

Board Responds to Questions Regarding Right of Entry

At recent Board meetings, the members reviewed and responded to questions received that pertained to two subsections of ORS 672.047, specifically regarding adequate right-of-entry notification and “duty of care”. The OSBEELS felt the topics and responses warranted additional sharing with professional registrants.

The first topic was regarding ORS 672.047(4), which outlines the required forms of notification surveyors are required to provide to landowners, and occupants, prior to entering onto a property. The questions reviewed by the Board were regarding whether verbal communications between a professional land surveyor and landowner was sufficient to meet the requirements outlined in ORS 672.047(4). Upon review of the situation and law, the Board determined verbal notification was not a sufficient means of notifying the landowner, and occupant, and that surveyors should always provide written notification to landowners, and occupants, prior to entering onto one’s property. Providing and keeping records of written notifications will protect professional land

surveyors as it substantiates that notice was indeed provided to the land owner should a dispute arise.

As a reminder notices provided shall give the professional land surveyor’s; name, address, telephone number, purpose of entering onto property, availability of the survey, and the presence of any temporary or permanent monuments or other markers to be left on the land.

The second topic reviewed by the Board pertained to subsection 5 of ORS 672.047, which states

‘A registered professional land surveyor, or any employee or agent of the land surveyor, who enters land as allowed under this section is owed no greater duty of care than that owed by a landowner to a trespasser’.

To ensure clarity, the members and legal counsel reviewed the legal definition of “duty of care” and determined that it means that a landowner has no duty to keep their premises in a safe condition for a land surveyor to enter the property. It means that a land surveyor cannot sue an adjoiner if that land surveyor is injured because of

a hazardous condition on the adjoiner’s property. It does not give the landowners the right to sue a land surveyor for trespass, or to “defend” their property against a land surveyor. It is not a basis for a landowner to deny a surveyor entry to their land after being provided proper notice.

Meaning, if sufficient notice is provided in accordance with ORS 672.047(4) the surveyor is legally permitted to enter onto a property to perform their professional services with or without permission from the landowner, or occupants. However surveyors, or their employees or representatives, cannot sue the landowner for injuries or damages sustained while on the landowner’s property when performing professional services.

The Board encourages all professional registrants to consistently review Oregon statutes and rules under the OSBEELS’s jurisdiction to ensure they are up-to-date on professional practice and conduct standards that may relate to your professional area of competence or services offered to the public. If you have any questions, please visit the Board website to submit a “Question for the Board” form.

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MISSION

The mission of the Oregon State Board of Examiners for Engineering & Land Surveying (OSBEELS) is to regulate the practice of engineering, land surveying, photogrammetric mapping, and water right certification in the state as they relate to the welfare of the public in safeguarding life, health and property.



Administrator's Corner

As I've begun to settle into my role as the new Board Administrator these past couple of months, I wanted to take this opportunity to share an update with state registrants about a project that has become a priority within our agency and how we would like to work with state registrants to deliver the best solution for you all.

Over the past year, it's become evident that our current registrant database system is coming to the end of its lifecycle and we are in the beginning stages of actively looking for a replacement system. The database, which has been in-use for the past 15 years, was a tremendous resource for the OSBEELS as it transitioned into the digital age. The database provides the agency with a singular location to securely store essential agency documents such as; registrant profiles, financial records, law enforcement case materials, and much more.

As we begin the New Year, we have a great opportunity to not only greatly improve the functionality of our system's ability, but also provide state registrants with a valuable self-service options that offers you resources and an improved customer experience.

I'd like to invite you all to provide the OSBEELS with your feedback regarding what the most important features you'd like to see in a new system, in terms of interacting with the Board through an electronic portal and our website. Follow the QR code below to submit feedback to the Board. Thank you for taking the time to provide the OSBEELS with your feedback and insights, it will be incredibly valuable as we work to develop this new online experience for you all.

Feedback link:

Importance of Keeping PDH Documentation Records

The winter 2020 Continuing Professional Development (CPD) audits of professional registrants submitting renewal applications are underway.

Of more than 15,000 registrants, 3 percent, or nearly 500 individuals are audited by the agency's Accounts Department semiannually. Those being audited are chosen at random and the CPD information included within their renewal packets will be reviewed. During an audit the department staff will review an applicant's CPD Organizational form and supporting documents, which may include; completion certificates, attendance verifications, and other related records. Department staff may request any missing documents or records from previous renewal application packets.

