

State of Alaska

**Board of Registration
for Architects,
Engineers, and Land
Surveyors**

PUBLIC VERSION

*November 1-2, 2018
Board Meeting Packet*

**KPB Architects
500 L. Street, Suite 400
Anchorage, AK**



State of Alaska
Board of Registration for Architects,
Engineers, and Land Surveyors

MISSION STATEMENT

The board adopts regulations to carry out its mission to protect the public health, safety, and welfare through the regulation of the practice of architecture, engineering, land surveying, and landscape architecture by:

- ensuring that those entering these practices meet minimum standards of competency, and maintain such standards during their practice;**
- requiring licensure to practice in the State of Alaska; and**
- enforcing both the licensure and competency requirements in a fair and uniform manner.**

Bill Walker
OFFICE OF THE GOVERNOR

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ROSTER

State Board of Registration for Architects, Engineers, and Land Surveyors

NAME	APPOINTED	REAPPOINTED	EXPIRES
Anderson, Jennifer (Anchorage) Civil Engineer	03/01/2018		03/01/2022
Fritz, Catherine (Juneau) Architect	03/01/2016		03/01/2020
Hale, Dave (Anchorage) Land Surveyor	03/01/2012	03/01/2016	03/01/2020
Johnston, Elizabeth (Fairbanks) Electrical/Mechanical Engineer	03/01/2017		03/01/2021
Jones, Richard (Juneau) Public	10/26/2016	03/01/2018	03/01/2022
Kerr, John (Anchorage) Land Surveyor	03/01/2013	03/01/2017	03/01/2021
Koonce, Jeffrey (Anchorage) Architect	03/01/2013	03/01/2017	03/01/2021
Maynard, Colin (Anchorage) Civil Engineer	03/01/2012	03/01/2016	03/01/2020
Mott, William (Anchorage) Engineer Other Than Those Listed	05/26/2017		03/01/2020
Urfer, Luanne (Eagle River) Landscape Architect	07/01/2013	07/07/2017	03/01/2021

NAME	APPOINTED	REAPPOINTED	EXPIRES
Wallis, Fred (Healy) Mining Engineer	03/01/2016		03/01/2020

[Board Fact Sheet](#)



Nov 2018

Meeting

Agenda



AELS November 2018 Meeting Agenda

KPB Architects 500 L. St., Suite 400, Anchorage

November 1-2, 2018

Conference Call Number: 1-800-315-6338

Access Code: 51676

Thursday, November 1st Agenda:

- I. Call to Order 9:00 a.m.
- II. Review/Amend Agenda 9:02 a.m.
- III. Ethics Reporting 9:05 a.m.
- IV. Review/ Approve Aug 2018 Meeting Minutes 9:10 a.m.
- V. Investigative Report 9:15 a.m.
 - A. Follow up: Home Inspection Exemption Discussion
 - B. Background Checks
- VI. Division Update 9:35 a.m.
 - A. 4th Quarter Report
- VII. Correspondence Sent 9:50 a.m.
 - A. Response: Engineering by Alyeska Pipeline - P. Giessel
 - B. Response ADEC Requirements for Record Drawings - C. Clark
 - C. Response: PE Education and Work Experience - M. Evans
 - D. Response: Industrial Exemption Discussion with ML&P
 - E. Response: Standard Drawing Discussion with AK DOT&PF
 - F. Response: NCEES Exam Discussion - D. Flynn
 - G. Response: AHERA Stamping Requirements – C. Ottosen
- VIII. Correspondence Received 10:00 a.m.
 - A. Follow up: Industrial Exemption Discussion
- IX. Comment Review of Proposed Changes to 12 AAC 36.060, .061, .103, .110 10:15 a.m.
- X. Statute & Regulation Working Session Part I 10:25 a.m.
 - A. 12 AAC 36.185 - Clarify RC requirements for COA
 - B. AS 08.48.331(b), .341(15) and 12 AAC 36.068, .069 - Revisions to LA language
 - C. AS 08.48.055 - Delegate authority to staff
 - D. 12 AAC 36.050(b)(1) - Clarify documentation requirements
 - E. Terminology Updates
- XI. Break 11:10 a.m.
- XII. Retired License Discussion 11:15 a.m.
- XIII. Executive Session 11:30 a.m.

AELS November 2018 Meeting

Conference Call Number: 1-800-315-6338

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XIV. Lunch 12:00 p.m. to 1:15 p.m.

XV. Reconvene meeting/ Roll Call 1:15 p.m.

XVI. Special Project: Website Review 1:16 p.m.

XVII. Public Comment 2:00 p.m.

XVIII. Application Review 3:00 p.m.

XIX. Recess for the day 5:00 p.m.

AELS November 2018 Meeting

Conference Call Number: 1-800-315-6338

Access Code: 51676

Friday, November 2nd Agenda

- XX. Reconvene meeting/ Roll Call 8:15 a.m.
- XXI. Application Review continued 8:16 a.m.
- XXII. Statute & Regulation Working Session Part II 9:15 a.m.
- XXIII. Break 10:15 a.m.
- XXIV. Special Presentation: SE Exam by C. Maynard 10:30 a.m.
- XXV. Old Business 11:00 a.m.
 - A. Review August To Do List
 - B. Guidance Manual
- XXII. New Business 11:30 a.m.
 - A. Arctic Course Review
- XXIII. Committee Updates (Working Lunch) 12:00 p.m.
- XXIV. National Organization Updates/ Calendar Review 12:45 p.m.
 - A. Upcoming meetings
 - B. CLARB
 - C. NCARB
 - D. NCEES
- XXV. Licensing Examiner's Report 1:30 p.m.
- XXVI. Read Applications into the Record 1:40p.m.
- XXVII. Board Tasks 1:50 p.m.
- XXVIII. Board Member Comments 2:05 p.m.
- XXIX. Meeting Adjourns 2:15 p.m.

August 2018 Meeting Minutes

1 These draft minutes were prepared by the staff of the Division of Corporations, Business and Professional
2 Licensing. They have not yet been approved by the Board.

3
4 **STATE OF ALASKA**
5 **DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT**
6 **BOARD OF REGISTRATION FOR ARCHITECTS, ENGINEERS AND**
7 **LAND SURVEYORS**

8
9 **MINUTES OF THE MEETING**

10 **August 2-3, 2018**

11
12 By authority of AS 08/01.070(2), and in compliance with the provisions of AS 44.62, Article 6, a scheduled
13 meeting of the Board of Registration for Architects, Engineers and Land Surveyors was held on Thursday,
14 August 2nd and Friday, August 3rd at KPB Architects, Anchorage, Alaska.

15
16 **I. Call to Order/Roll Call**

17 The meeting was called to order at 9:00 a.m. by AEELS Chair Colin Maynard.

18
19 **Board members present, constituting a quorum:**

20 Jennifer Anderson, PE, Civil Engineer, Environmental Engineer
21 Catherine Fritz, Architect
22 Dave Hale, PS, Surveyor
23 Richard "Vernon" Jones, Public Member
24 John Kerr, PS, Surveyor
25 Jeff Koonce, Architect
26 Colin Maynard, PE, Civil Engineer, Structural Engineer
27 Bill Mott, PE, Chemical Engineer, Metallurgical and Materials Engineer
28 Luanne Urfer, Landscape Architect

29
30 **Board members excused by the Chair:**

31 Elizabeth Johnston, PE, Electrical Engineer, Fire Protection Engineer
32 Fred Wallis, PE, Mining Engineer

33
34 **Attending from the Division of Corporations, Business, and Professional Licensing were:**

35 Alysia Jones, Executive Administrator
36 John Savage, Investigator

37
38 **The following members of the public attended portions of the meeting:**

39 Sarena Green, IBEW (via phone)
40 Robert Auth, State of Alaska Department of Law
41 Dusty Menefee, IBEW
42 Jake Maxwell, ML&P
43 Victor Willis, ML&P
44 Mark Johnston, ML&P
45 Dee Ennis, Municipality of Anchorage (MOA) Law

1 Jake Moe, ML&P
2 Quincy Ames, MOA Law
3 Steve Schmitt, MOA Chief Surveyor
4 Gary Anderson, ML&P
5 Everett Clary, ML&P
6 Ken Fisher, State of Alaska, Department of Transportation and Public Facilities (DOT&PF)
7 Jeff Stark, State of Alaska, Department of Law
8 Mark Neidhold, State of Alaska, DOT&PF
9 Peter Giessel (via phone)

11 **II. Review/Amend Agenda - 9:02 a.m.**

12 Board reviewed the agenda and added Item C. SE I and SE II exam discussion under Friday, August 3rd,
13 Agenda Item VI. New Business. There were no other additions.

15 **III. Ethics Reporting**

16 The Chair reported that he had completed his term on the NCEES UPLG committee and was now on the
17 ACCA committee. The Chair also noted that Emeritus board member Brian Hanson was appointed to the
18 Award Committee.

19
20 Urfer stated that she had attended a licensure summit in June hosted by ASLA and CLARB.
21 Fritz, Koonce, and A. Jones stated that they had attended the NCARB Annual Meeting in June.
22 A. Jones stated that the Chair, Kerr, Anderson and herself had hosted a booth and conducted a surveying
23 activity using NCEES outreach materials at the AGC-Alaska's Safety Fair yesterday evening.

25 **IV. Review/Approve February 2018 Meeting Minutes**

26
27 The Chair requested changes to page 11, Outreach reports UA during Mechanical, typically speak to Civil.
28 Kerr stated he found a few typos and would provide those to A. Jones for correction.

30 **On a Motion duly made by Jeff Koonce, seconded by Bill Mott and approved**
31 **unanimously, it was RESOLVED to approve the minutes as amended.**

33 **V. Investigative Report**

34 Savage reported the Yes blocks on initial applications and renewals have finally slowed down and that the
35 new Chief Investigator is doing well. Savage noted that the Division also recently hired a new senior
36 investigator. Savage said he still has the Geologist program, but has been able to focus mostly on AELS cases.

38 *August_02-2018_A_00:00:01*

39 Savage commented that he had two points that he wanted to bring before the board for their
40 recommendations. Savage explained there had been some issues recently regarding electronic seals and a plan
41 reviewers' ability to determine who has done the revisions because of the lack of a wet seal. Savage said there
42 does not appear to be a checks and balances in place. Koonce asked if it was occurring in Anchorage. Savage
43 confirmed that it was and suspected it was happening elsewhere as well. Savage offered the suggestion that a
44 wet seal be required and asked the Board for suggestions. Savage added that several places think they can

1 make the changes themselves or have someone “rubber stamp” it and encouraged the board to look into the
2 issue.

3
4 Hale stated that from his perspective there is not much of a process currently. He explained different
5 reviewers appear to require different things. Hale said he submitted a plot plan a few months ago with an
6 electronic seal and it went through and then last week he submitted an As Built and it got kicked back
7 because they wanted to wet seal on it. Hale stated that he has submitted numerous plot plans and As-Built
8 drawings with electronic seals and they’ve been accepted.

9
10 Savage responded that even doing that randomly could be helpful and keep people on their toes, but
11 acknowledged that it might cause issues for registrants. Koonce said that he has never seen a policy or
12 memorandum on this issue. Hale said there is a requirement for some plot plans and As-Built to show
13 certain things, but added that that comes from the surveying group, but not everyone is submitting per the
14 checklist and it is still going through. Koonce asked if contractors are submitted random change orders.
15 Savage responded that was not certain, but guessed that might be the part of it. Hale encouraged there be a
16 more consistent process. Koonce added that it could be someone interpreting something in the field
17 differently and then there is a clarification or modification that is made is part of an inspection report, but
18 said he would not be surprised if some people were freelancing those types of things. Kerr said in his limited
19 experience with plan sets and review is that they submit and have signed a permit set which is by no means a
20 final. Kerr said you have a design set that signed and sealed that is circulating that you know is not what is
21 supposed to be built off of and there is automatically going to be revisions to that. Kerr asked if the permit
22 set should be signed. Other members responded yes. Maynard explained the Municipality will not accept it
23 unless it is stamped. Fritz and Koonce explained that the permit set can be the issued set for construction.
24 Koonce said if the owner would like, we do a conformed set of documents that takes into account all the
25 review comments and conditions and that becomes the field set. Fritz added that the building inspector
26 doesn’t want to see that set, and that they want to see the permit set. Maynard explained that you can submit
27 a revised plan set. Maynard added that reviewers have marked up a drawing and then marked it approve.
28 Several other members indicated they had seen that as well. Urfer expressed her concern with people who are
29 not even part of the design team, generally planners, who coordinate with the reviewer and then never go
30 back to the design team. Maynard said the reviewer nor the contractor should be making changes to the
31 drawings without the permission of the person who stamped that particular drawing.

32
33 *August_02-2018_B_00:00:32*

34 Savage asked if the board had any issues with him reaching out to plan reviewers, discussing the matter
35 generically and getting their input on how to address the issue. Maynard stated that there are two issues:

- 36 (1) Plan reviewers putting things on the drawings
37 (2) Contractors marking up drawings without the knowledge of the design professional of that particular
38 sheet.

39
40 The Chair stated that neither is acceptable under state law. Savage asked for clarification on reviewers that are
41 PEs. The Chair responded that unless they are putting their stamp on it, they shouldn’t be marking up that
42 drawing.

43
44 The Chair commented that the Investigative Report was not uploaded to OnBoard. A. Jones apologized and
45 stated that she was in the process of uploading the report now.

August_02-2018_B_00:02:36

The Chair asked if the board had any other questions for the investigator. Savage indicated he had one additional topic he wanted to discuss with the board. Savage explained that PEs and Architects can do home inspections under an exemption to the Home Inspector law and historically the board's stance has been that they are doing home inspections and not engineering. The Chair corrected Savage stating if an architect does a home inspection, they can inspect the architecture, but they cannot inspect the mechanical and electrical systems unless you have a home inspection license. Savage responded per the regulation, an architect or an engineer, under the exemption, can complete a home inspection and noted that many do on a daily basis. The Chair said they can do home inspections under their license, but that means they have to do what their license allows them to do. Fritz commented that if it is minor, it may be covered.

Koonce asked if it is in statute and Fritz responded that she was looking it up now. Savage said the exemption states if you are licensed as an architect you can practice a home inspection and added that the definition of home inspection was "bumper to bumper". Hale asked if they are doing home inspections without a home inspector certification. Savage responded affirmatively and added that he was not sure why someone would put their architectural or engineering license in jeopardy instead of just getting a home inspection certification. The Chair said we used to have a disclaimer on the website that said you can do home inspections, but only within the limits of your license.

Savage said they can and have done complete home inspections under our laws. Savage circled back to the actual complaint regarding home inspections and explained that if you, as an engineer or architect, do the home inspection, you can't turn around and put on your engineer hat and do the septic for example for the same owner because it is a conflict of interest. Savage asked the board for their opinion.

Koonce responded that the board would look at AS 08.18 and 12 AAC 22. Hale stated that the conflict of interest might be on a case by case basis. Savage asked what would determine that. Hale responded that if you indicated they replace the septic in the inspection and then turn around and offer your services to replace it then that's one thing.

Savage referred the board to AS 08.18.156(3) Exemptions Related to Home Inspections. The board reviewed the statute.

The Chair commented that it states you have to affix your seal, and asked how do you seal a report for mechanical when you are a registered civil engineer? Savage said when he affixes his seal he is just showing that he is a registered engineer or architect and exempt from needing the home inspector certification. The Chair reiterated that you can only put your stamp on stuff that is within your discipline unless it is minor in nature. The Chair said in his experience, when he does a home inspection, he only reviews the structure. He added that he does not look at the outlets or the mechanical systems, because that is outside his area of expertise. Savage said he believes eighty percent or more of the home inspections in the Fairbanks area are done by engineers and architects. Savage said he doesn't understand why those individuals wouldn't get that additional certification and keep this license out of the mix.

Savage said there is no board for the home inspectors to reach out too and said he tried to research the history of how the exemption came about. Savage believed most of the home inspectors would like to see that exemption go away. Kerr asked if there was an AG's opinion on this matter. Savage clarified that it has

1 gone through the AGs over the years many times with individuals working under the exemption. The Chair
2 said he was on the APDC Legislative Liaison committee when the exemption went through and explained
3 that it was put in there so home inspectors couldn't say it is a house, engineers and architects can't do any
4 inspections on it, because engineers and architects had done inspections forever. The Chair said is they are
5 doing a home inspection for real estate maybe they need the entire team, but there is no way a structural
6 engineer should be evaluating the entire house. Hale asked for clarification that the inspections were
7 mortgage-related. Savage confirmed and said the definition of home inspection, even at the national level are
8 not code inspections, they are non-intrusive visible inspections.

9
10 The Chair read the notice on the AEELS website:

11
12 An individual who holds a valid license as a professional engineer or architect may do home
13 inspections without obtaining a home inspector license. However, they cannot use the term "home
14 inspector" in any way or advertise that they conduct home inspections.

15
16 Fritz clarified that the statement is related to the fact that the registrant cannot call him or herself a Home
17 Inspector until he/she has obtained that credential. The Chair said an architect might be able to do the whole
18 thing, but that he didn't think an engineer should do the full inspection.

19 Kerr asked if the board wanted to put something in writing regarding the Board's interpretation on this
20 exemption. Fritz asked if there was anything in the Guidance Manual. Urfer and A. Jones responded no, but
21 agreed that it should be added. Fritz stated that it would be a beneficial addition. Savage encouraged the board to
22 add something on this topic to the Guidance Manual, stating that there are a large amount of licensees doing
23 this type of work and making it a big part of their living.

24
25 The Chair suggested adding the discussion to Friday's Agenda under V. New Business. The board thanked
26 Savage for bringing it to their attention. R. Jones asked what the determination was regarding whether it was
27 conflict of interest or not. Koonce responded it needed to be looked at more closely. Fritz believed that you
28 can sign on for corrective work and that it is not a conflict of interest, but added that you can't do it on your
29 own home or anything where you have a financial interest. Fritz said there is no conflict with identifying an
30 issue and then providing solutions to fix those problems. Savage stated that as a home inspector though, you
31 can't have anything to do with the actual repair, you can only tell them what needs to be repaired. The Chair
32 stated that they get calls all the time to look at a buildings and evaluate the problems and then if there are
33 issues, then we design the fixes.

34
35 Savage asked about potential conflicts of interest where the person is doing the inspection for the buyer and
36 also working on the house for the seller. The Chair stated that if an individual is working for two people on
37 the same project, it is the individual's responsibility to let both of them know. Hale added that if there is even
38 a perception of a conflict of interest, you should let people know. Savage asked if it makes a difference in a
39 case involving two jurisdictions (AEELS and Home Inspectors). The board indicated it is based upon the
40 regulations.

41
42 Koonce asked who regulates home inspectors. A. Jones responded that there is a licensing examiner in the
43 Division who handles those certifications, but that it is a non-boarded program.

1 Fritz requested to return to previous discussion regarding seals and plan reviewers. She stated that she
2 supports the idea to talk with them about the issue, but wanted to commend the reviewer for asking
3 questions and paying attention. Fritz recommended explaining the board's position regarding wet seals may
4 not be required. Fritz also encouraged the board to give the plan reviewers lots of kudos for looking for
5 stamps. Savage stated that he gets calls when they see something that doesn't look right and he appreciates
6 that bringing it to his attention. Fritz mentioned Juneau has a really good plan reviewer and is really good
7 about raising questions when something doesn't look right.

8
9 Kerr asked if reviewers know who to call. Fritz responded no and stated that she sometimes gets calls about
10 whether things are okay or not and has directed the reviewer to the AEELS Guidance Manual and regulations.
11 Kerr suggested providing AEELS staff's contact information on a magnet or something so reviewers know
12 who to contact. Fritz reminded the board that they had discussed doing outreach to this audience once the
13 updated version of the Guidance Manual was available.

14
15 Savage mentioned that he has developed a good relationship with the Fire Marshall's Office through the
16 forum that they started nine years ago. Savage said he wants to remain cautious with that group because their
17 laws are not as specific as AEELS' in regards to the seal. He added that the Fire Marshall's Office is just
18 looking for a design professional. Savage said he wants to continue to build that relationship.

19 Koonce asked when the new Fire Marshall would come on board. Savage anticipated the new Fire Marshall
20 would start in a couple months. Koonce asked Savage to pass along that the board would be interested in
21 hearing from the new Fire Marshall once he or she has settled in. Savage encouraged the board to have
22 continue to have someone from the Fire Marshall's office come to a board meeting and continue to build that
23 relationship.

24
25 The board thanked Savage for his report.

August_2_2018_B_00:25:12

26 27 **VI. Correspondence Sent**

28 The Board reviewed all items sent following the May 2018 meeting.

29
30 ***D. Land Surveyor DOB information:*** A. Jones mentioned she had added Gwen Gervelis' review of the
31 data and reported thirty-one percent of Alaska registered land surveyors are 65 and over, Forty-one percent
32 are between 50 and 64, and only twenty-eight percent are younger than 50. Hale said he was speaking with
33 Gervelis and Stan Brown yesterday and they asked what the board was doing to promote surveying. Hale
34 explained that the board is not a marketing wing for the profession, and is focused on regulating and
35 enforcement. Hale said that he told them we promote licensure and do outreach related to that and suggested
36 they work with APLS and UAA to do that.

37
38 Mott asked if new technologies have reduced the workload. Kerr said for data gathering yes, but indicated
39 that the in-office component has grown substantially. Kerr said it is probably less man hours but that the
40 product is much more sophisticated now and doesn't believe the offset is as dramatic as one might think.
41 Hale agreed and said that now you need someone with a degree because it is so much more sophisticated and
42 there is more opportunity to harm the public if you don't know what you are doing. Hale said we need smart
43 people who are really motivated, good at math and don't mind going to remote areas from time to time and it
44 is hard to find those people. Kerr agreed stated that they need people who can work well in adverse
45 conditions, conduct legal analysis, understand statutes, be mathematically savvy, and coordinate large logistical

1 efforts in remote communities. Kerr said NCEES is actively working on the effort through outreach
2 programs to kids in elementary school and middle school, and mentioned that the board had used some of
3 NCEES outreach materials to conduct a surveying activity for youth at AGC's Safety Fair yesterday.

4 *August_2_2018_B_00:30:03*

5 ***F. Update: Stamping Requirements for AHERA projects*** - Anderson reported that she had met with Mr.
6 Ottosen and Mr. French a few weeks ago and reminded the board that they had come before the board at the
7 May 2018 meeting and requested clarification on whether hazmat drawings require stamping or not.
8 Anderson explained that Ottosen and French were looking for a framework so that they are able to
9 participate when an RFP comes out and there is a seal requirement. She said they provided a binder of
10 information for her to review, which she really appreciated. Anderson stated that they produce sample
11 locations and said there is no design associated with these drawings. Anderson mentioned that she also spoke
12 with Mr. Beardsley who is a PE and working in the same field of practice and commented that he is able to
13 stamp these types of drawings, even though a stamp may not be required. Koonce asked about the process
14 and industry standards. Anderson responded that the hazardous building materials survey and abatement
15 pieces are regulated by OSHA and EPA and these outfits are taking this data and passing it along to a
16 contractor or architect for demo. Anderson stated that in her opinion they are not producing any plans or
17 making any recommendations as to how the material is being demoed. She stated they are simply indicating
18 what hazardous materials exist and where they are located. Anderson asked the board if they thought it fit
19 within our regulations. Fritz said the hazmat person she works with is very careful not to indicate methods or
20 means and includes an "in compliance with..." Fritz says there may be a drawing indicating where and what
21 was found, but it is apparent that it is a discovery-only drawing.

22
23 Maynard asked if the drawings include information regarding what needs to be removed. Fritz and several
24 other members responded that the drawings typically only state what was found and where it is located.
25 Koonce explained that there is a bid document that comes out that takes the data and specifically indicates
26 what needs to be removed and how it needs to be removed. Fritz state that she leans towards the feeling that
27 it is not under the Board's jurisdiction. The Chair asked if anyone felt differently. The board responded no.

28
29 TASK: Anderson will draft a response to Mr. Ottosen, Mr. French and Mr. Beardsley on this item and also
30 draft language for inclusion in the guidance manual.

31
32 *August_2_2018_B_00:37:07*

33 Hale asked if the Board's responses were being incorporated into the guidance manual. A. Jones said the most
34 recent version of the manual does include language from previous response letters and that she intends to
35 continue to add items to the guidance manual on a regular basis going forward.

36
37 Kerr asked if there is a library of letters put out by the board. A. Jones said that she keeps a file of the letters
38 since she has been on staff. R. Jones stated that he did not keep them separately, but that any letters would
39 have been included in the next meeting's board packet.

40
41 Sarena Green with IBEW joined the meeting.

42 *August_2_2018_B_00:39:00*

43 ***I. Response: Certifying Condominium Plats*** - Hale said he had spoken with them yesterday regarding the
44 matter and explained what the board's issue was with the Certificate of Completion statement. DNR staff
45 indicated that they are reviewing the language and doing their own regulation project to correct the mater.

1 Hale added that he provided them with several samples of the condominium surveys that had different
2 statements on them. Hale said they plan to coordinate with the municipality on developing a statement that
3 everyone can agree on and that covers all the professionals and the public, and then they follow up with the
4 board.

5
6 *August_2_2018_B_00:41:01*

7 **VII. Correspondence Received.**

8 ***A. PE Education and Work Experience*** – The Chair explained that the individual is concerned about
9 regulations that say you can't gain education and work experience concurrently.

10
11 The board took a short break to allow ML&P representatives to get settled.
12
13

14 *August_2_2018_B_00:47:23*

15
16 **VIII. ML&P Discussion**

17 The Chair invited the representatives from ML&P to speak. Quincy Arms with the MOA Department of Law
18 explained that there were a couple factions present at the meeting. She indicated there were several employees
19 and she was speaking on behalf of the administration. Arms asked if the board had received their memo and
20 had time to look it over. Several board members indicated that they had reviewed the memo and noted the
21 discussion points.
22

23 Mark Johnston, the General Manager of ML&P introduced himself and stated that they did not have much
24 more to add beyond the memo provided by Deputy Municipal Attorney Deitra Ennis to the board on July 19,
25 2018. Johnston acknowledged that there were several ML&P employees also in attendance and stated that
26 they may have items they may want to add, but clarified that they are not speaking on behalf of ML&P.
27

28 Arms stated that internally ML&P has taken steps to ensure that ML&P survey documents are being reviewed
29 and stamped by the Municipal Surveyor. In regards to how the exemption of utilities (AS 08.48.331(a)(10))
30 applies to MOA and respectfully requests the board get an updated opinion on whether that exemption
31 applies to ML&P and other public utilities and state agencies. Arms said they were available to answer
32 questions, but did not have anything further to add beyond the memos.
33

34 The Chair said that the 1977 AG Opinion was taken when state employees were exempt and explained that
35 they are no longer exempt. The Chair said law was changed after the 1977 opinion was issued. The Chair
36 explained that if DOT&PF issues drawings they are stamped by licensed engineers.
37

38 Dee Ennis, the Deputy Municipal Attorney introduced herself and said that they have been told very different
39 things and that DOT&PF is not stamping those documents and that it is industry practice both with the state
40 and the utilities, the other position and that's what made us look for this. Ennis stated that Arms had done
41 the legal research and even though that is an old opinion that has gone back and forth, she noted that the
42 language and issue is almost identical to the language and issue now, and encouraged the board to get an
43 updated opinion of the State's Department of Law interpreting the state statute. Ennis stated that the board's
44 position goes against industry standard, city-wide, not just the municipality, other utilities, other state agencies
45 and tremendous impact that the board may not realize.

1
2 The Chair responded that the board is doing just that and would also be speaking with DOT&PF later in the
3 meeting to discuss drawings that shouldn't have stamps.

4
5 Bob Auth of the AG's Office introduced himself to the board.

6
7 Ennis stated that she is concerned that the employees have a list of questions that assume the exemption does
8 not apply. Ennis said if the exemption does apply then the questions are essentially taken care of. She clarified
9 that Administration is not here to debate those aspects at this point in time, but indicated the staff are stuck
10 between a rock and hard place if that is the interpretation. Ennis further specified her comment was in
11 regards to the engineering drawings, noting that she believes MOA has internally resolved the concern related
12 to surveying documents.

13
14 Ennis introduced Steve Schmitt, the Municipal Surveyor.

15
16 The Chair said that the industrial exemption was removed from State law in the early 1990s and two years re-
17 installed, but the language that was inserted the exemption didn't apply to issues where the public had access.
18 The Chair explained a scenario involving designing a power plant within a fence and there is no interaction
19 with the public does not require a licensed engineer, however if you are designing something that interacts
20 with the public, then you need a licensed engineer. The Chair added that there are some gray lines in between,
21 and said the board can have their electrical engineer who is unfortunately not in attendance to provide some
22 further clarification on what affects the public and what does not.

23
24 The Chair explained that when the legislature enacted those laws it was to add that extra layer to protect the
25 public, so if there was interaction between the entity and the public, you needed a licensed engineer.

26
27 Koonce asked MOA representatives if they are requesting the AG to render an opinion on the list of
28 questions. Ennis responded that the list of questions was submitted by an employee and said the request was
29 at a higher level to determine if the exemption applies, and if it does, then those questions from the employee
30 will need to be addressed.

31
32 Kerr asked if the 1994 memo to all engineering personnel was the model MOA was proposing to follow.
33 Ennis stated she was unsure how that came to be, but believed someone was told the exemption did not
34 apply and so he had responded city-wide. Ennis stated that is not their current business model. Johnston said
35 he was recently given a copy of it and said it is not the way we have been acting because with the exemption
36 we believe that we don't need to follow that. Johnston said if we can get an updated AG's opinion, we will
37 look at our policies to determine if any adjustments need to be made.

38
39 Kerr asked if following the policy would not be in the public's best interest.

40
41 Johnston responded that they had not reviewed to make that determination and reiterated that it is not the
42 way ML&P is currently doing business.

43
44 Ennis mentioned there is a cost element to it and requested the board consider that as well.

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Kerr asked what has transpired in regards to addressing the surveying document issue. Schmitt – now in compliance with sealing final documents related to land surveying.

Schmitt said the Kerr and Hale brought to his attention that the state statute requires signatures on survey documents and also received a letter from the AELS board. Schmitt explained that Municipal process on easement documents that require a land surveyor to produce which means they require a parcel sketch and legal description are being sealed by a professional land surveyor. Schmitt added that temporary construction easements and temporary construction permits are not because they are temporary. Schmitt said based upon his interpretation of the statutes and the board's letter he is in conformance with easement documents. Schmitt clarified that he was not talking about survey plats and records of survey, stating that those are separate and covered under municipal code and state statute and those are always sealed by a professional land surveyor. Schmitt said that he has four consultants under contract, all of which are professionals and signing and sealing their work.

Kerr asked if ML&P's surveyor is signing and sealing the work that they do. Schmitt responded that ML&P's surveyor is not and explained that ML&P is a municipal entity and their work is reviewed by Schmitt and his staff, accepted and then signed by him as the Municipal Surveyor.

Kerr stated that in AELS statutes responsible charge is defined as "being in direct control and supervision of work" and said you can't seal work that you are not in direct control and supervision of. Schmitt ask if it was a question of proximity. Kerr responded no and reiterated that it is a question of direct control and supervision of the work. Schmitt said that he is not following Mr. Maxwell around and that type of practice is not industry standard. Kerr said Mr. Maxwell should be sealing that work and cited Alaska Statutes 08.48.341(20). Schmitt responded that is a question for the utility and indicated that there may need to be a discussion with ML&P and possibly change staff around if that is the board's direction.

Fritz clarified that the definition for responsible charge used when you are in-training is the same as in practice. Fritz said it is not intended that you would just sign off on someone. Schmitt clarified that was not his point and said he did not believe that he needs to follow another licensed surveyor around. Fritz agreed. Schmitt said his point is that the principal surveyor that is signing off is not going to run around "bird-dogging" multiple crews. Kerr explained that he does not need to be on site, but that he needs to have that control by communicating with those crews, understand what they are doing, and guide their actions when they have questions. The principal surveyor needs to be in charge rather than just checking in. Schmitt responded that it appears to be a process issue with the utility and something we can deal with internally.

The Chair asked Schmitt if there is an issue with the submission does he send it back. Schmitt indicated that he does send it back to be corrected.

The Chair said that the board would obtain an updated opinion from their AG and share it with MOA/ML&P.

Green asked if the board had a recommendation on how the utilities should proceed in the interim until the AG's opinion is provided on whether or not they need to change their internal processes. Green said that she

1 wants to make sure that their employees are not going to run the risk of not getting their PEs, or be harmed
2 in some way.

3
4 The Chair said that his recommendation is that if the public has access to it that you have it designed by a
5 licensed professional engineer. Green asked what the board would consider a right-a-way because it is not
6 public access, but it is on public lands. The Chair said if the public is accessing it on a regular basis (e.g.
7 backyards) then that would fall under the requirement of having a licensed professional engineer, but more
8 remote right-of-ways may not.

9
10 A. Jones stated that she had received and included in the addendum correspondence expressing a concern of
11 retroactive prosecution and asked the board to address that. The Chair said we are not actively looking for
12 cases and explained the board will not pursue something unless there is a complaint.

13
14 Jake Moe introduced himself as an electrical engineer for ML&P and asked if someone produced a design
15 that should have had a stamp, but didn't who is in responsible charge and/or who is liable? Is it the person
16 who signed it, is it the supervisor that doesn't have a PE, is it the company? The Chair said it would likely be
17 all 3 because they are practicing engineering without a license.

18
19 Jake Maxwell introduced himself as a land surveyor with ML&P and explained that he had sent some of the
20 correspondence between the board and ML&P that states the requirements for the engineering and surveying
21 seals. Maxwell noted that it appears the Board's opinion in 1993-1994 required professional engineers and
22 surveyors to be employed by a utility. Maxwell added in follow up to the supervision he received from
23 Schmitt was on the easement document, but day to day operations are still at ML&P. Maxwell asked if these
24 letters are still in place.

25
26
27 *August_2_2018_B_01:12:08*

28 Kerr stated that he believed the exemption changed and changed back since those letters. The Chair said
29 repeal and reinstatement of the exemption occurred prior to the date (circa 1990) of the letters Mr. Maxwell
30 provided. The Chair said that no one in the design community knew how it had gotten taken out and worked
31 with the utilities and the oil companies to work out language that would define when a license would be
32 required and after two years, and similar language went back in except for the public safety aspect.

33
34 The Chair responded to Maxwell directly saying that it would be appropriate for him to stamp the work since
35 he is a licensed professional surveyor, except for the Municipality wants it to work that way and stated that is
36 an internal mechanism of how they operate. The Chair said if Schmitt is in responsible charge of the work, he
37 needs to direct the work, know what you are doing and be satisfied with the product when it is done. The
38 Chair said if they wanted to give you the power to sign them, they could because you are a licensed
39 professional. Kerr told Schmitt that unless there is an incentive for him to seal the work, he is jeopardizing his
40 license by signing work that you may not have direct control and supervision of.

41
42 Schmitt said it is simply an internal process that needs to be modified and indicated that adjusting the process
43 would not be a problem.

1 Moe asked if the 1994 memo were enacted by ML&P, would the Board approve that. The Chair responded
2 that they don't approve processes. Moe asked if they would be okay with it. The Chair responded if it meets
3 state laws & regulations and stated that he believed it was in the right direction. Kerr agreed that the intent
4 was in the right direction.

5
6 Arms said it was drafted when the exemption was not in place and stated that she believed the process should
7 be different as the exemption has been reinstated.

8
9 Hale said the regulations are public-centric and suggested that when they review processes that they keep that
10 in mind. Hale explained that the board's goal is to protect the public with these statutes and regulations and
11 the board is trying to uphold the law.

12
13 The Chair thanked everyone for coming. The board took a short break.

14
15 TASK: The board will follow up with ML&P following receipt on an opinion from the AG's office.

16
17 *August_2_2018_B_01:24:50*

18 ***X. Standard Drawings Discussion***

19 Ken Fisher, Chief Engineer at DOT&PF introduced himself and thanked the board for the opportunity to
20 appear before the board to respond to issues raised by the board had regarding the use of standard drawings
21 in the State of Alaska.

22
23 Fisher explained that they have explored three concerns:

- 24 1. Current practice of utilizing standard drawings consistent with state law, meeting all regulatory
- 25 requirements and providing protection for the public
- 26 2. Is responsibility maintained in this process?
- 27 3. Is the current practice of using standard drawings in the best interest of the public?

28
29 Fisher said that he believes their current practices are consistent with state laws and is in the best interest of
30 the public. Fisher then introduced Jeff Stark, representing the State of Alaska's Attorney General's Office and
31 Mark Neidhold, Chief of Design and Standards for Construction and explained that they were here to expand
32 on those three areas.

33
34 Stark introduced himself, stating that he is an Assistant Attorney General working primarily with DOT&PF
35 and explained that Mr. Neidhold had alerted him of these issues. Stark stated that he had written a letter to
36 Mr. Neidhold addressing the legality of using standard drawings on July 20th. Stark apologized for his
37 incorrect citation of the AEELS statutes. Stark explain to the board that he had been asked to look at whether
38 DOT's practice of using standard drawings is consistent with AEELS Statutes and Regulations. Stark said that
39 his assumption was that DOT&PF had a number of drawings that were prepared by a licensed engineer, and
40 stamped by that engineer and the specific task for that engineer was to create a component that would be
41 used in future projects unaltered. Stark said these would be used repeatedly and provided the example of
42 terminals for guardrails. Stark noted that some standard details may have limitations on circumstances, and
43 that information is specified on the drawings. Stark explained the project engineer goes through the drawings,
44 selects which components are suitable and incorporates them into the plan set. Stark stated that the stamp of
45 the original designer of that component remains on the drawing, and the engineer for the project stamps the

1 remaining drawings of the plan set. Stark said in the end, you have a situation where multiple engineers have
2 been involved in the plan and each component that was designed by a particular engineer is clear and
3 incorporation of the standard drawings is made by an engineer who has the expertise and is qualified to
4 determine whether that is an appropriate component for that particular project.

5
6 Stark stated that in terms of looking at whether this is allowed under AEELS Statutes and Regulations, neither
7 address the use of standard drawings specifically. Stark explained that he looked at three things.

- 8 1. What it is that the legislature and the board may have been contemplating when they drafted its
9 statutes and regulations
- 10 2. What principles are behind that
- 11 3. How they ought to apply to this situation

12
13 Stark explained that he first looks at the language and said he did not see anything that prohibits this practice
14 and in fact it appears to be consistent with the language with multiple engineers being involved in a complex
15 project. Stark mentioned that he also looked at processes in other states and if they are using standard
16 drawings. Stark said that Neidhold had contacted a number of transportation departments throughout the
17 country and confirmed their processes were very similar to Alaska DOT&PF and that they were also working
18 under a regulatory regime. Stark indicated that provided a certain amount of comfort when looking at the
19 board's goal of protecting the safety of the public and ensuring these projects are designed in a way that the
20 public are protected from harm. Stark indicated that knowing other states are comfortable with the practice
21 leads him to believe that it is likely those practices are permitted in Alaska.

22
23 Stark said he also looked at what are the benefits and what are the harms of this practice. Stark explained that
24 DOT&PF very limited funds compared to real need for designing, building and rebuilding roadways, and
25 needs to allocate those funds in a way that benefits the public the most. Stark added that safety is a huge part
26 of that and explained that once you have had a licensed and qualified engineer design a standard detail, to
27 have an engineer re-evaluated each time doesn't seem to have a lot of incremental value to the public as
28 opposed to directing resources to closer evaluation of other aspects of that project or building additional
29 projects that directly impact the safety of the traveler and public. Stark noted the one drawback of the current
30 process is that it does not provide you with an opportunity to confirm drawings are current. Stark said it was
31 his understanding that some of DOT&PF's drawings were not current and added that DOT&PF agrees that
32 this is a legitimate problem. Stark said they have identified that is a weakness and are committed to addressing
33 the issue and periodically re-evaluating the drawings to ensure they are up to code. Stark said that is a much
34 more economical way of addressing the issue and he believes it is an adequate way for DOT&PF to address
35 the issue and allow DOT&PF to allocate its resources in a better way to benefit the public.

36
37 Stark said everything he sees indicates that DOT&PF's practice is permissible by AEELS statutes and
38 regulations. Stark said that he was not exactly sure what the board's concerns were and said he was welcome
39 to address any concerns they had.

40
41 The Chair explained the board's concern was not with use of standard drawings, but that fact that they have a
42 stamp on them. The Chair stated that it is not a final drawing so it should not have a stamp on it. Stark ask if
43 DOT&PF took the stamp off the drawing then it would be okay. The Chair confirmed that had been the
44 board's request a year ago. Fritz explained that they can be signed in the title block by someone who is an
45 engineer, but just don't stamp them. Fritz explained that when the standard drawings are used, the

1 responsibility goes to the person who stamped the drawing sets that were used for construction. Stark
2 indicated that he understood the board's concern regarding responsibility and said when DOT&PF does a
3 project it will be done responsibly and that DOT&PF's responsibility is more than any individual could do.
4 Stark explained that if there is an unsafe component that gets incorporated into one of DOT&PF's projects
5 and it results in someone being injured or killed, the individual will not get sued, but rather DOT&PF is
6 responsible. Stark stated that he believes DOT&PF's concern with putting it in unstamped is that it places
7 responsibility on an engineer that is qualified broadly to determine the detail is appropriate for the particular
8 project, but some of the details of the component might not be within their area of expertise and you are
9 asking them to sign something that is outside their area of expertise or work with someone who has that
10 knowledge to assist them in making that determination.

