



Oregon

**State Board of Examiners for
Engineering & Land Surveying**

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PROFESSIONAL PRACTICES COMMITTEE

Minutes of Meeting

February 15, 2013

Members present:

Sue Newstetter, Chair

Steven Burger

Jim Doane

Sue Frey

Staff present:

Mari Lopez

Jenn Gilbert

Joy Pariante

James R. (JR) Wilkinson

Others present:

Katharine Lozano, Assistant Attorney General

Carl Tappert (Observer)

Amin Wahab (Observer)

Bob Neathamer, PLS

Jim Griffis, PLS

Rob Brawn, PE, CH2M Hill

Due to a guest presentation by Rob Brawn, PE, CH2M Hill, the meeting of the Professional Practices Committee (PPC) was called to order at 1:44 p.m. in University of Phoenix classroom 101 at 670 Hawthorne Avenue SE, Salem, OR 97301, as the conference room of the Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) is under construction. The meeting adjourned at 2:30 p.m. and reconvened at 3:35 p.m.

Guest Discussion

Digital Signatures

Mr. Brawn, Director of Automation Systems at the Center for Project Excellence at CH2M Hill attended the meeting at the request of the Committee to discuss the best practices for digital signatures, as determined by CH2MHill. The Committee wanted to get clarification on third party versus self-issued certification. Mr. Brawn explained that third-party certification requires an outside company to assign a public and private key to establish the identity of the signer. Self-issued certification uses an email sent to the signer's email address as confirmation of the signer's identity, but there is no external verification process. Third-party certification is recommended because of increased security. The Committee was interested in adopting third-

party certification as the requirement for use on electronic documents. **A [Powerpoint](#) of the presentation will be provided to the Board for use during their discussion to provide further guidance to the Rules and Regulations Committee for a possible rule revision.**

Unfinished Business

Flood Elevation Work – Follow-up email from Dan Linscheid dated January 17, 2013

An individual asked Board President Dan Linscheid if calculating a flood elevation would fall under engineering or if it could be completed by a land surveyor instead. The individual was asked to provide more information regarding their question. The individual responded asking, “Does OSBEELS believe that calculating a flood elevation would fall under engineering or would it be ok for a land surveyor to perform this flood elevation calculation?” The Committee determined they needed more time to research this topic with Federal Emergency Management Agency (FEMA) personnel and would revisit this question at the April meeting.

Hydrographic Surveying – Memo dated January 23, 2013

Staff discovered information in the NCEES Speaker’s Kit for Land Surveying which indicates its opinion regarding whether hydrography is an activity which requires licensure as a land surveyor, as discussed during the December 2012 Committee meeting. This information was developed in cooperation with the National Society of Professional Surveyors (NSPS). NCEES recognizes that “underwater topographic surveying is known as hydrography.” AAG Lozano said there is currently a fairly even split throughout the nation regarding whether or not hydrography is considered a form of land surveying. The Committee had requested that Staff contact the Office of Minority, Women, and Emerging Small Business (OMWESB) to discuss the difference between hydrography and land surveying and to confirm that a license isn’t needed to perform hydrographic work. Due to the discovery of NCEES’ opinion, Staff hasn’t contacted OMWESB. The Committee determined to address this topic during the April meeting.

Sealing Software Output – Follow-up email dated February 5, 2013

At the December Committee meeting, the Committee addressed a question regarding whether or not it is necessary to stamp and sign the output from a design program if it is being given to a client. A registrant specifically referenced engineered wood products software which is used for sizing the company’s joists and beams. At that time, the Committee requested additional information and a sample of the output.

The Committee discussed whether this output is considered a final document which must be sealed. Ms. Frey noted that, in her experience, these types of engineering documents are commonly generated by a clerk at a lumber yard. Ms. Frey said this type of document may not be as accurate of engineering work as that completed by professional structural engineers. It must be sent back numerous times for changes before an engineer will seal it.