The OSBEELS would like to remind state registrants that per Oregon Administrative Rule 820-010-0505, as a condition of registration renewal, registrants must demonstrate compliance with the CPD requirements in OAR 820-010-0635. The requirements outlined within subsection (1)(g) of OAR 820-010-0635 state CPD records must be retained for 5 years after completion.

The Accounts Department thanks you for your diligence in providing any additional, requested records to complete your audit. If a registrant is unable to provide records supporting their CPD Organizational form, it may cause a delay, or the refusal, of their renewal application. Retaining copies of your CPD records is not only required by Oregon law, it will help to ensure a quick resolution should you be selected for an audit.

Professional Organization Updates



Portland Community College

The Geography Department at Portland Community College is in the process of developing a Geomatics Associate degree program. The department hopes to begin offering courses in the fall of 2021. At this time, the college is working to establish an Advisory Board of industry professionals to help the Geography Department develop the program's curriculum.

Advisory Board members are expected to provide insights regarding the skills and knowledge young professionals should have following the completion of a degree program if they were to be hired for entry level or technician jobs. If you are interested in becoming involved on the Advisory Board or learning more about the new degree program, please contact Portland Community College Faculty member and Geography Department Chair, Christina Friedle, at christina.friedle@pcc.edu.



American Society of Civil Engineers

The Oregon Section of ASCE is pleased to announce two upcoming events that will be hosted jointly with partner organizations; the Construction Management Association of America (CMAA) and the Environmental Water Resource Group (EWRG). On March 12, ASCE will host, jointly with CMAA, a Trivia Night at the Lucky Lab in Northwest Portland. In April, ASCE will also be hosting a Columbia River Gorge Presentation and Trail Building.

For more information on these events, along with the many other services and activities ASCE provides, please visit ASCEor.org.



American Council of Engineering Companies of Oregon

ACEC is excited to provide members with many continuing professional development opportunities. This spring, ACEC will be offering several small, interactive seminars from industry professionals in the Portland-area. These seminars provide registrants the opportunity to utilize a small group setting to maximize learning, interaction, and exchange ideas with other professionals. Upcoming seminars include:

- March 4 – Risk Management
- April 1 – From Doer to Leader: Lessons Learned

To learn more and register today visit the ACEC website at www.ACECOregon.org or contact ACEC via email at mwebber@acecoregon.org, or via phone at 503-292-2348.



Per OAR 820-010-0635(1)(a), every registrant is required to obtain 30 professional development hours (PDH) each biennium in order to qualify for registration renewal. The purpose of professional development requirements is to demonstrate a continuing level of competency of professional engineers, land surveyors, and photogrammetrists.

The OSBEELS received feedback from state registrants that they are interested in being informed about PDH and continuing education opportunities within the state. The professional organizations, and other community programs, provide registrants many opportunities to become more involved within their professional and local communities, while earning PDH units. The OSBEELS encourages all registrants to review the above rule to become more familiar with acceptable sources of PDHs and any quantity restrictions.

Know of a future industry event or PDH program that should be included in future Examiner issues? Send us an email at osbeels.info@oregon.gov to let us know.

Law Enforcement Cases

X0003 – John Heaton

The Board issued a Final Order against John Heaton for engaging in the practice of unlicensed land surveying and for failing to cooperate with a Board investigation. Between August 2017 and March 2019, Heaton performed 50 surveys while his license was delinquent. In addition to performing these surveys, he also applied his seal bearing a fraudulent expiration date to 72 pages of surveys while also falsely representing himself as authorized to practice land surveying. During the course of the investigation, the Board office attempted to contact Heaton several times, to which he failed to respond. As a result of the conduct described above, the Final Order assessed Heaton a \$52,000 civil penalty for violating Oregon Revised Statute (ORS) 672.025(1), unlicensed land surveying - on 50 occasions, ORS 672.045(2) and (4), false representation and using an expired certificate - on 72 occasions, and OAR 820-020-0015(8), failure to cooperate with a Board investigation - on three occasions.