11
12 Neidhold recalled speaking to that point at the February 2018 and explained that under the professional code
13 of ethics he is limited to practicing within his areas of expertise and experience, even though his discipline of
14 civil engineering is very broad. Neidhold stated that DOT&PF's practice with standard drawings bridges the
15 gap for the engineer in responsible charge of project. Neidhold stated that he is allowed by his area of
16 expertise to look at the project as a whole, but indicated that some of the standard details are not within his
17 "wheelhouse" and explained that in those instances he relies on another registrant with expertise in those
18 areas. Neidhold said part of that practice is related to cost-effectiveness, but noted that another piece is
19 insurance that the registrant who designed the details of that element is taking responsibility of that element.
20 Neidhold explained as the owner of that drawing, the State of Alaska is accepting responsibility. Neidhold
21 added that his recollection from the initial discussion at the August 2017 meeting was that some entities
22 besides DOT&PF were using sealed drawings. Neidhold explained DOT&PF's process is intended to insure
23 the element is designed by the appropriate registrant and in compliance with our professional code of
24 conduct.

25 *August_2_2018_01:45:03*

26 Mott said if you aren't familiar with the technical details of a standard detail, how can you be sure that you are
27 incorporating it effectively? Neidhold gave an example of electrical engineer specifies a particular switch on a
28 wall, but did not design that element, but they are responsible for incorporating it and how it gets hooked up
29 and rely on UL certification and the manufacturer's certification. Neidhold also offered the example of a
30 structural engineer that looks at the connections and may have designed the fastener, but they rely on the
31 ASTM designation for the fastener. Neidhold acknowledged that they are not exactly the same, but noted
32 there are some similarities. Neidhold added that they do modify their standard drawings, but in those
33 situations it is no longer a standard drawing and the engineer of record works with the appropriate engineer
34 and do a project specific for that detail for that project and it is sealed by a new registrant and assumes
35 responsible charge for that detail.

36
37 Kerr stated that he has worked with DOT&PF plan sets extensively and believes the practice of using
38 standard drawings is in harmony with the goals of the law and that hopefully DOT&PF is bringing in the
39 greatest expertise you can to design that component and introducing cost savings. Kerr noted the area that
40 caused concern for him were standard drawings that were sealed by someone who was deceased, retired, or
41 otherwise unavailable. He explained the importance of a registrant being able to contact the designer of a
42 standard detail to get confirmation on the appropriateness of a particular application. Kerr said he thinks they
43 can be final drawings in the sense that they are final for that component and believes DOT&PF is mostly on
44 task with the exception of that one element.

1 Neidhold responded that DOT&PF heard that and deferred to Fisher to respond to that point.

2 Fisher stated that he had reviewed the minutes of past discussions on this topic and that item also stood out
3 for him and that he has directed Neidhold to conduct periodic review for that exact reason. Fisher also
4 commented on the point regarding responsibility and reiterated that ultimately the State of Alaska is
5 responsible.

6
7 Kerr said if there is a current registrant then it is almost self-updating in that someone is responsible, not
8 necessarily from a liability standpoint, but from an ownership perspective.

9
10 Fritz commented that there is nothing wrong with having multiple engineers stamp different drawings in a set
11 and noted that architects do it all the time. She suggested DOT&PF consider having an engineer on the
12 project take responsibility of those specific details for a particular project and stamp those details while the
13 engineer that is in charge of more of the general project stamp the other drawings. Fritz said another option
14 would be to use a standard detail by reference and it becomes the responsibility of the person who stamps the
15 plan set it to ensure that the standard detail is appropriate for that particular project.

16
17 Fritz also responded to the example of the light switch, stating when an electrical engineer specifies a
18 particular light switch they want to use that light switch product itself is not stamped by someone and the
19 engineer is relying on standard details from UL, standard listings, standard products they are not stamped.
20 Fritz suggested they consider removing the stamp because it is an industry standard.

21
22 Mott added if you are an EE and you are stamping a design that includes that switch, you are controlling
23 everything that goes into that switch. Mott said when an engineer is putting a standard light fixture in on a
24 highway, it is up to the person selecting that detail to consider all the impacts to it such as soil condition,
25 freeze-thaw cycle, etc. Mott said someone has to take that responsibility and tie that detail to back in to say
26 that it is appropriate for that particular project and indicated that it can't be the person who designed it
27 originally because he can't define all the parameters that could impact it in every case. Mott said that the
28 responsibility really needs to reside with the person selecting it.

29
30 Neidhold clarified that the sheet where DOT&PF incorporate those drawings is sealed by an Alaska
31 registrant. He indicated that his reference to the light switch was to draw a parallel and stated that he is well
32 aware the light switch does not have a professional engineer seal on it. Neidhold said the light switch gets
33 incorporated in multiple projects and the registrant who does that relies on that external certification.
34 Neidhold commented that AELS regulations state that those drawings be sealed. Neidhold said DOT&PF
35 relies on that third party, but ultimately the decision to include a standard detail rests with the designer of
36 record who seals the drawing or the specification that incorporates it. Neidhold responded to Fritz's first
37 option stating that is precisely what DOT&PF. Fritz clarified that it is not the same as what DOT&PF is
38 doing. Fritz explained that the engineer has to be in responsible charge of the specific drawing and detail
39 being used for the specific project, not that it can come off the shelf of someone who used to work for
40 DOT&PF. Fritz stated that is has to be relevant today. Fritz said multiple engineers can stamp that set but
41 they need to be aligned to the specific project.

42
43 Neidhold responded that from DOT&PF and LAW's perspective that is what they are doing. Neidhold
44 stated that it is not uncommon for them to have plan sets with multiple registrants on them and commented
45 that they also have standard drawings with multiple registrants on them for those very reasons. Neidhold

1 added that there comes a point when the designer of record who incorporates a standard detail may not have
2 the expertise required by the board to make the determination. Mott asked how that individual knows they
3 are selecting the appropriate detail. Neidhold responded that the registrant relies on the data and their analysis
4 of that information to determine if it meets the criteria for that project.

5
6 The Chair asked if they ever hand out the standard detail to a contractor and say "Go build this," without it
7 being part of a drawing set. Neidhold responded that in his tenure of over thirty years with the department he
8 is not aware of an instance where that occurred. The Chair commented that it is not a final document then.
9 The Chair asked if it is always part of a set of drawings that is stamped by somebody else, who is taking
10 responsibility for those details. Neidhold responded that DOT&PF incorporates those drawings into a set
11 and the engineer of record is taking responsibility for the incorporation of those details.

12
13 The Chair asked if a contractor has a question about a project and that particular detail does he call the
14 engineer who stamped the list or does he call the engineer who stamped that drawing? Neidhold explained
15 that the contractual relationship is that he contacts the Project Engineer who is the single point of contact for
16 DOT&PF and the Project Engineer would then go to the engineer of record who is responsible for the
17 project and depending upon the detail and questions it could drill down.

18
19 Fisher stated that a contractor called this week about a temporary bridge construction project on Seward
20 Highway. Fisher explained the contractor called the project manager, who then called Fisher in the Bridge
21 section and he reviewed temporary bridge specs together with the contractor.

22
23 The Chair expressed his concern regarding that process given that percent of DOT&PF's standard drawings
24 are sealed by registrants with lapsed or retired licenses. The Chair said he went through all of DOT&PF's
25 standard details this weekend and identified that fifty-six percent of the engineers do not have an active
26 registration in Alaska. Neidhold said in those situations then we are going back and modify or update that
27 drawing. Neidhold stated that they have eight identified right now. The Chair handed Fisher a hard copy of
28 the list he had created.

29
30 The Chair stated that these individuals are not licensed and can't have a drawing with their stamp on them.
31 There was some discussion regarding record drawings and the validity of those seals. Stark stated the
32 individual was active when the standard detail was developed. Koonce clarified that they can't be used on new
33 projects. Fisher said they will take a look at these. The Chair responded that they could solve it by taking the
34 seal off and suggested they follow Oregon's practice which is to include a report stamped by the engineer
35 explaining how they incorporated the detail and includes the standard drawing in the plans set, but the
36 standard drawing is not stamped. The Chair said whoever references that detail is taking responsibility for that
37 detail being used in that project.

38
39 Stark said he understands what the Chair is saying, but indicated that is not what the regulations say. Stark
40 said the regulations talk about stamping the drawing and that an engineering nearing the end of his or her
41 career may stamp a drawing that won't be built until after they have retired and said there is nothing in the
42 AEELS regulations that prohibit that. The Chair responded that current projects are going out with standard
43 details that are stamped by people who have lapsed licenses and that is not permissible. The Chair added that
44 they are supposed to be stamped and dated since 2002-2003. Stark responded that they are putting out
45 components that were designed by people who were licensed at the time the drawing was done. The Chair

1 argued that they were not licensed when they project goes out. Stark stated that the project for the designer
2 was to design the component not the overall project. Fritz said they should not be used on a current project.
3 The Chair noted that some of the standard drawings date back to 1982 and indicated that the likely did not
4 meet current standards because they all have changes on them with other people's initials. Stark said that is
5 the issue that has been identified and is on DOT&PF's radar and intends to address.

6
7 The Chair reiterated that the person incorporating those standard details is "buying" those standard details
8 and if there is a problem and that detail is not the appropriate one for that project then that individual is
9 going to lose his license as well as get sued along with the State of Alaska. The Chair noted that if it is an
10 inappropriate detail that is beyond the standard of care then he will lose his license, so the engineer better be
11 making sure that those details are appropriate and not just taking the word of an engineer who retired several
12 years ago.

13
14 Neidhold responded that he believes they are saying the same thing. The registrant seals the sheet that
15 incorporates those drawings and it taking responsible charge. Mott responded that the board had also heard
16 that the engineer of record for a project may not be competent in the area. Neidhold mentioned the light
17 switch example again and how the engineer is relying on the third party. Mott explained the difference is that
18 an engineer controls everything that goes in to that light switch, but an engineer incorporating a standard
19 detail does not control everything that impacts it and needs to be competent to call out those details.
20 Neidhold responded that he is telling the board DOT&PF's designers of record are competent to call out
21 those details.

22
23 Fisher thanked the board for the list and said that DOT&PF's does not want outdated drawings and it is now
24 on both his and Neidhold's radar and indicated they would review the information provided by the Chair and
25 communicate their expectation to refresh them.

26
27 The board discussed the examples from other states that were provided one of which included a disclaimer
28 and another in which a report was stamped but not the standard drawings themselves. Fritz said the Juneau's
29 standard details do not have a stamp on them, but include the Director's signature acknowledging when and
30 who prepared it. Fritz commented that when one of the city's standard drawings is used the designer of
31 record for the project reviews it and determines if it is applicable and takes responsibility for it.

32
33 Neidhold reiterated that in all of his testimonies he has not indicated that everyone does it like DOT&PF, but
34 that there are some similarities. Neidhold said he intentionally included an example where the report
35 referencing the standard drawing is sealed because it is substantially similar to DOT&PF's process. The Chair
36 responded that example would meet our standards.

37
38 Neidhold expressed his appreciation to the board members for volunteering and serving on the board and for
39 their efforts to stand up Alaska engineers for the good of the public and to minimize public risk. Neidhold
40 said DOT&PF has done the analysis and if we make this change where a different level of analysis is required
41 on each project the net effect will be a reduction in safety for the public in the State of Alaska. Neidhold
42 stated that DOT&PF incorporates safety components in projects and if we expend more funds to correct a
43 perceived not a demonstrated issue then we have less funds to address safety components for Alaskans.

1 Urfer circled back to one of Starks earlier comments and asked about responsibility for a design flaw and if
2 there is language in their contracts that addresses that. Stark said DOT&PF frequently get sued in situations
3 where the claim is that the roadway was improperly designed. Stark added that they seldom agree with that,
4 but that if in fact there was a flaw in the design and someone was injured it is not a matter of contract,
5 DOT&PF would get sued. Stark said theoretically the designer could get drawn in, but indicated that he had
6 never seen it.

7
8 The Chair stated that he believes the majority of the engineers of record are looking at the standard details
9 and not taking them at face value and believed DOT&PF's expenses would not go up.

10
11 The Chair asked to go off topic and ask an unrelated question. The Chair asked Fisher and Neidhold if they
12 design a road or bridge project in-house do they stamp those drawings. Fisher and Neidhold responded
13 affirmatively. The Chair said that the city had told the board DOT&PF doesn't because of an AG's opinion
14 provided back in 1978 that said you didn't have to. Neidhold said they may be looking at federal lands or
15 forestry. The Chair said he did not think that was the case. Neidhold added that it is very important to
16 DOT&F that there is a seal on those drawings and explained that the sheets that are not sealed are typically
17 traffic control plans because they are a working drawing and soil erosion control plans because they are
18 intended to be modified in the field.

19
20 Neidhold backed up to Urfer's question regarding contracts with consultants. Neidhold stated that they do
21 require errors in omission insurance from consultants, but noted that in the thirty years he has been with
22 DOT&PF, he knows of no event where we had a personal injury lawsuit against the State of Alaska and that
23 lawsuit was redirected to a consultant registrant.

24
25 Kerr commented that one of the main issues that it is making it difficult to resolve this conversation is the
26 definition of "Final Drawings". Kerr referred the group to the guardrail detail from Washington State that
27 was included in the board packet. Kerr said that he would consider it a final drawing, adding that someone
28 could revise it, but that didn't mean it wasn't a final drawing. Kerr asked Fisher and Neidhold if they had
29 assessed the term "final drawing" and how it applies.

30
31 Stark responded that the point he was trying to make earlier was standard drawings are final drawings that is
32 stamped by the engineer who drew it and that is in compliance with the Alaska statutes and regulations. Stark
33 added that there is nothing in the regulations that suggests that project can't be built just because the engineer
34 who stamped it retired or deceased. Kerr stated that is not in harmony with the intent of the law.

35
36 Stark said DOT&PF is going to be responsible for it if a question comes up and has a tremendous amount of
37 engineering resources internally and has access to more if necessary. Stark said if a question did come up, a
38 component engineer will address it.

39
40 Kerr indicated that the position the board takes on this will also apply to organizations that don't have that
41 immense body of knowledge and depth of resources and requested they consider that perspective as well.

42
43 Maynard stated that he has a problem with the guardrail drawing from Washington being a final drawing
44 because of the disclaimer on the first page and read the disclaimer to the group.

1 Stark commented that was just a disclaimer of warranty and said if they are putting that out for others to use,
2 they are not going to take responsibility for that. Maynard asked why it should be stamped then. Stark stated
3 there is a difference between using it internally versus letting anyone use it.

4
5 Fritz said there is an importance difference between designing a standard detail and using it on a specific
6 project and indicated that is where the disconnect lies. Fritz said a standard detail drawing may be done in
7 accordance with the law, but explained that the minute it is pulled from the shelf and gets incorporated into
8 something else there is a distinction. Fritz said it is okay if the standard drawing is stamped, *IF* the person
9 who stamped it is assessing the appropriateness of the application of the detail in that specific project.

10
11 Kerr commented the WA guardrail example does provide enough information regarding limitations. Fritz
12 said she believes the key issue is who is taking responsibility for the specific application. Fritz comments that
13 it is crazy for a registrant to put their stamp on a drawing that goes out to the public for anyone to use
14 because there is a level of legal responsibility and professional ethical responsibility.

15
16 Maynard gave an example of someone providing the guardrail drawing to a contractor for a new subdivision
17 without the registrant who stamped its knowledge. Maynard said if there is a problem with it that could be an
18 issue.

19
20 Neidhold said when DOT&PF incorporates a standard drawing into a plan set, DOT&PF is assuming
21 responsibility for it. Fritz asked why it needs a stamp then. Neidhold said there are nuances where the general
22 designer of record for a particular project doesn't meet the board's professional code of conduct
23 requirements for depth of knowledge to understand every element. Neidhold said the designer of record has
24 have the knowledge to determine their conditions meet that element designer of record's intent and they
25 assume responsibility for that. Neidhold reiterated that DOT&PF does not hand out a standard drawing and
26 say building it according to the standard drawing. Neidhold explained that they give out a project that
27 incorporates the standard drawing that is sealed by a registrant. Neidhold said that is what DOT&PF uses as
28 their contract document. Neidhold said that a developer who chooses to do otherwise is in violation of the
29 regulations.

30
31 Kerr stated that if a member of the public is injured the engineer of record could easily get drug into the
32 whole issue. Neidhold explained the registrants sealing the standard drawings did so with the intent that they
33 would be used on multiple projects and include a spectrum of constraints that narrow the scope of
34 application.

35
36 Fritz noted that another key issue is the concept of incorporation. Fritz explained that incorporating the work
37 of another licensed engineer is equivalent to the definition of responsible charge in statute. Neidhold returned
38 to the example of the light switch and said that he would find it outstanding that the typical registrant that
39 specified that switch would have the full depth of knowledge of all the metallurgy that goes into that switch.
40 Neidhold said they rely on an external reference and internal processes so there is enough understanding that
41 the specified light switch is appropriate for the application. Fritz reiterated that the issue is that the standard
42 detail is stamped. Neidhold said that they have to have that the registrant sealing that final standard drawing.
43 Several board members disagreed. Maynard suggested that they stamp the report that is attached to the
44 drawing. Maynard circled back to the point that several of the details are outdated. Neidhold responded that
45 the Chief Engineer had already addressed that concern and explained that DOT&PF would be doing periodic

1 reviews to resolve the issue going forward. Neidhold commented that the AG (Stark) already weighed in on
2 the matter of a drawing sealed by a retired or deceased registrant. All agreed that there was still some
3 disagreement on that piece.

4
5 Maynard said that once the registrant's license expires, his stamp is no longer good. Neidhold said that he
6 already sealed the drawing. The board discussed the use of standard details are only valid as long as the
7 registrant is actively registered.

8
9 Stark clarified that the board's position was that it can't be used at all. Maynard confirmed, stating that it is no
10 longer a valid stamp once the registration has expired. Fritz said it was valid when it was designed, but if you
11 want to use it for something it needs to be stamped by someone with a valid license.

12
13 Neidhold confirmed that Fritz said it was valid when it was designed. Fritz responded affirmatively. Neidhold
14 said that we are going to go back and ensure that it is still valid and code compliant, but reiterated that what
15 the board is proposing would have a significant cost. Neidhold said to go back and do that on every single
16 project would reduce the safety to Alaskans. Fritz commented that the cost issue had been discussed
17 previously and asked if the cost had actually been analyzed for taking the stamp off. Fritz added that the
18 person considering using the drawing is already reviewing it because of the liability associated with
19 incorporating them into their plan set.

20
21 Fritz asked if the cost had really been analyzed if the stamps were taken off, then that detail would be the full
22 responsibility of the person who is already reviewing and deciding if it is appropriate to the set.

23
24 Fisher said he believed the group was in agreement regarding outdated drawings and stated that DOT&PF
25 will address that. Fisher explained he was having trouble understanding when a drawing was no longer valid
26 based upon the Chair's previous comment. The Chair explained if the drawings were designed for a particular
27 project then it would still be valid and gave the example of designing a school and then the designer dies. The
28 Chair stated if someone then wanted to use that school plan on another site, it would need to be re-stamped.
29 The Chair explained that you have to have someone who can take responsibility for the drawing and who can
30 answer the questions. Kerr stated that you have teams of engineers working on projects and said if one
31 individual died it could be fairly easy to have the set re-stamped by another qualified member of the team.
32 Fritz said in her opinion there are two fundamental issues (1) direct responsible charge of whatever was
33 designed that is project specific. Fritz said if standard details are one level, but once you start applying it to a
34 specific project, someone needs to take responsible charge of that and indicated that it could be one person
35 or multiple people with one taking responsibility of the detail and the other the overall project. Stark stated
36 that is what DOT&PF is doing. Fritz and other board members disagreed, and again recommended taking
37 the stamp off of the standard drawings and allowing that other engineer to take responsibility for the specific
38 application of the detail. The board discussed determining if a detail meets the criteria for a particular
39 application and ensuring it is valid for that situation. Kerr said you get more expertise from a standard
40 drawing when it is sealed by someone that has that depth of knowledge. Neidhold responded that is exactly
41 our process. Mott reiterated that someone has to say that it is appropriate for a particular application and take
42 that responsibility. Kerr responded that the individual who looks at all the elements and standard design and
43 if they are unsure they contact the appropriate design professional to assess. The Chair said the person who
44 stamped the detail though is not involved in the project at all. Kerr said the designer has included limitations
45 and other information on the detail to help the designer of record for a particular project make that

1 determination. Neidhold said Kerr is spot on. Kerr said companies will need to expand their staff and
2 expertise if the stamps on the standard drawings are removed. The Chair reiterated that regardless of a stamp
3 or not, an engineer is going to review it for appropriateness. Neidhold disagreed saying many engineers do
4 rely on that stamp of the engineer with the expertise for that detail. Neidhold added that he queried other
5 states and that is their process as well.

6
7 Fisher said they will refresh anything that is outdated, but indicated he still needs to wrap his head around the
8 foundational issue of handling situations when a registrant is deceased and the statutory/ regulatory part of
9 that and indicated he would invest time to understand that aspect.

10
11 Neidhold thanked the board for their time and patience. The board thanked Fisher, Stark and Neidhold for
12 speaking with the board and continuing the discussion.

13
14 TASK: The Chair will draft a follow up letter to DOT&PF that clarifies when a stamp is no longer valid.

15
16 The board recessed for lunch at 12:10 p.m.

17 *August_2_2018_C_00:00:01*

18 The board reconvene at 1:28 p.m.

19
20 Peter Giessel joined the meeting telephonically.

21
22 **XI. Old Business**

23 **A. May To Do List** – The board reviewed the “In Progress” items on the May To Do List.

24
25 *August_2_2018_C_00:07:18*

26
27 **XIV. Public comment**

28 The Chair invited Peter Giessel to speak. Giessel explained that he was calling to check on the status of the
29 board’s response to his April 2017 letter. The board apologized for the delay and promised to respond in the
30 next week.

31
32 TASK: The Chair will provide a response to Mr. Giessel.

33
34 *August_2_2018_C_00:08:17*

35
36 The board returned to XI. Old Business, B. Regulation Project Updates. A. Jones reminded the board that
37 they had made motions at the May meeting to public notice the proposed updates to 12 AAC 36.060, .061,
38 .103 and .110 and 12 AAC 36.105 (Agenda Items XI.B.1 and 2). The board walked through each of the
39 regulations to confirm the wording was what they intended. Koonce asked about the inclusion of NCARB’s
40 contact information in the editor’s note, especially since their offices would be moving in the coming year. A.
41 Jones responded that she would follow up with Jun Maiquis, the regulation specialist on how to handle that.
42 Kerr recommended including the website only. Fritz noted that the references to Green Covers and Blue
43 Covers under 12 AAC 36.061 could be removed.

1 TASK: Koonce will provide A. Jones with a mark up of 12 AAC 36.061 containing the additional
2 information to be removed.

3
4 Urfer recommended including the contact information for the national organizations in the guidance manual.

5
6 *August_2_2018_C_00:14:15*

7 **On a Motion duly made by Catherine Fritz, seconded by Luanne Urfer and approved**
8 **unanimously, it was RESOLVED to send to public comment as amended, revisions to the 12 AAC**
9 **36.060, .061, .103 and .110.**

10
11 *August_2_2018_C_00:16:14*

12
13 ***XI.B.2. 12 AAC 36.105*** – The Chair explained the updates were to add “or at least equivalent to current
14 requirements” to address the nine disciplines that did not have any requirements prior to 2012. The Chair said
15 there were also some updated to the structural engineer by comity language.

16
17 **On a Motion duly made by Jeff Koonce, seconded by Bill Mott and approved unanimously, it**
18 **was RESOLVED to accept and send to legal for review and public notice 12 AAC 36.105.**

19
20 *August_2_2018_C_00:20:35*

21
22 ***XI.B.3. 12 AAC 36.185*** – The Chair explained that this regulation project included revisions to the language
23 regarding the requirement to have a regularly employed registrant in each office and who is authorized to seal
24 on behalf of a corporation. The Chair commented that this project still required some work before moving
25 forward.

26
27 TASK: The Chair and Johnston will work on it for the next meeting. Mott will provide a secondary review of
28 their proposed updates prior to November meeting.

29
30 R. Jones asked if the delegation has to be in writing or if it was a corporate decision. The Chair said
31 discussions at previous meetings indicated the board believed that it was legitimate under the current language
32 for the corporation to make that determination.

33
34 Kerr asked about branch offices and whether or not it was permissible for the registrant to be of a different
35 discipline and/or profession. The Chair stated that it was permissible for other staff to work in another
36 discipline/ profession because the registrant can provide oversight in regards to regulations, while the
37 registrant that is in the main office is overseeing their work on a particular project and stamping those
38 drawings. The Chair commented that it would be too onerous to try and have a licensee of every discipline in
39 each office.

40
41 Hale mentioned the scenario presented earlier during the discussion with ML&P and the Municipality of
42 Anchorage as an example of having a registrant in the office, but the chief surveyor is in responsible charge.

1 Kerr asked for clarification on what the obligation of the registrant in the satellite office. The Chair confirmed
2 that it was compliance with the AEELS statutes and regulations. Kerr recommended the board spell out the
3 role of that registrant.

4
5 Mott offered two examples to illustrate the spectrum of offices, where one was basically a storefront while
6 the other contained one registrant overseeing a large number of EITs and asked how to address potential
7 issues with one without precluding the other. The board discussed the difference between production work
8 vs. a storefront or presence.

9
10 Urfer commented that technology now allows for remote oversight of production work. The Chair stated
11 that his concern is someone having access to company drawings and selling those stamped drawings without
12 the knowledge of the person who stamped them. The Chair added that the registrant in the office will likely
13 have more control over what is going out of the office.

14
15 Kerr said the regulation requires someone who knows the law to be in the office and there is value in that.
16 Kerr again encouraged the board to clearly articulate what the role of the registrant in that office is.

17
18 The board discussed use of supervisory control vs. responsible charge, as well as what constituted an office.

19
20 Urfer said if you have a firm that is having drafting done by someone that is outside the firm, are they being
21 supervised, and can they do production work for you? The board considered her point.

22
23 TASK – The Chair asked the board to send any comments RE: 12 AAC 36.185 to A. Jones to pass on to the
24 committee.

25
26 The Chair clarified that the rule applies to all offices, not just corporations.

27
28 Hale asked if the board was making a distinction between temporary and permanent offices. The Chair said
29 yes, because of the language stipulating production work, not just site work that is going back to a main
30 office. Hale responded that some companies are doing some of the work on site and then finalizing back in
31 the main office. The Chair said if that is the case, then yes, they would need a registrant, but if you are just
32 collecting data then no. Fritz said she doesn't think temporary vs. permanent matters, and it is more a
33 question of the activities and if you are producing documents in that office.

34
35 The Chair said the current regulation states “for production of documents” so a site office overseeing the
36 contractor is not an office that necessarily requires a registrant.

37
38 The Chair requested the board move on and reminded everyone to pass on their comments to A. Jones.

39
40 *August_2_2018_C_00:41:11*

41
42 **XI. B.4. AS 08.48.331(b), AS 08.48.341(15), 12 AAC 36.068, 12 AAC 36.069.** – Urfer explained the
43 proposed updates were an effort to revise the definition of landscape architect to what is actually being
44 practiced, and also to make the language regarding registration more consistent with that of the other

1 professions. Urfer added that current regulations do not allow for a professor of landscape architecture to be
2 licensed in Alaska.

3
4 Kerr said the proposed language is similar to that of the other professions and therefore has all of the
5 weaknesses of those other sections. Kerr said people have a lot of trouble discerning if the commas are
6 exclusive or inclusive. Mott recommended using bullets. Urfer responded that it had come from a bulleted list
7 that is the definition of landscape architecture by CLARB.

8
9 The Chair reminded the board that it would need to go to the Legislature because it is a statute change. Urfer
10 said that she looked for a way to update the regulations, but said there is no way to do that without updating
11 the definition which is in statute.

12
13 Kerr suggested getting an AG's opinion on the presentation of the information (commas vs. bulleted lists).
14 Koonce recommended listing it out as A, B, C... to be consistent with how the statutes and regulations are
15 formatted.

16
17 The Chair suggested reformatting all of the definitions so they are consistent. Hale commented that lists need
18 to be complete and exhaustive or there may be issues with anything that was omitted. Several members
19 agreed. Hale said he was in favor of simpler definitions that offer some wiggle room. He added that the key is
20 to tie the professional services back to public safety.

21
22 The board discussed the proposed updates. Urfer explained that she tried to mirror the language between the
23 architect and engineer definitions. Kerr said the land surveyor definition also has issues. Urfer said there are a
24 lot of things that landscape architects do that are not included in the current definition. Kerr commented that
25 the NCEES model law for surveying has evolved significantly and thinks it is pretty good.

26
27 Hale commented that the proposed updates look like what we have and we already have problems with that
28 language, and asked why it should be used as a model. Urfer said that landscape architectures definition and
29 regulations are still far behind the other professions and explained this would help get it to the same level.

30
31 Hale said it is an opportunity for a model for the future and recommended striving to establish the model
32 with the updates to landscape architecture and the other professions can follow. R. Jones suggested including
33 a clause that says "includes, but is not limited to..."

34
35 The Chair recommended doing it all at once. The board discussed moving forward with the landscape
36 architecture definition vs. or of all the "practice of..." definitions. The board also discussed the possibility of
37 moving forward with the regulation updates.

38
39 TASK: A. Jones will ask the regulation specialist for a recommendation on how to proceed with this project
40 and whether or not the regulations can be updated prior to the statute.

41
42 TASK: The Chair asked the board to review the proposed language and provide feedback on whether they
43 felt the proposed regulation changes could be made under the current statute.

1 The Chair requested that Agenda Item XI. C. AS 08.48.055 Update and D. Guidance Manual be moved to
2 tomorrow morning so the board can begin reviewing applications (Agenda Item XV.).
3

4 *August_2_2018_C_01:03:54*

5 **XV. Application Review**

6 A. Jones requested the board to provide feedback on the updated checksheet forms. A. Jones also notified
7 the board that the previous version of the application review table had been updated and split out by
8 profession and type of application (exam or comity) and asked the board to provide feedback.
9

10 The board began reviewing 83 applications for registration.
11

12 The board recessed for the day at 5:01p.m.
13
14

August_2_2018_C_03:26:55

15 **Friday, August 3, 2018**

16 *August_3_2018_A_00:00:40*

17 **I. Reconvene meeting/ Roll Call**

18 The meeting was called to order at 8:15 a.m. by AEELS Chair Colin Maynard.
19

20 **Board members present, constituting a quorum:**

21 Jennifer Anderson, Civil Engineer, Environmental Engineer
22 Catherine Fritz, Architect
23 Dave Hale PS, Surveyor
24 Richard "Vernon" Jones, Public Member
25 John Kerr, PS, Surveyor
26 Jeff Koonce, Architect
27 Colin Maynard, PE, Civil Engineer, Structural Engineer
28 Bill Mott, PE, Chemical Engineer, Metallurgical and Materials Engineer
29

30 Board members John Kerr, PS and Luanne Urfer, LA arrived at 8:25 a.m.
31

32 Board members excused by the Chair:

33 Elizabeth Johnston, PE Electrical Engineer, Fire Protection Engineer
34 Fred Wallis, Mining Engineer
35

36 Attending from the Division of Corporations, Business, and Professional Licensing were:

37 Alysia Jones, Executive Administrator
38

39 **II. Application Review continued.**

40 The board continued to review applications for registration.
41

42 *August_3_2018_A_01:58:24*
43

44 **IV. NCEES Exam Discussion** – The Chair invited Mr. Flynn to speak. David Flynn introduced himself to
45 the board as a registered PEng in British Columbia (B.C.) and thanked them for the opportunity to speak

1 with them. He explained that he interested in becoming a registered engineer in Alaska and was here to
2 advocate for some changes to the requirements for licensure in Alaska
3

4 Flynn asked if anyone on the board had written an NCEES PE exam in the past six years. Flynn then asked
5 the board members about the format of the exam they had taken. Mott responded that he had taken both the
6 essay questions and multiple choice questions. Flynn shared some background information about himself and
7 his situation to illustrate his character and contributions to society and profession.
8

9 Flynn explained in B.C. you are not required to take the NCEES exam, and instead are interviewed by the
10 board and if they determine that you are not ready to be licensed they send you back to get more experience.
11 Flynn stated that he had been sent to get additional experience and was then able to complete the process
12 and become licensed in B.C. Flynn stated that he had written the NCEES exam four times and commented
13 that preparing for each exam is extensive and exhaustive. Flynn said that he also completed several exam prep
14 courses, but still has not been able to pass the exam. Flynn stated that repeat takers do not typically pass and
15 believes that is a flaw. He commented that in engineering if a formula had that high of a failure rate, you
16 would change the formula. Flynn stated that you don't get your results following the exam and the exams are
17 completely different each time, preventing re-takers from getting past the hurdle of examination. Flynn
18 walked through the statistics of his exam results and stated if the highest score in each category is taken from
19 each test, his average competency percentage would be seventy-five percent.
20

21 Flynn told the board that their statutes and regulations allow them to set content for exams, set minimum
22 standards for pass and directed the board to the suggestion in his letter which asked the board to set a
23 minimum in the AELS regulations rather than going with NCEES minimum standard. Flynn suggested two
24 attempts of sixty percent or better score be considered acceptable for registration.
25

26 Flynn stated that NCEES has migrated to a testing process that inhibits re-takers from learning from their
27 past mistakes and expressed his frustration with the process and asked the board and NCEES consider
28 changes to improve the chances of re-takers successfully passing the exam.
29

30 Flynn said regulations state the board *may*, not shall approve an applicant for registration and he believes the
31 NCEES exam portion of the application requirements skews his qualifications for registration. Flynn stated
32 that he was willing to re-apply and re-write the exam if that was the board's determination.
33

34 Flynn indicated that he would be willing to be part of a team to work on potential changes and furthering the
35 profession for the good of Alaska.
36

37 Fritz asked when he was registered in B.C. Flynn responded 2009 and explained that his family situation
38 keeps him in Alaska and therefore he is not able to work in B.C.
39

40 The board and Flynn discussed alternative approaches and differences between B.C. requirements and
41 Alaska's. The Chair said our statutes require the board to follow national standards and explained the process
42 for developing the exam and how the cut line is established.
43

44 The Chair asked the board to consider stretching the five year window of approval based upon confusion
45 regarding the expiration date for the board's approval.

1
2 The board thanked Flynn for speaking and expressed their appreciation for the time and effort he put into
3 preparing for this meeting and the materials he provided.
4

5 **On a Motion duly made by John Kerr, seconded by Bill Mott, and passed unanimously, it**
6 **was RESOLVED to allow David Flynn to take the PE exam one additional time under his current**
7 **application.**
8

9 TASK: A. Jones will follow up with Mr. Flynn on exam registration.

10 *August_03_2018_A_02:47:36*

11 The board returned to August 2nd Agenda Item XI. Old Business.
12

13 **XI.C. AS 08.48.055 Update** – A. Jones noted that she had added a response from the AGs office to this
14 item in the board packet. The Chair explained that delegating authority to staff would require a statute
15 change. Koonce explained that he envisioned a two-step process where everything is vetted, and then there is
16 a final regulatory approval. The board discussed possible processes for the applications for registration by
17 exam and by comity. Koonce suggested allowing exam registration for architects to get approved by staff and
18 then coming to the board for final approval of registration. Fritz explained the current requirements and
19 process allow applicants flexibility in when they come to the board. The Chair suggested a thorough review of
20 the regulations to determine what exactly requires review by the board. The Chair stated his desire to be able
21 to accept the MLE, but explained that NCEES would need to update their form to include 24 months of
22 responsible charge. The Chair said there may be a way to do it for the comity applicants, but reiterated the
23 need to review their requirements against Alaska's. The Chair expressed his concern about staff approving
24 and then there is an issue later on and that person should not have been licensed. Koonce stated that a board
25 member would still need to sign off. Koonce suggested reaching out to other states where staff approve
26 applications.
27

28 TASK: A. Jones will contact member board executives for each of the national organizations to get
29 information on who has authority to administratively approve applications and what their processes are. A.
30 Jones and H. Noe will identify potential applications for staff approval and also provide input on what the
31 checklist should look like by the next meeting.
32

33 Fritz recommended doing a test run with checklists and getting as much of the process in place to support for
34 the statute change in the future.
35

36 *August_3_2018_02:57:40*

37
38 The board backed up to August 2nd Agenda Item VII. Correspondence Receive.
39

40 **VII. A. PE Exam and Work Experience** – The Chair explained Mr. Evans' message was regarding overlap
41 between his education and work experience. The board discussed the calculation of experience and education
42 credits.
43

44 TASK: The Chair will review Mr. Evan's information for overlap and potential eligibility for the October
45 exam administration.

August_3_2018_03:02:13

Urfer requested the board go back to August 2nd, Agenda Item XI.B.4, the regulation updates to landscape architecture statutes and regulations. Urfer explained she had looked at the bullet list to see if it could be folded into the current version and said she could not see a way to make it work. The Chair suggested finalizing it in November in order to be prepared to find a sponsor.

August_3_2018_03:04:24

XI. Guidance Manual – A. Jones stated that she had incorporated language from several of the board's responses to questions and issues over the past year. Koonce recommended publishing the document and then determining a schedule for incorporating updates going forward.

TASK: The Chair requested the board provide comments to A. Jones by August 10th and then they will publish it. A. Jones will post the final version on the website.

The Board discussed printing copies as well for Savage to hand out at the Fire Marshall's meeting. Fritz suggested scheduling a meeting with the Juneau planning department in conjunction with the February meeting. The Chair noted that there was a local ICC (International Code Council) organization in Anchorage that has an annual meeting.

August_3_2018_03:08:23

The Chair summarized follow up tasks from yesterday's discussions with ML&P and DOT&PF. The Chair said he will respond to ML&P once the board receives an opinion from the A.G.'s office. Johnston will assist with the responses to the staff's list of questions. The Chair said he will also draft a response to DOT for the board to review and provide comments on that explains why a license that is not valid (i.e. lapsed or expired, or registrant is deceased or retired) cannot be used, proper procedures for modifying a detail that is stamped by someone else, and updating requirements when new codes come out.

Fritz backed up to the previous discussion and noted that May is Building Safety month and suggested scheduling something with the local ICC organization in conjunction with our May meeting.

TASK: The Chair said he would reach out to ICC to schedule.

August_3_2018_03:13:58

The board returned to Friday, August 3rds Friday's agenda.

V. New Business

A. AELSLA – Fritz explained that she had been reviewing the annual report and noticed landscape architects were not included. Fritz asked the board if they should changing the name to include landscape architects now that landscape architects are a permanent part of the board. The Chair responded that it would require a statute change. The board discussed the difference between the official name and what was included in the title for Chapter 48 of the Statutes. R. Jones explained that the State Board of Registration for Architects, Engineers, and Land Surveyors is the official name of the board and that the board had considered a name

1 change previously. The board discussed changing the name to State Board of Registration of Design
2 Professionals. Urfer commented that new landscape architects or those seeking registration by comity don't
3 know where to go, because they do not see landscape architects listed on the website. The Chair suggested
4 the board consider a general term such as "design professionals" rather than adding another profession to the
5 name, noting the possibility that interior designers could be added to the board. Kerr stated that he was
6 against using the term "design professional" as it was only a small portion of the geo-spatial world. Several
7 other members agreed. Fritz said she had hoped that there was a way to incorporate the landscape architects
8 that did not require a statutory change. The board determined not to pursue a statute change to revise the
9 official name of the board.

10
11 *August_3_2018_A_03:21:45*

12 **B. Effect of 6-digit registration numbers on survey caps** – Kerr explained that the newer license numbers
13 are associated with the Division's database number and there is no correlation between the number and the
14 number of registrants in the professions regulated by the board. Kerr suggested there be another field in the
15 database that has the license number of the AELS person. Kerr stated that he can tell a lot of information
16 from a traditional license number, including how long ago the person was licensed, what regulations were in
17 effect. R. Jones asked what difference it makes when a registrant was licensed. Kerr explained that there was
18 different knowledge during different periods and you used to be able to tell a lot about the knowledge of the
19 person who did that work. Hale mentioned the length of the number relative to the size of the stamp being
20 an issue. R. Jones provided some background on the process for developing the new system and indicated
21 that it was unlikely the board could change the numbering system. Kerr commented that he did not like that
22 someone who takes longer to complete the process has a lower number than someone who completes the
23 process in less time and is issued their license first. Kerr reiterated that there was information that he found
24 useful in understanding who you are working with that he believes is lost with the new system.

25
26 The Chair mentioned that there is a lot of confusion regarding numbers that are alpha-numeric. Several
27 members agreed and discussed ways to inform registrants when the alpha characters are needed.

28
29 The board discussed potential issues of having a different record number for the Division that is separate
30 from the registration number.

31
32 *August_3_2018_A_03:34:37*

33 **C. Structural Exam** – The Chair commented that he had forgotten the board had included language
34 regarding the SE I and SE II exams in the regulation updates to 12 AAC 36. 105, so this discussion was no
35 longer needed.

36
37 *August_3_2018_A_03:35:18*

38 **D. Home Inspections by Design Professionals** – Koonce remarked that the board had discussed putting
39 language on the website and guidance manual regarding this topic yesterday. The Chair reiterated that a
40 design professional doing the home inspection should stay within their area of expertise/ registration. Hale
41 added that if the registrant obtains the additional Home Inspector certification, then they could do the entire
42 inspection. The board reviewed the current language on the website and discussed potential edits.

43
44 **TASK:** The Chair requested that all board members review the website and be prepared to walk through it at
45 the November meeting to identify potential updates.

