shall be made up of the following individuals:

(A) the member of the Board who served on the review committee or a replacement member if the member is not available;

(B) one public member from the Board;

(C) the legal counsel of the Board; and

(D) the Executive Director of the Board or Assistant Executive Director if designated by the Executive Director.

(2) Upon review of the evidence, the settlement committee shall:

(A) recommend that the Board dismiss the charge as unfounded or trivial;

(B) when the charge is admitted as true, recommend the Board accept the admission of guilt by the person charged and order the person not to commit in the future the specific act or acts admitted and, also, not to violate any provisions of the Board Rules or the statutes at any time in the future;

(C) direct that the charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .1400 of this Chapter and the provisions of G.S. 150B; or

(D) recommend that the Board approve a settlement agreed to by the licensee and proposed by the settlement conference committee.

History Note: Authority G.S. 89C-10; 89C-21; 89C-22; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. August 1, 2011; July 1, 2009; May 1, 2009; August 1, 2000; August 1, 1998; March 1, 1996; April 1, 1989; December 1, 1984; January 1, 1982; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019; Amended Eff. July 1, 2020.

SECTION .1700 – CONTINUING PROFESSIONAL COMPETENCY

21 NCAC 56 .1703 REQUIREMENTS

Every licensee shall obtain 15 PDH units during the renewal period. Effective as of the 2024 license renewal, for all licensees at least 1 PDH shall be in Ethics or Rules of Professional Conduct. In addition, for Professional Land Surveyors 1 PDH shall be in the Standards of Practice for Land Surveying. If a licensee exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal

period. Selection of courses and activities that meet the requirements of Rule .1702(4) of this Section is the responsibility of the licensee. Post evaluation of the courses that are documented as required by Rule .1706 of this Section for compliance with Rules .1702, .1703, .1704, and .1705 of this Section may result in non-acceptance by the Board. PDH units may be earned as follows:

- (1) Completion of college courses;
- (2) Completion of continuing education courses, seminars, or workshops;
- (3) Completion of correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials, provided an exam is required for completion. No exam is required for attendance at a webinar presentation if attendance is documented;
- (4) Presenting or attending seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions or conferences;
- (5) Teaching or instructing in Items (1) through (4) of this Rule;
- (6) Authoring published papers, articles, or books;
- (7) Active participation in professional or technical societies as defined in Rule .1705(f) of this Section;
- (8) Patents;
- (9) Authoring exam questions accepted for use in the engineering or land surveying exams; or
- (10) Active participation on boards, commissions, committees or councils of private, local, state or federal government entities as defined in Rule .1705(g) of this Section; or
- (11) Active participation in educational outreach activities pertaining to professional licensure or the surveying/engineering professions that involve K-12 or higher education students as defined in Rule .1705(h) of this Section.

History Note: Authority G.S. 89C-10(a); 89C-17; Eff. December 1, 1994; Amended Eff. August 1, 2014; August 1, 2011; May 1, 2009; August 1, 2000; August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019. Amended Eff. March 1, 2023.

21 NCAC 56 .1705 DETERMINATION OF CREDIT

- (a) Approval of courses, sponsors, credit, PDH value for courses, and other methods of earning credit shall meet Rule .1702(4) of this Section.
- (b) Credit for college or community college courses shall be based upon course credit established by the college.
- (c) Credit for continuing education courses, seminars and workshops shall be based on one PDH unit for each hour of attendance. Attendance at programs presented at professional and technical society meetings shall earn PDH units for the actual time of each program.

(d) Credit for correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials, provided an exam is required for completion, shall be based upon one PDH unit for each hour assigned to the course, provided such hours reflect the course material and content required of the professional to complete the course.

(e) Credit determination for published papers, articles and books and obtaining patents is the responsibility of the licensee to support and document the hours reported in compliance with the rules of this Section.

(f) Credit for active participation in professional or technical societies or accrediting organizations (limited to 2 PDH per society or organization), requires that a licensee serve as an officer or participate as a member and contribute to the work of a committee of the society, or for accrediting organizations serve as an officer or participate in a committee or accreditation visits. PDH credits are not earned until the end of each year of service is completed.

(g) Credit for active participation on boards, commissions, committees or councils of private, local, state or federal government entities (limited to 2 PDH per entity) requires utilizing engineering or land surveying knowledge (as applicable) in the participation. PDH credits are not earned until the end of each year of service is completed.

(h) Credit for active participation in educational outreach activities by providing education about professional licensure or the surveying and engineering professions that involve K–12 or higher education students (limited to 3 PDH).

History Note: Authority G.S. 89C-10(a); 89C-17; Eff. December 1, 1994; Amended Eff. August 1, 2014; August 1, 2011; May 1, 2009; August 1, 2000; August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019. Amended Eff. March 1, 2023.

Chapter 4

Review of Disciplinary Cases

The following disciplinary cases were extracted from Fall 2021 and Fall 2022 Newsletters of the North Carolina Board of Examiners for Engineers and Land Surveyors website. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the North Carolina Board.

CASE NO: V2020-080

VIOLATION: Performed services outside area of competence [.0701(c)(3)]; produced a deficient work product, failing to protect the public [.0701(b)]; and failed to conduct practice in order to protect the public health, safety and welfare [.0701(b)].

BOARD ACTION: Reprimand, \$1,000 civil penalty and restriction from geotechnical engineering, in addition to existing structural engineering restriction, until proof of passing applicable NCEES exams.

CASE NO: V2021-006

VIOLATION: Convicted of a felony and/or crimes involving moral turpitude [G.S. 89C-21(a)(3)] and failed to notify the Board of a criminal conviction within 30 days as required [.0505(a)].

BOARD ACTION: Reprimand and requirement to report to the Board of any change of status of the ordered sentencing terms.

CASE NO: V2021-045

VIOLATION: Issued a deficient, substandard or inaccurate report, failing to protect the public [.0701(b)] and failed to be objective and truthful and failed to include all relevant and pertinent information in a report [.0701(d)(1)].

BOARD ACTION: Reprimand, \$5,000 civil penalty and ethics course.

CASE NO: V2022-006

VIOLATION: Relinquished Professional Engineer's license in another jurisdiction as a result of discipline [.0701(h)]; submitted false information on license renewal form [G.S. 89C-23, .0701(d)(1)]; failed to comply with annual CPC requirements [.1703, .1712]; and failed to maintain adequate CPC records [.1706].

BOARD ACTION: Reprimand, \$2,000 civil penalty, and CPC audit for the next three years that he renews as current.

CASE NO: V2022-045

VIOLATION: Failed to conduct practice in order to protect the public health, safety and welfare [.0701(b)]; failed to be completely objective and truthful in professional statements [.0701(d)(1)]; and failed to cooperate fully with the Board in the course of an investigation [G.S. 89C-20].

BOARD ACTION: Revoked Engineering Certificate of Licensure.

Appendix A

References

North Carolina Board of Examiners for Engineers and Land Surveyors
<http://www.ncbels.org/>

North Carolina Engineering and Land Surveying Act: Chapter 89C
https://www.ncbels.org/wp-content/uploads/2019/03/Chapter_89C-thru-2022-Session-Law.pdf

North Carolina Board Rules: Title 21, Chapter 56
<http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 21 - Occupational Licensing Boards and Commissions\Chapter 56 - Engineers and Surveyors>

Complaint Procedure
<http://www.ncbels.org/complaint.html>

Newsletter and Articles
<https://www.ncbels.org/general-info/newsletters-articles/>