3086 – Marshall Pfeiffer

The Board issued a Final Order against Marshall Pfeiffer for engaging in the unlicensed practice of engineering. While working with a client as the “Project Lead,” Pfeiffer provided professional services that included performing seismic design calculations, stress design checks, load calculations, and design snow load calculations. Because all of the previously mentioned services required the application of special knowledge of the mathematical, physical, and engineering sciences, Pfeiffer engaged in the practice of engineering without holding a valid certificate to practice engineering in the state of Oregon. The Final Order assessed Pfeiffer a \$1,000 civil penalty for violating ORS 672.020(1), engaging in the unlicensed practice of engineering.

3073 – Chul Hwan Kim

The Board issued a Final Order against Chul Hwan Kim for failing to respond to a Board audit. Kim failed to respond to Board staff’s attempts to contact him in order to request supporting documentation verifying his completion of PDHs, violating OAR 820-010-0635(1) and OAR 820-020-0015(7). He failed to respond to audit notices sent by the Board in July 2016, September 2016, and November 2016, and because Kim failed to respond to the law enforcement letter sent by the Board in December 2017, he failed on four (4) occasions to cooperate with the Board on matters subject to the Board’s jurisdiction, violating OAR 820-020-0015(8). Around November 2016, one of the notices mailed to Kim was returned to OSBEELS and marked: “Address is correct/ Recipient is no longer at this address.” Because he has not - to date - informed the Board in writing of his address change, he has not informed the Board in writing within 30 days of an address change and thus has also violated OAR 820-020-0050(1). The Final Order assessed a civil penalty of \$1,000 and a 60-day license suspension for violating OAR 820-010-0635(1) and OAR 820-020-0015(7), failure to cooperate with a Board audit. The Final Order assessed an additional \$500 civil penalty for four (4) violations of OAR 820-020-0015(8)—failure to cooperate with the Board on matters subject to the Board’s jurisdiction, and an additional \$250 civil penalty for violation of OAR 820-020-0050(1), failure to inform the Board in writing within 30 days of an address change.

X0023 – Thomas Baughman

The Board entered into a Settlement Agreement with Thomas Baughman, PE, who performed structural engineering services on five (5) separate projects that qualified as significant structures without a valid license to do so in Oregon. At all

relevant times, Baughman was registered as professional engineering within the state of Oregon. The Board had proposed a 30-day license suspension and civil penalty of \$5,000 for five (5) violations of ORS 672.107(3), ORS 672.045(1), and ORS 672.045(6), for performing unlicensed structural engineering work on significant structures.

However, through an informal conference, the Board and Baughman agreed to settle on the following terms: he would be assessed a civil penalty in the amount of \$5,000 for five violations of ORS 672.107(3), ORS 672.045(1), and ORS 672.045(6) and receive no license suspension.

3057- Daniel Sporer

The Board entered into a Settlement Agreement with Daniel Sporer for failing to file a survey within 45 days of establishing a boundary monument on two separate occasions and for failing to respond to a Board investigation on two separate occasions. Sporer was registered as a professional land surveyor in Oregon since 1987. In June 2016, his license became delinquent and remained in such status until June 2017. The Board had proposed a civil penalty of \$11,750 for multiple seal violations and instances of performing land surveying services while his license was delinquent. During an informal conference with the Board, Sporer claimed that he was unaware when he stamped the surveys with an invalid seal that his license had expired because the Board office had not informed him.

Through the informal conference, the Board and Sporer agreed to settle on the following terms:

- Civil penalties related to the unlicensed practice of land surveying would be reduced to a letter of concern.

- A total civil penalty of \$2,000 for two (2) 45-day filing violations (ORS 209.250(1)) and for two (2) instances of failing to cooperate with a Board investigation (OAR 820-020-0015(8)).

3103 – Bart Anderson

The Board entered into a Settlement Agreement with Bart Anderson, PE, for failing to respond to a Board audit. In 2015, Anderson applied for renewal of his professional engineering registration. As required with his renewal application, Anderson submitted a Continuing Professional Development (CPD) Organizational form to OSBEELS, on which he claimed to have earned a total of 30 professional development hours between March 2014 and October 2015, Anderson’s professional engineering registration was renewed accordingly. In July of 2017, Anderson was randomly selected for the Board’s CPD Audit, to verify the professional development hours he had claimed on his CPD form in November 2015. Anderson failed to respond to three (3) requests by Board staff to provide documentation supporting his claimed CPD hours. As a result, the Board originally purposed assessing a \$1,500 civil penalty and 30-day license suspension.