1
2 TASK: A. Jones will update Home Inspector information on the website to include “licensed design
3 professional may only do inspections in accordance with their license.” And insert a title for the information
4 after the home inspection section.
5

6 *August_3_2018_A_03:42:41*

7 **VI. Division Update**

8 **A. Quarterly Report Update** –The board skipped this item because they had reviewed the 3rd Quarter report
9 at the May meeting and the 4th Quarter report was not yet available.
10

11 **B. Annual Report** – A. Jones explained that the Board needs to approve the Annual Report and that she
12 would be adjusting her processes so the board can review and approve the report at the May meetings going
13 forward. A. Jones notified the board that the only addition to the current version was to the Regulation
14 Recommendations Proposed Legislation for FY 2019 section.
15

16 **On a Motion duly made by Catherine Fritz, seconded by Jeff Koonce, and passed**
17 **unanimously, it was RESOLVED to approve the FY 18 Annual Report as presented.**
18

19 *August_3_2018_A_03:48:35*

20 **C. Board Evaluations Summary** – The board reviewed the summary. Hale commented that during his year
21 as Chair, he noticed that it was very difficult to run an effective meeting when members are not prepared.
22 Hale also pointed out the delay in providing responses to individuals. The board agreed to be timelier in
23 providing responses. The Chair and several members indicated A. Jones’ assistance with drafting the response
24 letters and sending reminders was helpful.
25

26 Hale recommended that the board be notified of any hot topics that need to be reviewed well in advance of
27 the meeting. Koonce suggested a sending out a brief with hot topics. A. Jones said she tried to highlight the
28 key discussions for this meeting in her email notice that the board packet was available on OnBoard and
29 added that she will provide information for hot topics earlier, whenever possible.
30

31 The board discussed moving the board evaluations task to the February meeting in order for comments to be
32 incorporated into the Annual Report.
33

34 The Chair suggested moving the deadline for agenda items to the same as the application deadline, 30 days
35 prior. The Chair added that it is unrealistic to expect board members to review 300 page addendums days
36 before the meeting, in addition to reviewing the original board packet. Several members agreed.
37

38 TASK: A. Jones will updated the deadline for the agenda to 30 days prior to the meeting and will provide
39 board packet materials three weeks prior to the board meeting.
40

41 *August_3_2018_A_03:59:11*

42 **VII. Committee Updates:**

43 **Investigative Advisory Committee** – The Chair asked if members had been assisting Savage with case
44 reviews. Several members responded affirmatively.
45

1 **Licensure mobility** – Koonce said there were no additional mutual recognition agreements in regards to
2 architects. The Chair noted that there is no movement with Canada on MRAs for engineers.

3
4 The board took a short break.

August_3_2018_A_04:01:12

5
6 *Note: Due to a technical error, the following portion of the meeting was not recorded.*
7

8 **Board Outreach:** The board reviewed the spreadsheet of outreach opportunities Mott prepared. The Chair
9 mentioned the ASPE Anchorage chapter. Kerr commented that he had done a presentation in Matanuska-
10 Susitna Borough. Fritz suggested adding a column to list the point-of-contact. The Chair mentioned he would
11 work on scheduling a lunch presentation or seminar during the AIA Convention in October. The board also
12 discussed possible outreach with IEEE/ICEE, a presentation at the AGC Annual Conference and SAMI, a
13 safety engineering group.

14
15 **Guidance Manual:** The board had no further discussion on this topic. The Chair reminded all board
16 members to provide comments to A. Jones by next Friday, August 10.

17
18 **Legislative Liaison:** The board discussed making an effort to go and speak with legislators to educate and
19 inform them of the board's role.
20

21 **Emeritus Status:** The board asked if emeritus status was indefinite or if there was an expiration.

22
23 TASK: A. Jones will confirm whether emeritus status is indefinite or whether the board needs to re-submit.
24

25 **Budget committee** – The committee will review 4th quarter report when available.
26

27 **Continuing Ed Audit** – R. Jones explained that he had assisted A. Jones with reviewing some of the CE
28 Audit submissions. A. Jones requested the boards' review of four submissions to confirm whether or not
29 courses met requirements of 12 AAC 36.510 and for clarification on calculating on 12 AAC 36.510(f) which
30 specifies requirements for registrants with multiple licenses. The board reviewed course descriptions and
31 provided feedback to A. Jones.
32

33 A. Jones also presented two cases to the board involving individuals who had responded to the audit with a
34 request to retire their license. The board discussed the possibility of allowing the individuals to retire their
35 licenses, but including a statement requiring compliance with the 2016-2017 audit as well as meeting the
36 continuing education requirements for the current licensing period.
37

38 TASK: A. Jones will check with the Division's paralegal on the appropriate response for requests to retire
39 licenses in response to continuing education audits.
40

41 **VIII. Executive Session** – The board determined Executive Session was not needed and moved on to the
42 next item on the agenda.
43

44 **IX. Licensing Examiner's Report** – A. Jones walked through the examiner's report and noted the renewal
45 and reinstatement data the board had requested at the May meeting.

X. Read Applications into the Record

On a motion duly made by Jeff Koonce seconded by Catherine Fritz and passed unanimously, it was **RESOLVED** to **APPROVE** the following list of applicants for registration by comity and by examination with the stipulation that the information in the applicants' files will take precedence over the information in the minutes.

FIRST NAME	LAST NAME	COMITY/EXAM	TYPE OF LICENSE	Board Decision
ANDREW	ACKERMAN	COMITY	ELECTRICAL	APPROVED
BRETT	AGEE	COMITY	CIVIL	APPROVED
CYRUS	ASHRAFI	COMITY	ELECTRICAL	APPROVED
HIMANSHU	BHARTIYA	COMITY	FIRE PROTECTION	APPROVED
JENNIFER	BUTLER	COMITY	CIVIL	APPROVED
WILLIAM	BUZARD	COMITY	ARCHITECT	APPROVED
RACHEL	CAMBRE	COMITY	ELECTRICAL	APPROVED
JAMES	CASEY	COMITY	CIVIL	APPROVED
JEREMIAH	CONNER	COMITY	MECHANICAL	APPROVED
AARON	COOKE	EXAM	ARCHITECT	APPROVED
JONATHAN	CURRIER	COMITY	MECHANICAL	APPROVED
JOHN	ELDER	COMITY	STRUCTURAL	APPROVED
JOHN	ELDER	COMITY	CIVIL	APPROVED
JIL	FRAIN	COMITY	ENVIROMENTAL	APPROVED
DARIN	GRIGGS	COMITY	CIVIL	APPROVED
			CONTROL	
JACOB	LEMMON	COMITY	SYSTEMS	APPROVED
STEVEN	LINDHOLM	COMITY	MECHANICAL	APPROVED
THOMAS	MCCASH	COMITY	ARCHITECT	APPROVED
BENJAMIN	OLTMANN	COMITY	CIVIL	APPROVED
ISABEL	RINCON	COMITY	ELECTRICAL	APPROVED
JONATHAN	SELF	COMITY	CIVIL	APPROVED
EDWARD	WELLMAN	COMITY	CIVIL	APPROVED

On a motion duly made by Jeff Koonce, seconded by John Kerr and passed unanimously, it was **RESOLVED** to **CONDITIONALLY APPROVE** the following list of applicants for registration by comity and by examination with the stipulation that the information in the applicants' files will take precedence over the information in the minutes.

FIRST NAME	LAST NAME	COMITY/EXAM	TYPE OF LICENSE	Board Decision
ALMA	ABAZA	COMITY	CIVIL	CONDITIONALLY
GRACE	AMUNDSEN	EXAM	CIVIL	CONDITIONALLY
MILAUD	BAUMGARTNER	EXAM	MECHANICAL	CONDITIONALLY
FRANCISCO	BENAVIDES	COMITY	CIVIL	CONDITIONALLY
JONATHAN	BLACK	COMITY	CIVIL	CONDITIONALLY
DANIEL	BOSSE	COMITY	CIVIL	CONDITIONALLY
WILLIAM	BRACKEN	COMITY	CIVIL	CONDITIONALLY
SHAWN	COOK	COMITY	CIVIL	CONDITIONALLY
MICHAEL	COOPER	EXAM	ELECTRICAL	CONDITIONALLY
ASHLEY	DEVORE	EXAM	CIVIL	CONDITIONALLY
RYAN	DIEDIKER	COMITY	ELECTRICAL	CONDITIONALLY
CHRISTOPHER	EDEN	COMITY	ELECTRICAL	CONDITIONALLY
WILLIAM	FARISH IV	COMITY	CIVIL	CONDITIONALLY
MICHAEL	FEFELOV	EXAM	CIVIL	CONDITIONALLY
TIMOTHY	FISH	COMITY	LAND SURVEYOR	CONDITIONALLY
KEVIN	GALLAGHER	EXAM	CIVIL	CONDITIONALLY
DAVID	GARNESS	EXAM	CIVIL	CONDITIONALLY
NICHOLAS	GEORGELOS	EXAM	CIVIL	CONDITIONALLY
JOSEPH	GIBSON	COMITY	NAVAL & MARINE	CONDITIONALLY
JOSEPH	HANSON II	COMITY	MECHANICAL	CONDITIONALLY
TRAVIS	HOLMES	EXAM	CIVIL	CONDITIONALLY
JOSEPH	HORAZDOVSKY	EXAM	CIVIL	CONDITIONALLY
SOPHIA	HUFF	EXAM	CIVIL	CONDITIONALLY
MICHAEL	LEEPER	EXAM	STRUCTURAL	CONDITIONALLY
MICHAEL	LEEPER	COMITY	CIVIL	CONDITIONALLY
BENJAMIN	LLOYD	EXAM	CIVIL	CONDITIONALLY
GRANT	MATHEWS	EXAM	CIVIL	CONDITIONALLY
ELLIS	MCMAHEN	COMITY	CIVIL	CONDITIONALLY
KIL	MCMAMARA	EXAM	CIVIL	CONDITIONALLY
NEIL	MIYAOKA	EXAM	CIVIL	CONDITIONALLY
RAGHUNATH	NAIDU	COMITY	CIVIL	CONDITIONALLY
SAKE	REINDERSMA	COMITY	ARCHITECT	CONDITIONALLY
THOMAS	SANBORN	COMITY	CIVIL	CONDITIONALLY
JOHN	SERNA	EXAM	MECHANICAL	CONDITIONALLY
ZACHARY	SHIRK	COMITY	ARCHITECT	CONDITIONALLY
FRANK	SILBERER	EXAM	ELECTRICAL	CONDITIONALLY
CANDY	SIMS	EXAM	CIVIL	CONDITIONALLY

MARGARET	SLIFE	EXAM	CIVIL	CONDITIONALLY
KYLE	STANFILL	EXAM	MECHANICAL	CONDITIONALLY
PETER	STOLL	EXAM	MECHANICAL	CONDITIONALLY
ANNE	STREUFERT	COMITY	CIVIL	CONDITIONALLY
ANNE	STREUFERT	COMITY	STRUCTURAL	CONDITIONALLY
MICHAEL	SULLAWAY	COMITY	CIVIL	CONDITIONALLY
GEORGE	TAYLOR	EXAM	ELECTRICAL	CONDITIONALLY
JAMES	TIPPETT	COMITY	CIVIL	CONDITIONALLY
MARLIESE	VON HUENE	EXAM	CIVIL	CONDITIONALLY
ROBERT	WEAVER	COMITY	CIVIL	CONDITIONALLY
LILY	YORK	EXAM	ARCHITECT	CONDITIONALLY

On a motion duly made by Jeff Koonce, seconded by Catherine Fritz and passed unanimously, it was **RESOLVED** to find the following list of applicants for registration by comity and by examination **INCOMPLETE** with the stipulation that the information in the applicants' files will take precedence over the information in the minutes.

FIRST NAME	LAST NAME	COMITY/EXAM	TYPE OF LICENSE	Board Decision
CODY	BECKES	EXAM	CIVIL	INCOMPLETE
KEVIN	CHANCEY	EXAM	ENVIROMENTAL	INCOMPLETE
NICHOLAS	CONWAY	EXAM	CIVIL	INCOMPLETE
BADREDDIN	DIAB	COMITY	CIVIL	INCOMPLETE
OLIVER	FLESHMAN	EXAM	MECHANICAL	INCOMPLETE
PATRICK	GEISSLER	COMITY	LAND SURVEYOR	INCOMPLETE
DANIEL	HERTRICH	COMITY	SE BY GPA	INCOMPLETE
KENNETH	WIDMER	EXAM	MECHANICAL	INCOMPLETE
SAMUEL	WOOLFOLK	EXAM	MECHANICAL	INCOMPLETE

Note: The issue with the recorders was corrected.

August_3_2018_B_00:00:05

XI. Review Calendar and National Organization Updates

A. Upcoming Board Meetings & National Conferences – The board discussed dates for the November meetings and determined it would be held November 1-2, 2018 at KPB Architects in Anchorage.

The Chair encouraged the board to prepare any potential statute changes for the November meeting in preparation of the legislative session. R. Jones asked about delegating approvals to staff. The Chair responded that additional research is required, but the board is considering delegating authority to staff to sign off on certain items. Fritz added that the board is trying to gain efficiencies and utilize resources to serve the applicant in a timelier manner and offered to help with identifying where language needed to be updated. R. Jones stated that he did not want staff to be liable. The board agreed.

1 The board discussed having the February meeting on the 6th and 7th and tentatively plan on holding the
2 meeting in Juneau due to the proposed statute change. The board also discussed scheduling a presentation
3 with APDC.

4
5 The board discussed trying to get approval to have the May meeting in Fairbanks and do some code-related
6 outreach in conjunction with the meeting.

7
8 *August_3_2018_B_00:09:28*

9 **B. CLARB** - Urfer said they are very concerned about attacks on licensure are trying to proactively address it.
10 Urfer stated that was the focus of the Licensure Summit she attended and said there were a lot of great ideas
11 that came out of the summit. Urfer recommended board members speaking with legislators to educate them
12 about what the board does and why it exists. She added that there was legislator at the Summit who explained
13 what may be perceived as pushback is to gain information and understanding in order to defend themselves
14 against questions they receive.

15 *August_3_2018_B_00:11:29*

16 **C. NCARB** – Koonce commented that the annual meeting held in June was very productive and was pleased
17 to see all of the revisions to the model law. Fritz agreed and mentioned there were a lot of good updates and
18 statistics from NCARB regarding the transition to A.R.E. 5.0., new alternative path for broadly experienced
19 architects, and the integrated (IPAL) program. Fritz said the Centennial will be next year in Washington, D.C.
20 Fritz added that she has been serving on the strategic planning committee for the western region and the
21 strategic plan is moving forward slowly. The Chair asked about educational offerings. Fritz explained that the
22 region was considering offering continuing education sessions during the meetings and whether it would be
23 only be for members of the region or expanded to a wider audience. Fritz indicated WCARB was also leaning
24 towards sessions being geared towards their role as a board member. The Chair said NCEES has similar
25 offerings that cover investigative issues, changes in licensure, and/or how to be an effective board member.

26
27 Urfer passed around a copy of the *Landscape Architect Licensure Handbook* she received at the Summit and stated
28 that it had a lot of great information about licensure defense issues.

29
30 A. Jones announced that she had been appointed to the NCARB Member Board Executive (MBE)
31 Committee.

32
33 *August_3_2018_B_00:16:07*

34 **D. NCEES** – Kerr said there haven't been any updates from the last meeting. The Chair said he had been
35 appointed to the ACCA for the next year. A. Jones asked if Hale and Kerr were going to present on the use
36 of drones at one of the meetings. Kerr said he was not against it.

37
38 TASK: A. Jones will find out who is the appropriate point-of-contact at NCEES to discuss the possibility of
39 presenting.

40
41 Koonce asked to be excused. The Chair excused Koonce. The board thanked Koonce for the use of the
42 conference room.

43
44 Koonce left the meeting.
45

The board returned to discussing Agenda Items XI.D. The Chair stated that the only potentially contentious item he anticipated coming up at the annual meeting was related to a motion the UPLG committee made that pulls every reference to structural engineering out of the base Model Law and Rules and creates two appendices that show how to adopt law and rules to implement the model law structural engineer. The Chair explained that it is essentially another kind of PE, with some additional course requirements, rather than a post-PE model, which is what five out of the eight states that license SEs have.

A. Jones added that there were updates to the timeline for the transition to computer-based testing. The Chair commented that some of the CBT tests will only be offered once or twice a year, whereas others will be available any time.

The Chair suggested the board encourage UAA to apply for the surveying award. Hale responded that they have.

August 3, 2018_B_00:23:37

XII. Board Tasks – To Do List - The board reviewed the tasks to be completed following the meeting.

Assigned to	Description	Agenda Item Mon.Yr: A.Item
ALL	Review website and be prepared to discuss updates at the November meeting	
ALL	Review proposed updates to 12 AAC 36. 185 and provide comments	Aug 2018: XI.B.2.
ALL	Review proposed revisions to 12 AAC 36.068 and 12 AAC 36.069 and provide feedback to A. Jones on whether or not the proposed updates can be done under the current statute.	Aug 2018: XI.B.4.
ALL	Review Guidance Manual and provide comments to A. Jones	Aug 2018: XI.D.
ALL	Review AELS statutes and regulations for terms to be defined	
B. Mott	Provide secondary review of updates to 12 AAC 36.185	Aug 2018: XI.B.3.
C. Fritz	Draft wording for AS 08.48.055 to delegate authority to staff (<i>work w/ A. Jones</i>)	Aug 2018: XI.C.
C. Maynard	Review PE education and work experience for M. Evans and notify staff of eligibility	Aug 2018: VII.A.
C. Maynard	Draft response letter to ML&P once the AG's opinion has been received. <i>Note: Draft response submitted to B. Auth on 8/7/18</i>	Aug 2018: X.
C. Maynard	Draft response letter RE: DEC	Nov 2017: 7.E.
C. Maynard	Draft response letter to P. Giessel	Apr 2017: 7.F.
C. Maynard	Draft follow up letter to DOT&PF RE: Standard Drawings/ Clarify when stamp is no longer valid.	Aug 2018: X.
C. Maynard	Contact ICC organization to schedule outreach.	
E. Johnston	Assist C. Maynard with responses to ML&P staff questions based upon AG opinion <i>Note: Waiting on response from AG's Office.</i>	Aug 2018: VIII.
E. Johnston	Work w/ C. Maynard on updates to 12 AAC 36.185	Aug 2018: XI.B.3.
J. Anderson	Letter of Response RE: AHERA to Mr. Ottosen, Mr. French and Mr. Beardsley	Aug 2018: VI.F.
J. Anderson	Draft wording on AHERA for Guidance Manual	Aug 2018: VI.F.
Koonce	Provide mark up of 12 AAC 36.061 containing additional revisions	Aug 2018: XI.B.1.
L. Urfer	Continue to work on LA reg updates based upon board's feedback	Aug 2018: XI.B.4.

August_3_2018_B_00:32:57

The board discussed the registration number listed on the wall certificates and requested a letter be included with the wall certificate that explains the alpha-numeric characters and sealing requirements to address any confusion.

TASK: A. Jones will draft a letter of explanation to include with wall certificates for those with alpha-numeric numbers and will adjust how the registration number is listed on wall certificates going forward.

XIII. Board Member Comments – The board members thanked one another for a productive meeting. Several members noted they were looking forward to making things more efficient and smoother for applicants.

The meeting adjourned at 2:09 p.m.

August_3_2018_B_00:42:06

Respectfully submitted:

Alysia D. Jones, Executive Administrator

Approved:

*Colin Maynard, Chair
Board of Registration for Architects, Engineers,
and Land Surveyors*

Date: _____

Investigative Report

to be provided at meeting

V. Investigative Report

A. Follow up: Home Inspection Exemption Discussion

At the August 2018 meeting, Investigator Savage brought an item to the board regarding home inspections and the exemption in the Home Inspectors Statutes (AS 08.18) that allows architects and engineers to perform home inspections. The board was considering possible updates to the language on the AELS website regarding home inspections and will be re-reviewing Sec. 08.18.156 which states:

Sec. 08.18.156. Exemptions related to home inspections. *(a) Notwithstanding other provisions of this chapter, an individual who inspects a home is not required to be registered under this chapter as a home inspector or associate home inspector if the individual is*

(1) employed by the federal or state government, a political subdivision of the state, a regional housing authority created under AS 18.55.996(b), or a municipality or unincorporated community and the employee is performing only duties that are within the employee's official duties;

(2) performing a home inspection only with respect to property that is the individual's residence or in which the individual has a financial interest;

(3) registered as an engineer or architect under AS 08.48, prepares a written report after the inspection, affixes the individual's seal to the home inspection report, signs and dates the report, and puts the individual's registration number on the report;

(4) engaged as an engineer in training or architect in training who works for and is supervised by a person described in (3) of this subsection and the person described in (3) of this subsection affixes the person's seal to the home inspection report, signs and dates the report, and puts the person's registration number on the report;

(5) licensed as a pesticide applicator by the Department of Environmental Conservation and is performing only activities within the scope of that license;

(6) registered as a general contractor with a residential contractor endorsement under this chapter and is performing only activities within the scope of that registration;

(7) certified as any type of real estate appraiser under AS 08.87 and is performing only activities that are authorized under that certification; or

(8) only determining whether a building complies with the thermal and lighting energy standards required by AS 46.11.040.

V. Investigative Report (continued)

B. Background Checks

After attending the Law Enforcement Roundtable at the NCEES Annual Meeting, the board requested information on background checks of applicants. The AELS Executive Administrator reached out to other jurisdictions to gather data on:

- How many jurisdictions require background checks on applicants
- What companies jurisdictions use
- What the costs of the service are
- What is the resource requirement

Summary: Of the 19 jurisdictions that responded, 7 conduct background checks on all applicants, while 12 indicated that they do not. Jurisdictions that responded yes used a variety of companies including Lexis Nexis, IdentiGo by MorphoTrust, or worked with other state agencies. Costs ranged from \$6 per application, to flat rates of \$180, which was based upon the number of subscriptions (users). Resourcing varied widely and was dependent upon whether the results of the report.

Correspondence SENT

Since August 2018 Meeting



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

BOARD OF REGISTRATION FOR ARCHITECTS
ENGINEERS, AND LAND SURVEYORS

P.O. Box 110806
Juneau, AK 99811-0806
Main: 907.465.1676
Fax: 907.465.2974

August 27, 2018

[REDACTED]
[REDACTED]
[REDACTED]

Re: Your Letter Regarding Engineering by Alyeska Pipeline

[REDACTED]
Mr. Giessel:

The Board discussed your letter regarding engineering by Alyeska Pipeline at our meeting on April 24, 2017. The statutory provision at issue is AS 08.48.331 (a) (10), which reads:

(10) an officer or employee of an individual, firm, partnership, association, utility, corporation, limited liability company, or limited liability partnership, who practices engineering architecture, land surveying, or landscape architecture involved in the operation of the employer's business only, and further provided that neither the employee nor the employer offers engineering, architecture, land surveying, or landscape architecture services to the public. Exclusions under this paragraph do not apply to buildings or structures whose primary use is public occupancy.

This exemption applies to the employees of Alyeska Pipeline, not Alyeska as a corporation. They may perform engineering services on Alyeska Pipeline facilities, except buildings whose primary use is public occupancy. They may also call themselves engineers, as is permitted by AS 08 48.281(a), which reads:

Sec. 08.48.281 Prohibited practice. (a) A person may not practice or offer to practice the profession of architecture, engineering, land surveying, or landscape architecture in the state, or use in connection with the person's name or otherwise assume or advertise a title or description tending to convey the impression that the person is an architect an engineer, a land surveyor or a landscape architect, unless the person has been registered under the provisions of this chapter **or is a person to whom these provisions do not apply** [emphasis added], or in the case of a corporation, limited liability company, or a limited liability partnership, unless it has been authorized under this chapter.

Thus, the employees of Alyeska Pipeline, whom are exempt from the licensing laws, may call themselves engineers without running afoul of the statute. The term engineer has been determined to be in the public domain. It has been determined that the Board can enforce the limitation on use of protected terms, such as Professional Engineer, Licensed Engineer, Civil Engineer, etc. It is not clear whether that limitation would extend to engineers who are exempt, but most likely they could not use the term Professional Engineer or Licensed Engineer, unless they were. However, they probably could call themselves Civil Engineer, Mechanical Engineer, etc., if that is what their role was.

The articles and website information, with one exception, are all in regard to Alyeska Pipeline employees doing engineering on the pipeline and its facilities. Work that is exempt from licensing statutes and regulations. Merely mentioning that their employees do engineering work on the pipeline as part of their work at Alyeska is not offering engineering services to the public. It is hard to believe that anyone would read those articles and decide to solicit an engineering proposal from Alyeska.

The statutory or regulatory violation would have been the performance of engineering work for the Anchorage Museum. However, since it was pro bono work, it would not merit anything harsher than an advisory letter, seeing as it was a first offense. Thus, no further action is necessary.

I apologize for the tardiness of this response. I hope it answers your questions.

Respectfully,

Board of Architects, Engineers, and Land Surveyors

A handwritten signature in black ink, appearing to read 'Colin Maynard', with a stylized flourish at the end.

Colin Maynard, PE, SE, F. NSPE
Chair

cc: John Savage, AELS Board Investigator.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

BOARD OF REGISTRATION FOR ARCHITECTS
ENGINEERS, AND LAND SURVEYORS

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September 10, 2018

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] [REDACTED]

Mr. Clark:

This letter is to respond to your emails of September 8, 2017, and October 16, 2017 regarding the Alaska Department of Environmental Conservation (ADEC) Regulation requiring stamping of Record Drawings. Regulation section 18 AAC 80.210 (j) (1) states:

(j) The department will grant final approval to operate if

- (1) Record drawings, signed and sealed by a registered engineer, are submitted during the interim approval process.*

This regulation is in conflict with 12 AAC 36.185 of the Alaska State Board of Registration of Architects, Engineers, and Land Surveyors (AELS) regulations. Only final documents are to be stamped and signed. Record drawings are not final documents. They are not instructions about what is to be accomplished. They *are* statements regarding what has been installed. Unless the engineer, or subordinates under their responsible charge, are on site every day, it is unlikely that the engineer can take responsibility for stating that a record drawing is an accurate record of what exists. Typically, that is not the case. Record drawings are usually produced from contractor supplied information, which may not be complete or totally accurate. Thus, signing and sealing record drawings is not allowed by AELS Regulations, because the engineer is not in responsible charge of their content, nor can attest to their veracity.

The AELS Guidance Manual does state that record drawings "may or may not contain a stamp," The reason for this statement is because some engineers leave the original stamp, from the issuance of the drawings for construction, on the record drawings along with the disclaimer that it has been produced from contractor provided information. However, the record drawings should not have a new signed and dated stamp.

Alysia Jones, the Executive Administrator for the Board of Architects, Engineers, and Land Surveyors, is in the process of addressing the issue with ADEC to ensure State statutes and regulations are in alignment.

I am sorry that it has taken so long to respond. We hope that this answers your questions. Please direct any additional questions to Alysia Jones (alysia.jones@alaska.gov / 907.465.1676).

Respectfully,
Board of Architects, Engineers, and Land Surveyors

A handwritten signature in black ink, appearing to read 'Colin Maynard', with a stylized flourish at the end.

Colin Maynard, PE, SE, F.NSPE
Chair



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

BOARD OF REGISTRATION FOR ARCHITECTS
ENGINEERS, AND LAND SURVEYORS

P.O. Box 110806
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September 10, 2018

State of Alaska
Department of Environmental Conservation
ATTN: Ms. Dorothy Duncan
555 Cordova St.
Anchorage, AK 99501

RE: Conflict between Agency Regulations

Dear Ms. Duncan:

The Alaska Board of Registration for Architects, Engineers and Land Surveyors (AELS) recently became aware of a conflict between the Alaska Department of Environmental Conservation (ADEC) regulations and AELS' regarding the stamping of record drawings.

Currently, 18 AAC 80.210(j)(1) states:

- (j) The department will grant final approval to operate if*
 - (1) Record drawings, signed and sealed by a registered engineers, are submitted during the interim approval process.*

This is in violation of AS 08.48.221 Seals and regulation 12 AAC 36.185 Use of Seals. AS 08.48.221 states:

- (a) ... "When a registrant issues final drawings, specifications, surveys, plats, plates, reports, or similar documents, the registrant shall stamp the documents with the seal and sign the seal..."*

12 AAC 36.185 specifies:

- (3) seal only final drawings, surveys, reports, and required construction documents for which the registrant is qualified to seal and for which the registrant claims responsibility;*

Record drawings are not final documents, they are statements regarding what has been installed. Unless the engineer, or subordinates under their responsible charge, are on site every day, it is unlikely that the engineer can take responsibility for stating that a record drawing is an accurate record of what exists. Typically, that is not the case. Record drawings are usually produced from contractor supplied information, which may not be complete or totally accurate. Thus, signing and sealing record drawings is not allowed by AELS Regulations,

because the engineer is not in responsible charge of their content, nor can attest to their veracity.

The AELS Guidance Manual does state record drawings “may or may not contain a stamp,”. The reason for this statement is because some engineers leave the original stamp, from the issuance of the drawings for construction, on the record drawings along with the disclaimer that it has been produced from contractor provided information. However, the record drawings should not have a new signed and dated stamp.

The AELS Board would like to ensure that State statutes and regulations are in alignment and look forward to hearing from you regarding this matter. To follow up, please contact the AELS Executive Administrator, Alysia Jones (907.465.1676/ alysia.jones@alaska.gov).

Respectfully yours,

Board of Architects, Engineers, and Land Surveyors

A handwritten signature in black ink, appearing to read 'Colin Maynard', with a stylized flourish at the end.

Colin Maynard, PE, SE, F.NSPE
Chair



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

BOARD OF REGISTRATION FOR ARCHITECTS
ENGINEERS, AND LAND SURVEYORS

P.O. Box 110806
Juneau, AK 99811-0806
Main: 907.465.1676
Fax: 907.465.2974

September 11, 2018

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Response to questions regarding ML&P exemption extent
[REDACTED]

Mr. Moe:

You and others from ML&P requested clarification of the extent of the exemption granted to public utilities by Alaska Statute 08.48.331 (a) 10 which says:

10. an officer, or employee of an individual, firm, partnership, association, utility, corporation, limited liability company, or limited liability partnership, who practices engineering, architecture, land surveying, or landscape architecture involved in the operation of the employer's business only, and further provided that the neither the employee nor employer offers engineering, architecture, land surveying, or landscape architecture services to the public; exclusions under this paragraph do not apply to buildings or structures whose primary use is public occupancy.

To answer your broader question, this is not a blanket exemption. There are limitations. Utilities are not allowed to design buildings or other structures whose primary use is public occupancy. Nor are they allowed to provide professional services to the public. Based on those limitations, utilities may design, using their own employees (licensed or not), their general system. But the connection from that system to an individual customer's property must be designed by a licensed professional, otherwise the utility would be providing engineering services to that customer. Surveys and legal descriptions that affect property not owned by the utility would also be providing services that affect the owner of that property and require the use of licensed professionals. You may review your laundry list of activities that ML&P performs with that limitation in mind.

The opinion of the Municipal Attorney cited an Attorney General's opinion from 1978 regarding the engineers working for the State of Alaska. The State employee exemption was removed from State law in 1990 (Chapter 2, SLA 1990, section 9 – CCS HB182). Section 5 of that bill also removed the industrial exemption. The industrial exemption was reinstated with the caveats cited above in 1995 (Chapter 89, SLA 95, Section 3 – CS HB 46).

As to standard details to be used on your projects, as applicable: they do not have to be designed by a licensed professional. However, on projects that require a licensed professional, that individual will be taking responsibility for that detail. To do that, they must satisfy themselves of its adequacy for the use intended and may make changes to ensure its adequacy. Similarly, a list of material specifications, standard parts, and assemblies adopted by the utility to be included in a design by a licensed professional will be subject to their confirmation of their appropriateness.

At our August 2018, a representative of ML&P had asked us to get an Attorney General's opinion regarding this issue. Robert Auth, the Department of Law attorney who works with the Board of Architects, Engineers, and Land Surveyors, has reviewed this letter and agrees with the Board's interpretation of the Statutes and Regulations.

We hope this answers your questions. If not, please let Alysia Jones know and the Board will respond to your questions after discussing them at our meeting in Anchorage on November 1-2, 2018.

Respectfully yours,

Board of Architects, Engineers, and Land Surveyors

A handwritten signature in black ink, appearing to read 'Colin Maynard', written in a cursive style.

Colin Maynard, PE, SE, F.NSPE
Chair,

cc: Deitra L. Ennis, Deputy Municipal Attorney
Robert Auth, Department of Law

MUNICIPALITY OF ANCHORAGE



Office of the Municipal Attorney
Civil Division, Suite 730

Telephone: 907-343-4545
Fax: 907-343-4550

September 24, 2018

Robert Auth
State of Alaska, Office of the Attorney General
Civil Division, Commercial & Business Affairs
1031 W 4th Ave., Suite 200
Anchorage, AK 99511

Re: Board of Registration for Architects, Engineer,
and Land Surveyors Response to Questions Regarding
ML&P Exemption Extent

Dear Mr. Auth,

Thank you for taking the time to talk with us the other day, and for your willingness to continue discussing the position taken by the AELS Board. It is our understanding that, while the Board has given a preliminary interpretation, your office is open to further discussion and possible amendment.

First and foremost, we offered to provide a 2016 attorney general's memorandum directed to the DOTPF. It is attached. You will note that the author, Dana Burke, shied away from drawing any firm conclusions, stating that the issues are "unclear and unsettled." Ultimately, he could not advise, with certainty, that DOTPF employees were exempt from Alaska Statutes' licensing requirements. He questioned whether a State agency would qualify as an "association" for purposes of the exemption. He argued that, if the intent was to extend the exemption to State employees, the Legislature would have explicitly said so. However, Mr. Burke did not question whether the other two elements of the exemption applied to State employees. He stated unequivocally: "b) they only perform services in connection with State business; and c) they do not offer their services to the public – they are not hired or retained by members of the public to perform engineering/survey work."

While this 2016 memorandum was formulated solely in the Transportation Section of the Attorney General's Office, for use by the DOTPF, we find it troubling that another section within the Attorney General's Office would support a different interpretation of the same statutory exemption.

Through the Board's letter, and our subsequent telephone discussion, we have learned that you interpret the language "involved in the operation of the employer's business only" and "offers...services to the public" to mean that ML&P is only exempt from licensing requirements when ML&P performs work on its own property. Otherwise ML&P would be "providing engineering services to [a] customer"... and/or "providing services that affect the owner of [private] property." See AELS Board Response, September 11, 2018. As you stated yourself, you are reading into the statute a requirement that the work being performed is *geographically* separate from the property owned by the business (in this case, ML&P).

The Municipality disagrees with this interpretation, as this limitation does not exist in the language of the statutory provision. Simply because ML&P installs a system or connects a customer to ML&P's system off-

MUNICIPALITY OF ANCHORAGE



Office of the Municipal Attorney
Civil Division, Suite 730

Telephone: 907-343-4545
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property, does not mean that the utility has now *offered its services to the public*. All of the engineering, design, and installation work performed by the utility is in furtherance of the utility's business, at the behest of the utility, not *the public*. The Municipality's interpretation is more in line with Mr. Burke's analysis of State DOTPF duties.

Also from our phone conversation, we learned that, in providing your approval of the Board's interpretation, you gave some degree of deference to the Chair, Colin Maynard, because, as you put it, he was there when the 1995 amendment was adopted by the Alaska Legislature. We took the time to review the legislative history of the 1995 amendment, and the history revealed that Mr. Maynard and representatives from the AELS Board' involvement amounted to expressing their *opposition* to the reinstatement of this particular exemption. There were several members of the Board, and Mr Maynard (who was not a member of the Board in 1995), who spoke out *against* the 1995 amendment as drafted, and actually proposed amended versions (which were expressly rejected by the Legislature). (See proposed amendments from the House Journal, attached). The Board did not think the exemption should be reinstated because it was too broad. They tried to push a more limited version of the bill, but the only language added was the final clause: "exclusions under this paragraph do not apply to buildings or structures whose primary use is public occupancy." As a professional courtesy, I've attached the Committee Minutes for HB 46.

Thus, from the legislative history, it appears to us that the AELS Board did not approve of the 1995 amendment, and that the bill was instead being enacted in response to outcry from the industry and the public at large, following the removal of the exemption in 1990. Its removal led to an unworkable situation for the industry, who could not hire enough registered professionals to get their work done. The intent was to relax requirements, when neither the quality of the work, nor the public safety, were being called into question in the first place.

As you can see, the statutory exemption at issue has been hotly debated since its first enactment in 1972. As you pointed out, the 1995 amendment changed the exact language used.¹ However, we do not believe the overall intent of the exemption has changed since its original enactment. In fact, the sponsor of the 1995 House Bill 46 stated that this was a "fix bill" designed to reinstate the exemption that was removed in 1990.² The HB

¹ **1972 version:** An officer or employee of an individual, firm, partnership, association or corporation which officer or employee practices architecture, engineering or land surveying when required by his official capacity or work duties connected with his employment if the individual firm, partnership, association or corporation is not engaged in the business of offering architectural, engineering or land surveying services to the public.

1995 version: (10) an officer or employee of an individual, firm, partnership, association, utility, corporation, limited liability company, or limited liability partnership, who practices engineering, architecture, land surveying, or landscape architecture involved in the operation of the employer's business only, and further provided that neither the employee nor the employer offers engineering, architecture, land surveying, or landscape architecture services to the public; exclusions under this paragraph do not apply to buildings or structures whose primary use is public occupancy;

² Committee Minutes, House Labor & Commerce Committee hearing on House Bill 46 (April 20, 1995, statement of Representative Joe Green, sponsor) (March 23, 1995, statement of Jeff Logan, Legislative Assistant to bill sponsor, Representative Green).

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Office of the Municipal Attorney
Civil Division, Suite 730

Telephone: 907-343-4545
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46 sponsor stated that removal of the exemption in 1990 was passed with zero public testimony, except for testimony from the AELS Board.³

But as one commenter reflected:

The reason people support this is because they believe the statutory definition of the practice of engineering is broad and ambiguous. There is a certain degree of mistrust of the architects, engineers, and land surveyors Board and believe they use this broad language to require engineers where they aren't really necessary."⁴

To the extent that you relied on Colin Maynard, or other members of the Board, to inform your understanding of the intent or meaning of this exemption, we would ask that you consider the background just provided, and/or delve further into the legislative history we have provided.

The Municipality continues to believe that the statutory exemption applies to ML&P engineers and land surveyors, regardless of *where* the work is being performed, as long as the work is not being performed for a member of the public. We look forward to continuing this discussion and thank you for your time.

Very truly yours,

Quincy Arms
Assistant Municipal Attorney
Municipality of Anchorage
ArmsQ@muni.org
(907) 343 - 4574

³ Committee Minutes, House Labor & Commerce Committee hearing on House Bill 46 (March 8, 1995).

⁴ Committee Minutes, House Labor & Commerce Committee hearing on House Bill 46 (April 20, 1995, statement of Catherine Reardon, Director, Division of Occupational Licensing).


MEMORANDUM

State of Alaska Department of Law

TO: Louise Hooyer
Land Survey Manager
DOTPF

DATE: January 5, 2016

FILE NO.: AN2008100234

FROM: Dana S. Burke 
Sr. Assistant Attorney General
Transportation Section

TEL. NO.: (907) 269-5160

SUBJECT: Legal Opinion Re:
Engineer/Surveyor Stamping

Cc: Jeff Stark
Chief Assistant Attorney General
Transportation Section

ATTORNEY CLIENT PRIVILEGE

INTRODUCTION

This memorandum is in response to your December 17, 2015 email (and our follow-up calls regarding the same) asking for a legal opinion on whether and under what circumstances DOTPF generated engineering and survey drawings need to be stamped by a registered DOTPF engineer/surveyor. Having reviewed the materials you provided, and having thoroughly researched this peculiar topic, I have concluded that the law governing this issue is unclear and unsettled. DOTPF registered engineers and surveyors should therefore use their professional judgment on whether and when to seal or stamp, erring on the side of caution when in doubt.

In today's memorandum I provide my best legal guidance to assist DOTPF's registrants in exercising their judgment. Note that my memorandum does not constitute a formal Attorney General Opinion, as it has not been reviewed by our Attorney General. Rather, this is an advice to agency memorandum, formulated solely in this Section of the AG's office.

**ANALYSIS OF ALASKA LAW GOVERNING
ENGINEER/ARCHITECT/SURVEYOR PRACTICES**

The statutes covering engineer/surveyor professional practices are found in the Architects, Engineers, Land Surveyors, and Landscape Architects Registration Act, AS 08.48. (hereinafter "the Act"). The law specific to the sealing and stamping of engineer/surveyor documents is in AS 08.48.221. Under Section .221(a), when a registrant "issues final drawings, specifications, surveys, plats, plates, reports, or similar documents, the registrant shall stamp the documents with the seal and sign the seal." Section .221(a) also states that when the registrant seals and signs "final drawings, specifications, surveys," etc., the registrant by so doing "certifies that the documents were prepared by or under the registrant's direct supervision..." And under .221 (b), "final drawings, specifications, surveys," etc. containing work of multiple fields of expertise must be sealed and signed by registrants from each of the fields reflected in the work product, with each registrant certifying "the extent of the registrant's responsibility for all work prepared under the registrant's seal."

These provisions unambiguously direct registered engineers/surveyors to stamp their "final" work product. However, neither the statute nor the regulations promulgated thereunder define the term "final drawings," "final specifications," "final surveys," or the like. The law is also silent on whether drawings that are not intended to be "final" should or may be stamped, and what the legal effect is if a registrant elects to stamp/seal a non-"final" drawing. This creates a potential legal ambiguity, leaving it to the registrant

(using his/her best judgment based on industry practices) to decide what is “final,” and whether to stamp and seal work that may be less than “final.”