AAG Lozano said an important question to ask is why the structural engineer working for this wood company is submitting work to clients which is generated by a program that is considered subpar quality. Mr. Burger said if we assume that the product coming from the software is good, then it needs to be sealed because it is considered engineering calculations. AAG Lozano said this is a significant issue because if a client is receiving these calculations from a structural engineer, they trust it more than if they had received the same document from a clerk at a store – even though the calculations and documentation is exactly the same. Ms. Frey also pointed out that if that document is going to be used for a project, it must be signed by the engineer who performed the calculations.

However, the stamp and signature requirement only applies to registrants. If the customer service individual referenced in the question were to prepare the document, OSBEELS would not have the jurisdiction to address this issue. AAG Lozano suggested that staff draft a response to the question for review by the Committee during the April meeting.

Building Department Summary of Important Facts for OSBEELS Consideration

This topic was discussed with Gary Nielsen during Rules and Regulations Committee. There was no further discussion on this topic.

New Business

Energy Star Requirements – Ben Taylor

Staff received an email from Ben Taylor asking if an engineer who is not registered in Oregon can stamp and sign documents relating to Energy Star certification in the state of Oregon. Energy Star allows engineers, regardless of state of registration, to stamp and sign the Statement of Energy Performance (SEP) and the Energy Star checklist. Ms. Newstetter said, if an engineer is working in Oregon and stamping documents in Oregon, then they need to be registered in Oregon. AAG Lozano said Energy Star certification guidelines do not overrule the statutory requirement to practice lawfully in Oregon. Ms. Newstetter asked Staff to contact Mr. Taylor and ask for examples of the SEP and the checklist in order to determine if the items on the checklist are defined as “engineering” by Oregon rules and statutes and revisit this question during the April meeting. There was no further discussion.

Meaning of ORS 215.080 – Steve Haddock

Steve Haddock posed a question to the Committee regarding the meaning of ORS 215.080 Power to enter upon land. The portion in question reads:

“The commission, and any of its members, officers and employees, in the performance of their functions, may enter upon any land and make examinations and surveys and place and maintain the necessary monuments and markers thereon.”

Mr. Haddock’s question was: What surveys are the planners and their employees capable of performing? Also, what monuments and markers are they placing and maintaining? Are they establishing some kind of boundaries? AAG Lozano said she would research the statute and offer advice to the Committee during the April meeting.

OAR 820-010-0720 – Dan Linscheid

President Linscheid requested that the Committee consider the following question: Can a dual registrant (PE and PLS) be a full-time PE in one office and a full-time PLS in the office of another business? The Committee referenced OAR 820-010-0720, Advertising for or Offering to Perform Services without Employing a Licensee; Engineering, Land Surveying and Photogrammetry Offices, which states:

(1) A licensee or firm, partnership, corporation, limited liability company, joint stock company, or other organization shall not advertise for or offer to perform or perform professional services for which a license is required unless the licensee or organization has a full-time partner, manager, officer or employee licensed to practice in the discipline for which a license is required.

(2) Licensees and organizations shall not advertise for or offer to perform or perform professional services for which a license is required but for which they do not hold, or have a qualified person who holds, a license and thereafter seek to employ persons who hold a qualifying license.

(3) As used in this rule, a “full-time partner, manager, officer or employee” refers to a person who:

(a) Is physically present at least one half of the person’s working time in the offices of the licensee or organization during normal business hours unless the full-time partner’s, manager’s, officer’s or employee’s professional duties require that the person be elsewhere; and

(b) Is not working for the licensee or organization under a contract or as a consultant for specific projects.

(4) A licensee or person employing or having a licensee as its partner, manager, or officer, may operate a project office for which no licensed professional engineer, land surveyor or photogrammetrist is physically present at least one half of the person’s working time, provided that the project office qualifies under this section and that no services are advertised or offered making reference to or in connection with the project office, its address or phone number. For purposes of this section, a project office is a workstation for a specific project, the use of which will not extend beyond the scope or duration of the specific project.

Based on this information, the Committee decided that if the registrant splits their time between both offices and meets the at least half-time requirement at each office, then they are practicing both professions legally. There was no further discussion.

The meeting adjourned at 4:07 p.m.