However, through an informal conference the Board and Anderson agreed to settle on the following terms; he would be assessed a \$500 civil penalty for violating OAR 820-020-0015(8), on at least three (3) occasions.

X0019 – Ali Abolhassani

The Board issued a Default Final Order against Ali Abolhassani, PE, for failing to inform the Board within 45-days of receiving license discipline from other jurisdictions. The case was regarding three (3) separate violations of OAR 820-020-0045(4), failure to report the

disciplinary actions taken against him in other jurisdictions within 45 days, in which Abolhassani failed to notify the Board of disciplinary actions taken against him in Florida, Kentucky and Oklahoma. The Board issued a Final Order assessing him a \$1,500 civil penalty for three violations of OAR 820-020-0045(4).

3136 – Gerald Wynne

The Board issued a Default Final Order against Gerald Wynne for performing engineering services without professional licensure. Wynne was previously licensed as a PE in Oregon until his license became delinquent in 2014. In August 2018, he sealed structural plans for a retaining wall with an expired license. The Final Order assessed a \$1,000 civil penalty for one (1) violation of ORS 672.045(1), engaging in the unlicensed practice of engineering.

3108 – Andrew Koltavary

The Board issued a Default Final Order against Andrew Koltavary for engaging in the unlicensed practice of engineering and land surveying without holding a valid certificate. Koltavary was previously licensed as a PE in Oregon until his license became delinquent in 2000, and is no longer renewable. In February 2017, Koltavary sealed an ALTA/NSPS survey that included a legal description of the property, which in turn included measurements, as well as an easement description and a basis of bearing description. The above mentioned actions are in violation of ORS 672.025(1), engaging in the unlicensed practice of land surveying, and ORS 672.045(6), engaging in the practice of land surveying without being qualified. Koltavary also signed and sealed the ALTA/NSPS survey with his expired professional engineer’s seal, violating ORS 672.045(2).

Additionally, in May 2019, it was discovered that Koltavary’s LinkedIn profile listed him as being a registered civil engineer in Oregon and advertises that he is “qualified to perform ALTA surveys”. Therefore, Koltavary violated ORS 672.045(2) for falsely claiming to be authorized to perform professional engineering and land surveying in Oregon. The Final Order assessed a civil penalty in the amount of \$4,000 against Koltavary. The civil penalty was assessed as follows:

- \$1,000 for 1 violation of ORS 672.025(1)
- \$1,000 for 1 violation of ORS 672.045(2)
- \$1,000 for 1 violation of ORS 672.045(4)
- \$1,000 for 1 violation of ORS 672.045(6)

Rule Updates

The following rules have completed the rulemaking process and been approved for permanent rulemaking by the Board at recent meetings. The purpose of sharing these updates is to ensure registrants are aware of updated rules and practicing in a lawful manner. Visit the OSBEELS website for more information on the Board's rulemaking process and the statutes and rules within the Board's jurisdiction.

More detailed discussions on these rule changes can be found within the minutes of recent Board and Committee meetings.

OAR 820-010-1000, OAR 820-010-1010, & OAR 820-010-4000

The purpose of the revisions to OAR 820-010-1000, OAR 820-010-1010, and OAR 820-010-4000 were to include the California state-specific Civil PE exam of 1973 as an acceptable qualifying exam for PE licensure in Oregon.

OAR 820-020-0015

Revisions to subsection six (6) of OAR 820-020-0015, which pertains to professional registrants being required to report license discipline they have received in other jurisdictions to the Board, is for the purpose of broadening the language within the subsection from "revocation or suspension" to "discipline."

OAR 820-020-0030

Revisions to OAR 820-020-0030, pertain to amending rule language that relates to conflict of interest. The new language aims to provide more clarity for engineers and add an additional subsection to offer exemptions for County Surveying officials. Revisions within the rule were derived from the National Society of Professional Engineers Code of Ethics Conflict of Interest Rules.

OAR 820-080-1000

OAR 820-080-1000 is a new rule developed to outline the Board's budget hearing process for proposed biennial budgets. The process includes sharing the proposed budget with all state registrants, holding a public budget hearing, and receiving public comment before the proposed budget is approved and adopted for the upcoming biennium.