The stamping requirements become even more ambiguous when we look at exemptions that may (or may not) apply to State employee registrants – in our case DOTPF registered engineers/surveyors. The Act exempts certain individuals, under certain circumstances, from having to comply not only with the stamping/sealing requirements, but the *entire* Act. The provision I am referring to is AS 08.48.331(a), which states, in the first clause: “This chapter [meaning all of Chapter 48, i.e. the entire Act] does not apply to...”

Under that broad exempting clause we find subsection .331(a)(10), which exempts employees of a:

“...firm, partnership, association, utility, corporation, limited liability company, or limited liability partnership, who practices engineering, architecture, land surveying, or landscape architecture involved in the operation of the employer’s business only, and further provided that neither the employee nor the employer offers engineer, architecture, land surveying, or landscape architecture services to the public; exclusions under this paragraph do not apply to buildings or structures whose primary use is public occupancy...”¹

¹ Note: The recitation of this exemption contained in the Board of Registration “Guidance Manual” that you sent me cites the 2012 version of .331(a)(10). That version is obsolete due to a 2014 amendment that re-inserted architects and surveyors into the exemption.

Arguably, this creates an exemption for DOTPF engineers/surveyors because: a) DOTPF engineers/surveyors are employees of an “association” (i.e. the State), b) they only perform services in connection with State business; and c) they do not offer their services to the public – they are not hired or retained by members of the public to perform engineering/survey work.

Indeed, four decades ago one of our AAGs concluded that the then-existing version of the above described exemption applied to State engineers, architects, and surveyors. Attached hereto as **EXHIBIT A** is a 1977 Attorney General opinion. At that time, the relevant exemption was contained in .331(12), instead of .331(a)(10). As you can see from the yellow highlighted paragraph on page 2 of **EXHIBIT A**, the verbiage of the exemption as it existed in 1977 is similar (but not identical) to the current version. The Attorney General’s office concluded that the .331(12) exemption applied to DOTPF employees. Today, looking at .331(a)(10), one might reach the same conclusion.

In my opinion, however, the 1977 opinion has questionable precedential value. There are three reasons for this. First, when I put myself in the shoes of a 1977 AAG, I see an inconsistency. As you can see from reviewing the first page of **EXHIBIT A**, yellow highlighted section, in 1977 we had AS 08.48.261 in effect. That provision required the State to identify, in its job descriptions, “the positions for which registration under this chapter is required.” Although the State had discretion to waive the registration requirement under certain circumstances (described in the highlighted portion on the first page of **EXHIBIT A**), the law clearly contained a requirement for registered State engineers, architects, and surveyors. That being the case, it would be counterintuitive to

treat .331(12) as exempting the same registered State employees from the State's own requirements. In other words, it would make no sense for the legislature to create a law governing the actions of a class of people (State engineers/surveyors/architects), followed by another law that exempts the same class.

Second, the law has changed several times since 1977. In 1990, the Alaska Legislature repealed AS 08.48.261 and re-wrote .331, the exemption provision, removing .331(12). See **EXHIBIT B**, 1990 Session Law attached, highlighted provisions at pages 2-3. As you can see, upon repeal of .261 and the elimination of .331(12) State employee architects, engineers, and surveyors who were previously exempted were required to register by a certain deadline (although time extensions were available). This suggests that as of 1990, the law recognized a registration requirement for State employees.^{2 3}

Third, putting aside the history of the .331 exemptions, and focusing solely on the current law, 08.48.331(a)(10), I do not see the language as necessarily providing an exemption for DOTPF employees or other State workers. As previously discussed, .331(a)(10) exempts employees of firms, partnerships, "associations," and other entities,

² Note that the Sessions law instructs architects/engineers/ surveyors to register if they were previously exempt under AS 08.48.331(12), the provision referred to by the AAG in the 1977 opinion. Thus it appears the legislature was of the same mind as was the AAG regarding the application of the exemption. I still find the analysis counterintuitive.

³ Note also that in a 1992 Attorney General opinion, this office concluded that as a result of the 1990 changes to the law, State DNR petroleum engineers were "no longer exempt." See **EXHIBIT C**, attached. This was based in part on the rationale that the legislature had "removed the State employee exemption," meaning .331(12). Again, I am not persuaded that there really was such an exemption in the first instance. But, since .331(12) was subsequently resurrected and revised in what is now .331(a)(10), the 1992 AG opinion is not decisive.

but does not specify State government employees. If the legislature had intended to exempt State employees, either from stamping requirements or the entire Act, it seems the legislature would have done so. For instance, United States government architects, engineers, and surveyors *are* explicitly exempted. See .331(a)(3). In the absence of a similarly specific exemption for State employees, it is difficult to conclude that the exemption applies.⁴

In summary, despite a 1977 AG opinion that reaches a different conclusion (on a comparable but no longer effective version of the Act), I would be remiss if I were to advise DOTPF that its engineers/surveyors are not subject to document stamping/sealing requirements and other provisions of the Act, AS 08.48. Although a plausible argument (based on the precedent discussed herein) can be made that the exemption applies to DOTPF engineers/surveyors, and although a DOTPF registrant may have a reasonable, good faith basis to assert that he/she is exempt under .331(a)(10) in a given situation, a court looking at this issue could conclude otherwise. Therefore, DOTPF registrants should err on the side of caution and, when in doubt, affix their stamps.

OTHER COMMENTS

1) In your December 17, 2015 email to Jeff Stark you ask whether in condemnation cases DOTPF engineers/surveyors should stamp such things as condemnation exhibit drawings (schedules) to be submitted to the courts. When you and I

⁴ In addition to lacking a reference to State employees, .331(a)(10) is vague. For instance it is hard to decipher the exemption as it applies to a person "...who practices engineering, architecture, land surveying, or landscape architecture involved in the operation of the employer's business..." Does that mean an engineer is exempt if, for example, he/she designs a bridge for his employer's construction laydown yard?

spoke on December 23, 2015, you also asked about drawings attached to recorded deeds negotiated with landowners. Aside from AS 08.48 there are no laws that address whether these sorts of things should be stamped. DOTPF should be cautious about stamping these sorts of materials unless DOTPF surveyors/engineers intend them to be "final" as opposed to merely illustrative or demonstrative.

2) Regarding plat drawings submitted to local government entities for approval after property lines change due to DOTPF projects, our State eminent domain statute does not require that the drawings be stamped. This does not mean that stamping may not be required by the local government authority accepting the re-plat, nor does it mean that engineers or surveyors should not stamp their drawings in order to certify accuracy. It simply means there is no State law requirement that registrants certify in order to give the drawings legal effect.

3) In my experience, there are situations where it can be counterproductive to stamp or seal documents where it is unnecessary to do so. I have listened to opposing attorneys accuse engineers of representing their work as a "final drawing" because the drawing bears the engineer's stamp. The argument is that because the document is stamped, it must be "final," and therefore can be treated as reliable and not subject to any deviation. In fact, engineers often place their seal on designs that are not intended to be "final," such as on construction project plans included in an invitation to bid for illustrative purposes only, where the contractor is responsible for "final design." Opposing lawyers will take advantage of this, arguing that the stamped preliminary plans must have been "final," relieving the contractor of responsibility.

4) On the other hand there is nothing in the law to prevent DOTPF engineers or surveyors from stamping their work even if they deem it something less than "final." Registered engineers, surveyors, and architects are charged with interpreting their own industry best practices.

I hope this guidance is helpful, even though it does not settle the issue. Please contact me if you have any questions.

WestlawNext

R. D. Shumway, P. E. Richard P. Kerns, AAG
Office of the Attorney General February 10, 1977 (Approx. 3 pages)

1977 WL 21833 (Alaska A.G.)

Office of the Attorney General

State of Alaska

February 10, 1977

***1 AS 08.40 In re engineering licenses and authentication of documents**

R. D. Shumway, P.E.
State Highway Engineer
Department of Highways
Box 589
Douglas, Alaska 99824

Richard P. Kerns, AAG
Chief
Highway Section

Two legal issues have been raised by APSE's recent inquiries:

1. Does the prohibition against the practice of engineering without a license apply to State employees?

2. Does the requirement that all final drawings plans, specifications and similar documents be signed and stamped with the seal of an engineer responsible for them apply to documents which are issued by the Department of Highways for construction of highway projects?

Both issues are covered by Chapter 48, 'Architects, Engineers and Land Surveyors; of Title 8 'Business and Professions' of the Alaska Statutes. The question of registration of State employees is specifically covered by AS 08.48.281 and AS 08.48.331(4). The question of the use of the signature and seal of a professional engineer within the Department is covered by AS 08.48.331(12). It is apparent from Commissioner Scougall's letter to Tom Shaw dated May 17, 1976 that the Highway Department has a policy of complying with the statutory provisions relating to registration of highway engineers. Since the department is exempted from statutory requirements that engineers sign and seal department plans and specifications, the department is also complying with the statutory requirements for the use of a seal.

STATUTORY PROVISIONS RELATING TO REGISTRATION**OF STATE EMPLOYEES WHO PROVIDE ENGINEERING SERVICES**

The statute is relatively clear in its requirements that certain state employees be REGISTERED ENGINEERS. AS 08.48.281 'State Employees' is set forth below.

State Employees. The head of each principal department in which there are positions necessitating use of architectural, engineering, or land surveying knowledge or skills shall specify, in the job descriptions, the positions for which registration under this chapter is required. This requirement for any position in a department may be waived by the head of the department. When the requirement is waived, the head of the department shall transmit to the division of personnel a written statement to the effect that the person filling the position is qualified to perform the duties of that position and a statement of the reasons for waiving the requirement, explaining why the employee was hired or was retained as an employee even though not registered under this chapter. The head of the department shall send a copy of the statement to the board.

Under AS 08.48.331(15) registration is not required of an employee or subordinate of a person legally registered, provided there is direct supervision of their final work. Thus positions for which registration under this chapter is required would not include positions under the direct supervisions of a registered engineer. The above statutory provisions are reinforced by AS 08.48.331(4) which provides that registration requirements do not apply to

SELECTED TOPICS**Licenses**

For Occupations and Privileges
Service Portion of Contract

Secondary Sources

What amounts to architectural or engineering services within license requirements

82 A.L.R.2d 1013 (Originally published in 1962)

As indicated by the title, the present annotation deals with the question what amounts to architectural or engineering services within license requirements. Cases turning not on the nature of the serv...

APPENDIX III -- FDA PREAMBLE, GUIDANCE AND OTHER ADVISORY DOCUMENTS

Guide to Med. Device Reg. Appendix III

AGENCY: Food and Drug Administration, HHS. ACTION: Statement of Policy for Regulating Biotechnology Products. SUMMARY: This notice describes the regulatory policy of the Food and Drug Administration ap...

APPENDIX II FEDERAL REGULATIONS

ADA Compliance Guide Appendix II

Additionally, subscribers will find other federal regulations in this appendix that are relevant to ADA compliance. ADA architectural standards are reprinted in Appendix III of the Guide. A note about...

See More Secondary Sources

Briefs**Joint Appendix**

1986 WL 34082186
MCI TELECOMMUNICATIONS CORPORATION, Petitioner, v. IOWA UTILITIES BOARD, et al., Respondents. Supreme Court of the United States. April 03, 1986

...FN* Counsel of Record FN* Counsel of Record FCC 80-182 Comment Date: May 10, 1986 Reply Date: May 30, 1986 Separate Dates for Disting Parity/Number Administration/Notice of Technical Changes/Access to...

JOINT APPENDIX, VOL. I

2013 WL 328922
Association for Molecular Pathology v. Myriad Genetics, Inc. Supreme Court of the United States January 24, 2013

... 1 Every person's body contains human genes, passed down to each individual from his or her parents. These genes determine, in part, the structure and function of every human body. This case challenges...

Joint Appendix

1987 WL 33487286
GENERAL ELECTRIC COMPANY, et al., Petitioners, v. Robert K. JOINER et al., Respondents. Supreme Court of the United States May 30, 1987

FN*Counsel of Record CASE NO 82VS0081273 ANNEX DOWNTOWN JURISDICTION ST CIVIL CASE TYPE: TORT CASE FILED: 06/08/82 RESTRICTED FILE: AMT \$300 YES JURY DEMAND YES RUSH PAPERS: NO SUMMONS: 03 MRSHL S

"an officer or employee of the state practicing architecture, engineering or land surveying as required by his official capacity and registration is not required in his job description."

*2 Commissioner Scougal's letter to Tom Shaw dated May 17, 1976 in which he states:

... it has been departmental policy that all supervisory engineering positions above the project engineer level shall be filled by registered civil engineers

clearly indicates that departmental policy concerning registration of engineer/employees of the department complies with statutory requirements.

STATUTORY PROVISIONS RELATING TO THE USE OF

A SEAL ON DEPARTMENT PLANS AND SPECIFICATIONS

Mr. Shaw correctly points out in his correspondence that as a general rule all final drawings, specifications and similar documents must be signed and stamped with the seal of a professional engineer responsible for their completion. AS 08.47.221. However, AS 08.48.331(12) provides that the statutory requirements do not apply to:

An officer or employee of an individual, firm, partnership, association or corporation which officer or employee practices architecture, engineering or land surveying when required by his official capacity or work duties connected with his employment if the individual firm, partnership, association or corporation is not engaged in the business of offering architectural, engineering or land surveying services to the public.

Thus the provisions of AS 08.48.221 should not be applied to State employees who provide final design documents to the Department of Highways, their employer, since the Department of Highways is not engaged in the business of offering engineering services to the public.

In conclusion, I tend to agree with Mr. Shaw's interpretation of the licensing statute, in particular AS 08.48.221, as designed to protect the public by fixing responsibility for final plans and drawings. Where the 'owner' of a project is the same as the engineer who designed the project, final responsibility for the quality of the project rests with the owner/engineer. In such a case the engineer is not involved in offering engineering services to the public and neither is his employee. Responsibility is fixed with both the employer and the employee not just for the quality of the design documents, but for the quality of the finished work of construction. Clearly, under AS 08.48.331(12) engineer/employees of the Department of Highways are not required to stamp plans prepared for the Department.

Abigail G. Dodge
Assistant Attorney General
Highway Section
Anchorage AGO

1977 WL 21833 (Alaska A.G.)

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See More Briefs

Trial Court Documents

In re South Canaan Cellular Investments, Inc.

2011 WL 4193251
In re South Canaan Cellular Investments, Inc.
United States Bankruptcy Court, E.D.
Pennsylvania
September 06, 2011

The above-captioned chapter 11 debtors seek confirmation under 11 U.S.C. § 1129(b) of their jointly filed second amended chapter 11 plan dated September 28, 2009. Confirmation is opposed by secured cre...

In re River Canyon Real Estate Investments, LLC

2013 WL 4762272
In re River Canyon Real Estate Investments, LLC
United States Bankruptcy Court, D. Colorado
July 31, 2013

THIS MATTER comes before the Court on the (i) Revised Fourth Amended Plan of Reorganization Proposed by River Canyon Real Estate Investments, LLC (the "Plan"), filed by Debtor River Canyon Real Estate...

In re Boulder Crossroads, LLC

2008 WL 6188938
In re Boulder Crossroads, LLC
United States Bankruptcy Court, D.
Delaware
February 17, 2008

SIGNED this 30th day of November, 2010.
<signature> CRAIG A. GARGOTTA
UNITED STATES BANKRUPTCY JUDGE
CHAPTER 11 Boulder Crossroads, LLC
("Boulder" or "Boulder Crossroads" or "Debtor"), filed a petition...

See More Trial Court Documents

90

Chapter 001

CHAPTER: CH001

SOURCE: SB102AMH

Action Date: January 31, 1990

Year: 90

Effective Date: effective February 1, 1990, retroactive to December 31, 1989

AN ACT

An Act relating to Winter Olympic funding; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. Section 3(a), ch. 6, SLA 1986, is repealed and reenacted to read:

(a) Section 2 of this Act takes effect as follows:

(1) on December 31, 1989, if during 1989 the United States Olympic Committee does not select Anchorage, Alaska as America's choice to host the 1998 Olympic Winter Games;

(2) on December 31, 1991, if before or during 1991 the International Olympic Committee does not select Anchorage, Alaska to host the 1998 Olympic Winter Games;

(3) on December 31, 1998, if before or during 1991 the International Olympic Committee selects Anchorage, Alaska to host the 1998 Olympic Winter Games.

* Sec. 2. Section 1 of this Act is retroactive to December 31, 1989.

* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

Chapter 002

CHAPTER: CH002

SOURCE: CCHB182

Action Date: February 1, 1990

Year: 90

Effective Date: May 2, 1990

AN ACT

An Act relating to, and eliminating certain exemptions from, the regulation of architects, engineers, and land surveyors; extending the termination date of the State Board of Registration for Architects, Engineers, and Land Surveyors.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 08.03.010(c)(15) is amended to read:

(15) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011) -- June 30, 1993 [1991].

* Sec. 2. AS 08.48.111 is amended to read:

Sec. 08.48.111. **POWER TO REVOKE, SUSPEND, OR REISSUE CERTIFICATE.** The board may suspend, refuse to renew, or revoke the certificate of or reprimand a registrant or corporation who is found guilty of (1) fraud or deceit in obtaining a certificate; (2) gross negligence, incompetence, or misconduct in the practice of architecture, engineering, or land surveying; or (3) a violation of this chapter, a regulation adopted under this chapter [IT], or the code of ethics or professional conduct as adopted by the board. The code of ethics or professional conduct shall be distributed [MADE KNOWN] in writing to every registrant and applicant for registration under this chapter[, AND SHALL BE PUBLISHED WITH THE ROSTER PROVIDED FOR IN AS 08.48.081]. This publication and distribution of the code of ethics or professional conduct constitutes due notice to all registrants. The board may revise and amend its code and, upon doing so, shall immediately notify each registrant in writing of the revisions or amendments. The board may, upon petition of the registrant or corporation, reissue a certificate if a majority of the members of the board vote in favor of the reissuance.

* Sec. 3. AS 08.48.241(h) is amended to read:

(h) Drawings [PLANS], specifications, designs and reports, when issued in connection with work performed by a corporation under its certificate of authorization, shall be prepared by or under the responsible charge of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

* Sec. 4. AS 08.48 is amended by adding a new section to read:

Sec. 08.48.255. **TEACHERS.** (a) A person who is hired by a post-secondary educational institution for a permanent position to teach advanced architectural, engineering, or land surveying courses has 18 months from the date of hire to fulfill the registration requirements of this chapter and may teach the courses during the 18-month period.

(b) A person who is not registered under this chapter and who is hired by a postsecondary educational institution as a visiting teacher for a period of up to one year does not violate the registration requirements of this chapter by teaching advanced architectural, engineering, or land surveying courses at the institution during that year.

(c) This section does not authorize a person to perform architectural, engineering, or land surveying services other than teaching without being registered under this chapter.

(d) In this section, "postsecondary educational institution" has the meaning given in AS 14.48.210.

* Sec. 5. AS 08.48.331 is repealed and reenacted to read:

Sec. 08.48.331. **EXEMPTIONS.** This chapter does not apply to

(1) a contractor performing work designed by a professional architect or engineer or the supervision of the construction of the work as a supervisor or superintendent for a contractor;

(2) workers in building trades crafts, superintendents, supervisors, or inspectors in the performance of their customary duties;

(3) an officer or employee of the United States government practicing architecture, engineering, or land surveying as required by the person's official capacity;

(4) an employee or a subordinate of a person registered under this chapter if the work or service is done under the direct supervision of a person registered under this chapter;

(5) associates, consultants, or specialists retained by a registered individual, a partnership of registered individuals, or a corporation authorized to practice architecture, engineering, or land surveying under this chapter, in the performance of professional services if responsible charge of the work remains with the individual, the partnership, or a designated representative of the corporation;

(6) a person preparing drawings or specifications for

(A) a building for the person's own use and occupancy as a single family residence;

(B) farm or ranch buildings, unless the public health, safety, or welfare is involved;

(C) a building that is intended to be used only as a residence by not more than four families and that is not more than two stories high;

(D) a garage, workshop, or similar building that contains less than 2,000 square feet of floor space to be used for a private noncommercial purpose;

(7) a specialty contractor licensed under AS 08.18 while engaged in the business of construction contracting or designing systems for work within the specialty to be performed or supervised by the specialty contractor, or a contractor preparing shop or field drawings for work that the specialty contractor has contracted to perform;

(8) a person furnishing drawings, specifications, instruments of service, or other data for alterations or repairs to a building that do not change or affect the structural system or the safety of the building, or that do not affect the public health, safety, or welfare.

* Sec. 6. AS 08.48.341(7) is amended to read:

(7) "practice of architecture" means professional service or creative work in the [FUNCTIONAL AND AESTHETIC] design of buildings [STRUCTURES], the teaching of advanced architectural courses in institutions of higher learning, consultation, investigation, evaluation, planning, design, and professional observation of construction of public or private [STRUCTURES,] buildings, works, or projects, and architectural review of drawings [PLANS] and specifications by regulatory agencies; "practice of architecture" [IT] may by regulation of the board include mechanical, electrical, or structural design of [RELATIVELY] minor importance [TO THE PROJECT AS A WHOLE];

* Sec. 7. AS 08.48.341(8) is amended to read:

(8) "practice of engineering" means professional service or creative work, the adequate performance of which requires the [APPLICATION OF] specialized knowledge of applied mathematics and sciences, dealing with the [FUNCTIONAL AND ECONOMIC] design of [BUILDINGS,] structures, machines, equipment, utilities systems, materials, processes, works, or projects, public or private; the teaching of advanced engineering courses in institutions of higher learning; [,] the direction of or the performance of engineering surveys, consultation, investigation, evaluation, planning, [DESIGN,] and professional observation of construction of public and private structures, [BUILDINGS,] works, or projects and engineering review of drawings [PLANS] and specifications by regulatory agencies; "practice of engineering" [IT] may by regulation of the board include architectural building design of [RELATIVELY] minor importance [TO THE PROJECT AS A WHOLE], but it does not include comprehensive architectural services;

* Sec. 8. AS 08.48.341 is amended by adding new paragraphs to read:

(14) "building" means a structure used or intended for human occupancy;

(15) "structure" means a system of materials and components that resists horizontal and vertical loads.

* Sec. 9. AS 08.48.081 and 08.48.261 are repealed.

* Sec. 10. TRANSITIONAL PROVISIONS. (a) If, on the effective date of this Act, a person is an officer or employee of the state, a political subdivision of the state, or a public corporation of the state, and is practicing architecture, engineering, or land surveying as required by the person's official capacity or work duties connected with the employment, and if the person was in the same position on the day before the effective date of this Act and exempt under AS 08.48.331(4) or (12) as those sections read on the day before the effective date of this Act, the person has through December 31, 1991, to satisfy the registration requirements of AS 08.48. In this subsection, "practicing architecture, engineering, or land surveying" has the meaning given in AS 08.48.341 as that section

(1) provided the day before the effective date of this Act, when applied to determine the person's position before the effective date of this Act;

(2) provides on the effective date of this Act, when applied to determine the person's position on the effective date of this Act.

(b) The State Board of Registration for Architects, Engineers, and Land Surveyors may extend the deadline established in (a) of this section for up to six months for a specific person if the person applies to the board for the extension and demonstrates that circumstances beyond the person's control prevent the person from registering before the deadline, and if the board finds that the extension will not pose a significant threat of harm to public health, welfare, or safety.

(c) To be eligible for an extension of time under (a) or (b) of this section to satisfy the registration requirements of AS 08.48, a person must be supervised during the extension by a person who is registered under AS 08.48. The supervising person shall review, approve, and seal the work done by the person working under the extension. A supervising person may supervise more than one person under this subsection.

Chapter 003

CHAPTER: CH003

SOURCE: HB120

WestlawNext

Ken Boyd
Office of the Attorney General May 11, 1992 (Approx. 4 pages)

1992 Alaska Op. Atty. Gen. (Inf.) 197 (Alaska A.G.), 1992 WL 564925

Office of the Attorney General

State of Alaska
File No. 863-92-0402
May 11, 1992

*1 Registration of petroleum engineers employed by state DNR

Ken Boyd
Acting Director
Division of Oil and Gas
Department of Natural Resources

In your February 19, 1992, memorandum you asked for our advice on whether a petroleum engineer employed by the state must be registered under state laws. The short answer to this question is that an employee who practices petroleum engineering must secure state registration.

DISCUSSION

Your question arose because AS 08.48.331 was revised in 1990 removing the state employee exemption from the engineer registration requirement. In your memorandum you inquired whether petroleum engineers employed by the Department of Natural Resources (DNR) must comply with this registration requirement.

There is no indication in the engineering statutes or regulations, or legislative history of sec. 5, ch. 2, SLA 1990, that petroleum engineers are exempt from the registration requirement. AS 08.48.341 provides, in pertinent part:

(6) "engineer" means a professional engineer;

(9) "practice of engineering" means professional service or creative work, the adequate performance of which requires the specialized knowledge of applied mathematics and sciences, dealing with the design of structures, machines, equipment, utilities systems, materials, processes, works, or projects, public or private, the teaching of advanced engineering courses in institutions of higher learning; the direction of or the performance of engineering surveys, consultation, investigation, evaluation, planning, and professional observation of construction of public and private structures, works, or projects and engineering review of drawings and specifications by regulatory agencies; "practice of engineering" may by regulation of the board include architectural building design of minor importance, but it does not include comprehensive architectural services.

AS 08.48.321 provides, in pertinent part:

A person practices or offers to practice ... engineering ... who

(1) practices a branch of the profession of ... engineering ... as defined in AS 08.48.341;

(2) by verbal claim, sign, advertisement, letterhead, card or other means represents to be an ... engineer, ... or through the use of some other title implies that the person is an ... engineer;

(3) holds out as able to perform or who does perform an ... engineering ... service recognized by the professions covered by this chapter, and specified in regulations of the board, as ... engineering

12 AAC 36.980 provides, in pertinent part:

(14) "petroleum engineering" means that branch of professional engineering which embraces studies or activities relating to exploration, location, and recovery of natural fluid

SELECTED TOPICS

For Occupations and Privileges

Licenses and Certificates of Registration of
Funeral Director and Embalmer

Secondary Sources

PART 1301 - REGISTRATION OF
MANUFACTURERS, DISTRIBUTORS
AND DISPENSERS OF CONTROLLED
SUBSTANCES

Controlled Substances Habit. Part 1301

Part 1301 (21 C.F.R. Part 1301) covers two distinct areas: (1) registration of handlers of controlled substances such as practitioners, distributors, manufacturers and reverse distributors; and (2) see ...

**APPENDIX II - FEDERAL
REGULATIONS**

Guide to Good Clinical Prac. Appendix II

(a) The regulations in this part set forth the criteria under which the agency considers electronic records, electronic signatures, and handwritten signatures executed to electronic records to be trust.

Validity and construction of statute, ordinance, or other regulation in relation to funeral directors and embalmers

69 A.L.R.2d 1338 (Originally published in 1963)

This annotation supersedes that in 23 A.L.R. 71, 104 A.L.R. 402. The present annotation collects the cases dealing with the validity or construction of statutes, ordinances, or administrative regulations.

See More Secondary Sources

Briefs

Brief of States, Missouri, Alabama, Arkansas, Kansas, Louisiana, Michigan, Mississippi, Nebraska, North Dakota, South Carolina, Tennessee, Utah, and Virginia as Amici Curiae in Support of Respondents

2010 WL 4333088
Chamber of Commerce of the United States of America v. Whiting
Supreme Court of the United States
October 28, 2010

FN* Counsel of Record This case concerns the States' traditional sovereign power to form, license, and regulate businesses, professions, and other persons or entities. Petitioners seek to severely limit...

Brief of Respondent

1977 WL 205187
Carter v. Miller
Supreme Court of the United States
August 18, 1977

1 Whether an ordinance which precludes from consideration for licensure during his entire lifetime a person once convicted of an offense involving the use of a deadly weapon, but which provides for his

Brief of Respondent

1977 WL 189080
James Y. CARTER, Public Vehicle License Commissioner of the City of Chicago, Petitioner, v. Luther MILLER, on his own behalf and on behalf of all others similarly situated. Respondent.
Supreme Court of the United States
August 18, 1977

1 Whether an ordinance which precludes from consideration for licensure during his

hydrocarbons; it is concerned with research, design, production, and operations of devices, and the economic aspects of these studies and activities,

"2 ...

(17) "professional engineering" includes the branches of

(A) chemical engineering;

(B) civil engineering;

(C) electrical engineering;

(D) mechanical engineering;

(E) mining engineering;

(F) petroleum engineering.

You also inquired whether the exemptions set out in AS 08.48.331(6)(B) or 08.48.331(8)³ apply to petroleum engineers employed by DNR. These two exemptions are limited by their terms to work performed on either farm or ranch buildings, or buildings in general. As we understand it, petroleum engineers working for DNR do not work on farm or ranch buildings or buildings as defined in AS 08.48.341(3), and therefore those exemptions do not apply. However, the exemption set out in AS 08.48.331(4)⁴ for a subordinate's engineering work performed under the direct supervision of a registered engineer may apply to petroleum engineers employed by DNR. As you have not provided us with information regarding registered engineers on staff or engineers' supervision of subordinates we do not address this issue in this memorandum. We assume for purposes of this memorandum that DNR petroleum engineers do not fit within this exemption.

As you can see, petroleum engineering clearly falls within the definition of the practice of engineering. Thus, DNR employees who practice petroleum engineering must comply with the state registration requirements.⁵

Recently, the personnel officer for DNR contacted our office and indicated that she would take appropriate action to apply the above definitions to the position descriptions for the department's petroleum engineers and determine whether each employee is engaged in the practice of engineering.⁶ Although our office had initially intended to perform an analysis of DNR positions DNR staff believed that this analysis was more appropriately left to personnel classification, engineering, and other experts.

During DNR's review of the position descriptions, we will be happy to assist in the event questions arise about particular job descriptions or responsibilities. We also urge DNR to consult with the Division of Personnel in the Department of Administration, and the Division of Occupational Licensing in the Department of Commerce and Economic Development, on this matter. Do not hesitate to contact our office if we can be of other assistance to DNR in this process.

Sarah J. Felix
Assistant Attorney General
Commercial Section - Juneau

Footnotes

¹ Sec. 5, ch. 2, SLA 1990. State employees were allowed to continue practicing engineering for a limited time while pursuing registration under the transitional provisions set out in sec. 10, ch. 2, SLA 1990.

² The copies of the April 10, 1991, minutes of the H. HESS Comm. meeting attached to your memorandum relating to sec. 1, ch. 58, SLA 1991 (HB 158), reflect that Representative Koponen briefly mentioned petroleum engineers in discussion on that later legislation. HB 158 exempted university professors of engineering from State registration requirements. Thus, we do not believe these committee meeting minutes are relevant to the State employee engineer registration requirement.

³ AS 08.48.331(6)(B) provides an exemption for a person preparing drawings or specifications for farm or ranch buildings, unless the public health, safety, or welfare is involved.

entire lifetime a person once convicted of an offense involving the use of a deadly weapon, but which provides for th

See More Briefs

Trial Court Documents

In re Kid Brands, Inc.

2014 WL 5419123

In re Kid Brands, Inc.
United States Bankruptcy Court, D. New Jersey,
September 08, 2014

The relief set forth on the following pages, numbered 2 through 35, is hereby
ORDERED September 8, 2014
<<signature>> USBJ Upon the Motion of the Debtors for Entry of an Order (i) Authorizing the Sale.

U.S. v. Ore-Cal Livestock, Inc.

2004 WL 5532295

U.S. v. Ore-Cal Livestock, Inc.
United States District Court, E.D. California.
December 21, 2004

... (For Offenses Committed On or After November 1, 1987) THE DEFENDANT [X] pleaded guilty to count(s) 1, 2, 3, 4, 5 of the information [] pleaded not guilty to count(s) 1, which was accepted by the U.S.

In re Aurasound, Inc.

2013 WL 1774074

In re Aurasound, Inc.
United States Bankruptcy Court, C.D. California,
March 20, 2013

Chapter 11 Proceeding DATE: March 4, 2013 TIME: 2:00 p.m. PLACE: Courtroom 6C 411 W. Fourth St. Santa Ana, CA 92701
Upon consideration of: (1) the Motion for Order Authorizing (1) Sale of Substantially

See More Trial Court Documents

AS 08.48.331(8) provides an exemption for a person furnishing drawings, specifications, instruments of service, or other data for alterations or repairs to a building that do not change or affect the structural system or the safety of the building, or that do not affect the public health, safety, or welfare.

4 AS 08.48.331(4) provides an exemption for an employee or a subordinate of a person registered under this chapter if the work or service is done under the direct supervision of a registered engineer.

5 AS 08.48.281 provides that a person may not practice engineering unless the person is registered. AS 08.48.281 also prohibits a person from using a title that conveys the impression that the person is a registered engineer unless the person is registered.

6 Although an employee whose position title is "petroleum engineer" is not necessarily practicing engineering through use of the title alone, this situation presents a close question. We therefore recommend that all employees who use this kind of a title be registered to avoid confusion about the employee's status or job responsibilities.

1992 Alaska Op. Atty. Gen. (Inf.) 197 (Alaska A.G.), 1992 WL 564925

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HOUSE LABOR AND COMMERCE COMMITTEE

March 8, 1995

3:10 p.m.

MEMBERS PRESENT

Representative Pete Kott, Chairman
Representative Norman Rokeberg, Vice Chairman
Representative Beverly Masek
Representative Kim Elton
Representative Gene Kubina
Representative Brian Porter

MEMBERS ABSENT

Representative Jerry Sanders

COMMITTEE CALENDAR

*HB 46: "An Act relating to the practice of architecture,
engineering, and land surveying."

HEARD AND HELD

(* First public hearing)

WITNESS REGISTER

REPRESENTATIVE JOE GREEN
Alaska State Legislature
State Capitol, Room 24
Juneau, AK 99801-1182
Telephone: (907) 465-4931
POSITION STATEMENT: Prime sponsor HB 46

JEFF LOGAN, Legislative Assistant
to Representative Joe Green
Alaska State Legislature
State Capitol, Room 24
Juneau, AK 99801-1182
Telephone: (907) 465-4931
POSITION STATEMENT: Testified on HB 46

GRAHAM ROLSTAD, Interim CEO
Matanuska Telephone Association
1740 South Chugach Street
Palmer, AK 99645
Telephone: (907) 745-5412
POSITION STATEMENT: Testified in favor of HB 46

JIM ROWE, Executive Director
Alaska Telephone Association
4341 B Street
Anchorage, AK 99503
Telephone: (907) 563-4000
POSITION STATEMENT: Testified in favor of HB 46

NANCY SCHOEPHOESTER
ARCO Alaska
P.O. Box 100360
Anchorage, AK 99508
Telephone: (907) 263-4655

POSITION STATEMENT: Testified in favor of HB 46

CATHERINE REARDON, Director
Division of Occupational Licensing
Department of Commerce and Economic Development
P.O. Box 110806
Juneau, AK 99801-1182
Telephone: (907) 465-25388
POSITION STATEMENT: Testified on HB 46

PAULA ELLER
Yukon Telephone
P.O. Box 873809
Wasilla, AK 99687
Telephone: (907) 373-6007
POSITION STATEMENT: Testified in favor of HB 46

BLAINE BROWN, Division Manager Network Planning
Anchorage Telephone Utility
600 Telephone Avenue, Mail Station 12
Anchorage, AK 99503
Telephone: (907) 564-1216
POSITION STATEMENT: Testified in favor of HB 46

MIKE TAURIAINEN, Professional Engineer
Mike Tauriainen Consulting Engineers
35186 Spur Highway
Soldotna, AK 99669
Telephone: (907) 262-4624
POSITION STATEMENT: Testified against HB 46

ALAN SEE
Alaska Power and Telephone Co.
Skagway, AK
Telephone: (907) 983-2800
POSITION STATEMENT: Testified in favor of HB 46

DAN GORDON
Tel Alaska, Incorporated
2121 Abbott Rd.
Anchorage, Alaska 99507
Telephone: (907) 349-2400
POSITION STATEMENT: Testified in favor of HB 46

RANDY NELSON
GTE Alaska Incorporated
4300 B Street Suite 303
Anchorage, AK 99503
Telephone: (907) 563-2199
POSITION STATEMENT: Testified in favor of HB 46

TOM CRAFFORD, Manager
Minerals and Coal
Cook Inlet Region, Incorporated
2525 C Street
Anchorage, AK 99503
Telephone: (907) 274-8638
POSITION STATEMENT: Testified in favor of HB 46

BYRON HAYNES
4830 Ridge Top Circle
Anchorage, AK 99508
Telephone: (907) 338-9373
POSITION STATEMENT: Testified in favor of HB 46

AL DICKENS

Arctic Slope Telephone

Association Cooperative

4300 B Street, Suite 501

Anchorage, AK 99503

Telephone: (907) 563-3989

POSITION STATEMENT: Testified in favor of HB 46

COLIN MAYNARD

1400 West Benson, Suite 500

Anchorage, AK 99503-3690

Telephone: (907) 274-3660

POSITION STATEMENT: Testified against HB 46

PREVIOUS ACTION

□BILL: HB 46□

SHORT TITLE: ARCHITECT, ENGINEER & SURVEYOR REGULATION

SPONSOR(S): REPRESENTATIVE(S) GREEN

JRN-DATE	JRN-PG		ACTION
01/06/95	32	(H)	PREFILE RELEASED
01/16/95	32	(H)	READ THE FIRST TIME - REFERRAL(S)
01/16/95	33	(H)	LABOR AND COMMERCE, STATE AFFAIRS
03/08/95		(H)	L&C AT 03:00 PM CAPITOL 17

ACTION NARRATIVE

TAPE 95-16, SIDE A

Number 000

The House Labor and Commerce Standing Committee meeting was called to order by Chairman Pete Kott at 3:10 p.m. Members present at the call to order were Representatives Kott, Rokeberg, Masek, Elton, and Kubina. Representatives absent were Porter and Sanders.

HL&C - 03/08/95

□HB 46 - ARCHITECT, ENGINEER & SURVEYOR REGULATION□

CHAIRMAN PETE KOTT stated that there was one matter before the committee, HB 46, but that it was not his intent to move this bill.

Number 025

REPRESENTATIVE JOE GREEN, Prime Sponsor of HB 46, stated that Sections 1 and 2 of the bill were new. He said, there are additional ramifications dealing with registration.

JEFF LOGAN, Legislative Assistant to Representative Joe Green, explained the reasons for the changes to HB 46. He said Section 1 is a rewrite, not a change in the intent of the bill. It states that when a registrant (registered engineer) issues final documents or drawings, they shall sign the documents and affix their seal. He stated that it was an attempt to clarify that it is the responsibility of the board to maintain the integrity of the seal. It is not the responsibility of the board to require that the seal be on a document. He continued that Section 2 contains language from the original bill, which is statutorily ambiguous. The change, taking out "a registered", clarifies and conforms the section so that it is clear that the legislature's intent is that, when a person says "an engineer," that this means they are an engineer. He said that Section 3 is an exemption section that adds subsection ten. This subsection was in the law until 1990; it was taken out in HB 182. Mr. Logan stated that he has reviewed the entire public record for that bill, and he has listened to the tapes of every hearing. He said that the deletion of this

subsection has had enormous impact on a number of Alaskans and Alaskan businesses. He continued by saying that during the hearing on HB 182, there was no public testimony, except for that given by the board. He stated that the public clearly did not have their say.

Number 131

CHAIRMAN KOTT entertained a motion to adopt the CS for HB 46.

REPRESENTATIVE NORMAN ROKEBERG made a motion to adopt CSHB 46(L&C).

CHAIRMAN KOTT asked if there were any objections. Hearing none, the motion carried. The F version dated February 17, 1995, was adopted.

REPRESENTATIVE BRIAN PORTER joined the meeting at 3:20 p.m.

CHAIRMAN KOTT asked Mr. Logan if during those meetings there had been any discussion by the board, as to why this section had been removed.

MR. LOGAN responded that at that time Randall Burns, Director of the Division of Occupational Licensing, had given a very good presentation on the bill. The reason they removed the exemption was that they believed it was too broad. The example given was that of a bank that went to the division and said that they had an engineer who was not a professional engineer (PE), but, that he was going to design a building, and in essence, there was nothing the board could do about it. He said it was felt by the people who testified that the exemption was too broad.

CHAIRMAN KOTT asked if they further realized the consequences of that exemption.

MR. LOGAN responded that there was no discussion of that.

Number 178

REPRESENTATIVE KIM ELTON asked if the zero fiscal note would remain the same.

MR. LOGAN answered that it would.

REPRESENTATIVE ELTON queried whether Section 1 clarified that the plans shall be signed by the registrant. He asked if that was all they were trying to accomplish.

MR. LOGAN stated that was correct.

Number 205

REPRESENTATIVE ROKEBERG asked if the language in Section 1 would clarify certain circumstances that had occurred in the Anchorage jurisdiction in the previous year.

MR. LOGAN replied no.

Number 225

GRAHAM ROLSTAD, INTERIM CEO, MATANUSKA TELEPHONE ASSOCIATION (MTA), indicated he is also a registered engineer in the state of Alaska as well as the state of Washington. He testified in favor of HB 46. Mr. Rolstad stated that he was also the Chair of the Alaska Telephone Association's Engineering and Planning Committee and was

testifying on behalf of the member companies. He stated that in the telephone business, engineers are required to follow specifications that have been established over the years. These specifications are used universally, keeping in mind public safety and the requirements for maintenance and protection of the plant. He did not believe that this should require a PE to stamp the specifications if the individual worked for the company. He stated that the company takes responsibility for any plants they put in the field. He said if there was a problem that occurred regarding public safety, there is an avenue for redress, both financial as well as administrative. He stated that they had tried to work through the regulations last year to make this issue less onerous. He stated that this exemption is in the public interest.

Number 345

JIM ROWE, EXECUTIVE DIRECTOR, Alaska Telephone Association (ATA), testified in support of HB 46. He said that it allows the local exchange carriers to build telephone infrastructure. It allows them to have access to a service and does not burden them with an extra cost of paying for a service that has no use to them, such as the sealing of documents. He stated that at least 36 states totally exempt utility engineers from the requirements of licensure. He commented that by restricting the number of people entering the profession, licensure can result in increased cost to consumers and a shortage of licensed professional services in certain geographic areas, such as Alaska.

Number 393

CHAIRMAN KOTT asked if the ATA supported the extension of the Alaska Public Utilities Commission (APUC).

MR. ROWE stated that the ATA does advocate the reauthorization of a regulatory body.

CHAIRMAN KOTT inquired if the APUC were not extended, what protection would the consumer have.

MR. ROWE responded that the administrative code would offer that protection, regardless of the APUC.

Number 409

NANCY SCHOEPHOESTER, ARCO ALASKA, testified in support of CSHB 46. She stated that the Occupational Licensing Program offers parameters for testing the requirements of those people qualified to serve in the public sector and hold the seal for registered documents. She commented that they support Section 1 of the bill because it clarifies ambiguous language with respect to the use of the seal. She said that in Section 2, they would prefer language that would state a person may not declare he/she is a registered engineer unless he/she is, in fact, a registered engineer. Ms. Schoephoester continued that 36 other states have an in house exemption. She pointed out that there are parties from both sides of this issue that want to sit down and look at some compromise language. She said that ARCO supports and encourages this.

Number 430

REPRESENTATIVE GENE KUBINA asked how this legislation would affect ARCO.

MS. SCHOEPHOESTER replied that ARCO currently employs a number of in-house engineers; some of these engineers are registered, some

are not. She explained that without the exemption, they would be required to have registered engineers seal final drawings and final specifications, which with an in-house exemption could by-pass registered engineer. She reiterated that this is strictly in-house work. She stated that a number of state and federal agencies regulate their work, and in those cases where a seal is required by a registered engineer, they comply.

Number 450

REPRESENTATIVE ROKEBERG asked if the North Slope Borough had any type of building codes, or did the state building codes affect the operation of ARCO in the outlying areas.

MS. SCHOEPHOESTER replied yes, but she would have to check on that for certain.

CATHERINE REARDON, DIRECTOR, DIVISION OF OCCUPATIONAL LICENSING, DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT, stated that administrative implementation of this bill is not difficult. She anticipated the CS would be a zero fiscal note. She stated that the department has a neutral position on the legislation at this time; however, the Board of Occupational Engineers and Land Surveyors is in opposition. She said that her concern was that the oil industry may use highly qualified employees for their design work and have state and federal agencies oversee their design work, but there are other businesses or individuals who choose to construct structures, using their own employees, without any engineering or design background in areas without building codes. Therefore, she said that it was possible that structures might go up that can't with-stand snow loads or earthquakes. She concluded that it was her hope that the committee could come up with a way to protect health and safety while not obstructing industries that are already adequately regulated.

REPRESENTATIVE ELTON inquired if there had been public safety problems before this exemption was removed.

MS. REARDON responded that she did not have any facts on that issue.

Number 503

REPRESENTATIVE ROKEBERG asked if the board did or did not oppose this legislation.

MS. REARDON answered that they do oppose it.

CHAIRMAN KOTT commented that the board's position was to retain the use of the term registered in reference to architects, engineers, and land surveyors. He asked if she knew the rationale behind this.

MS. REARDON stated that they had taken the position on the original HB 46, when it was a more limited issue. Their letter to her stated that their position was to retain the use of the word "registered" in reference to architects, engineers and land surveyors in Section 2. She felt their concern was that within the same firms, there were people who were not registered engineers, and perhaps it was overly restrictive to limit the term architect or engineer only to themselves.

Number 532

PAULA ELLER, YUKON TELEPHONE, testified via teleconference that she

supported HB 46. She stated that they were an electric, telephone and cable T.V. company in business since 1960. She stated that they had never had any problems and didn't think they needed a PE to stamp their records. She stated that customers rates are higher because of the area they serve and asked the committee to take that into consideration.

BLAINE BROWN, DIVISION MANAGER, NETWORK PLANNING, ANCHORAGE TELEPHONE UTILITIES (ATU), testified via teleconference in support of HB 46. He stated they had been trying for several months to find a PE outside the plant supervisor to no avail. He stated that they use their joint use agreements and build their plant in accordance with various specifications. He referenced the Alaska Administrative Code, under the APUC AAC 52.260, and said that ATU does comply with specifications under the Bell System Standards, OSHA and the National Electric Safety Code. He stated that all of their engineers are trained in these practices and refer to them when designing jobs.

Number 570

MIKE TAURIAINEN, PROFESSIONAL ENGINEER, MIKE TAURIAINEN CONSULTING ENGINEERS, testified via teleconference that he has been a registered professional engineer since 1972, and has been on the Architects, Land Surveyors and Engineers Board (ALSE) since 1991. In referring to Section 1, he stated that the original language required final documents covered by AS 08.48 to be sealed and signed by a registered architect, engineer and/or land surveyor. The proposed language does not restrict an unlicensed person from issuing final drawings, specifications and surveys. In Section 3, he said the new paragraph would enable entities, whether they be developers, builders contractors, or hotels, to employ anyone they want to design structures as long as they are not offering engineering services to the public. He explained that national hotel chains could retain an in-house designer to design a hotel and the law wouldn't, under the proposed language, be required to be registered, yet the public would be using that facility. He said that ALSE Board has supported some exemptions for electrical utilities and realizes the need to do the same for telephone and cable T.V. He said that he believed the ALSE Board should be charged with defining and implementing appropriate exemptions via the regulatory process. He finished by saying that this would relieve the legislature from having to address technical issues of relative risks to the public. He feels that section two of the original bill was overly restrictive and confusing to the public.

TAPE 95-16, SIDE B

Number 000

MR. TAURIAINEN continued that people needing a registered engineer will be less confused if that term is used instead of the generic term engineer.

Number 020

ALAN SEE, ALASKA POWER AND TELEPHONE COMPANY, testified via teleconference in support of HB 46. He stated that the telephone utilities follow many standards and are fully regulated by the APUC. They feel that additional regulations are not necessary.

Number 040

DAN GORDON, TEL ALASKA, INCORPORATED, testified via teleconference in support of HB 46. He stated that they didn't want the added

cost of the construction being passed on to the consumers, and construction would require time with the limited number of PE within the state. He stated that they are certified and deemed fit and able.

Number 061

RANDY NELSON, GTE ALASKA, INCORPORATED, testified via teleconference in support of HB 46. He stated that they had a commitment to the state of Alaska and their customers. They have millions of dollars invested in the state and it was not in their interest to build substandard plants.

Number 088

REPRESENTATIVE ROKEBERG asked if there was any organization that oversees the quality of the workmanship that his people produce.

MR. NELSON responded that to his knowledge, there was not a specific agency; however, they do have requirements through the permitting process with the Department of Transportation. This would also fall under the federal regulations and they also have the National Electric Safety Code Standards.

REPRESENTATIVE ROKEBERG inquired if Mr. Nelson felt any necessity for further review.

MR. NELSON stated that they had adequate internal review.

Number 121

TOM CRAFTFORD, MANAGER, MINERALS AND COAL, COOK INLET REGION, INCORPORATED, speaking on behalf the Alaska Producers Council, testified via teleconference in support of HB 46. He stated that it is standard industry practice to not have a PE status for mine design or mine planning documents. He said that he didn't see any problem existing within the mining industry regarding certification of engineers, and felt that a requirement of that sort would only add additional complexity and cost.

Number 142

REPRESENTATIVE ROKEBERG inquired if there was any oversight that provides a check on the work done in-house by mining companies.

MR. CRAFTFORD responded that the mining industry is very thoroughly regulated. There are periodic examinations of underground mines by the Mining Safety and Health Administration (MSHA). Surface mining falls under the same types of inspections.

Number 165

BYRON HAYNES, REGISTERED ENGINEER, testified via teleconference in support of HB 46. He said he is a registered engineer in the states of Alaska and Texas. MR. HAYNES stated that he works for British Petroleum, and in his company there are both registered and non-registered engineers. He said that, while BP is endeavoring to stay in compliance with the Alaska registration engineering statutes, their ability to move engineers to Alaska where their expertise is of the greatest value, has been significantly hampered by the loss of the in-house exemption for registered engineers. He concluded that this restriction on the ability of companies to best utilize their people resources and brain power is not good for Alaska.

Number 223

REPRESENTATIVE ROKEBERG asked what the status was of the uniform building code (UBC) in the unincorporated areas that don't have jurisdiction or building code enforcement.

MR. HAYNES said that he wasn't aware of any.

REPRESENTATIVE ROKEBERG asked if the non-registered engineers working for BP are under direct supervision of the registered engineers.

MR. HAYNES replied yes, they are under supervision by the registered engineers.

REPRESENTATIVE ROKEBERG asked if the exemption would give them greater flexibility.

MR. HAYNES stated that the flexibility exists with bringing new people in all the time. They have to be mindful of the backgrounds of the people being brought into the state.

Number 263

AL DICKENS, ARCTIC SLOPE TELEPHONE ASSOCIATION COOPERATIVE, testified via teleconference in support of HB 46. He stated that if sealing the documents by a professional engineer would enhance the quality of services they provide or enhance safety to their employees and the general public, he would support that, but the only thing this process accomplishes was an added expense.

number 281

COLIN MAYNARD, ALASKA PROFESSIONAL DESIGN COUNCIL, testified via teleconference in opposition to HB 46 in its entirety. He stated Section 3 should be narrowed. He gave an example of a Burger King, in Fort Wainwright, designed by engineers in Texas that did not have a vapor barrier or heating system in the restrooms. He stated that there was already an exemption, in the bill, for modifying buildings where public safety is not at risk. He stated that the telecommunications industry does not involve public safety, and it would be fairly simple for the board to exempt most of their work. He said in the case of the oil industry, they don't have a problem with exempting down hole reservoir engineering that does not affect the public safety. However, buildings and pipelines that already require registrations should remain that way. He stated that there was no requirements of the oil companies that every engineer be licensed, the person in charge has to be licensed. He said that the state of Alaska did not have any building codes outside of Juneau, Fairbanks and Anchorage.

REPRESENTATIVE KOTT closed public testimony on HB 46.

Number 373

REPRESENTATIVE ROKEBERG asked Representative Green to go over Section 2 again.

REPRESENTATIVE GREEN stated that Section 2 takes out the word "registered" at the request of the professional engineering group. He stated that the concept is to make it more restrictive rather than less restrictive. If this legislation were to pass, you could not profess to be an engineer for public hire, unless you were licensed. The way it currently is, all you'd have to do is leave that term off of your application to the public, and you would not

be violating the law.

Number 447

REPRESENTATIVE ROKEBERG stated that he was concerned that they didn't hear from any land surveyors or architects. He questioned why they were changing this if everyone under the exemption was okay as it currently stands.

REPRESENTATIVE GREEN stated Section 2 covers those areas exempted and those areas not exempted. It must address both areas. He said that dropping the word registered would not allow people to do something that they otherwise aren't allowed to do. It's just the reverse. He concluded that it was closing a loophole, not opening one.

Number 483

REPRESENTATIVE PORTER made an observation that companies that would generally build faulty projects would usually need to get financing for their projects. He stated that they are not going to get financing with faulty designs.

CHAIRMAN KOTT added that it was essentially the employer who would be liable if there was faulty work done, and they wouldn't generally accept that.

REPRESENTATIVE KUBINA asked if it was the intent of the committee to hold this bill over until the next committee meeting.

CHAIRMAN KOTT replied that Representative Green was going to do further work to smooth the edges.

ADJOURNMENT

There being no further business to come before the House Labor and Commerce Standing Committee, Chairman Kott adjourned the meeting at 4:30 p.m.

HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 15, 1995

3:06 p.m.

MEMBERS PRESENT

Representative Pete Kott, Chairman
Representative Norman Rokeberg, Vice Chairman
Representative Brian Porter
Representative Jerry Sanders
Representative Kim Elton
Representative Beverly Masek
Representative Gene Kubina

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HB 17: "An Act relating to the titles that describe the two principal executive officers of electric and telephone cooperatives."

PASSED CSHB 17(L&C) OUT OF COMMITTEE

HB 46: "An Act relating to the practice of architecture, engineering, and land surveying."

PASSED OUT OF COMMITTEE

HB 180: "An Act relating to liquor licenses issued to a hotel, motel, resort, or similar establishment; and providing for an effective date."

PASSED OUT OF COMMITTEE

*HB 237: "An Act relating to workers' compensation insurance rate filings; to second independent medical evaluations for workers' compensation claims; to immunity for third-party design professionals from civil actions by recipients of workers' compensation benefits; to workers' compensation death benefits; to computation of workers' compensation benefits; to penalties for fraudulent acts related to workers' compensation; to immunity for employer workplace safety inspections related to workers' compensation insurance; and providing for an effective date."

PASSED OUT OF COMMITTEE

(* First public hearing)

PREVIOUS ACTION

□BILL: HB 17□

SHORT TITLE: OFFICERS OF UTILITY COOPERATIVES

SPONSOR(S): REPRESENTATIVE(S) GREEN

JRN-DATE	JRN-PG		ACTION
01/06/95	25	(H)	PREFILE RELEASED
01/16/95	25	(H)	READ THE FIRST TIME - REFERRAL(S)

01/16/95	25	(H)	STATE AFFAIRS, LABOR & COMMERCE
02/07/95		(H)	STA AT 08:00 AM CAPITOL 102
02/07/95		(H)	MINUTE(STA)
02/10/95	293	(H)	STA RPT CS(STA) NEW TITLE 6DP 1NR
02/10/95	294	(H)	DP: JAMES, PORTER, GREEN, ROBINSON
02/10/95	294	(H)	DP: WILLIS, OGAN
02/10/95	294	(H)	NR: IVAN
02/10/95	294	(H)	ZERO FISCAL NOTE (DCED)
03/01/95		(H)	L&C AT 03:00 PM CAPITOL 17
03/01/95		(H)	MINUTE(L&C)
03/06/95		(H)	MINUTE(L&C)
03/15/95		(H)	L&C AT 03:00 PM CAPITOL 17

□BILL: HB 46□

SHORT TITLE: ARCHITECT, ENGINEER & SURVEYOR REGULATION
SPONSOR(S): REPRESENTATIVE(S) GREEN

JRN-DATE	JRN-PG		ACTION
01/06/95	32	(H)	PREFILE RELEASED
01/16/95	32	(H)	READ THE FIRST TIME - REFERRAL(S)
01/16/95	33	(H)	LABOR AND COMMERCE, STATE AFFAIRS
03/08/95		(H)	L&C AT 03:00 PM CAPITOL 17
03/08/95		(H)	MINUTE(L&C)
03/15/95		(H)	L&C AT 03:00 PM CAPITOL 17

□BILL: HB 180□

SHORT TITLE: LIQUOR LICENSES FOR RESORT/LODGES
SPONSOR(S): REPRESENTATIVE(S) JAMES

JRN-DATE	JRN-PG		ACTION
02/15/95	369	(H)	READ THE FIRST TIME - REFERRAL(S)
02/15/95	369	(H)	ITT, CRA, L&C
02/21/95		(H)	ITT AT 02:30 PM CAPITOL 408
02/21/95		(H)	MINUTE(ITT)
02/22/95	446	(H)	ITT RPT 2DP 5NR
02/22/95	446	(H)	DP: JAMES, MASEK
02/22/95	446	(H)	NR: KOTT, PORTER, ROBINSON, NICHOLIA
02/22/95	446	(H)	NR: AUSTERMAN
02/22/95	446	(H)	ZERO FISCAL NOTE (REV)
03/07/95		(H)	CRA AT 01:00 PM CAPITOL 124
03/07/95		(H)	MINUTE(CRA)
03/08/95	636	(H)	CRA RPT 2DP 3NR
03/08/95	636	(H)	DP: VEZEY, KOTT
03/08/95	636	(H)	NR: ELTON, AUSTERMAN, IVAN
03/08/95	636	(H)	ZERO FISCAL NOTE (REV) 2/22/95
03/15/95		(H)	L&C AT 03:00 PM CAPITOL 17

□BILL: HB 237□

SHORT TITLE: WORKERS' COMPENSATION AMENDMENTS
SPONSOR(S): REPRESENTATIVE(S) MULDER BY REQUEST, Porter

JRN-DATE	JRN-PG		ACTION
03/06/95	597	(H)	READ THE FIRST TIME - REFERRAL(S)
03/06/95	598	(H)	LABOR & COMMERCE, JUDICIARY
03/08/95	630	(H)	JOURNAL CORRECTION
03/15/95		(H)	L&C AT 03:00 PM CAPITOL 17

WITNESS REGISTER

GEORGE DOZIER, Legislative Aide
to Representative Pete Kott
Alaska State Legislature
State Capitol, Room 432
Juneau, AK 99811
Telephone: (907) 465-3777

POSITION STATEMENT: Explained changes to HB 17

REPRESENTATIVE JOE GREEN

Alaska State Legislature

State Capitol Room 24

Juneau, AK 99801-1182

Telephone: (907) 465-4931

POSITION STATEMENT: Prime sponsor HB 17 and HB 46

WILLIS KIRKPATRICK, Director

Division Banking, Securities and Corporations

Department of Commerce and Economic Development

P.O. Box 110807

Juneau, AK 99811-0807

Telephone: (907) 465-2549

POSITION STATEMENT: Provided information on HB 17

DAVE HUTCHENS, Executive Director

Alaska Rural Electric Cooperative Assoc.

703 W. Tudor Suite 202

Anchorage, AK 99503

Telephone: (907) 561-6103

POSITION STATEMENT: Testified on HB 17

MIKE TAURIANINEN

P.O. Box 937

Soldotna, AK 99669

Telephone: (907) 262-4624

POSITION STATEMENT: Testified against HB 17

SHARON MACKLIN, Lobbyist

Alaska Design Professionals

315 5th Street, No. 8

Juneau, AK 99801

Telephone: (907) 586-9518

POSITION STATEMENT: Testified in favor of HB 46

JIM ROWE, Executive Director

Alaska Telephone Association

4341 B Street. No. 304

Anchorage, AK 99503

Telephone: (907) 563-4000

POSITION STATEMENT: Testified in favor of CSHB 46(L&C)

BARBARA KOTTING Legislative Assistant

to Representative Jeanette James

Alaska State Legislature

State Capitol, Room 102

Juneau, AK 99801-1182

Telephone: (907) 465-3743

POSITION STATEMENT: Provided sponsor statement HB 180

PAT SHARROCK, Director

Alaska Alcoholic Beverage Control Board

550 W. 7th Avenue

Anchorage, AK 9950

Telephone: (907) 277-8638

POSITION STATEMENT: Provide information on HB 180

REPRESENTATIVE ELDON MULDER

State Capitol Room 411

Juneau, AK 99811-1182

Telephone: (907) 465-2647

POSITION STATEMENT: Prime sponsor HB 237

DARIO NOTTI, Student Intern
to Senator Jim Duncan
Alaska State Legislature
State Capitol Room 119
Juneau, AK 99801-1182
Telephone: (907) 465-4766
POSITION STATEMENT: Testified on HB 237

MARIANNE BURKE, Director
Division of Insurance
Department of Commerce and Economic Development
P.O. Box 110805
Juneau, AK 99811-0808
Telephone: (907) 465-2515
POSITION STATEMENT: Provided information on HB 237
WILLY VAN HEMERT, Civil Engineer
Member, Ad Hoc Labor Management Committee
on Workers' Compensation Reform
3900 Arctic Blvd. No. 304
Anchorage, AK 99503
Telephone: (907) 562-3252
POSITION STATEMENT: Testified in favor of 237

KEVIN DOUGHERTY, General Council
Alaska Laborers
Co-Chair, Ad Hoc Labor Management Committee
on Workers' Compensation Reform
2501 Commercial Dr.
Anchorage, AK 99577
Telephone: (907) 276-1640
POSITION STATEMENT: Testified in favor of *HB 237

ACTION NARRATIVE

TAPE 95-17, SIDE A
Number 000

The House Labor & Commerce Standing Committee was called to order by Chairman Pete Kott at 3:06 p.m. Members present at the call to order were Representatives Kott, Sanders, Elton, Kubina, and Porter. Members absent were Masek and Rokeberg.

CHAIRMAN PETE KOTT stated that there was a quorum present. He stated that the order of business would be HB 17, HB 46, HB 180 and HB 237.

HL&C - 03/15/95

☐ HB 17 - OFFICERS OF UTILITY COOPERATIVES ☐

CHAIRMAN KOTT explained that HB 17 was back before the committee because the drafting attorney had some concerns with the committee substitute (CS) version G. He said that they now had a new CS version K, dated March 6, 1995 before them.

Number 058

CHAIRMAN KOTT stated, for the record, Representative Masek joined the meeting at 3:10 p.m.

Number 067

GEORGE DOZIER, LEGISLATIVE AIDE TO REPRESENTATIVE PETE KOTT, gave the following explanation of the new CS for HB 17 version K. He explained that the CS version G did not amend the title to reflect the biannual report. The other concerns deal with amendment two, which was proposed by the Division of Banking,

Securities and Corporations, Department of Commerce and Economic Development. The draft, as passed out by committee, required that biannual reports be due before July 2, of the reporting year; however, the information contained in the reports was due by June 30. The division felt this was not enough time for the information to be gathered and the reports to be sent in. In the new CS version K, this date was amended to July 15. Mr. Dozier continued that the third concern addresses dissolution, this on page 8, states, "the provisions of Alaska Statute 10.06 (Alaska Corporations Code) relating to involuntary dissolution of business corporations applied to telephone and electric cooperatives." He said that the drafting attorney was concerned that too much generality had been included since a number of provision governing both voluntary and involuntary dissolution's of corporations were affected. He explained that this focuses upon when a biannual report is delinquent. This provision allows the commissioner to involuntarily dissolve a corporation if it hasn't filed its biannual reports. The language in the new CS, version K, makes this clearer. The fourth concern was with subsection (b), biannual reports, addresses when reports are do but is not clear that it applies to cooperatives that already exist. He stated that no changes were made to this language. Therefore, it is his understanding that it will apply to existing cooperatives, as well as new ones. Mr. Dozier stated that finally, the drafting attorney's last concern was that the draft provided and adopted by the committee (CS version G), (indisc.--interrupted)

Number 202

REPRESENTATIVE GENE KUBINA asked if a motion to delete sections 17 and 18 would be a good way to deal with this. He stated that the reason the Department of Commerce and Economic Development wasn't receiving these reports was because they were already going to the Alaska Public Utilities Commission (APUC). He pointed out this would just be adding more bureaucracy.

CHAIRMAN KOTT said he would entertain that motion, once they had adopted the new CS.

REPRESENTATIVE KUBINA asked Chairman Kott exactly where they were at this point.

CHAIRMAN KOTT stated that they had passed out version G, but they had not yet adopted version K.

Number 231

REPRESENTATIVE JERRY SANDERS made a motion to adopt version K of the CS for HB 17.

CHAIRMAN KOTT asked if there were objections. Hearing none, the CS was adopted.

REPRESENTATIVE KUBINA made a motion to delete sections 17 and 18, and possibly make a title change. He said, "line 4 starting with, 'relating' through line 7 ending with 'cooperatives'".

CHAIRMAN KOTT stated, "The title would be lines 1, 2 and 3, and then providing for an effective date."

REPRESENTATIVE KUBINA interjected, "The first half of line 4, 'according to officers' and then 'providing for an effective date'."

REPRESENTATIVE ELTON stated that they may need to start on line

5, because Section 4 of the bill amends the articles of incorporation. That may need to be noted in the title 'relating to the articles of incorporation' beginning after cooperatives; deleting down 'to effective date'."

REPRESENTATIVE KUBINA indicated the last two words on line five is where it would start.

CHAIRMAN KOTT repeated 'relating to' line 5 through 'electric cooperatives' on line 7.

Number 279

CHAIRMAN KOTT stated that the conceptual amendment is to delete sections 17 and 18, and with that there will be a noted title change. He asked Representative Green if he had a problem with this amendment.

Number 288

REPRESENTATIVE JOE GREEN stated that he did not have a problem with this.

Number 291

CHAIRMAN KOTT stated that they did have Amendment 1, the conceptual amendment, deleting sections 17 and 18 with a title change. He asked for any objections. Hearing none, Amendment 1 was adopted. He stated that the committee now had the CSHB 17(L&C) before them for debate.

Number 305

WILLIS KIRKPATRICK, DIRECTOR, BANKING, SECURITIES AND CORPORATIONS, DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT, stated that every organization filing under Title 6, files a biannual report. This provides the public with information as to who the registered agents, officers and directors of corporations are. He stated that only these 37 organizations, under this chapter of Title 10, do not file biannual reports. He stated, as far as bureaucracy is concerned, they are only asking for the current names of the officers and directors of the corporations and a biannual filing fee of \$100. He pointed out that when he was advised that this may be redundant filing with the Department of Commerce, he called APUC for a current list of officers and directors of Cook Inlet Rural Telephone Cooperative, Incorporated; Glacier Valley Electric; and Unalaska Electric Association, Incorporated. The APUC had no record of any of the three. He explained that this was important. If they were to have filed every other year as to their status of their corporation, with the names and addresses of the officers and directors, and if something had changed in that interim year, as was the case with Unalaska, they would have written back and said that they had been sold to the community. They would have told the Department of Commerce to cross them off their list, and they would have been out of their file. He reiterated that the department only wants them to file every other year, whether they are profit or non-profit, like every other corporation and association under Title 10. Mr. Kirkpatrick said that the APUC further stated that they did not know if they could supply him with lists of officers and directors of corporations.

Number 416

REPRESENTATIVE ELTON asked why Glacier Valley was registered with

his department, and were they required to be.

MR. KIRKPATRICK stated that as an organization, they wanted to be protected from liability as individuals. They then incorporated under electrical cooperatives, which gives them liability from personal acts, and puts responsibility on the corporate structure.

DAVE HUTCHENS, EXECUTIVE DIRECTOR, ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION, stated that he had testified previously on this legislation and his association does not have any strong objection to filing these biannual reports. However, they do feel that it would be far better if it were set aside and dealt with that separately the next time there is legislation dealing with the powers of the division. He stated that all of the operating entities organized as electric and telephone cooperatives do make annual reports to the APUC. He said the division should have a note in their file that says, "Requests for information should be forwarded to the APUC."

Number 454

REPRESENTATIVE ELTON pointed out that in the previous meeting Mr. Hutchens had no objection to the legislation, the committee felt that this might be a good idea. He stated that he would be interested in hearing Mr. Hutchens reactions to the provision relating to involuntary dissolution of a cooperative.

MR. HUTCHENS stated that this would be a very strong penalty for failing to file a biannual report. He commented that perhaps there could be an intermediate step, and if someone refused to file, dissolution could be the ultimate sanction. He stated the reason for that would be to have some systematic way of weeding out the entities no longer in business.

Number 471

CHAIRMAN KOTT stated the committee members had the CSHB 17 before them.

REPRESENTATIVE BRIAN PORTER asked if they had adopted the CS.

CHAIRMAN KOTT stated yes.

REPRESENTATIVE PORTER made a motion to move CSHB 17, as amended, out of committee with individual recommendations.

REPRESENTATIVE ELTON commented that they wouldn't need the fiscal note as amended.

CHAIRMAN KOTT concurred that there would be a zero fiscal note. He stated that there was a motion to move CSHB 17(L&C) from committee with individual recommendations. He asked if there was an objection. Hearing none, the CSHB 17(L&C) was passed from committee.

Number 483

REPRESENTATIVE KUBINA asked if the bill goes to Rules next.

CHAIRMAN KOTT stated that was correct.

HL&C - 03/15/95

☐ HB 46 - ARCHITECT, ENGINEER & SURVEYOR REGULATION ☐

The next order of business was HB 46 which the committee had heard the previous week. CHAIRMAN KOTT said there were concerns

with the language being too liberal. He asked the prime sponsor of HB 46 to come forward.

REPRESENTATIVE JOE GREEN, PRIME SPONSOR OF HB 46, stated that the dialogue was now being centered around the exemption portion, Section 3, of the bill. Under Article 10, the Architects, Engineers and Land Surveyors (AE&LS) had objection to the way it was written. They felt it was too broad and wouldn't adequately protect the public. He stated that currently members of the AE&LS and other factions would be governed by this legislation, and they were meeting to work out some compromised language and would have a resolution by March 20. He stated if a resolution was not worked out, there was backup language that would make Alaska like the 36 other states that have the same exemptions.

Number 536

MIKE TAURIANINEN testified via teleconference that he was opposed to HB 46 as written, regarding Section 2, use of the term "engineer." He stated this was contrary to terminology in Section 3 referring to the practice of engineering. He stated that it was open for anyone to practice engineering. Mr. Taurianinen reiterated that compromise language needs to be worked out so that some engineering work done by oil companies, communications and utilities companies can be accomplished.

Number 550

CHAIRMAN KOTT stated that they had the CS before them.

REPRESENTATIVE GREEN commented that Mr. Taurianinen might not understand Section 2. He explained that the AE&LS had requested this language because they felt this tightens the language rather than loosens it. He explained that when leaving the word "registered" in, then a person could say, "I'm a professional engineer, hire me." He's not professing to be a registered engineer, he's just professing to being a professional engineer. By dropping the word "registered," he is illegal.

REPRESENTATIVE ROKEBERG inquired if the AE&LS were meeting to compromise on a solution for this bill.

REPRESENTATIVE GREEN responded that it was not a solution for the bill, but a solution for the differences of opinion of subsection 10 of Section 3. To find language that would satisfy the concerns of the AE&LS for public safety and still not burden companies that employ large numbers of engineers that are not subject to public domain was the problem.

REPRESENTATIVE ROKEBERG asked if the board was working on the change or people from the various professions.

REPRESENTATIVE GREEN stated that a representative from the AE&LS, Mr. Dave Adams, is working with a representative for the other entities.

Number 619

REPRESENTATIVE ELTON wondered if he should be comfortable with an existing exemption that allows a four-plex to be inhabited by families that hasn't had a professional engineer or architect involved in it.

REPRESENTATIVE GREEN concurred with Representative Elton. He stated that his home is one of those and the only thing he's

relying on are building codes.

Number 640

TAPE 95-17, SIDE B
Number 000

SHARON MACKLIN, ALASKA PROFESSIONAL DESIGN COUNCIL (APDC), clarified that the meeting on March 20, would be attended by a representative from ARCO, the cable TV organization, two representatives from APDC, and one from the telecommunications industry.

Number 021

REPRESENTATIVE ROKEBERG asked if that would include an architect and a land surveyor.

MS. MACKLIN replied architects, engineers and land surveyors trust each other and they feel comfortable with the representation.

Number 037

REPRESENTATIVE KUBINA asked what the Chairman's intention was.

CHAIRMAN KOTT answered that if it was the will of the committee, they would move the bill to the House State Affairs Committee, with a letter of transmittal indicating that they would expect some movement in Section 3, subsection 10, that would take care of the language problem.

REPRESENTATIVE KUBINA made the motion.

CHAIRMAN KOTT stated that there was one more person on teleconference.

JIM ROWE, EXECUTIVE DIRECTOR, ALASKA TELEPHONE ASSOCIATION (ATA), testified via teleconference in favor of CSHB 46.

Number 083

REPRESENTATIVE KUBINA made a motion to move CSHB 46(L&C) out of committee with individual recommendations, and accompanying zero fiscal note.

CHAIRMAN KOTT asked for any objections. Hearing none, CSHB 46(L&C) was passed out of committee.

HL&C - 03/15/95

□ HB 180 - LIQUOR LICENSES FOR RESORT/LODGES □

CHAIRMAN KOTT stated that the next matter before committee is HB 180.

Number 113

BARBARA KOTTING, LEGISLATIVE ASSISTANT TO REPRESENTATIVE JEANETTE JAMES, stated the sponsor, Representative James, had submitted this bill as a request to cover a loophole in existing liquor license laws. She explained that under current law, small lodges located in large boroughs or unified population areas cannot get liquor licenses because they do not have enough rooms. As an example, if a person wanted to develop a small lodge or tourist facility in a remote or inaccessible area of the Mat-su or Kenai Borough, the lodge would be required to have 40 rooms to obtain a

full service liquor license. She stated that this was excessive and unfair, and that this is not a liquor issue, it is a business issue. She stated that Pat Sharrock was standing by to answer any questions.

Number 145

REPRESENTATIVE PORTER stated that he supported the bill, but his concern was that this could be used as a way around a dry village or dry area.

PAT SHARROCK, DIRECTOR, ALCOHOLIC BEVERAGE CONTROL (ABC) BOARD, responded that those dry villages probably reside in other incorporated boroughs of the state. In those areas, separate rules apply as to how or under what circumstances a liquor license could be issued, and is governed by a five mile radius rule.

REPRESENTATIVE PORTER noted that the ABC Board would be looking at the proximity of the location for requests for these licenses in relation to the dry areas.

MR. SHARROCK stated that the board looks closely at current licenses issued in communities on the grounds of encouraging tourism. If the board does not feel they're encouraging tourism, they suggest that the licensee comply with that or look to losing the license.

REPRESENTATIVE KUBINA asked what the rationale was for excluding road system places outside of towns.

MR. SHARROCK asked what he meant by "excluding road systems."

REPRESENTATIVE KUBINA asked what the rationale was for Glennallen or Gakona not being able to do the same thing.

MR. SHARROCK stated that those communities exist in the unincorporated areas of the state. In those areas, it's not the aggregate population that determines the issuance of a license.

Number 206

REPRESENTATIVE ROKEBERG asked if any resort in Southeast could apply for this if they had only ten rooms.

MR. SHARROCK responded that they could if they reside within a unified municipality or borough, and were not accessible as defined by the highway definition.

REPRESENTATIVE ROKEBERG asked if this included the ferry system.

MR. SHARROCK said that in Title 28, it does say "including but not limited to every street, and the Alaska State Marine Highway System."

REPRESENTATIVE ROKEBERG asked how many rental rooms you would have to have in the Municipality of Anchorage.

MR. SHARROCK replied 50.

CHAIRMAN KOTT asked Mr. Sharrock to explain the process on issuing the liquor licenses.

MR. SHARROCK explained that the applicant would advertise publicly in the newspaper and post the copy at the proposed

premises. The applicant, after a period of time, would then file the application with the ABC Board, who must forward a copy of the application to the local governing body. During this time it is assumed that if there is public objection, those people will appear at the assembly meeting, or before the board, when it takes up final review of the application. He concluded that if the board felt this bill would promote the proliferation of liquor licenses, they would withdraw their support immediately.

Number 275

REPRESENTATIVE ROKEBERG referred to the first section, "encouraging tourist trade," and didn't feel this was a very high standard. He asked if there was any case law to back this up and how readily these licenses are granted.

MR. SHARROCK stated that the board hasn't or doesn't grant any more than one or two per year. He stated that it's not that easy for an applicant to come forward and say, "I'm building a facility that has a dining room and I propose a bar." He explained that even with a minimum of ten rooms, it would be hard to find this economically viable if there is really no market for it. He pointed out the board, over the years, has not had, except in isolated cases, concern or objection about the way a facility has operated.

REPRESENTATIVE ROKEBERG stated that in the first section, it states, "The board may approve issuance or transfer". He asked if this license, once it was issued and becomes personal property and has value, can be transferred to someone else subject to board approval. If this was the case, he asked if a prohibition of transfer would be a help to the board.

MR. SHARROCK stated that the word "transfer" only applies as it extends to the premises for which the license was issued. He said that the license issued under this provision of the law is not relocatable.

CHAIRMAN KOTT closed public testimony on HB 180.

REPRESENTATIVE PORTER stated that with assurances of Mr. Sharrock and the additional coverage that these new licenses would only be in the first class cities that have the ability to protest in and among themselves, he made a motion to move HB 180 from committee, with individual recommendations, and accompanying zero fiscal notes.

CHAIRMAN KOTT asked if there were any objections.

REPRESENTATIVE ELTON interjected that this has a very narrow application. He said that it was going to be difficult for the legislature next year to say "no" to a resort or lodge in a non-organized borough.

REPRESENTATIVE PORTER stated that the provisions under subsection (a), line 14, page 1, through line 6 of page 2, are qualifications that would apply in an unorganized borough. As mentioned, the organized boroughs and cities are having problem with the limitations on the numbers within those boundaries. He stated that they wouldn't be asked to pass legislation on outside areas because those would be dealt with by the ABC Board.

CHAIRMAN KOTT stated that there was a motion to move the bill, he asked for objections. Hearing none, HB 180 was passed out of the House Labor and Commerce Committee.

Number 397

CHAIRMAN KOTT announced the next order of business was HB 237.

REPRESENTATIVE ELTON MULDER, PRIME SPONSOR OF HB 237, stated that HB 237 was a consensus piece of legislation. He explained that for seven years they have been trying to come up with a consensus package. This agreement was reached by members from the Ad Hoc Labor Management Committee on Workers' Compensation Reform. He stated Alaska was one of the few states, west of the Mississippi, that has been able to realize a reduction in Workers' Compensation Premiums. He said that there were six provisions contained within the bill. Section 2 is the contracted premium rate adjustment, which stipulates that workers' compensation premium rates cannot be determined by the amount of money you pay your employees. It's by the amount of risk. He said that Section 3 pertains to design professional construction site liability limits. This protects professional designers, engineers and architects who may map out a plan, but through the courts have been held liable through no fault of their own. Section 4, he stated, contains an element pertaining to determination of spendable weekly wages. This is in response to the Gilmore decision which the Supreme Court threw out this summer. He stated that the death benefit section is contained in Section 6. Currently in Alaska statute, for an individual killed on the job, their surviving spouse receives their benefits up to ten years. However, after five years that benefit is diminished by one-third. From five to eight years, it is diminished by half. This legislation suggests that a more appropriate course would be to extend the benefit through ten years.

Number 469

CHAIRMAN KOTT asked what the rationale was behind that.

REPRESENTATIVE MULDER stated that about the time the surviving spouse is about to get on their feet, presumably by going back to school to make up for the lost income, is about the time you're going to cut back on their benefits and essentially hampering their efforts.

Number 480

CHAIRMAN KOTT added that the cost would be spread out so the cost to employers would be very small.

REPRESENTATIVE MULDER stated that the net increase to employers would be .006 premium rate adjustment increase. He also added that there was a very small section of the employee community that is affected.

REPRESENTATIVE ROKEBERG asked why they were revising the law.

REPRESENTATIVE MULDER responded that when you do a workers' compensation reform package, you seek a balance between the benefits gained by management versus the benefits gained by labor, seeking to provide a level playing field so that the net impact to the rate payer will either be neutral or negative.

REPRESENTATIVE MULDER continued that there were two more provisions. The Van Bene provision which provides immunity for insurance companies that provide workplace safety inspection

programs. He said that the final element, contained in Section 8, is fraud. Currently, if an employer believes an employee is guilty of fraud, their only recourse is to take it to court. This would allow the employer to go before the board, which is far simpler and less expensive.

Number 531

REPRESENTATIVE KUBINA asked if the department endorses the bill.

CHAIRMAN KOTT stated that the department did endorse the bill as written.

Number 538

DARIO NOTTI, LEGISLATIVE INTERN TO SENATOR DUNCAN, explained he was testifying on his own behalf, and asked if the employee had the right to appeal to the courts in a fraud case.

REPRESENTATIVE MULDER responded they did.

Number 554

MARIANNE BURKE, DIRECTOR, DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT, testified that the Division supports the legislation. However, Section 2 has potential impact on overall premiums. Any additional administrative costs that might be incurred would have to be shared by all of the insured. She continued that if credits were received by a portion of the group, based on an average salary and credit scale, the difference in premiums will have to be made up by the remaining group members.

Number 567

REPRESENTATIVE PORTER asked for a factual example of this.

MS. BURKE stated, that workers' compensation premiums start out with a manual rate. Depending on different factors, you may pay more than or less than that rate based on a percentage. If you had a good record with very few claims, you would pay a smaller percentage of the manual rates. If you had many claims, you would pay a higher percentage of manual rates. She stated the method currently structured is an open ended payroll base. The starting point for developing this premium is your total payroll. If an employer has a \$10 million payroll, but you limit that payroll to the average weekly salary, the total amount of money needed to pay all claims remains the same so you must collect premiums from the remaining participants.

Number 598

WILLY VAN HEMERT, CIVIL ENGINEER, MEMBER, AD HOC LABOR MANAGEMENT COMMITTEE ON WORKERS' COMPENSATION REFORM, testified via teleconference that the Ad Hoc Committee was a voluntary consensus group of both labor and management. He stated that they had attempted to eliminate third party providers, such as insurance and medical providers. He pointed out that the committee is structured through organized labor and the management side is composed of members of Workers' Compensation Committee of Alaska (WCCA). He concluded by saying that this was a consensus bill that comes as a package.

TAPE 95-18, SIDE A
Number 000

MR. VAN HEMERT stated that not all costs related to workers' compensation benefits are directly proportionate to wages, namely medical benefits. He said that if someone breaks their arm, the benefit cost for that arm is the same. It doesn't matter if they are making \$10 an hour or \$25 an hour. In some cases, there is a limit on the salary cap on benefits. He said as far as rate making is concerned, the state of Alaska uses NCCI as their rate maker.

Number 027

CHAIRMAN KOTT asked what Mr. Van Hemert's role was in putting the package together.

MR. VAN HEMERT responded that he was a representative for WCCA, and the co-chairperson to the Ad Hoc Committee.

Number 042

CHAIRMAN KOTT stated that this proposal seemed more expansive than the original proposal that the Ad Hoc Committee had been working on.

MR. VAN HEMERT responded that there were a couple of things the drafters of the bill changed.