OAR 820-010-0505, OAR 820-010-1000, OAR 820-010-1010, OAR 820-010-2000, & OAR 820-010-4000

Revisions to OAR 820-010-0505, OAR 820-010-1000, OAR 820-010-1010, OAR 820-010-2000, and OAR 820-010-4000, pertain to rules for licensees delinquent more than 5 years due to disciplinary actions. Under the new language, an applicant whose Oregon registration has been revoked, or delinquent for five (5) years or more due to refusal to renew or suspension, must pass a qualifying exam within 1-2 years of applying for a new registration, depending on the specific license the applicant is applying for.

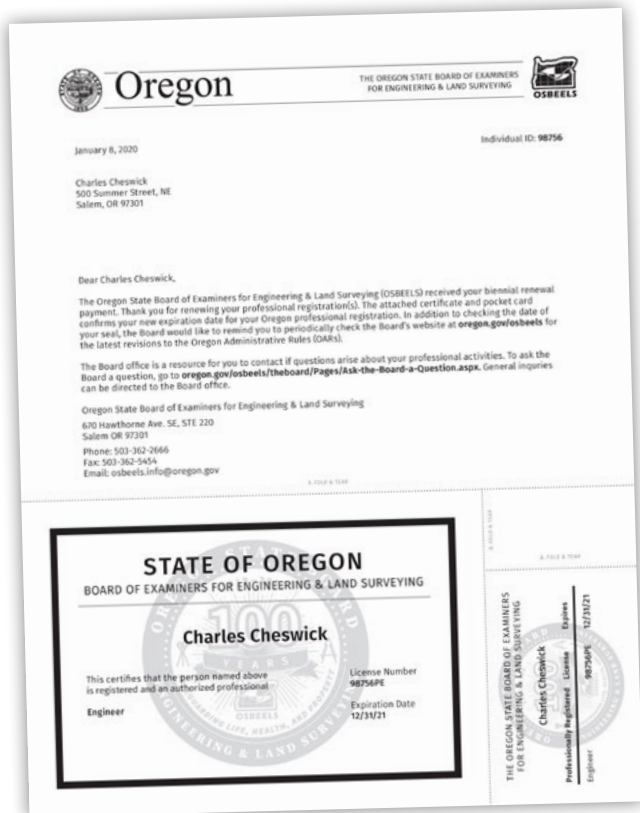


Planning for Retirement?

Are you or a colleague considering retiring soon from your profession? If so, OSBEELS would like to remind you about the steps to take in order to officially retire your state of Oregon license. We're sharing this information to help prevent any issues regarding your status as a licensed professional in the state of Oregon once you decide to make the transition. To change your status from "current" to "retired" you need to complete and sign the Request for Retirement Status form on the OSBEELS website within the License Status Changes section. More information can be found at oregon.gov/osbeels/maintaining/Pages/Status-Changes.aspx

New Pocket Cards

Beginning this year registrants who renew their registration will start receiving a new format of their pocket card. In addition to the new pocket card they will be receiving a small certificate with each renewal. Both the new pocket cards and the small certificate have a security mark of the OSBEELS 100-Year Seal to authenticate them.



The Oregon Examiner Available Online

Are you interested in receiving the Oregon Examiner electronically? OSBEELS's quarterly newsletter is now available both in print and online. We are encouraging those who receive the print copy of the newsletter to consider switching to a digital version instead.

Less printing can help reduce our carbon footprint and eliminate costs associated with the printing process. If you would like to begin receiving the Oregon Examiner electronically, simply send us a note at osbeels.info@oregon.gov with the email address you would like us to use when sending the newsletter.

This notification will not change your email address for Board correspondence. To update your email address for Board correspondence, please submit your request to the Board via the OSBEELS website at oregon.gov/osbeels/maintaining/AddressChange



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You may return this form by email to osbeels.info@oregon.gov, by fax to 503-362-5454 or by mail to the address listed above. Please note, the contact information in which Board correspondence is sent will not be changed by submitting this form. Please utilize the Name/Address Change form (<https://goo.gl/9uTvYC>) to comply with Oregon Administrative Rule (OAR) 820-020-0050.

Registrant Information

First name	Middle name or initial	Last name	
Email Address	Registration or certificate number, if applicable		
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