Number 068

KEVIN DOUGHERTY, General Council for Alaska Laborers, Co-Chair, Ad Hoc Labor Management Committee on Workers' Compensation Reform, testified via teleconference in support of HB 237.

Number 109

CHAIRMAN KOTT closed public testimony.

REPRESENTATIVE PORTER made a motion to move HB 237 from committee with individual recommendations, and zero fiscal notes.

CHAIRMAN KOTT asked if there was an objection. Hearing none, HB 237 was moved out of the House Labor and Commerce Committee.
ADJOURNMENT

There being no further business to come before the House Labor and Commerce Standing Committee, Chairman Kott adjourned the meeting at 4:40 p.m.

HOUSE STATE AFFAIRS STANDING COMMITTEE

March 23, 1995

8:00 a.m.

MEMBERS PRESENT

Representative Jeannette James, Chair
Representative Scott Ogan, Vice Chair
Representative Ivan
Representative Brian Porter
Representative Caren Robinson
Representative Ed Willis
Representative Joe Green

MEMBERS ABSENT

None

COMMITTEE CALENDAR

HB 2: An Act allowing courts to require certain offenders as a special condition of probation to complete a boot camp program provided by the Department of Corrections; making prisoners who complete the boot camp program eligible for discretionary parole; providing for incarceration of certain nonviolent offenders in boot camps operated by the Department of Corrections; allowing the Department of Corrections to contract with a person for an alternative boot camp program; creating the Boot Camp Advisory Board in the Department of Corrections; and providing for an effective date.

PASSED OUT OF COMMITTEE

*HB 239: "An Act declaring the dragonfly as the official state insect."

PASSED OUT OF COMMITTEE

HB 46: "An Act relating to the practice of architecture, engineering, and land surveying."

PASSED OUT OF COMMITTEE

*HB 243: "An Act relating to licensure of landscape architects."

PASSED OUT OF COMMITTEE

*HB 238: "An Act excluding certain direct sellers of consumer products from coverage under the state unemployment compensation laws."

SCHEDULED BUT NOT HEARD

*HB 267: "An Act relating to review and expiration of regulations; and providing for an effective date."

SCHEDULED BUT NOT HEARD

HB 218: "An Act relating to the payment of certain trucking operators."

BILL POSTPONED

(* First public hearing)

WITNESS REGISTER

JERRY SHRINER, Special Assistant
Office of the Commissioner
Department of Corrections
240 Main Street, Suite 700
Juneau, Alaska 99801
Telephone: 465-4640
POSITION STATEMENT: Supported HB 2

REPRESENTATIVE IRENE NICHOLIA
Alaska State Legislature
State Capitol, Room 501
Juneau, Alaska 99801
Telephone: 465-4527
POSITION STATEMENT: Sponsor of HB 239

RUTH BRADFORD, Teacher
Auntie Mary Nicoli Elementary School
P. O. Box 29
Aniak, Alaska 99557
Telephone: 675-4487
POSITION STATEMENT: Supported HB 239

BRUCK CLIFT, 7th grade student
Auntie Mary Nicoli Elementary School in Aniak
P. O. Box 29
Aniak, Alaska 99557
Telephone: 675-4487
POSITION STATEMENT: Supported HB 239

RAINY DIEHL, 8th grade student
Auntie Mary Nicoli Elementary School in Aniak
P. O. Box 29
Aniak, Alaska 99557
Telephone: 675-4487
POSITION STATEMENT: Supported HB 239

DANA DIEHL, 6th grade student
Auntie Mary Nicoli Elementary School in Aniak
P. O. Box 29
Aniak, Alaska 99557
Telephone: 675-4487
POSITION STATEMENT: Supported HB 239

DEIDRE BUSH, 8th grade student
Auntie Mary Nicoli Elementary School in Aniak
P. O. Box 29
Aniak, Alaska 99557
Telephone: 675-4487
POSITION STATEMENT: Supported HB 239

RACHEL BOELEN, 7th grade student
Auntie Mary Nicoli Elementary School in Aniak
P. O. Box 29
Aniak, Alaska 99557
Telephone: 675-4487
POSITION STATEMENT: Supported HB 239

ANDREA GUSTY, 6th grade student
Auntie Mary Nicoli Elementary School in Aniak
P. O. Box 29
Aniak, Alaska 99557
Telephone: 675-4487

POSITION STATEMENT: Supported HB 239

DEREK ALUIA, 7th grade student
Auntie Mary Nicoli Elementary School in Aniak
P. O. Box 29
Aniak, Alaska 99557
Telephone: 675-4487

POSITION STATEMENT: Supported HB 239

MELANIE MATTER, 5th grade student
Auntie Mary Nicoli Elementary School in Aniak
P. O. Box 29
Aniak, Alaska 99557
Telephone: 675-4487

POSITION STATEMENT: Supported HB 239

JEFF LOGAN, Legislative Assistant
to Representative Joe Green
State Capitol, Room 24
Juneau, Alaska 99801
Telephone: 465-4931
POSITION STATEMENT: Provided sponsor statement for HB 46

DAVID L. BENNETT, Employee
PTI Telecommunications
3940 Arctic Boulevard
Anchorage, Alaska 99503
Telephone: 564- 3005

POSITION STATEMENT: Supported HB 46

JIM ROWE, Executive Director
Alaska Telephone Association
4341 B Street, Suite 304
Anchorage, Alaska 99503
Telephone: 563-4000

POSITION STATEMENT: Supported HB 46

GEORGE FINDLING, Manager of Government Relations
ARCO Alaska
Box 100360
Anchorage, Alaska 99510
Telephone: 263-4174
POSITION STATEMENT: Supported HB 46

COLIN MAYNARD, President
Alaska Professional Design Council
1400 W. Benson, Suite 500
Anchorage, Alaska 99503
Telephone: 274-3600
POSITION STATEMENT: Opposed to HB 46

DAVID ADAMS, President
Adams, Morgenthaler & Co.
3333 Denali, No. 100
Anchorage, Alaska 99515
Telephone: 279-0431
POSITION STATEMENT: Opposed to HB 46

DOYLE CARROLL, Representative
Anchorage Telephone Utilities
600 Telephone Ave.
Anchorage, Alaska 99503
Telephone: 279-0543
POSITION STATEMENT: Supported HB 46

WILLIAM MENDENHALL, Board Member

Alaska State Board of Architects, Engineers and Land Surveyors
1907 Yankovich Road
Fairbanks, Alaska 99709
Telephone: 479-2786
POSITION STATEMENT: Opposed to HB 46 and provided information on
HB 243

MIKE TAURIANEN, Member
Alaska State Board of Architects, Engineers and Land Surveyors
Box 937
Soldotna, Alaska 99669
Telephone: 262-4624
POSITION STATEMENT: Opposed to HB 46

GEORGE DOZIER, Legislative Assistant
to Representative Pete Kott
State Capitol, Room 432
Juneau, Alaska 99801
Telephone: 465-3777
POSITION STATEMENT: Provided sponsor statement for HB 243

DWAYNE ADAMS, Representative
Land Design North
510 L Street, Suite 101
Anchorage, Alaska 99501
Telephone: 276-5885
POSITION STATEMENT: Supports HB 243

LINDA CYRA-KORSGAARD, President
Alaska Chapter of Ground Management Society Landscape Architects
1509 P Street
Anchorage, Alaska 99501
Telephone: 279-0543
POSITION STATEMENT: Supports HB 243

KEN MORTON, Landscape architect
Alaska State Parks
3942 Turnagain
Anchorage, Alaska 99517
Telephone: 248-4999
POSITION STATEMENT: Supports HB 243

BEVERLY WARD, Representative
ARCO Alaska
134 North Franklin
Juneau, Alaska 99801
Telephone: 586-3680
POSITION STATEMENT: Opposed HB 243

PREVIOUS ACTION

□BILL: HB 2□
SHORT TITLE: BOOT CAMP FOR NONVIOLENT OFFENDERS
SPONSOR(S): REPRESENTATIVE(S) WILLIS, Rokeberg

JRN-DATE	JRN-PG	ACTION
01/06/95	20	(H) PREFILE RELEASED
01/16/95	21	(H) READ THE FIRST TIME - REFERRAL(S)
01/16/95	21	(H) STA, JUD, FIN
03/07/95		(H) STA AT 08:00 AM CAPITOL 102
03/07/95		(H) MINUTE(STA)
03/14/95		(H) STA AT 08:00 AM CAPITOL 102
03/14/95		(H) MINUTE(STA)
03/21/95		(H) STA AT 08:00 AM CAPITOL 102
03/21/95		(H) MINUTE(STA)

03/23/95 (H) STA AT 08:00 AM CAPITOL 102

□

BILL: HB 239□

SHORT TITLE: DRAGONFLY AS STATE INSECT

SPONSOR(S): REPRESENTATIVE(S) NICHOLIA

JRN-DATE	JRN-PG		ACTION
03/08/95	641	(H)	READ THE FIRST TIME - REFERRAL(S)
03/08/95	641	(H)	STATE AFFAIRS
03/23/95		(H)	STA AT 08:00 AM CAPITOL 102

□

BILL: HB 46□

SHORT TITLE: ARCHITECT, ENGINEER & SURVEYOR REGULATION

SPONSOR(S): REPRESENTATIVE(S) GREEN

JRN-DATE	JRN-PG		ACTION
01/06/95	32	(H)	PREFILE RELEASED
01/16/95	32	(H)	READ THE FIRST TIME - REFERRAL(S)
01/16/95	33	(H)	LABOR AND COMMERCE, STATE AFFAIRS
03/08/95		(H)	L&C AT 03:00 PM CAPITOL 17
03/08/95		(H)	MINUTE(L&C)
03/15/95		(H)	L&C AT 03:00 PM CAPITOL 17
03/15/95		(H)	MINUTE(L&C)
03/17/95	768	(H)	L&C RPT CS(L&C) 4NR 3AM
03/17/95	768	(H)	NR: KUBINA, PORTER, SANDERS, MASEK
03/17/95	768	(H)	AM: KOTT, ROKEBERG, ELTON
03/17/95	768	(H)	2 ZERO FISCAL NOTES (DCED, DNR)
03/21/95		(H)	STA AT 08:00 AM CAPITOL 102
03/21/95		(H)	MINUTE(STA)
03/23/95		(H)	STA AT 08:00 AM CAPITOL 102

□

BILL: HB 243□

SHORT TITLE: LICENSING OF LANDSCAPE ARCHITECTS

SPONSOR(S): LABOR & COMMERCE

JRN-DATE	JRN-PG		ACTION
03/08/95	644	(H)	READ THE FIRST TIME - REFERRAL(S)
03/08/95	644	(H)	STATE AFFAIRS, LABOR & COMMERCE
03/23/95		(H)	STA AT 08:00 AM CAPITOL 102

□□□

BILL: HB 238□

SHORT TITLE: NO UNEMPLOYMENT COMP FOR DIRECT SELLERS

SPONSOR(S): LABOR & COMMERCE BY REQUEST

JRN-DATE	JRN-PG		ACTION
03/08/95	641	(H)	READ THE FIRST TIME - REFERRAL(S)
03/08/95	641	(H)	STATE AFFAIRS, LABOR & COMMERCE
03/23/95		(H)	STA AT 08:00 AM CAPITOL 102

□

BILL: HB 267□

SHORT TITLE: REGULATION REVIEW AND EXPIRATION

SPONSOR(S): REPRESENTATIVE(S) JAMES, Kelly

JRN-DATE	JRN-PG		ACTION
03/17/95	779	(H)	READ THE FIRST TIME - REFERRAL(S)
03/17/95	779	(H)	STATE AFFAIRS, FINANCE
03/20/95	825	(H)	COSPONSOR(S): KELLY
03/23/95		(H)	STA AT 08:00 AM CAPITOL 102

□BILL: HB 218□

SHORT TITLE: PROMPT PAYMENT OF TRUCKING SUBCONTRACTORS

SPONSOR(S): REPRESENTATIVE(S) JAMES BY REQUEST

JRN-DATE	JRN-DATE		ACTION
03/01/95	531	(H)	READ THE FIRST TIME - REFERRAL(S)

03/01/95 531 (H) STATE AFFAIRS, TRANSPORTATION,
JUDICIARY
03/07/95 (H) STA AT 08:00 AM CAPITOL 102
03/07/95 (H) MINUTE(STA)
03/23/95 (H) STA AT 08:00 AM CAPITOL 102

ACTION NARRATIVE

TAPE 95-34, SIDE A
Number 000

The meeting of the House State Affairs Standing Committee was called to order at 8:00 a.m. Members present at the call to order were Representatives James, Ogan, Green, Ivan, Porter, and Willis. Representative Robinson arrived at 8:26 a.m.

CHAIR JEANNETTE JAMES stated there was a quorum present. The meeting was teleconferenced to Anchorage, Barrow, Fairbanks, Juneau, Matanuska Valley, and Kenai/Soldotna. Chair James announced the first bill scheduled for testimony was HB 239. She called for bill sponsor, Representative Irene Nicholia, to come testify. Representative Nicholia was running late, and so it was decided to hear testimony on HB 2 while waiting. Chair James called for bill sponsor, Representative Ed Willis, to testify on behalf of his bill.

HSTA - 03/23/95

☐ HB 2 - BOOT CAMP FOR NONVIOLENT OFFENDERS ☐

Number 015

REPRESENTATIVE ED WILLIS stated they had heard testimony on HB 2 in an earlier meeting, and during the discussion, there was concerns expressed by the Administration, which have been remedied by the proposed committee substitute for HB 2 presented to the committee at this time. Changes from the original bill included placing an age cap of 26 years on those who would be eligible for the program and allowing the Department of Corrections to select candidates for the boot camp program. Representative Willis stated it was not his intention to allow the boot camp program to be a bargaining chip during trial. Also, the Administration was concerned about the language alternative boot camp in the bill, and so this was deleted and replaced with the term contract boot camp. Finally, in the proposed committee substitute, the Superior Court Judge was eliminated from the boot camp advisory board. He thought Jerry Shriner, Special Assistant to Commissioner Pugh of the Department of Corrections, would be able to explain the changes better, and so would like to hear his testimony.

Number 112

JERRY SHRINER, Special Assistant to Commissioner Pugh of the Department of Corrections, stated the Department of Corrections was in favor of this bill. They thought the bill sponsor has been very cooperative in taking the departments concerns into consideration. There were a few changes they would like to see, but thought they were trivial and could be dealt with at a later time. As an example, they would have liked to see the age cap of 26 years on candidates a little higher, but were reassured this could be amended at a later time. With reference to the issue of contracting out a boot camp facility, he wanted to assure the committee the department was not against the idea of contracting this facility, but was concerned the original language of alternative could be interpreted as meaning the department

could operate its own boot camp facility and be required to also operate a private alternative boot camp program. The department wanted to avoid having to run two boot camp facilities. They were not trying to limit this bill to allowing only a state run boot camp facility. He added earlier, he had mentioned a computer program the department was getting, which would allow them to get some ideas on how to best operate and staff this facility, how long candidates should be held in this facility, and the type of parole conditions that should be on them. He said they had this program now and had run some scenarios for this proposed facility. One thing this program had demonstrated, was that the sponsor was correct in not allowing the boot camp program to be used as a condition of parole by the courts. This was because the department was trying to use the boot camp program as a means of reducing the prison population. If the intent is to use the boot camp program as a means of reducing prison population, then you must be careful to insure that candidates for the program would have gone into prison otherwise. He thought the state must be extremely careful to not allow this facility to become a plea bargaining tool to expand our prison population. The department was still gathering data to find out how many prisoners would qualify for the program. He said the department would have this information available later as the bill continues through the committee process. He stated he would be glad to answer any questions from the committee.

Number 188

CHAIR JAMES asked whether there was any economic conclusions from their computer model or other studies.

MR. SHRINER replied there were not any economic conclusions specifically, but the program does allow for some extrapolation of calculations for cost savings. He said the computer program does provide information, such as whether there will be a net increase or decrease in the prison population and the results arising from this. In their use of the program, the department has found it would take approximately two years to realize a 100 bed reduction in the prison system. From information such as this, the department can make some extrapolations as to the cost savings of the program. He wanted to clarify though, that their preliminary research indicated the normal day to day operation of a boot camp facility was more expensive than that of a normal prison facility. The savings from a boot camp program result from the fact they are designed to be short duration programs. Cost savings are realized from the ability to move people into the system and provide the training, punishment, and reformative factors in a much shorter period of time with a hopefully lower recidivism rate. Finally, he wanted to state that research indicated that simply holding someone in a boot camp program does not lower the recidivism rate without coordinating this detention with other educational programs. The benefit only results from placing a candidate in a boot camp program, which then allows them to more successfully complete other programs, such as educational training or substance abuse programs.

Number 263

REPRESENTATIVE BRIAN PORTER asked if they had looked at the federal model of boot camp facilities, operated by the Army National Guard. He pointed out that they do not go through a period of discipline and then follow it up with an educational program, but rather combine it.

MR. SHRINER agreed, saying he did not mean to imply the programs

would have to be operated consecutively, but rather would be run simultaneously.

REPRESENTATIVE PORTER asked about the expected duration of the boot camp program.

MR. SHRINER stated it was an expected duration of approximately 150 days.

REPRESENTATIVE PORTER realized this was within the parameters of a municipal misdemeanor sentence and wondered whether the program could accept misdemeanor offenders from municipalities.

MR. SHRINER stated the program could accept misdemeanor offenders, but this would have to be weighed depending upon the goals of the program.

REPRESENTATIVE PORTER verified whether the federal youthful misdemeanor offender classification went up to about 26 years of age.

MR. SHRINER said he was not sure.

Number 299

REPRESENTATIVE JOE GREEN asked for an explanation of why a boot camp program would cost more to operate than the typical hard bed prison facility.

MR. SHRINER explained the operating costs were higher, because it takes additional staff to facilitate the additional discipline and educational programs associated with a boot camp program. Because you were doing a larger amount of program management and discipline, you needed a higher staff to prisoner ratio. Thus, the costs of operating a boot camp facility on a daily basis was higher. He wanted to reiterate though, that the cost of the physical facility for housing the program was lower, because these were minimum to medium security prisoners.

Number 336

CHAIR JAMES noted the arrival of Representative Robinson at 8:26 a.m. She said she thought the advantage of this type of program was the lower recidivism rate. She asked if he had any data on this from any of their computer models or studies.

MR. SHRINER stated they had not completed their studies of this issue, but the information they had gathered showed mixed results. They were still trying to determine why some programs were successful and others were not.

CHAIR JAMES commented her other question was whether there was a point where, based on the volume of prisoners in the facility, there was a cost-savings to the state, based upon the size of the facility.

MR. SHRINER thought her implication that the larger the facility, the more efficient it might be, was probably correct. He said there was a limited number of people who would currently qualify for this program, of about 230-245 prisoners. He said he was not sure of how fast the turnover rate of prisoners in the program would be. At this point, they were estimating a program of about 50-100 prisoners. In terms of cost savings, he thought it was probably more efficient to run a facility of about 200 inmates, but did not see this volume as feasible in Alaska. Even with the

smaller facility, the Department of Corrections estimated a net savings to the state over a two year period. Thus, he thought they could operate effectively, if they were careful in designing the program, who they selected as candidates for the program and consistently applied the other educational programs as a follow up to the boot camp facility. He said they were still examining how they could reconfigure populations in their other facilities across the state, after selecting inmates for the boot camp program. He mentioned there was some federal money available for construction of boot camp facilities, with the theory of detaining minimum to medium security prisoners in these programs and allowing more room for incarcerating higher risk prisoners in other facilities. While agreeing with this concept in principle, he felt it was difficult to achieve this with our small population.

Number 409

CHAIR JAMES commented this was typical of the economics of this state, where you had a large state with a small population. She mentioned to Representative Willis, the bill sponsor, that there was earlier a rather large fiscal note for construction of the boot camp facility and wondered whether it was still applicable.

REPRESENTATIVE PORTER was curious whether there was the possibility of partnering with the existing boot camp facility of the Army National Guard. He said he would be interested in the answer to this question if the Department of Corrections would not mind researching to find out. He said he had personally observed this program and thought it was very effective.

Number 439

CHAIR JAMES said she would like to pass this bill out of committee. She asked if the a committee member would make a motion to that effect.

REPRESENTATIVE SCOTT OGAN supported the concept of a boot camp facility, feeling this would help to teach discipline to younger offenders. He said his only concern, was the large fiscal note attached to the bill. He wondered where we would make cuts to fund this bill.

CHAIR JAMES answered that this committee needed to concern itself with whether it would be to the benefit of the state to have this option in the statutes. She noted that if the fiscal note was a problem, this bill probably would not receive a hearing on the floor of the House. She thought that there was some real potential in the option of contracting such a facility out.

Number 476

REPRESENTATIVE IVAN concurred with the comments and concerns of Representative Ogan. He wondered whether there had been any consideration of using any of the recently abandoned military locations as a site for this facility.

CHAIR JAMES said she was sure there had been some consideration of this, and also wanted to point out that in the past, when a statute was signed into law and not funded, the tool was still there at a later date for implementation when the funds were available. She thought this might be the case with this bill. If the option is not in the statutes, then it is not available even if the funds are found. She thought this was another reason to justify passing this out of committee.

REPRESENTATIVE OGAN mentioned he would like to see a similar program for juvenile offenders. He thought this might be the most cost-effective use of this type of program.

CHAIR JAMES commented this also would have a large fiscal note.

REPRESENTATIVE PORTER thought this need had already been met and available in the form of the Army National Guard program.

CHAIR JAMES asked for a committee member to make a motion to adopt the proposed committee substitute for HB 2, version F, dated 3-16-95, as the working document for the committee.

REPRESENTATIVE WILLIS moved to adopt the committee substitute.

CHAIR JAMES asked if there was any objections from the committee. Hearing none, the motion passed. She asked for a motion to pass this bill out of committee with individual recommendations.

REPRESENTATIVE IVAN commented that he agreed with the philosophical concept of this bill, but with the states current financial situation, he would be forced to vote in opposition to this bill.

Number 541

REPRESENTATIVE CAREN ROBINSON responded that the legislature was putting more laws on the books to toughen penalties for crime, and somewhere in the future, they were going to have to look at options for incarceration and building new prison facilities. Thus, even with the tight budget, she thought it was a good idea to get this option in the statutes as an alternative. She expected the state was going to have to build more prison facilities to deal with the growing inmate population, and thought this was the best approach.

MR. SHRINER wanted to mention there was research by the Department of Corrections to use existing facilities at Fort Richardson and Fort Greely. He said there was nothing definite, but there was some real possibilities. They were also sending representatives out for training in operating these types of facilities at the expense of the federal government. They were not expecting to receive additional funding, but thought they would gain some extra knowledge. They thought they might learn of ways to build cheaper facilities and gain access to federal funding.

Number 566

REPRESENTATIVE PORTER moved to pass CSHB 2 out of committee with unanimous consent, individual recommendations and attached fiscal notes.

CHAIR JAMES asked if there was any objections. Hearing none, the bill was moved. She called Representative Irene Nicholia to testify on HB 239 as the bill sponsor.

HSTA - 03/23/95

☐ HB 239 - DRAGONFLY AS STATE INSECT

☐ Number 579

REPRESENTATIVE IRENE NICHOLIA said HB 239 amends Alaska statutes to declare the dragonfly as the official state insect. This

suggestion was first brought to the attention of the legislature by a group of students from Aniak, Alaska, she said. She stated nominations for the official state insect first started being collected in 1992. Besides the nomination for the dragonfly, there were nominations for the mosquito, the butterfly, and the bumblebee. Following the nomination process, ballots were sent to every public school in the state. The winning nomination was the four spot skimmer dragonfly by 3,941 votes. This nomination won by a margin of 868 votes. She recognized many Alaskans may feel the mosquito would be a wiser choice for state insect, but encouraged support for the dragonfly, as it was a predator of the mosquito, was one of the largest insects in the largest state, the ability of the dragonfly to hover was reminiscent of Alaskas bush pilots, and its large eyes reflected the diversity of culture and beliefs in our state. Thus, the dragonfly is the most appropriate candidate. She encouraged the committee to support the choice of Alaskas students.

CHAIR JAMES mentioned there was eight students and one teacher wishing to testify from Aniak. She called for them to testify.

Number 621

RUTH BRADFORD, Teacher at Auntie Mary Nicoli Elementary School, informed the committee the students had short presentation to explain their cause to make the dragonfly the official state insect.

While recognizing the important concerns facing the legislature, they wanted to emphasize this was a grassroots effort from the students of this state.

BRUCK CLIFT, 7th grade student at Auntie Mary Nicoli Elementary School, stated the dragonfly had been around since prehistoric times. By outlasting the dinosaurs, they show Alaska has more than a history of snow and ice.

RAINY DIEHL, 8th grade student at Auntie Mary Nicoli Elementary School, argued the dragonfly is unique, because of its colors and is larger than most flying insects. He thought it was unfortunate there was not enough to destroy all of the mosquitoes in Alaska.

DANA DIEHL, 6th grade student at Auntie Mary Nicoli Elementary School, said she voted for the dragonfly, because they eat mosquitoes. She thought Alaska was better with fewer mosquitoes.

DEIDRE BUSH, 8th grade student at Auntie Mary Nicoli Elementary School, metaphorically mentioned she flew high as a four spot skimmer dragonfly. She said she represented Alaska, because shes an awesome guy. Shell eat mosquitoes until the day she dies.

RACHEL BOELEN, 7th grade student at Auntie Mary Nicoli Elementary School, says she likes mosquitoes, but they are a pest. Because they eat mosquitoes, dragonflies are the best.

ANDREA GUSTY, 6th grade student at Auntie Mary Nicoli Elementary School, thought the dragonfly deserves to be the state insect, because it is slender and graceful, and was the choice of most Alaska students.

DEREK ALUIA, 7th grade student at Auntie Mary Nicoli Elementary School, thought that any insect as big and beautiful as the dragonfly and can survive Interior Alaskas winters, deserves to

be the official state insect.

MELANIE MATTER, 5th grade student at Auntie Mary Nicoli Elementary School, said she worked hard on this project. She promised not to stop working until the dragonfly was the official state insect.

Number 694

REPRESENTATIVE PORTER confessed he was one of those who had originally been a supporter of the mosquito. Having heard the testimony, he was persuaded and is switching his vote.

REPRESENTATIVE OGAN agreed with Representative Porter. He mentioned he had drafted an amendment to change the word dragonfly to mosquito, but had been persuaded by the testimony of the Dragonfly Lobby Team to support the dragonfly. He said he would hate to be accused of being a mean spirited Republican." He thought the students were doing a good job.

CHAIR JAMES called for a motion to pass this bill out of committee.

REPRESENTATIVE GREEN stated he was overwhelmed by the forcefulness of the argument by the Dragonfly Lobby Team, and would move the committee pass this bill out of committee.

TAPE 95-34, SIDE B
Number 000

CHAIR JAMES was pleased the students used this as an educational process to learn how government works. She asked if there was any objection to passing this bill out of committee, but was reminded there was a proposed committee substitute for HB 239. She explained the committee substitute clarified that it was the four spot skimmer dragonfly intended as the official state insect.

REPRESENTATIVE GREEN said he would withdraw his previous motion to allow the committee substitute to be adopted.

REPRESENTATIVE PORTER moved to adopt CSHB 239 version C, dated 3-17-95, as the working document.

CHAIR JAMES asked if there was an objection. Hearing none, the committee substitute was adopted.

Number 036

REPRESENTATIVE GREEN moved to pass CSHB 239, version C, with unanimous consent out of committee with individual recommendations.

REPRESENTATIVE WILLIS thought maybe the motion should say the committee shoos the dragonfly out of committee.

CHAIR JAMES asked if there was any objections. Hearing none, the bill passed out of committee.

HSTA - 03/23/95
☐ HB 46 - ARCHITECT, ENGINEER & SURVEYOR REGULATION ☐

Number 099

JEFF LOGAN, Legislative Assistant to bill sponsor, Representative Green, said before he gave his sponsor statement, he wanted to

verify the committee had before them proposed committee substitute for HB 46, version K. He passed out copies of this version to the committee. He said there was an error in which version of HB 46 was transmitted. He thanked the committee for the opportunity to present HB 46 to the committee and stated he would like to explain the different sections of the bill to the committee.

MR. LOGAN explained that Section 1 of HB 46 regulates when a document must have the stamp of a professional engineer or surveyor. He argued the sponsor had rewritten Section 1 in a more active sense to make it more compatible with the rest of the bill. He stated the committee may hear testimony citing substantial differences between the sponsor's language and that being deleted, but said they disagreed with this argument. He argued the new language clarifies when a registrant has to stamp or seal a document. He stated the intent of the sponsor was to clarify this section.

MR. LOGAN continued, Section 2 of HB 46 is the prohibitive practice section of the bill. He stated this section was included at the request of a constituent, who saw there was a conflict in the statutes between AS 48.281 and AS 48.331. Under this conflict, when the Department of Commerce, Division of Occupational Licensing inspectors find a person not in compliance, because of this conflict, there was difficulty in motivating the Department of Law to prosecute these cases because of the loophole. This section of HB 46 attempts to close that loophole, by deleting the words a registered which requires all engineers to be qualified to have that title.

MR. LOGAN said Section 3 is the meat of the bill. This section reinserts an exemption from the requirements of the chapter. This section was deleted from the statutes in 1990, but had existed previously. Since the removal, it has become apparent to the bill sponsor, Representative Green, that a lot of companies, workers, and Alaskans in general, depend on and need this section. After reviewing the entire record, Mr. Logan said he found that no members of the public testified at the hearing. He was not sure why representatives affected by this did not testify at these hearings. It turns out, this exemption does affect a large number of Alaskans, and so the bill sponsor is attempting to reinsert it with HB 46. This exemption essentially says that an employee working for a company who does engineering services, need not be a licensed engineer. He felt it was likely the committee would hear comments on both sides of the issue, but was confident the committee would be persuaded to reinsert it into Alaska's statutes.

Number 197

REPRESENTATIVE GREEN wanted to clarify that under Section 2, the wording a registered was deleted was an attempt to tighten the legislation that prohibits an individual from claiming to be an engineer for hire, unless appropriately registered. He said the intent was to tighten the statutes, not make them broader.

REPRESENTATIVE ROBINSON asked why, according to public record, the exemption was removed in 1990.

MR. LOGAN replied the reason given was that the language was too broad. He said there was testimony from the Division of Occupational Licensing, that there had been a case where a large bank with engineers on staff, claimed to be exempted under the current law. He did not know if the building was ever built.

This was the only reason listed in the public record.

CHAIR JAMES asked if there was any other questions or comments from the committee. She said there were people wanting to testify on teleconference. She asked if there was anyone wanting to testify on HB 46 from Anchorage. She stated she had not received the list of names of those wanting to testify, and so those testifying would have to be clear in stating their names and addresses to the committee. She asked that testifiers limit their testimony to about two minutes.

Number 251

DAVID L. BENNETT, employee for PTI Telecommunications, stated the company and their customers had a vested interest in HB 46. He said they were in the business of designing their own telecommunications infrastructure to service their customers. He emphasized they were not in the business of designing systems for other companies or the public. They were not aware of any public safety issues related to telecommunications utility systems design. He wanted to say they supported HB 46.

JIM ROWE, Executive Director of the Alaska Telephone Association, said their company was representing 22 local exchange companies in the state, who deliver local telephone service. They were very supportive of the passage of this bill through the legislature. He claimed the exemption was removed without their knowledge or participation. He wanted to point out the language was taken out, not as a result of public outcry and without anyone asking for protection. He claimed there was no indication of any substandard buildings. He said the company does yield completely to national safety standards and building standards. Thus, they did not feel the need for the seal of a licensed engineer on their projects. He argued this would not improve safety standards, as they were already historically good. With this exemption, the company would still be liable for any damages. Furthermore, he wanted to point out that the customers would bear the extra cost of this requirement, should the exemption not be reinstated. He said he would be available for questions from the committee.

Number 327

GEORGE FINDLING, Manager of Government Relations for ARCO Alaska, said they did support the proposed committee substitute for HB 46. He said ARCO found Section 1 of HB 46 to be a technical clarification of existing law. He thought the improvement came when the statute was switched to the active voice, as required by the manual of legislative drafting. The new language defines who is to comply with this statute. He said several parties he had been in contact with felt it might be prudent to seek an expedited legal opinion from either legislative or administrative attorneys, regarding whether Section 1 changes existing statute or not. He also wanted to point out, that in the case of a general exemption, ARCO has been on record as supporting this. He said 37 other states currently have broad exemptions. When Alaska had its exemption before 1990, they saw no major disadvantage to it. Having listened to the public record himself, he also found no reason for the change of 1990. By choosing to restore this exemption, he felt Alaska would see an increase in costs and a loss of competitiveness. He wanted to clarify that ARCO was not trying to avoid meeting legitimate safety concerns, but pointed out that they were already a highly regulated industry. In their discussions, he said no one has identified any specific concerns over their operations. Should

any arise, he reassured the committee they would address them through the agency that dealt with that activity.

Number 377

COLIN MAYNARD, President of the Alaska Professional Design Council, said he and other individuals of the engineering community had met with representatives of the oil, telephone, and cable television industries to attempt to come up with a compromise on this bill. The result was a memo before the committee, which showed general agreement for an approach acceptable for all parties involved. This approach would allow specific industries to be exempted, rather than giving broad exemptions, such as existed before 1990. He argued the exemption was removed in 1990, because of its broad nature. Reinstating it does not solve the problem, he argued. They suggested automatically exempting industries where there was no safety problem, and then allow the board to exempt other industries, as necessary, where public safety was not at risk. He thought this was the intent of the repeal in 1990. He pointed out that the electric utilities industry had been exempted last fall, and by regulation, some of their work was removed from the licensing requirements. Section 3 of their memo, he said, provides the committee with the exact wording of those regulations. He said the point of contention with the telecommunications industry was whether an Alaska licensed engineer should approve REA standards, and it was his belief that someone who knew local conditions should approve those standards. He said they hoped this bill would be amended by the committee to follow the intent of the exemption repeal of 1990.

DAVID ADAMS, President of Adams, Morgenthaller and Company, an engineering firm in Anchorage, argued the exemption was deleted in 1990, because it was too broad. The current statute, he thought, allowed for accountability for performance, but agreed that the exemption was entirely too sweeping of a change. He, too, thought the oil and telecommunications companies needed relief. He argued they had been spending a lot of time to try to find a compromise. He also suggested the language provided in Colin Maynards memo. He thought the requirement of a licensed engineer to sign off on a project with a stamp of approval, was better than if the exemption was reinstated, because it made the engineer personally accountable and not the company. Thus, he thought engineers would be more careful in signing off on a project. He thought a sweeping exemption, as proposed in HB 46 was reckless.

CHAIR JAMES stated that before the committee took any further testimony, she wanted to give an opportunity for Representative Ogan to testify, as he had to leave.

Number 452

REPRESENTATIVE OGAN mentioned he had some reservations on HB 46 and concurs that the exemptions are a little too broad. He thought that in certain situations, it might be appropriate, but was concerned about exempting people such as architects and electrical engineers. He urged the committee to take his comments into consideration when they voted.

DOYLE CARROLL, Representative of Anchorage Telephone Utilities, said he concurred with the statements of Dave Bennett, saying they also designed telecommunication systems for its customers and did not offer their services to the general public. He said his company only used equipment accepted by the Federal

Communications Commission, and that their network was designed according to national industry specifications. Designs are done in conforming with the National Electrical Safety Code. Most of their network, he said, was low voltage of about 48 to 130 volts. He estimated the engineers on their staff had about 15 years experience, and said to his knowledge the company had never experienced any safety concerns in any of its designs. ATU is concerned about the availability of engineers with experience in the telecommunication plant construction. After a recruitment period of six to eight weeks, they had only found two licensed engineers available. Thus, he felt they would be unable to find enough licensed engineers for their operations. He said ATU supports HB 46 as written.

Number 502

WILLIAM MENDENHALL, Board Member of the Alaska State Board of Architects, Engineers and Land Surveyors (AELS) stated he was speaking in opposition to this HB 46 and mentioned he was a member of the Alaska State Board for Registration for Architects, Engineers and Land Surveyors. He said he was speaking only for himself and not as a representative of the board. He wanted to focus on Section 10 of the bill, which allows exemptions. He felt this bill would allow someone to design anything they wanted, as long as it doesn't involve the design or construction of a structure with walls and a roof. The bill allows for anyone to design a bridge, pipeline, or similar structure without being registered. He felt the exemption was simply too broad. He argued that, in the past, the board had worked quite closely with private industry to provide for individual exemptions. Examples of these exemptions were low-voltage electrical systems and things that meet standard code. Thus, he was confident that the board could work with individual industries to provide appropriate exemptions. He opposed HB 46, as written, and urged the committee not to pass it to the next committee of referral.

Number 547

MIKE TAURIANEN, registered engineer and AELS board member, also expressed his opposition to HB 46. He said many of his comments paralleled those of Mr. Mendenhall. He was frustrated that the legislative information office had the wrong version to provide to him, which made it hard to testify.

CHAIR JAMES offered to fax him a copy of the proper version.

MR. TAURIANEN said he would appreciate this and the chance to testify after receiving this copy. In the meantime, he had some comments on the version he had. He found that little testimony had been offered regarding Section 2 of the bill and wanted to offer his support for this section. He agreed that a trained engineer should be able to use the title, whether or not they were registered with the state. Regarding Section 3, he felt this bill was being rushed and the result would be bad legislation. He felt the exemptions provided in Section 3 were too broad and would like to see the AELS board given some latitude to facilitate those exemptions. He wanted to clarify he was in support of minimal regulation, but was concerned HB 46 was too broad in the exemptions it provided. He said he would like the opportunity to speak again after receiving the updated version of the bill.

CHAIR JAMES reassured him the information was being faxed to him and asked if there was anyone else wishing to testify from the teleconference on HB 46. Hearing none, she asked if anyone in

the audience wished to testify on this bill. Again, there was no one present to testify. She called for Mr. Logan to respond to some of the concerns raised.

Number 596

MR. LOGAN wanted to clarify for those on teleconference, that the difference between Version K of the bill and earlier versions, was the last sentence of the bill, which had been modified in language. In Version K, the last line ended with the word public. In earlier versions, line 28 continues with the wording and if the engineering does not involve the design or construction of a structure with walls or a roof. Thus, if you have an earlier version, he said they needed to simply put a period after the word public and they would have the equivalent of Version K.

CHAIR JAMES asked if there were any questions or comments from the committee.

Number 608

REPRESENTATIVE PORTER stated he had heard this bill in an earlier committee. He said during the discussion in that committee, the same two positions on this bill were discussed. He had the impression that the concerns were mainly of nonregistered engineers designing and constructing buildings that would be open to the public. He had not gotten the impression that those asking for the exemption were interested in doing those types of activities. He understood that bill sponsor, Representative Green, had an amendment to offer, dealing with that topic. He wanted to state for the record, that in dealing with an individual in the field of engineering, the registration process was necessary to allow for accountability. In the case of the in-house employee who provides these kind of services, the responsibility and liability for those services falls on the employee. Thus, he felt there was protection for the public. He felt this was the difference and was not concerned about leaving the public unprotected by not requiring these people to be registered with the state.

Number 633

REPRESENTATIVE ROBINSON commented she was leaning strongly in favor of this bill, but was concerned about seeing the amendment for the first time. She was also concerned about those people speaking in opposition, who might not have this amendment. She said she was hoping the sponsor would be willing to hold this bill in committee, considering she thought this was the last chance for a public hearing on the bill before being heard on the floor.

REPRESENTATIVE GREEN responded the amendment was to try to find a solution to the controversial Section 10 of the bill. He stated they were sympathetic to the concerns of the AELS board, but felt their suggestions to amend this section, as stated, puts a couple of pages of regulations into statute. He could not agree with this suggestion. He said he would like to offer this amendment to the committee for their consideration.

REPRESENTATIVE PORTER offered to move for adoption, the proposed committee substitute for HB 46, version k.

CHAIR JAMES asked if there was any objections. Hearing none, the motion passed.

REPRESENTATIVE ROBINSON suggested the amendment also be faxed off to the legislative information office for public review and comment from those on teleconference.

REPRESENTATIVE GREEN stated after hearing some of the testimony, he would like to modify the proposed amendment with an added sentence.

Number 679

MR. LOGAN mentioned the proposed amendment had already been faxed to the Anchorage LIO and was in the process of being faxed to Fairbanks and Soldotna. He explained the amendment as being as follows: On the fifth line, after the word "only," the amendment inserted the words and further. At the end of the bill, after the last word public, add the sentence Exclusion under this subsection do not apply....

REPRESENTATIVE GREEN corrected Mr. Logan on the proper wording and offered to read the new language to the committee. He said his handwriting was hard to read. He said the intended language was suppose to read Exclusions under this subsection do not apply to buildings or structures, whose primary use is public occupancy.

TAPE 95-35, SIDE A
Number 000

CHAIR JAMES verified whether they had received the amendment in Soldotna. They had not and she reassured them it was on its way. She asked Representative Green to make a motion to adopt the amendment, to allow for committee discussion.

Number 009

REPRESENTATIVE GREEN moved that amendment number three be adopted by the committee as amended.

REPRESENTATIVE PORTER expressed his approval of the amendment.

REPRESENTATIVE WILLIS verified this amendment would not affect the telephone utilities, who had testified.

REPRESENTATIVE GREEN replied they would be excluded, as they were prior to 1990.

REPRESENTATIVE PORTER clarified this amendment would provide them with the same exemption as they had in 1990, with the exception they could not design a building open to the public.

CHAIR JAMES questioned whether they had a copy of the amendment in Soldotna. As they did not, she offered to read the proposed amendment to them. She said the amendment would delete the existing Section 10 and read, An officer or employee of an individual firm, partnership, or employee of an individual firm, partnership, association, utility, or corporation, who practices engineering involved in the operation of the employers business only, and further provided that neither the employee nor the employer offers engineering services to the public. Exclusions under this subsection do not apply to buildings or structures whose primary use is public occupancy.

MR. TAURIANEN expressed concern that this does not address structures such as dams, bridges, high voltage lines, generators and similar structures not designed for public occupancy. He

thought this was still too broad.

Number 076

REPRESENTATIVE PORTER asked whether the certification process for the state of Alaska for registering engineers, would appropriately determine the qualifications for building a pipeline.

MR. TAURIANEN thought it addressed standards for the civil, mechanical, and electrical aspects for building a pipeline, dam, or high voltage line that definitely affect the public. He said if it does not do this, then maybe the state should not have a registration process in the first place. If we have a registration process, he felt we should have a level playing field and uniform rules affecting everyone equally. He was concerned that the legislature was still rushing this bill unnecessarily.

Number 130

REPRESENTATIVE GREEN said the problem with trying to get so specific, is that you can get into the situation of injecting several pages of regulations into statute, which still do not specifically define the various types of structures included. He thought this could get so far out of hand as to be absurd. He said this bill was trying to attempt to return the situation to the way it had been and was currently in 36 other states, allowing for in-house design by nonregistered engineers. He said there could be no end to the number of places a person of the public might be, and the entire situation could get entirely out of hand. He said they were attempting to streamline the operation and still protect the general public. He thought this bill did that, certainly as amended.

Number 155

CHAIR JAMES asked if there was objection to the motion of passing the amendment to HB 46. Hearing none, the motion was passed.

REPRESENTATIVE PORTER moved to pass CSHB 46, Version K, as amended, out of committee with individual recommendations and a zero fiscal note.

CHAIR JAMES asked if there was any objection.

REPRESENTATIVE ROBINSON commented the committee had not heard from Mr. Mendenhall to question his opinion of the amendment.

CHAIR JAMES asked if he had any comments on the amendment. She reiterated the new language proposed by the sponsor in committee.

MR. MENDENHALL said the amendment was an improvement, but he was still not satisfied his concerns had been met and urged the committee to delete Section 10 of HB 46.

CHAIR JAMES asked if there was any objection to the motion to move CSHB 46, Version K, as amended, out of committee. Hearing none, the motion passed.

HSTA - 03/23/95

HB 243 - LICENSING OF LANDSCAPE ARCHITECTS

Number 214

CHAIR JAMES announced the next bill on the agenda was HB 243. She called for the bill sponsors, Representative Pete Kott, spokesman to testify on behalf of the bill.

□□Number 214

GEORGE DOZIER, Legislative Assistant to Representative Pete Kott, explained that HB 243 modifies the State Board of Architects, Engineers, and Land Surveyors into a new board with expanded responsibilities. He said it would be restructured into the State Board of Registration of Architects, Engineers, Land Surveyors and Landscape Architects. The expanded responsibilities would concern the licensing and regulation of landscape architects. He stated Representative Kott felt this was justified as landscape architects must, in the performance of their duties, have extensive knowledge of scientific and engineering principles. Furthermore, they were in a position, if they were delinquent in their duties, to cause extensive harm to the public. Thus, he felt licensing and regulation was justified.

CHAIR JAMES commented she had a hard time finding where there was a danger from landscape architects that justified licensing and regulation of their activities. She asked if he could give examples of where this was the case.

MR. DOZIER thought he could give a few examples, but felt testimony from landscape architects on the teleconference might provide more details.

Number 250

MR. MENDENHALL stated he was neutral on whether there was a justified need for this legislation. However, if this was the case, he thought the State Board of Architects, Engineers, and Land Surveyors was the proper place for the regulating of this activity. He also wanted to insure the bill would not be so restrictive to prevent the architects and engineers, who have traditionally constructed drainage ditches and similar structures from continuing with those activities.

CHAIR JAMES asked if anyone else on teleconference was interested in discussing HB 243.

MR. MAYNARD supported this bill and landscape architect registration. He thought many more agencies are requiring this licensing of landscape architects working on their projects. Thus, he would prefer a program for licensing landscape architects in Alaska, so these projects were not forced to look for people outside of the state who were properly registered. He thought someone licensed in this state would know the local conditions better.

Number 290

DWAYNE ADAMS, representative of Land Design North, thought this bill was justified in that landscape architects work on many projects, such as schools and playgrounds, and are trained in the many safety guidelines necessary to protect the public. He argued no other licensed profession was required to have these skills. Even in areas where other licensed professionals do have these skills, they are usually not as qualified as landscape architects, who deal with parks and playgrounds on a regular basis. Other examples of areas where accountability is necessary for landscape architects is with structures such as sidewalks

that are not necessarily under the inspection of civil engineers. His greatest fear was that without a proper licensing program, many projects would be given to outside landscapers, who were licensed.

LINDA CYRA-KORSGAARD, President of the Alaska Chapter of Ground Management Society Landscape Architects, requested the committee support HB 243. She thought this was necessary to support the safety and welfare of Alaskans and would put Alaskan landscape architects on an equal footing with those of other states doing work in Alaska. She said she appreciated the committees consideration of this bill and would be happy to answer any questions they might have.

KEN MORTON, landscape architect with Alaska State Parks, supported HB 243 for the above-mentioned reasons and said he would like to state a few other comments. He stated the education of landscape architects was comparable to that of engineers and architects, with professional degree programs at several universities. He thought this bill would insure the public was getting a landscape architect whenever they tried to hire one. He said currently anyone may call themselves a landscape architect, without necessarily being qualified. Thus, they wanted to insure that when the public tried to hire a landscape architect, they were getting one that was qualified to do the job.

CHAIR JAMES questioned whether there was anyone else on teleconference who wished to testify.

Number 362

MR. TAURIANEN wanted to express his opposition to HB 243, saying he did not think it would protect the health and safety of the public. He thought the burden should be on the public to check into the qualifications of a landscaper before they hire them. He thought the state would be better served by not adding to the current number of regulations and felt the current process had functioned well.

CHAIR JAMES verified everyone who wished, had testified from the public. She asked if the committee had any questions or comments on this bill.

Number 381

REPRESENTATIVE PORTER expressed his concern of when there would be the requirement of hiring a licensed landscape architect and when someone could hire an unlicensed individual to plant a few bushes in the flower garden.

MR. ADAMS thought this separation would come with the situation of design of major public facilities, where there would be concern for public safety and welfare. He thought that in the case of smaller projects, such as yardwork, where there was less of a concern for public welfare, this would not be necessary. It would not be in the best interest of the public to do so. He said about 50 percent of the major projects he was discussing, are done by outside contractors, who are registered and licensed. He stated this was what they were trying to protect.

Number 411

REPRESENTATIVE ROBINSON asked whether this was the same bill on this topic that had been introduced into the legislature last

session.

MR. DOZIER stated he had not examined that bill, and so could not say whether they were the same.

REPRESENTATIVE ROBINSON questioned why this was not put under an existing board, rather than creating a new one.

CHAIR JAMES confirmed it was to be placed under the current architect, engineer and land surveyors board.

Number 428

REPRESENTATIVE WILLIS wanted verification of whether this would interfere with civic projects, such as by the Boy Scouts.

MR. ADAMS said it would not.

Number 444

BEVERLY WARD, representative of ARCO Alaska, was concerned if this would place requirements on ARCO to use a licensed landscape architect when doing site restoration, or if they would be exempted and allowed to use in-house staff to do these projects.

MR. DOZIER stated the exemption was not in this bill and did not know if HB 46, should it pass, would cover the landscape architects covered under this bill.

CHAIR JAMES said she was uncomfortable with this bill, in that she was not quite sure of what they were excluding or setting up. She reiterated that she sympathized and supported the idea of having licensed landscape architects in this state, so that we did not have to import them from out of state when required to have them. Thus, she thought there should be a mechanism for licensing these people, but was concerned if this would require people not currently required to be licensed, to get a license, in order to practice their profession. This made her uncomfortable with passing this bill without that answered.

Number 481

REPRESENTATIVE ROBINSON thought these questions could be answered better in the next committee of referral, Labor & Commerce. Because of this, she moved that HB 243 be passed out of committee with individual recommendations and attached fiscal notes.

CHAIR JAMES verified whether the sponsor would be willing to take these concerns into consideration and address them at the next committee.

MR. DOZIER said they would.

CHAIR JAMES asked if there was any objections to passing HB 243 out of committee with individual recommendations. Hearing none, the bill passed.

CHAIR JAMES said they would roll over HB 238 and HB 267 to next Tuesdays meeting, March 28th.

ADJOURNMENT

CHAIR JAMES adjourned the House State Affairs committee meeting at 10:10 a.m.

SENATE LABOR AND COMMERCE COMMITTEE

April 20, 1995

2:10 P.M.

MEMBERS PRESENT

Senator Tim Kelly, Chairman
Senator John Torgerson, Vice Chairman
Senator Mike Miller
Senator Judy Salo

MEMBERS ABSENT

Senator Jim Duncan

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 28(TRA)

"An Act relating to transfer of motor vehicle ownership, motor vehicle registration fees, and motor vehicle emissions inspection; and providing for an effective date."

CS FOR HOUSE BILL NO. 220(L&C)

"An Act relating to the duties of the commissioner of commerce and economic development concerning the Alaska Tourism Marketing Council; relating to the per diem travel expenses of the council's board of directors; relating to the powers and duties of the council; extending the termination date of the council; and providing for an effective date."

PREVIOUS SENATE COMMITTEE ACTION

SB 28 - See Senate Transportation minutes dated 3/28/95 and 4/18/95.

HB 220 - No previous action to record.

WITNESS REGISTER

Senator Dave Donley
State Capitol
Juneau, AK 99811-1182

POSITION STATEMENT: Sponsor of SB 28.

Juanita Hensley, Director
Division of Motor Vehicles
P.O. Box 20020
Juneau, AK 99811-0020

POSITION STATEMENT: Commented on SB 28.

Wally Hopkins, Chief Executive Officer
Quick Lube
1780 Peger Rd.
Fairbanks, AK 99709

POSITION STATEMENT: Supported SB 28.

Representative Joe Green
State Capitol
Juneau, AK 99811-1182

POSITION STATEMENT: Sponsor of HB 46.

Catherine Reardon, Director

Division of Occupational Licensing
P.O. Box 110806
Juneau, AK 99811-0806
POSITION STATEMENT: Supported HB 46.

Vernon Akin, Registered Mechanical Engineer
P.O. Box 22104
Juneau, AK 99801
POSITION STATEMENT: Opposed HB 46.

Graham Rolstad, Vice President
Engineering Construction
Matanuska Telephone Association
Representing the Alaska Telephone Association
1740 S. Chugach St.
Palmer, AK 99645
POSITION STATEMENT: Supported HB 46 as written.

Nancy Schoephoester
ARCO, Alaska
P.O. Box 100360
Anchorage, AK 99508
POSITION STATEMENT: Supported HB 46.

Lee Holmes
RSA Engineering
2710 Scarborough Dr.
Anchorage, AK 99504
POSITION STATEMENT: Supported HB 46 and the intent of Section 3.

Dick Armstrong, Chairman
ALS Board
Anchorage, AK
POSITION STATEMENT: Commented on HB 46.

Patrick Dooley, President
Nanatest
P.O. Box 202807
Anchorage, AK 99520
POSITION STATEMENT: Supported HB 46.

Janet Reeser
Nanatest
P.O. Box 202807
Anchorage, AK 99520
POSITION STATEMENT: Supported HB 46.

Kimberly Chancy
Nanatest
P.O. Box 202807
Anchorage, AK 99520
POSITION STATEMENT: Supported HB 46.

Steve Altech
Nanatest
P.O. Box 202807
Anchorage, AK 99520
POSITION STATEMENT: Supported HB 46.

Rob White, Project Manager
Raytheon ARCO Alliance Contract
POSITION STATEMENT: Supported HB 46.

John Burdick
300 Hermit, Ste. #7

Juneau, AK 99801

POSITION STATEMENT: Commented on HB 46.

Jim Rowe, Executive Director
Alaska Telephone Association
4341 B St., Suite 304
Anchorage, AK 99508

POSITION STATEMENT: Supported HB 46.

Colin Maynard
1400 W. Benson Ave., #500
Anchorage, AK 99517

POSITION STATEMENT: Commented on HB 46.

Ken Brock
ARCO, Alaska
P.O. Box 100360
Anchorage, AK 99508

POSITION STATEMENT: Supported HB 46.

Bob Hancock
Anchorage Telephone Utility
600 Telephone Ave.
Anchorage, AK 99507

POSITION STATEMENT: Supported HB 46 as written.

John Litten
P.O. Box 1001
Sitka, AK 99835

POSITION STATEMENT: Supported HB 220.

ACTION NARRATIVE

TAPE 95-18, SIDE A
Number 001

☐ SB 28 MOTOR VEHICLE REG FEE/EMISSION INSPECTIONS

☐

CHAIRMAN KELLY called the Senate Labor and Commerce Committee meeting to order at 2:10 and announced SB 28 to be up for consideration.

SENATOR DAVE DONLEY, sponsor, said SB 28 is designed to change the I.M. testing program in Alaska from every year to every other year. Almost all other states, including California, do it every other year.

He said, at the request of Senator Rieger, there was a restructuring of DMV fees. Currently, there is an additional \$10 fee if you come to a DMV office in person when you could do it by mail. Senator Rieger thought the fees should be \$10 with a rebate if you use the mail. Personally, he said, he is very ambivalent about this change and really wanted to just do away with the fee. However, financially it is hard to do that since DMV has become dependent on that extra revenue.

SENATOR DONLEY said the point of the legislation is to get bi-annual testing which would be a real positive thing to do for the people of Alaska.

SENATOR KELLY asked if you still have to register every year, but get the emission test every second year. SENATOR DONLEY responded that was correct. He elaborated that there has been interest in bi-annual registration, but the argument against it in past years has been because we have to get I.M. tests every year and there is the shock of having to pay twice as much every other year rather

than scheduling the payments out, so to speak. He thought bi-annual registration would save the state a lot of money in administrative costs, but this particular bill doesn't do that.

Number 93

JUANITA HENSLEY, Division of Motor Vehicles, explained the reason they have not gone to bi-annual registration is because of programs that have been added over the years, such as the yearly emissions program and the collection of 13 communities' motor vehicle registration taxes which are collected on an annual basis. SENATOR SALO asked why you couldn't collect taxes on a bi-annual basis. MS. HENSLEY explained the statute says it has to be collected annually.

SENATOR TORGERSON asked if insurance was required before you register your vehicle now. MS. HENSLEY answered that is a requirement.

SENATOR TORGERSON asked what would bi-annual do to that. MS. HENSLEY said they don't look at insurance verification. They just have the person sign a certified statement on the registration saying they have insurance as required by law and they are expected to keep it.

WALLY HOPKINS, Quick Lube Chief Executive Officer, said they are the largest provider of emission testing in the state, employing 25 people in the Anchorage and Fairbanks emissions program. The annual payroll for these people is \$1.1 million. In recent years the violation of federal standard has fallen a maximum of three or four times a year when Anchorage or Fairbanks has an extreme temperature inversion.

Current programs operating in Anchorage and Fairbanks are recently new, he explained. They have invested over \$1 million in facilities, equipment, and personnel to be able to provide these services. After a successful 90-day pilot program in Anchorage, including a reregistration service, they hoped to open another facility in Fairbanks within the next 30 days. He thought this was a prime example of private enterprise and government working together. With the reregistration process the state does not have any cost and they are not charging their customers any fee for this service.

At their facility in Anchorage they can test eight cars at a time and they are gearing up to do 12 cars at a time. The average wait to get a vehicle tested there is less than 10 minutes. They are currently testing 22 1/2% of vehicles in Anchorage, according to the number of registrations that are being mailed out to the public in Anchorage.

He concluded saying that if this bill passes, it will eliminate 50% or more of the jobs within the emission testing industry. It will put a hardship on the residents of Alaska who are subject to emissions testing by doubling the cost of repairs for failed vehicles. It would put an extreme hardship on good businesses that in good faith planned, developed, and provided emission testing based on established programs.

SENATOR KELLY asked Ms. Hensley if there was a cap for an emission inspection in statute. She replied that she didn't have that answer, but knew that DMV collects \$1 for the processing of those certificates. In this bill it would go up to \$2.

SENATOR KELLY asked if there was a set fee for emission inspections at his shops. MR. HOPKINS said they are charging \$29.95 for the

inspection and they add the \$10 registration fee at this time. He said he thought Anchorage had \$45 as a cap. Fairbanks has something like \$65.

Number 260

RON KING, Department of Environmental Conservation, said that state statute and regulations do not limit what an inspection cost could be. Local statutes and ordinances in Anchorage and Fairbanks limit what the facility can charge. In Anchorage it is \$40 and Fairbanks has a \$40 or \$45 upper limit.

SENATOR KELLY asked him how many vehicles are tested in Anchorage every year. MR. KING replied approximately 150,000 vehicles that qualify for this program are in Anchorage and approximately 50,000 in Fairbanks.

SENATOR TORGERSON asked if he had a position on going to two years. MR. KING replied that the department has been concerned with going to an every other year inspection until the communities have attained the standard. Based on the failure rates, however, and working with DMV and Senator Donley, they believe they put together a package that will enable them to convince EPA to approve an every other year inspection.

SENATOR KELLY commented that Mr. Hopkins has already recovered his investment. MR. HOPKINS disagreed and explained that it would take about three years to amortize their investment.

Number 291

SENATOR TORGERSON asked Mr. Hopkins what the average cost of fixing an emission problem would be. MR. HOPKINS replied the average cost would be about \$100 - \$125 per repair. He explained with an every other year scenario, instead of 17% of vehicles failing (the figure for now) there would be about 35% or more.

SENATOR DONLEY said the last committee changed the effective date to 1996 which would give businesses time to adjust to the new plan. The Division would have some discretion to deal with problem automobiles. They also have some authority, through regulation, to address the cost issue. He noted that after some review of correspondence, he was struck with the discrepancy between fees charged for I.M. testing in Alaska versus other states. Our fees up here are twice as much.

SENATOR KELLY said he liked the idea of bi-annual registration, but he didn't think there would be time with 30 days left to go. He hoped legislation like that would be introduced at a later time.

SENATOR SALO said she was concerned because she had many constituents call her about the \$10 fee and thought the bill just flip flopped the issue around. If the argument is revenue, and having become dependent on that revenue, she thought that was negated by the fact that every one of those fees is going up \$10. She would like to see the elimination of that section unless there is compelling information from the DMV that it's a good idea.

SENATOR DONLEY commented that section is not related to the bi-annual testing proposal.

MS. HENSLEY said the original bill did do away with the \$10 fee proposal if you walked in as opposed to mailing in the registration. Since they have gone to the \$10 fee, mail has been increased to total 60%. Senator Rieger's amendment would increase

everyone's registration by \$10 unless you mail it in and get a rebate, with the exception on page 2, lines 9 - 12, which deletes language that allowed them to waive the \$10 fee if you are required to be in the office to handle a transaction.

People who choose to register their cars at the I.M. stations are not charged the \$10 walk-in fee, although some of the stations charge a \$10 processing fee. This bill makes it equitable for everyone and will generate approximately \$2.5 in general fund revenue which their department doesn't receive unless it is appropriated to them, MS. HENSLEY explained.

SENATOR KELLY asked if SB 28 encouraged smaller lines in the DMV offices. MS. HENSLEY agreed that it did.

SENATOR DONLEY said he didn't think the fees section of the bill had an effect one way or the other on that. He said SB 28 didn't change the incentive to register by mail. He said the committee could delete the fee section and the status quo would remain that the division would be assessing the \$10.

SENATOR SALO said her intention would be to take out the section so they would lose the ability to collect the \$10. She didn't think people would automatically start going back to DMV instead of using the mail.

MS. HENSLEY said offering a program with incentive to keep people from standing in a line so you can give better service to someone who has to be there is what they are seeking. She said it was working.

Number 435

SENATOR KELLY commented that even if this bill passes people could still register their vessels at the various I.M. stations. MS. HENSLEY agreed that was correct.

SENATOR KELLY asked if DMV supported this bill. MS. HENSLEY said they support it as drafted.

SENATOR DONLEY said one amendment was recommended by DEC to make a different effective date to allow them to begin enforcement earlier.

SENATOR TORGERSON moved amendment #1. There were no objections and it was so ordered.

SENATOR TORGERSON moved to pass CSSB 28 (L&C) from committee with individual recommendations. There were no objections and it was so ordered.

☐ HB 46 ARCHITECT, ENGINEER & SURVEYOR REGULATION

☐ SENATOR KELLY announced HB 46 to be up for consideration.

REPRESENTATIVE JOE GREEN, sponsor, explained that HB 46 is a "fix bill." It straightens out when a registrant will issue drawings or reports, etc. that will be sealed. Section 2 was an attempt to tighten up who can actually be called an engineer, because some people were calling themselves engineers without being registered engineers. Section 3 is the addition of engineering types of people under the exemption category that compromises 8.48.331 of the code. It attempts to exempt engineers who do not perform engineering functions for the public. In other words, they are doing it for their employer and it is to be used only in that connection.

CATHERINE REARDON, Director, Division of Occupational Licensing, first discussed section 3, where the exemption for employees who are doing engineering work for their companies is added into the law. The reason people support this is because they believe the statutory definition of the practice of engineering is broad and ambiguous. There is a certain degree of mistrust of the architects, engineers, and land surveyors Board and believe they use this broad language to require engineers where they aren't really necessary. She felt that if the Board was extending the definition of engineering excessively, that could be corrected by creating a more balanced board.

Another argument you can hear is that industry has technicians who do not have formal engineering education, but have on-the-job experience who are as good or better than registered engineers.

Their position is that while unlicensed employees can certainly safely perform some design work, there are some types of work that require the educational background of a registered engineer. She pointed out that HB 46 does not just exempt utilities or the oil industry or some of the larger businesses in the state from the use of engineers, it exempts everyone and it doesn't require that well trained technicians do the work in the place of engineers. It says that any employee can which raises the possibility that a day laborer, for example, could be designing and constructing a public building.

Finally, MS. REARDON said, one of the arguments they would hear is that the occupational licensing statutes should not determine when a registered engineer is required, because that's the proper role of other regulatory agencies, like DEC or the fire marshall. She argued that the whole purpose of occupational licensing statutes is to determine who is adequately prepared to safely perform certain service and who should be prevented from doing that work, because there is potential public danger. That is what a medical statute does, also.

The CS to HB 46 does not completely satisfy the division's responsibility to protect public health and safety, MS. REARDON said. Although on page 3, buildings and structures that are primarily used for public occupancy are excluded from the exemption. Buildings and structures that are used by employees are still exempted. They still have some concern with fish processing plants and office buildings that are used specifically by one company and making sure they are all structurally sound.

The second concern would be electrical systems. It is not just utilities who design and construct electrical systems.

Finally, MS. REARDON said, there is discussion that the uniform building code, through the fire marshall, is providing protection for structural soundness. However, the fire marshall only reviews plans to see if they satisfy the fire standards. No one looks at the plans to see if the structural requirements of the uniform building code are being met and there is no one to investigate a complaint that a building does not meet a building code.

She, therefore, supported an amendment which would narrow the exemption. She suggested to do this would be to exempt electrical systems over 35 kilovolts and exempt all buildings rather than those just used for public occupancy. Another alternative would be to simply delete the word "public occupancy" from line 29 on page 3 and replace it with "human occupancy."

SENATOR KELLY asked her if her department had the same position on the House bill. MS. REARDON replied that when it went through the House, their position was that they would listen to public testimony and hope there would be a compromise developed that would protect both public safety and address industry interests.

Number 576

VERNON AKIN, Registered Mechanical Engineer, said the word engineer is used very loosely these days. The reason "registered" was dropped from in front of "engineer" was so that #10 would be legal. He supported keeping the word "registered," because that is being specific.

TAPE 95-18, SIDE B

MR. AKIN said that registration of an architect, engineer, or land surveyor shows that an individual has passed the requirements of the state and has the proficiency required to practice the profession. Doctors, dentists, lawyers, chiropractors, and barbers, etc. must all be registered. Boards were established to give the public some measure of confidence that a member that is registered in that field has competence. It also puts the responsibility on the members that they either perform as required or lose their license.

Item 10 was added so that an employee of large company could do engineering work even though he had no proof required by the state to indicate he was qualified to design. This allows a company to produce a design by a non-registered individual and the company guarantees the work. He pointed out that there is little solace in that for any injured or dead persons who suffer because of poor design.

Yet it says that 10 does not apply to buildings or structures whose primary use is public occupancy. He asked what kind of building wouldn't be used for public occupancy or could be used for it in the future. He asked why would we want to lower our standards to allow more chance of incompetent designs.

MR. AKIN opposed HB 46.

Number 570

SENATOR LEMAN said he is a registered professional engineer, although his work would not be in the possible exemptions. He said it is his opinion that some relief is necessary to accommodate utility companies and industry who do a lot of this work, because of how the 1990 change has been enforced. To make a change as broad as this restores almost exactly the wording that was in there in 1990 and is the wrong approach.

He proposed putting in a new "e" that would provide some size limit to what a commercial building could be. In item 10 he proposed on line 3 inserting "unless the health, safety, or well-fare of the public, including employees and visitors is involved." He also suggested added "employees and visitors" in other appropriate places and adding "high voltage electrical systems." Third, he suggested inserting "other requirements of state law, local ordinances, building officials, property owners, or adopted construction and safety codes."

He noted that there are requirements other places in state law for engineering seals on designs and engineering reports. It needs to be clear that these are not exempted and this is not what is being

sought.

He also said there may be future possibilities for exemptions that come up and he thought those should be addressed when they come up and suggested item 11 "other exemptions granted by the ALS Board by regulation when the health, safety, or welfare of the public are not substantially involved."

Number 511

SENATOR SALO asked if the bill needed language to assure that other requirements in law for a P.E. certification, as well as municipal ordinances requiring P.E. certification. SENATOR LEMAN said he would like that comfort, although the drafting attorney might not think it necessary.

GRAHAM ROLSTAD, Vice President, Engineering Construction, Matanuska Telephone said he represented the Alaska Telephone Association. He said he supported the bill as written and felt that section 3, item 10 is very critical to the telephone utilities in providing cost effective services to their customers.

MR. ROLSTAD said prior to 1990 there was an exemption that was removed without public hearing. He said there wasn't a problem up until that time, and he didn't see the need for over-regulation. He said there are specialists in telephone work and national standards they live by which allow them to put in telecommunication facilities that protect the public. The bottom line is that the people are well trained and the companies are responsible for their work and they take that responsibility seriously.

Number 450

NANCY SCHOEPHOESTER, ARCO, Alaska, supported CSHB 46. She noted that section 3, reinstating the in-house exemption for engineers which existed in Alaska prior to 1990 currently exists in 37 other states. They feel there is a licensing board whose duty it is to determine what the qualifications are to become a licensed engineer. They feel it is within the purview of the regulating local state and federal agencies to determine and regulate the activity.

She said that Ken Thompson, President of ARCO has established as one of his priorities within ARCO that there will be a safe, low-cost, and long-term company.

LEE HOLMES said he is a licensed mechanical engineer in Alaska. He supported the first two parts of the bill and the intent of the third part of the bill. The exception he has is with the wording. He didn't have a problem with MTA, for instance, in designing telephone systems, but he didn't see where that would qualify them to design a new office building for MTA. The wording of the exception would allow them to do that.

Number 426

DICK ARMSTRONG, Chairman, ALS Board, opposed HB 46, because they feel the exemption proposed in section 3 is too broad and does not protect the public from unsafe buildings or facilities. With the amount of remote construction that occurs in Alaska and the relatively few building code officials, passage of this exemption will lose a key component of safety in resulting facility construction.

Future purchasers of facilities that are not designed by licensed

professionals are going to be purchasing potentially non-code conforming properties that are a very real threat to public safety.

PATRICK DOOLEY said he supported HB 46 without change. He said all it does is restore the exemption for in-house engineering work which would save the state many millions of dollars. Their experience with those people is that their work is professional and in compliance.

JANET REESER, Engineering Services Manager, said they are well regulated and very responsible and supported HB 46 as written.

Number 362

KIMBERLY CHANCY, registered engineer, said that registration alone does not insure individual competency to work in specific industrial applications. She has found that the industry is pretty comfortable in knowing where their reputations lie.

STEVE ALTECH, Manufacturing Manager, supported HB 46 without change.

ROB WHITE, Raytheon ARCO Alliance Contract, supported HB 46 in its unamended form. This bill is in the best interests of Alaskans providing quality control. He specifically mentioned he supported section 3.

Number 294

JOHN BURDICK, registered engineer in Alaska, said he thought section 10 was too broad as written. In addition the increased cost is a red herring. He said a lot of his students work for ARCO and it wouldn't be hard for them to become registered and it would be a hurdle that would protect the public.

JIM ROWE, Executive Director, Alaska Telephone Association, supported HB 46 in its current version. He emphasized that this is a compromise piece of legislation. He appreciated the legislature making review of this issue a very public process as it didn't happen in 1990 when essentially the same wording in section 3 was taken out. In the interests of his customers who will bear the burden of the increased cost of having registered engineers do every piece of infrastructure development he pleaded that they do not increase their telecommunications costs.

KEN BROCK, Engineer with ARCO Alaska, supported HB 46 and in particular the reinstatement of licenses and exemptions for in-house engineers.

COLIN MAYNARD said the registration law is to protect public safety by requiring minimum qualification to do engineering work. The state has the responsibility to make sure that engineering is done by qualified people. He supported HB 46 and the language Senator Leman proposed.

SENATOR KELLY asked if professional engineers were required to keep up continuing education. SENATOR LEMAN replied no.

Number 169

BOB HANCOCK, Anchorage Telephone Utility, supported HB 46 as written. He said their plant is designed in accordance with industry standards. They use AT&T guidelines and national safety codes. They have had no complaints of substandard construction. They have had no incidences of physical injury or harm caused by

construction or their engineering methods. They do not offer engineering services outside of their business.

SENATOR TORGERSON moved to pass HB 46 from committee with individual recommendations. There were no objections and it was so ordered.

□ HB 220 ALASKA TOURISM MARKETING COUNCIL □

□ SENATOR KELLY announced HB 220 to be up for consideration and said the committee was concerned with the travel provision in this bill.

SENATOR MILLER moved to adopt a conceptual amendment adopting the senate language into HB 220.

SENATOR KELLY asked Jerry Gernigan and John Litton if they supported this bill. JOHN LITTEN said they supported it.

There were no objections and it was so ordered.

SENATOR MILLER moved to pass SCSHB 220 (L&C) from committee with individual recommendations. There were no objections and it was so ordered.

SENATOR KELLY adjourned the meeting at 3:40 p.m.

Legislature(1995 - 1996)
1995-03-29 HOUSE JOURNAL

1995-03-29

House Journal

Page 0980-0981

HB 46

Amendment No. 2 was offered by Representative Brown:

Page 3, line 29, following "occupancy":

Insert: "and a person exempted under this paragraph, notwithstanding that exemption, is subject to the board to the extent that the board may investigate and administratively adjudicate under AS44.62 (Administrative Procedure Act) a complaint that the person engaged in fraud, deceit, gross negligence, incompetence, or misconduct in the practice of engineering under this exemption, and if the board determines that the person engaged in the conduct, the person may not claim this exemption for work involving the practice of engineering performed after the board's determination, unless the board's determination is reversed on appeal taken by the person under AS44.62"

Representative Brown moved and asked unanimous consent that Amendment No. 2 be adopted.

Representative Green objected.

The question being: "Shall Amendment No. 2 be adopted?" The roll was taken with the following result:

CSHB 46(STA)
Second Reading
Amendment No. 2

YEAS: 7 NAYS: 29 EXCUSED: 3 ABSENT: 1

Yeas: Brown, B.Davis, Finkelstein, Grussendorf, Navarre, Nicholia, Ogan

Nays: Austerman, Barnes, Brice, Bunde, G.Davis, Elton, Foster, Green, Hanley, Ivan, James, Kelly, Kohring, Kott, Kubina, Mackie, Martin, Moses, Mulder, Parnell, Phillips, Porter, Robinson, Rokeberg, Therriault, Toohey, Vezey, Williams, Willis

Excused: Davies, Masek, Sanders

Absent: MacLean

And so, Amendment No. 2 was not adopted.

The Speaker stated that, without objection, CSHB 46(STA) would be moved to the bottom of the calendar.

Legislature(1995 - 1996)
1995-05-08 SENATE JOURNAL

1995-05-08

Senate Journal

Page 1653-1654

HB 46
CSHB 46(STA)
Second Reading

Senator Leman offered Amendment No. 2:

Page 3, line 28, following "apply to":
Insert "(A)"

Page 3, line 29, following "occupancy":
Insert "i":
(B) the design of high voltage electrical systems with capacities greater than 35 kilovolts; or
(C) situations where the following require that a professional engineer, or a corporation authorized under this chapter to offer engineering services, perform the engineering involved:
(i) state regulations other than regulations adopted under this chapter;
(ii) municipal ordinances;
(iii) municipal building officials; or
(iv) construction or safety codes adopted by a governmental agency;
(11) situations or persons granted exemptions by regulation adopted by the board; the board may not adopt exemptions under this paragraph if the health, safety, or welfare of the public is substantially involved"

Senator Leman moved for the adoption of Amendment No. 2.
Objections were heard.

The question being: "Shall Amendment No. 2 be adopted?" The roll was taken with the following result:

YEAS: 4 NAYS: 15 EXCUSED: 1 ABSENT: 0

Yeas: Ellis, Frank, Leman, R.Phillips

Nays: Adams, Duncan, Green, Halford, Hoffman, Kelly, Lincoln, Miller, Pearce, Rieger, Salo, Sharp, Taylor, Torgerson, Zharoff

Excused: Donley

and so, Amendment No. 2 failed.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Law

CIVIL DIVISION

1031 West 4th Avenue, Suite 200
Anchorage, Alaska 99501
Main: 907-269-5100
Fax: 907-276-3697

October 11, 2018

Quincy Arms
Assistant Municipal Attorney
Office of the Municipal Attorney
Municipality of Anchorage
PO Box 196650
Anchorage, AK 99519 – 6650

Re: Exemption for ML&P Employees
AELS Board 2018-1026-98

Dear Ms. Arms:

I appreciated receiving your thorough written response to our telephone conversation last month regarding the exemption contained in AS 08.48.331(a)(10). However, I cannot agree with the central premise of your September 24, 2018 letter that the overall intent of the exemption has not changed since its original enactment in 1972.

You rely on a statement made on March 23, 1995 by the sponsor of HB 46 that this was a "fix bill" designed to reinstate the exemption that was removed in 1990. That statement was certainly true, at least with regard to AS 08.48.331(a)(10), as CSHB 46(L & C) (attached hereto), introduced on March 17, 1995, provided for a new version of AS 08.48.331(a)(10) which was very similar to the version that was enacted in 1972 and repealed in 1990:

"(10) an officer or employee of an individual, firm, partnership, association, or corporation, who practices engineering only when required by the person's official capacity or work duties connected with the person's employment, and the individual, firm, partnership, association, or corporation is not engaged in the business of offering engineering services to the public."

However, as the extensive legislative history which you provided clearly indicates, there was much discussion about the wisdom of reinstating such a broad exemption and, 10 days later, on March 27, 1995, CSHB 46(STA) (also attached), was introduced, which placed a number of qualifications and conditions on the exemption contained in AS 08.48.331(a)(10):

"(10) an officer or employee of an individual, firm, partnership, association, utility, or corporation, who practices engineering involved in the operation of the employer's business only, and further provided that neither the employee nor the employer offers engineering services to the public; exclusions under this paragraph do not apply to buildings or structures whose primary use is public occupancy."

This version, which passed the legislature and became law, differs from the original version in three ways: 1) instead of allowing the exemption to an officer or employee "when required by the person's official capacity or work duties connected with the person's employment", the exemption was limited to an officer or employee who was "involved in the operation of the employer's business only"; 2) instead of allowing the exemption as long as the employer was not "engaged in the business of offering engineering services to the public", the exemption was only available when "neither the employee nor the employer offers engineering services to the public"; and 3) the exemption was not available with regard to buildings or structures whose primary use was public occupancy.

Each of these limitations was discussed in AELS Board Chair Colin Maynard's September 11, 2018 letter to Mr. Moe. Such a letter is entitled to some deference, as administrative agencies are given wide latitude when interpreting statutes that they have been charged to administer. *State, Board of Marine Pilots v. Renwick*, 936 P.2d 526, 531 (Alaska 1997) (courts are required to give consideration and respect to the contemporaneous construction of a statute by those charged with its administration). Additionally, the Alaska Supreme Court has held that exemptions contained in professional licensing statutes should be "narrowly construed". *Allison v. State*, 583 P.2d 813, 816 – 17 (Alaska 1978) (interpreting exemption in electrical administrator statute). This is because AS 08 contains "many chapters which contemplate protection of the public's health and safety and assure competency of those providing the services regulated." *Id*; See *Squires v. Alaska Board of Architects, Engineers & Land Surveyors*, 205 P.3d 326, 338 (Alaska 2009) (Board's mission is to ensure the public health, safety and welfare by regulating the practice of engineering).

Finally, Mr. Burke's informal 2016 opinion, which you have provided, does not address, much less contradict, any of the issues raised in Mr. Maynard's letter. With regard to the exemption in AS 08.48.331(a)(10), Mr. Burke did not "see the language as necessarily providing an exemption for DOTPF employees or other state workers." His conclusion was based in part on the exemption for US government architects, engineers and surveyors found in AS 08.48.331(a)(3). In the absence of a similarly specific exemption for state employees, he stated that it was "difficult to conclude that the exemption applies."

Furthermore, Mr. Burke did not, as you suggest, interpret, or even discuss, the provisions in AS 08.48.331(a)(10) regarding employees being involved in the operation of the employer's business or employees or their employers offering services to the public. The only reference to those provisions was contained in one sentence of the opinion, expressed as a hypothetical: "*Arguably*, this creates an exemption for DOTPF engineers/surveyors because: a) DOTPF engineers/surveyors are employees of an "association" (i.e. the State), b) they only perform services in connection with State business; and c) they do not offer their services to the public – they are not hired or retained by members of the public to perform engineering/survey work." (emphasis added). However, Mr. Burke found that the exemption did not apply because the State was not an "association" under the statute; therefore, he did not need to address the two other above provisions.

The same conclusion was reached in a 1979 AG Opinion with regard to the former AS 08.48.331(12), which essentially overruled the 1977 AG opinion discussed in Mr. Burke's opinion. 1979 WL 22899 (Alaska AG) (attached hereto). The 1979 opinion concluded that it did not matter whether or not the Department of Highways was engaged in the business of offering engineering services to the public (which was disputed) because the Department was not an individual, firm, partnership, association or corporation under former AS 08.48.331(12). Rather, the state employees of the Department of Highways were exempted under former AS 08.48.331(4) and AS 08.48.261. But, as stated in Mr. Maynard's letter, the state employee exemption was removed by the legislature in 1990, and has never been reinstated.

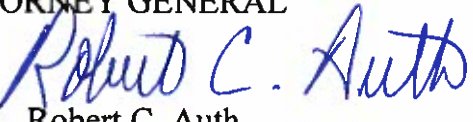
I hope this answers your questions in this regard. If I can be of further assistance, please let me know.

Quincy Arms
Re: Exemption for ML&P Employees

October 11, 2018
Page 4 of 4

Sincerely,

JAHNA LINDEMUTH
ATTORNEY GENERAL

By: 
Robert C. Auth
Assistant Attorney General

RCA/cce
Enclosures
cc: Alysia Jones
Colin Maynard

CS FOR HOUSE BILL NO. 46(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 3/17/95

Referred: State Affairs

Sponsor(s): REPRESENTATIVE GREEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the practice of architecture, engineering, and land surveying."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 08.48.221 is amended to read:

4 Sec. 08.48.221. SEALS. Each registrant may obtain a seal of the design
5 authorized by the board, bearing the registrant's name, registration number, and the
6 legend, "Registered Professional Architect," "Registered Professional Engineer," or
7 "Registered Professional Land Surveyor," as appropriate. When a registrant issues
8 final drawings, specifications, surveys, plats, plates, reports, or similar documents,
9 the registrant shall sign the documents and stamp the documents with the seal.
10 [FINAL DRAWINGS, SPECIFICATIONS, SURVEYS, PLATS, PLATES, REPORTS
11 AND OTHER SIMILAR DOCUMENTS SHALL, WHEN ISSUED, BE SIGNED AND
12 STAMPED WITH THE SEAL.] The board shall adopt regulations governing the use
13 of seals by the registrant. An architect, engineer, or land surveyor may not affix or
14 permit a seal and signature to be affixed to an instrument after the expiration of a
15 certificate or for the purpose of aiding or abetting another person to evade or attempt

1 to evade a provision of this chapter. The registrant, by affixing the registrant's seal to
2 final drawings, specifications, surveys, plats, plates, reports, and other similar
3 documents, and signing them, certifies that these documents were prepared by or under
4 the registrant's direct supervision, unless the registrant certifies on the face of the
5 document to the extent of the registrant's responsibility.

6 * Sec. 2. AS 08.48.281 is amended to read:

7 Sec. 08.48.281. PROHIBITED PRACTICE. A person may not practice or
8 offer to practice the profession of architecture, engineering, or land surveying in the
9 state, or use in connection with the person's name or otherwise assume or advertise a
10 title or description tending to convey the impression that the person is an [A
11 REGISTERED] architect, an engineer, or a land surveyor, unless the person has been
12 registered under the provisions of this chapter or is a person to whom these provisions
13 do not apply, or, in the case of a corporation, unless it has been authorized under this
14 chapter.

15 * Sec. 3. AS 08.48.331 is amended to read:

16 Sec. 08.48.331. EXEMPTIONS. This chapter does not apply to

17 (1) a contractor performing work designed by a professional architect
18 or engineer or the supervision of the construction of the work as a supervisor or
19 superintendent for a contractor;

20 (2) workers in building trades crafts, superintendents, supervisors, or
21 inspectors in the performance of their customary duties;

22 (3) an officer or employee of the United States government practicing
23 architecture, engineering, or land surveying as required by the person's official
24 capacity;

25 (4) an employee or a subordinate of a person registered under this
26 chapter if the work or service is done under the direct supervision of a person
27 registered under this chapter;

28 (5) associates, consultants, or specialists retained by a registered
29 individual, a partnership of registered individuals, or a corporation authorized to
30 practice architecture, engineering, or land surveying under this chapter, in the
31 performance of professional services if responsible charge of the work remains with

1 the individual, the partnership, or a designated representative of the corporation;

2 (6) a person preparing drawings or specifications for

3 (A) a building for the person's own use and occupancy as a
4 single family residence;

5 (B) farm or ranch buildings, unless the public health, safety, or
6 welfare is involved;

7 (C) a building that is intended to be used only as a residence
8 by not more than four families and that is not more than two stories high;

9 (D) a garage, workshop, or similar building that contains less
10 than 2,000 square feet of floor space to be used for a private noncommercial
11 purpose;

12 (7) a specialty contractor licensed under AS 08.18 while engaged in the
13 business of construction contracting or designing systems for work within the specialty
14 to be performed or supervised by the specialty contractor, or a contractor preparing
15 shop or field drawings for work that the specialty contractor has contracted to perform;

16 (8) a person furnishing drawings, specifications, instruments of service,
17 or other data for alterations or repairs to a building that do not change or affect the
18 structural system or the safety of the building, or that do not affect the public health,
19 safety, or welfare;

20 (9) a person who is employed by a postsecondary educational
21 institution to teach engineering, architectural, or land surveying courses; in this
22 paragraph, "postsecondary educational institution" has the meaning given in
23 AS 14.48.210;

24 (10) an officer or employee of an individual, firm, partnership,
25 association, or corporation, who practices engineering only when required by the
26 person's official capacity or work duties connected with the person's employment,
27 and the individual, firm, partnership, association, or corporation is not engaged
28 in the business of offering engineering services to the public.

CS FOR HOUSE BILL NO. 46(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/27/95

Referred: Rules

Sponsor(s): REPRESENTATIVE GREEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the practice of architecture, engineering, and land surveying."

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

3 * Section 1. AS 08.48.221 is amended to read:

4 Sec. 08.48.221. SEALS. Each registrant may obtain a seal of the design
5 authorized by the board, bearing the registrant's name, registration number, and the
6 legend, "Registered Professional Architect," "Registered Professional Engineer," or
7 "Registered Professional Land Surveyor," as appropriate. When a registrant issues
8 final drawings, specifications, surveys, plats, plates, reports, or similar documents,
9 the registrant shall sign the documents and stamp the documents with the seal.

10 [FINAL DRAWINGS, SPECIFICATIONS, SURVEYS, PLATS, PLATES, REPORTS
11 AND OTHER SIMILAR DOCUMENTS SHALL, WHEN ISSUED, BE SIGNED AND
12 STAMPED WITH THE SEAL.] The board shall adopt regulations governing the use
13 of seals by the registrant. An architect, engineer, or land surveyor may not affix or
14 permit a seal and signature to be affixed to an instrument after the expiration of a
15 certificate or for the purpose of aiding or abetting another person to evade or attempt

1 to evade a provision of this chapter. The registrant, by affixing the registrant's seal to
2 final drawings, specifications, surveys, plats, plates, reports, and other similar
3 documents, and signing them, certifies that these documents were prepared by or under
4 the registrant's direct supervision, unless the registrant certifies on the face of the
5 document to the extent of the registrant's responsibility.

6 * Sec. 2. AS 08.48.281 is amended to read:

7 Sec. 08.48.281. PROHIBITED PRACTICE. A person may not practice or
8 offer to practice the profession of architecture, engineering, or land surveying in the
9 state, or use in connection with the person's name or otherwise assume or advertise a
10 title or description tending to convey the impression that the person is an [A
11 REGISTERED] architect, an engineer, or a land surveyor, unless the person has been
12 registered under the provisions of this chapter or is a person to whom these provisions
13 do not apply, or, in the case of a corporation, unless it has been authorized under this
14 chapter.

15 * Sec. 3. AS 08.48.331 is amended to read:

16 Sec. 08.48.331. EXEMPTIONS. This chapter does not apply to

17 (1) a contractor performing work designed by a professional architect
18 or engineer or the supervision of the construction of the work as a supervisor or
19 superintendent for a contractor;

20 (2) workers in building trades crafts, superintendents, supervisors, or
21 inspectors in the performance of their customary duties;

22 (3) an officer or employee of the United States government practicing
23 architecture, engineering, or land surveying as required by the person's official
24 capacity;

25 (4) an employee or a subordinate of a person registered under this
26 chapter if the work or service is done under the direct supervision of a person
27 registered under this chapter;

28 (5) associates, consultants, or specialists retained by a registered
29 individual, a partnership of registered individuals, or a corporation authorized to
30 practice architecture, engineering, or land surveying under this chapter, in the
31 performance of professional services if responsible charge of the work remains with

1 the individual, the partnership, or a designated representative of the corporation;

2 (6) a person preparing drawings or specifications for

3 (A) a building for the person's own use and occupancy as a
4 single family residence;

5 (B) farm or ranch buildings, unless the public health, safety, or
6 welfare is involved;

7 (C) a building that is intended to be used only as a residence
8 by not more than four families and that is not more than two stories high;

9 (D) a garage, workshop, or similar building that contains less
10 than 2,000 square feet of floor space to be used for a private noncommercial
11 purpose;

12 (7) a specialty contractor licensed under AS 08.18 while engaged in the
13 business of construction contracting or designing systems for work within the specialty
14 to be performed or supervised by the specialty contractor, or a contractor preparing
15 shop or field drawings for work that the specialty contractor has contracted to perform;

16 (8) a person furnishing drawings, specifications, instruments of service,
17 or other data for alterations or repairs to a building that do not change or affect the
18 structural system or the safety of the building, or that do not affect the public health,
19 safety, or welfare;

20 (9) a person who is employed by a postsecondary educational
21 institution to teach engineering, architectural, or land surveying courses; in this
22 paragraph, "postsecondary educational institution" has the meaning given in
23 AS 14.48.210;

24 (10) an officer or employee of an individual, firm, partnership,
25 association, utility, or corporation, who practices engineering involved in the
26 operation of the employer's business only, and further provided that neither the
27 employee nor the employer offers engineering services to the public; exclusions
28 under this paragraph do not apply to buildings or structures whose primary use
29 is public occupancy.

1979 WL 22899 (Alaska A.G.)

Office of the Attorney General

State of Alaska
File No. J-66-077-80
August 19, 1979

***1 Licensure of Government Engineers**

The Honorable Charles Webber
Commissioner
DCED

You have requested this department's opinion regarding the applicability of AS 08.48.221 to state personnel. That statute requires that certain documents issued by architects, engineers and land surveyors in the state be signed and stamped with an official seal. Having reviewed the pertinent statutes and regulations, we now conclude that AS 08.48.331(12) does not exempt employees of the Department of Highways from the provisions of AS 08.48, but note that they may be exempted under other statutory provisions.

AS 08.48 sets forth the provisions for registration of architects, engineers and land surveyors, and general rules of practice. One of those rules requires that certain documents issued by members of those professions be signed and stamped with a seal which may be obtained from the State Board of Registration for Architects, Engineers and Land Surveyors. In pertinent part, AS 08.48.221 provides:

Each registrant may obtain a seal of the design authorized by the board, bearing the registrant's name, registration number, and the legend, 'registered professional architect,' 'registered professional engineer,' or 'registered professional land surveyor,' as appropriate. Final drawings, specifications, surveys, plats, plates, reports and other similar documents shall, when issued, be signed and stamped with the seal.

You have inquired whether drawings, specifications and similar documents issued by the Department of Highways for the construction of highway projects must be, when issued, signed and stamped with the seal of the registered engineer in charge. In a memo of advice of April 10, 1977, Assistant Attorney General Dodge answered that inquiry in the negative, reasoning that the exemption contained in AS 08.48.331(12) applied to that precise situation. AS 08.48.331(12) reads in pertinent part: (12) an officer or employee of an individual, firm, partnership, association or corporation, which officer or employee practices architecture, engineering, or land surveying when required by his official capacity or work duties connected with his employment if the individual firm, partnership, association or corporation is not engaged in the business of offering architectural, engineering or land surveying services to the public.

Ms. Dodge reasoned that, as the Department of Highways is not engaged in the business of offering engineering services to the public, employees of the department were exempted by that provision. The State Board of Registration for Architects, Engineers and Land Surveyors suggests that such employees are offering engineering services to the public and therefore are not exempted. In reconsidering the issue, we now believe that AS 08.48.331(12) does not apply to such individuals, regardless of whether the Department of Highways is found to be offering engineering services to the public. The language of that exemption makes it applicable to an employee of an individual, firm, partnership, association or corporation. At first blush, it does not appear that the state Department of Highways falls under any of those categories. This argument is even more persuasive when AS 08.48.331(4) is considered. That section exempts from the provisions of AS 08.48 state employees practicing engineering in their official capacity when registration is not required in their job descriptions. As there is a specific exemption provision covering state employees in certain circumstances, it is even more probable that the general exemption provision in AS 08.48.331(12) does not apply to state employees.

***2 Therefore, it is our opinion that employees of the Department of Highways are exempted from the provisions of AS 08.48**

by AS 08.48.331(4), if registration under the chapter is not required in the employee's job description. It should be noted that AS 08.48.261 permits the head of each principal department of the state to waive the requirement of registration for any position necessitating use of architectural, engineering or land surveying knowledge or skills. If the requirement is waived, the state employee is not subject to the provisions of AS 08.48, including the requirement of use of a seal, contained in AS 08.48.221. If, however, the job description of a state employee requires registration under the chapter, and the requirement is not waived pursuant to AS 08.48.261, the state employee is not exempted from provisions of the chapter and must comply with same, including the seal provision of AS 08.48.221.

Avrum M. Gross
Attorney General
Teo C. Spengler
Assistant Attorney General

1979 WL 22899 (Alaska A.G.)

End of Document

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THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

BOARD OF REGISTRATION FOR ARCHITECTS
ENGINEERS, AND LAND SURVEYORS

P.O. Box 110806
Juneau, AK 99811-0806
Main: 907.465.1676
Fax: 907.465.2974

September 11, 2018

State of Alaska
Department of Transportation and Public Facilities
Design & Engineering Services
PO Box 112500
Juneau, AK 99811-2500

Attn: Kenneth J. Fisher, PE Division Director & Chief Engineer
[REDACTED]

Mr. Fisher:

Thank you for coming to our August 2018 meeting to discuss the stamping of standard detail drawings by the Department of Transportation and Public Facilities (DOT&PF). The Board agrees with the last line of the letter by Jeffrey P. Stark of the Department of Law that DOT&PF may use standard details. The Board does not agree with the contention that they can be signed as final drawings, particularly within DOT&PF's current framework for managing standard details.

Standard details are intended to be used in multiple projects with little or no change, and the appropriateness of their inclusion into a particular project is the responsibility of the engineer of record for that project. It is the responsibility of the registrant that initially designed the detail to include limitations of the detail's application, however, if that registrant is not directly involved with a particular project, sealing the drawing is in violation of 12 AAC 36.185 (a)(3), (4) and (7) which state:

(3) seal only final drawings, surveys, reports, and required construction documents for which the registrant is qualified to seal and for which the registrant claims responsibility;

(4) not knowingly allow the use of his or her seal by another person on a document that the registrant has neither prepared nor reviewed personally;

(7) not sign or seal drawings, documents, or other professional work for which the registrant does not have direct professional knowledge and direct supervisory control.

During discussions at the past several AELS meetings, it is the Board's understanding that registrants designing standard details for DOT&PF typically do not have direct professional knowledge of the particular project in which their detail is being incorporated. The Board maintains that DOT&PF's current practice of having the standard detail stamped by the registrant, forces the registrant to take responsibility for the detail's application in future

projects of which he or she has no knowledge. It is the responsibility of the engineer of record for a particular project to ensure the detail is appropriate for the project. If the detail's use doesn't perfectly match the conditions placed on that detail, it is the engineer of record's responsibility to revise the detail to meet the conditions. Additionally, as these details are currently sealed, , when the engineer of record for a project "reseals" the drawing, he or she takes responsibility for that detail and its use on the project, whether there is a stamp on that detail, or not.

Even if we were to accept that these drawings are final, the drawing with a stamp would only be good until a new code is issued. At that time somebody, whether the original engineer or a new one, would have to review the detail and verify that it still meets code. They should make changes, if necessary, and put a new stamp on the detail and date it (per 12 AAC 36.185 (d)), so that everyone knows at what time it was approved. The reviewer, if not the original engineer, cannot extend the life of the detail on behalf of the previous engineer by filling in a line in a revision block. If the reviewer is the original engineer, they have to put a new date on the stamp whenever they do such a review. A stamp originally put on a detail in 1982 cannot still be valid in 2018, unless no new codes have been issued in the interim.

We have also heard that there are concerns with a number of the details and their use is problematic to the engineers who are being given these details. The engineers have to create their own details because of code violations in the existing details. They can do this because they have the expertise to identify shortcomings in or variations from the standard detail. They understand that their license is at risk, if they specify a detail that is not adequate for the purpose.

Finally, to verify the applicability of a detail and put a stamp on it, the engineer must have a valid license. Issuing a drawing stamped by an engineer whose license has been retired or has lapsed is practicing engineering without a license. That is not acceptable.

You had requested an Attorney General's opinion on this issue. Robert Auth, the Department of Law attorney who works with the Board of Architects, Engineers, and Land Surveyors, has reviewed this letter and agrees with the Board's interpretation of the Statutes and Regulations.

The Board recommends DOT&PF remove stamps from standard details and establish a process for reviewing standard details on a regular basis to ensure they are compliant with codes.

Respectfully,

BOARD OF ARCHITECTS, ENGINEERS, AND LAND SURVEYORS



Colin Maynard, PE, SE, F.NSPE
Chair

cc: Robert Auth, Department of Law



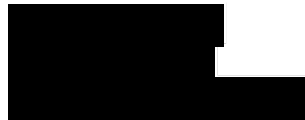
THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

BOARD OF REGISTRATION FOR ARCHITECTS
ENGINEERS, AND LAND SURVEYORS

P.O. Box 110806
Juneau, AK 99811-0806
Main: 907.465.1676
Fax: 907.465.2974

August 27, 2018



Re: NCEES Exam Discussion

Dear Mr. Flynn:

Thank you for taking the time to speak with the Alaska State Board of Registration for Architects, Engineers, and Land Surveyors (AELS) at our August 2-3 meeting.

Per 12 AAC 36.040(c), an applicant has five attempts within five years of the date the board first approved the applicant's original application. Upon reviewing your file, your application was conditionally approved in February 2013, meaning it expired in February 2018. However, the board approved to extend the expiration of your application and allow you to sit for the NCEES PE exam one additional time. This decision was made based on the fact that there was an administrative error that failed to specify the expiration of your original application.

Please proceed with registering for the NCEES PE exam at your earliest convenience. The extended deadline is valid through **August 2019**, one year from the board's decision to award an extension.

In regards to your request for the board to consider changing its regulations, per Alaska Statute 08.48.181, the board is bound to set procedures and standards that are at least equal to those adopted by national examining councils for the professions regulated by the AELS board.

***Sec. 08.48.181. Registration upon examination.** Except as provided in AS 08.48.191, for registration as a professional architect, professional engineer, professional land surveyor, or professional landscape architect, a person shall be examined in this state in accordance with the regulations of procedure and standards adopted by the board under AS 44.62 (Administrative Procedure Act). The procedure and standards shall at least meet the requirements adopted by recognized national examining councils for these professions.*

Additionally, one of the key elements of the board's mission is to enforce licensure and competency requirement in a fair uniform manner. To this end, the board has relied on national exams for over fifty years, first administering the NCEES Fundamentals of Engineering exam in April 1966 and the NCEES Principles and Practices of Engineering exam in April 1967.

The board regularly reviews its regulations against current practices and standards to ensure they are appropriate and maintains the current registration requirements for professional engineers are relevant.

Again, the board thanks you for the time and effort you put into your presentation at the August meeting and wishes you luck on your next NCEES exam attempt.

If you have any additional questions, please forward them to our Executive Administrator, Alysia Jones (907.465.1676/ alysia.jones@alaska.gov).

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Colin Maynard', with a stylized flourish at the end.

Colin Maynard, PE, SE
Chair, Board of Architects, Engineers and Land Surveyors



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community,
and Economic Development

BOARD OF REGISTRATION FOR ARCHITECTS
ENGINEERS, AND LAND SURVEYORS

P.O. Box 110806
Juneau, AK 99811-0806
Main: 907.465.1676
Fax: 907.465.2974

October 12, 2018

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Re: Stamping Requirements for AHERA Projects

Dear Mr. [REDACTED]:

Thank you for taking the time to speak with the Alaska State Board of Registration for Architects, Engineers, and Land Surveyors (AELS) at our May 3-4, 2018 meeting and for your willingness to continue the discussion with board member Jennifer Anderson.

The board discussed the AHERA stamping requirements at length and determined that these requirements do not fall within the jurisdiction of this board. In general, the hazardous materials drawings or plans that are produced by your firm and other local companies do not have a design component that requires a PE stamp. Hazardous building materials surveys and abatement work are conducted within the framework of OSHA and EPA, and we have determined that those entities are the most appropriate to regulate the requirements.

The board intends to add language to the AELS Guidance Manual regarding AHERA stamping requirements based upon this discussion and again, thanks you for your time and for bringing your concern to our attention. We appreciated your presentation and the backup materials you provided for our further consideration.

If you have any additional questions, please forward them to our Executive Administrator, Alysia Jones (907.465.1676/ alysia.jones@alaska.gov).

Respectfully yours,

Board of Architects, Engineers and Land Surveyors

A handwritten signature in black ink, appearing to read "Colin Maynard".

Colin Maynard, PE, SE, F.NSPE
Chair

Correspondence Received

Since August 2018 Meeting

VIII. Correspondence Received

The board received additional requests for clarification on AS 08.48.331(a)(10) including:

1. If a public electric utility designs a pole line or joint-trench with the anticipation that other businesses (i.e. telephone, cable, city lights, or other electric companies) will be attaching to the pole or joining in the trench, would that design need to be stamped by a professional engineer as the design is for more than just the employer's business?
2. Would the following scenarios need a stamp by a professional engineer:
 - A public utility employee creates a design for work to...
 - o Install a new service line to a new housing unit?
 - o Install a new transformer that serves a new multi-unit housing complex?
 - o Install a new transformer that serves a building owned by the same utility?
 - o install a new distribution overhead electric pole line in a public right of way?
 - o install a new distribution overhead electric pole line in a Telephone and Electric easement?
 - o Install a new pole just to be used by that same utility?
 - o Install a new pole to be used by that utility and other utilities?
 - o Install a new transmission line from a power plant to a substation?
 - o Install a new substation?
 - o Install a new power plant?
 - o Install relaying and protection devices on the utility's system?
 - o Install a new underground distribution line where only that same utility is in the trench?
 - o Install a new underground distribution line where the trench is jointly shared with other utilities?
 - o Install street lighting for a public roadway?
 - o Install area lighting for a private property owner?
 - o Install area lighting for the same utilities purposes only (i.e. around the utility's power plant or substation)?
 - o Do any of the above answers change if the construction is completed by the same utilities employees or if it was done by a contractor?
 - A public utility employee creates a ...
 - o construction standard to be used on all projects?
 - o material specification for parts and assemblies to be constructed?

Proposed
Changes
to 12 AAC 36
.060, .061, .103,
and .110



Notice of proposed changes relating to eligibility for architect examination and registration, NCARB education guidelines, registration by comity, and removing seismic requirements in the regulations of the State Board of Registration for Architects, Engineers, and Land Surveyors

Proposed Regulations - FAQ

September 2018

1. What is the purpose of the proposed regulations? What will this regulation do?

The purpose of the proposed regulations is to address outdated references, remove an obsolete requirement, and to update registration requirements to be consistent and aligned with national standards. These proposed regulations may affect future applicants for architect and engineer registration.

Proposed changes to 12 AAC 36.060, 12 AAC 36.061, and 12 AAC 36.110 will update references to National Council of Architect Registration Board (NCARB) standards to align with current terminology and remove obsolete seismic requirements, and to adopt by reference the updated NCARB Education Guidelines.

Proposed changes to 12 AAC 36.103. Architect Registration by Comity will close a current loophole that allows registration by comity to have lesser requirements than initial registration. It will make regulations for both comity and initial registration consistent and aligned with national standards, which will increase mobility and consistency of requirements across states.

Proposed changes to 12 AAC 36.105. Engineer Registration by Comity will make registration by comity in the nine additional branches of engineering that were added in March 2012 match current criteria. It will also make regulations for both comity and initial registration for structural engineers consistent and aligned with current standards.

2. What are the costs to comply with the proposed regulations?

No additional cost. All application and registration fees would remain the same.

3. When will the regulations be effective?

After public comment deadline, comments received are compiled and given to the Board for consideration. The Board may adopt the regulation as written/publicly noticed, may amend and adopt them, or choose to take no action, or may withdraw the proposed regulations in part or in its whole. After Board action, the adopted regulations goes to Department of Law (DOL) for final review/approval. DOL either approves or disapproves regulations. Once approved by DOL, it goes to the Lt. Governor for filing. Regulation takes effect on the 30th day after they have been filed by the Lt. Governor.

Do you have a question that is not answered here? Please email RegulationsAndPublicComment@alaska.gov so it can be added.

**Chapter 36. State Board of Registration for Architects,
Engineers, and Land Surveyors.**

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

12 AAC 36.060 is amended to read:

12 AAC 36.060. Eligibility for architect examination and registration. (a) To be eligible for the architect registration examination required in 12 AAC 36.100(b), an applicant must submit

(1) an application showing that the applicant meets the education requirements specified in 12 AAC 36.061; and

(2) an NCARB Record [SUMMARY IN SUPPORT OF APPLICATION FOR EXAMINATION].

(b) To be eligible for registration by examination as an architect in this state, an applicant must

(1) submit an application in compliance with 12 AAC 36.010;

(2) meet the education requirements specified in 12 AAC 36.061;

(3) complete the NCARB Architectural Experience Program (AXP);

(4) satisfy the arctic [AND SEISMIC] requirements of 12 AAC 36.110; and

(5) successfully pass the examinations required in 12 AAC 36.060 and

12 AAC 36.100. (Eff. 5/23/74, Register 50; am 9/30/78, Register 67; am 8/13/87, Register 103; am 10/20/90, Register 116; am 11/13/99, Register 152; am 10/29/2009, Register 192; am 5/25/2017, Register 222; am ____/____/_____, Register ____)

Authority: AS 08.48.101 AS 08.48.171 AS 08.48.181

12 AAC 36.061 is amended to read:

12 AAC 36.061. Architect education requirements. (a) To be eligible for registration as an architect in this state, an applicant must

(1) have a professional degree in architecture from an academic institution accredited by the National Architectural Accrediting Board (NAAB) or certified by the Canadian Architectural-Certification Board (CACB) not later than two years after the degree was received; only a bachelor of architecture or a master of architecture satisfies the requirements for a professional degree under this paragraph; four-year pre-professional degrees in architectural studies or post-professional degrees in a related field do not satisfy the requirements for a professional degree under this paragraph; or

(2) satisfy the minimum education requirements of the NCARB Education **Guidelines** [STANDARD] as prescribed in the NCARB publication *NCARB Education Guidelines, May 2017* [STANDARD, 2010] and adopted by reference.

(b) To verify compliance with (a) of this section, the board will only accept documentation from NCARB of the applicant's education credentials, and the applicant must have NCARB transmit its verification to the board by

(1) an NCARB "Council Record With Application for Jurisdiction Registration With Council Certification," [COMMONLY KNOWN AS AN "NCARB GREEN COVER COUNCIL RECORD,"] if the applicant is applying for registration by examination; or

(2) an NCARB Council Certificate, [COMMONLY KNOWN AS "NCARB BLUE BOOK,"] if the applicant is applying for registration by comity. (Eff. 11/13/99, Register 152; am 3/8/2001, Register 157; am 1/20/2002, Register 161; am 6/13/2003, Register 166; am 6/11/2005, Register 174; am 9/8/2006, Register 179; am 2/9/2007, Register 181; am 7/12/2008,

Register _____, _____ 2018 **PROFESSIONAL REGULATIONS**

Register 187; am 7/13/2011, Register 199; am 5/25/2017, Register 222; am ____/____/_____,
Register _____)

Authority: AS 08.48.101 AS 08.48.171

Editor's note: The NCARB publication *NCARB Education Guidelines [STANDARD]*, adopted by reference in 12 AAC 36.061(a)(2), may be obtained from NCARB at (202) **879-0520** [783-6500], by writing to the National Council of Architectural Registration Boards, 1801 K Street, N.W., Suite **700K** [1100], Washington, D.C. 20006, or by requesting one online at <https://www.ncarb.org>.

12 AAC 36.103 is amended to read:

12 AAC 36.103. Architect registration by comity. (a) Under AS 08.48.191(a), the board may issue a certificate of registration as an architect to an applicant who

(1) documents education and passage of the NCARB Architect Registration Examination;

(2) documents work experience that satisfies the requirements of [(b)(3)] of this section;

(3) has completed the arctic engineering [AND SEISMIC] requirements of 12 AAC 36.110; and

(4) has completed a jurisprudence questionnaire prepared by the board covering the provisions of AS 08.48 and this chapter.

(b) An applicant for a certificate of registration as an architect by comity must submit

(1) an application for registration by comity in compliance with 12 AAC 36.010, including the applicable fees established in 12 AAC 02.110; **and**

(2) verification of a current registration to practice architecture in a state, territory, or possession of the United States, the District of Columbia, or a foreign country that is based on education, experience, and examination requirements that the board determines were at least equivalent to the requirements of AS 08.48 and this chapter at the time the applicant's out-of-state registration was issued [; AND

(3) EITHER

(A) VERIFICATION OF AT LEAST 24 MONTHS OF RESPONSIBLE CHARGE EXPERIENCE AS AN ARCHITECT AS DEFINED UNDER AS 08.48.341(1) OR AS VERIFIED BY THE SIGNATURE AND SEAL, EXCEPT AS PROVIDED IN (d) OF THIS SECTION, BY THE ARCHITECT WHO SUPERVISED THE APPLICANT AND WHO AT THE TIME OF PROVIDING THE SUPERVISION, WAS LEGALLY REGISTERED AS A PROFESSIONAL ARCHITECT IN A STATE, TERRITORY, OR POSSESSION OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, OR A FOREIGN COUNTRY; OR

(B) IF THE APPLICANT HAS BEEN PRACTICING ARCHITECTURE AS A REGISTERED ARCHITECT FOR FIVE YEARS OR MORE IN A STATE, TERRITORY, OR A POSSESSION OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, OR A FOREIGN COUNTRY, TWO LETTERS OF REFERENCE VERIFYING THAT EXPERIENCE; EACH LETTER MUST BE SIGNED AND SEALED, EXCEPT AS PROVIDED IN (d) OF THIS SECTION, BY AN ARCHITECT WHO IS LEGALLY REGISTERED IN A STATE, TERRITORY, OR POSSESSION OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, OR A FOREIGN COUNTRY].

(c) An applicant for a certificate of registration as an architect by comity under this section **shall** [MAY] submit a council record issued by NCARB to verify the applicant's qualifications, including

- (1) examination results;
- (2) education;
- (3) experience; and
- (4) registration in another licensing jurisdiction.

(d) If an architect who provides a [WORK EXPERIENCE VERIFICATION UNDER (b)(2) OF THIS SECTION OR A] reference letter under **(c)** [(b)(3)] of this section does not possess a seal, the applicant must provide the board a statement from that architect,

- (1) providing that architect's registration number; and
- (2) [IF THAT ARCHITECT IS PROVIDING A REFERENCE LETTER,]

certifying that the registration of that architect is current.

(e) Except as provided in (c) of this section, an applicant who received an initial certificate of registration as an architect on or before July 13, 2011 may submit two letters of reference verifying that the applicant's experience as a registered architect for five years or more in a state, territory, or possession of the United States, the District of Columbia, or a foreign country in lieu of the NCARB council record. Each letter must be signed and sealed by an architect who is legally registered as a professional architect in a state, territory, or possession of the United States, the District of Columbia, or a foreign country.

(Eff. 6/3/89, Register 110; am 1/1/90, Register 116; am 3/16/96, Register 137; am 7/26/97, Register 143; am 11/13/99, Register 152; am 6/13/2003, Register 166; am 7/12/2008, Register 187; am 7/25/2008, Register 187; am 3/11/2012, Register 201; am ____/____/_____, Register

_____)

Authority: AS 08.48.101 AS 08.48.171 AS 08.48.191

12 AAC 36.105 is amended to read:

12 AAC 36.105. Engineer registration by comity. (a) Under AS 08.48.191(b), the board may issue an engineering certificate of registration to an applicant who

(1) documents education and passage of examinations that meet the requirements of (b) of this section;

(2) documents work experience that satisfies the requirements of (c) of this section;

(3) has completed the arctic engineering requirements of 12 AAC 36.110; and (4) has completed a jurisprudence questionnaire prepared by the board, covering the provisions of AS 08.48 and this chapter.

(b) An applicant for engineering registration by comity must

(1) submit verification of current registration to practice engineering in a state, territory, or possession of the United States, the District of Columbia, or a foreign country that was based upon education, experience, and examination requirements that, in the opinion of the board, were at least equivalent to the requirements of AS 08.48 and this chapter at the time the applicant's out-of-state registration was issued **or at least equivalent to current requirements;** the applicant must have passed an NCEES engineering examination in the same branch of engineering that is being applied for, as required by 12 AAC 36.100(c); and

(2) have passed the fundamentals of engineering examination or had this requirement waived under 12 AAC 36.090.

(c) An applicant for engineering registration by comity must

(1) have at least 24 months of responsible charge experience in the branch of professional engineering listed in 12 AAC 36.990(17) for which the applicant has applied, as verified by the signature and seal, except as provided in (g) of this section, of the engineer who has supervised the applicant and who was, at the time of providing the supervision,

(A) legally registered as a professional engineer in a state, territory, or possession of the United States, the District of Columbia, or a foreign country; and

(B) either

(i) registered as a professional engineer in that branch of engineering or a related branch of engineering approved by the board; or

(ii) practicing in the branch for which the applicant has applied, if the licensing jurisdiction where the supervising engineer was registered as a professional engineer does not register engineers in specific branches of engineering; or

(2) if the applicant has been practicing engineering as a registered engineer for five years or more in a state, territory, or possession of the United States, the District of Columbia, or a foreign country, provide two current letters of reference verifying that experience; each letter must be signed and sealed, except as provided in (g) of this section, by an engineer who is

(A) legally registered as a professional engineer in a state, territory, or possession of the United States, the District of Columbia, or a foreign country; and

(B) practicing the specific branch of engineering for which the applicant has applied or a related branch of engineering approved by the board.

(d) Repealed 7/19/2009.

(e) An applicant for engineering registration by comity may submit a council record issued by NCEES to verify the applicant's qualifications, including

(1) examination results;

(2) education; and

(3) registration in another licensing jurisdiction.

(f) Repealed 7/19/2009.

(g) If an engineer who provides a work experience verification under (c)(1) of this section or a reference letter under (c)(2) of this section does not possess a seal, the applicant must provide the board a statement from that engineer,

(1) providing that engineer's registration number and branch of engineering; and

(2) if that engineer is providing a reference letter, certifying that the registration of that engineer is current.

(h) Notwithstanding (b)(1) of this section, an applicant for structural engineering registration by comity must have passed an NCEES Principles and Practices of Engineering Examination and the 16-hour NCEES Structural Engineering Examination and have six years of experience with a bachelor's degree or five years of experience with a master's degree. Applicants who have passed the NCEES Structural Engineering I Examination, NCEES Structural Engineer II Examination, or both may be granted a civil engineering registration. (Eff. 9/30/78, Register 67; am 8/13/87, Register 103; am 6/3/89,

Register 110; am 10/20/90, Register 116; am 3/16/96, Register 137; am 7/26/97, Register 143;

am 8/26/98, Register 147; am 11/13/99, Register 152; am 3/9/2001, Register 157; am 6/11/2005,

Register 174; am 7/25/2008, Register 187; am 7/19/2009, Register 191; am 5/25/2017, Register

222; am ____/____/_____, Register _____)

Authority: AS 08.48.101 AS 08.48.181 AS 08.48.191
AS 08.48.171

12 AAC 36.110 is amended to read:

12 AAC 36.110. Arctic [AND SEISMIC] requirement. (a) An applicant for registration as an architect, engineer, or landscape architect must have successfully completed a board-approved university-level course in arctic engineering or its equivalent.

(b) Repealed ____/____/_____. [IN ADDITION TO (a) OF THIS SECTION, AN APPLICANT FOR ARCHITECTURAL REGISTRATION BY COMITY SHALL PASS THE NCARB EXAMINATION ON SEISMIC FORCES UNLESS THE APPLICANT WAS REGISTERED BY EXAMINATION IN

(1) CALIFORNIA IN 1936 OR LATER;

(2) ALASKA, HAWAII, IDAHO, MONTANA, NEVADA, OR WASHINGTON STATE IN JUNE 1963 OR LATER;

(3) UTAH OR ARIZONA IN DECEMBER 1963 OR LATER;

(4) COLORADO IN JUNE 1964 OR LATER;

(5) GUAM IN JUNE 1965 OR LATER;


(6) NEW MEXICO IN JUNE 1966 OR LATER; OR

(7) ANY OTHER NCARB JURISDICTION IN JUNE 1968 OR LATER]. (Eff.


5/23/74, Register 50; am 9/30/78, Register 67; am 8/13/87, Register 103; am 11/13/99, Register 152; am ____/____/_____, Register _____)

Authority: AS 08.48.101 AS 08.48.181 AS 08.48.191

AS 08.48.171



Statute & Regulation Working Session (Part 1)



CORPORATE AUTHORIZATION AND USE OF SEALS

~~There are a few issues with which the AELS Board and the design profession have been dealing with and discussing for a few years now. The attached regulation changes attempt to address those. The issues are:~~

The board proposes regulations changes to 12 AAC 36.135 and 12 AAC 36.185 to address the following issues:

- 1) ~~Whether May a corporation, LLC or LLP designate multiple registrants in responsible charge for each discipline on a corporate authorization there is only one individual in responsible charge for each discipline or whether there may be more than one as part of a corporate authorization.~~
- 2) Whether any employee of an authorized entity may seal documents or only the person(s) specifically listed on the corporate authorization. The new language codifies the answer determined at the February meeting that the former is the case.
- 3) ~~Formally address Responds to the APDC's concern that the AELS Board may change their interpretation of required staffing for an office, whether there has to be an individual in each discipline in every office. This includes~~The proposed updates involve removing the language from 12 AAC 36.185 Use of Seals ~~(where it was out of place)~~ and creating a new section.12 AAC 36.140 with similar language and language consistent with the AELS Board interpretation from ~~two years ago~~2015.

12 AAC 36.135. REVIEW OF APPLICATION FOR CORPORATE, LIMITED LIABILITY COMPANY, OR LIMITED LIABILITY PARTNERSHIP AUTHORIZATION.

An applicant who meets the requirements on the checklist established by the board in this section has demonstrated the necessary qualifications for a certificate of authorization for corporate, limited liability company, or limited liability partnership practice. An applicant who does not meet the requirements on this checklist or whose responses on the application form do not clearly show that the applicant is qualified to receive a certificate of authorization will not be issued a certificate unless the board further reviews the application and determines that the applicant meets the qualifications in AS 08.48.241 for a certificate of authorization. A certificate of authorization for corporate, limited liability company, or limited liability partnership practice will be issued to an applicant who submits

- (1) a completed form for application that includes the
 - (A) name and address of the corporation, limited liability company, or limited liability partnership;
 - (B) type of architecture, engineering, land surveying, or landscape architecture practiced by the corporation, limited liability company, or limited liability partnership;
 - (C) name and current state registration number of the registrant who will be in responsible charge for the activities of the corporation, limited liability company, or limited liability partnership in this state of each branch of practice requiring registration under AS 08.48;
 - (D) names of the majority stockholders of the corporation, the names of the members holding a majority interest of a limited liability company, or the names of the partners of a limited liability partnership; and
 - (E) signature and title of an agent authorized by the corporation, limited liability company, or limited liability partnership, to apply for corporate, limited liability company, or limited liability partnership authorization under this chapter;
- (2) the corporation, limited liability company, or limited liability partnership certification fee in 12 AAC 02.110;
- (3) a certified copy of a resolution of the board of directors of the corporation, the managing members or manager of the limited liability company, or the general partners of the limited liability partnership that
 - (A) designates an individual or individuals with a current registration in this state as responsible for each field of practice; and
 - (B) provides that full authority to make all final practice decisions on behalf of the corporation, limited liability company, or limited liability partnership for work performed by the corporation, limited liability company, or limited liability partnership in this state is granted by the board of directors of the corporation, the managing members or manager of the limited liability company, or the general partners of a limited liability partnership to the individual designated in the resolution as responsible for the relevant field of practice;
- (i) **The individual or individuals in responsible charge of a discipline may grant other employees, who are registered in that discipline, the authority to seal drawings on behalf of the corporation, limited liability company, or limited liability partnership. This does not relieve the individual or individuals in responsible charge from responsibility for the work delegated to the other employee.**
- (4) a copy of the bylaws of the corporation, the articles of incorporation or operating agreement of the limited liability company, or the partnership agreement of the limited liability partnership showing that the corporation, limited liability company, or limited liability partnership has complied with the requirements in AS 08.48.241(b)(1);
- (5) repealed 8/19/2006;
- (6) a statement of the experience of the corporation, limited liability company, or limited liability partnership in each field of practice of architecture, engineering, land surveying, or landscape architecture during the five years before the date of application; and
- (7) a certified statement on a form provided by the board, stating that each licensee designated in responsible charge for each branch of practice acknowledges and agrees to that designation by the corporation, limited liability company, or limited liability partnership; the statement must include each responsible charge licensee's
 - (A) state registration number;
 - (B) registration expiration date;
 - (C) professional seal; and
 - (D) signature.

Authority: AS 08.48.101 AS 08.48.241

12 AAC 36.140. ARCHITECTURAL, ENGINEERING, LANDSCAPE ARCHITECTURE, OR LAND SURVEYING OFFICES

(a) each office

maintained for the preparation of drawings, specifications, reports, or other professional work that will require a professional seal must have a registrant assigned to, and regularly employed in, that office who has direct knowledge and supervisory control of the employees of that office.

(b) While a registrant is required, the office need not have a registrant in every discipline offered by that entity. A registrant in another office of the entity may be in responsible charge control of the work done in that office for the discipline in which they are registered. To offer a service, at least one registrant licensed in that discipline must be regularly employed by the entity.

(c) for the purpose of this section, "regularly employed" means at least 20 hours per week.

(d) for the purposes of this section, an "entity" is a sole practitioner, partnership, corporation, limited liability company, limited liability partnership, or governmental agency.

12 AAC 36.185. USE OF SEALS. (a) A registrant may

(1) not sign or seal a drawing or document dealing with professional services in which the registrant is not qualified to sign or seal by virtue of education, experience, and registration;

(2) approve and seal only design documents and surveys that are safe for public health, property and welfare in conformity with accepted architecture, engineering, land surveying, and landscape architecture standards in Alaska;

(3) seal only final drawings, surveys, reports, and required construction documents for which the registrant is qualified to seal and for which the registrant claims responsibility;

(4) not knowingly allow the use of his or her seal by another person on a document that the registrant has neither prepared nor reviewed personally;

(5) not use the seal or a reproduction of the seal of another registrant on a document, regardless of the intended use of the document;

(6) not sign a name other than his or her own name over a seal, and may not forge the signature of the individual to whom the seal was issued by the board; and

(7) not sign or seal drawings, documents, or other professional work for which the registrant does not have direct professional knowledge and direct supervisory control.

(b) If portions of drawings, documents, or other professional work are prepared by other registered professionals, a registrant may seal only that portion of the work for which the registrant has direct professional knowledge and direct supervisory control.

(c) ~~Each office maintained for the preparation of drawings, specifications, reports, or other professional work that will require a professional seal must have a registrant assigned to and regularly employed in that office who has direct knowledge and supervisory control of that work.~~ **Repealed XX/XX/XXXX**

(d) The registrant shall include the date each time the registrant signs and seals a document by electronically or manually inserting the date within the seal or within two inches of the seal.

(e) The registrant, by sealing final drawings, takes responsibility for related discipline specifications included in the final drawings, unless under AS 08.48.221 the registrant certifies on the face of the document the extent of the registrant's responsibility.

(f) An electronic image of a signature may be used on the seal if the registrant or the owner of the documents retains an original copy of the documents, accessible for later reference, that has either

(1) an original hand signature over the seal; or

(2) software in place that will automatically remove or modify the electronic image of the signature if the document is modified.

Authority: AS 08.48.101 AS 08.48.111 AS 08.48.221

Definition

Alaska State **Statute** 08.48.341 defines architecture, engineering, land surveying and landscape architecture as follows:

(15) “practice of landscape architecture” means professional services or creative work in the design of the landscape, ~~in-site investigation, reconnaissance, research, planning, design, and preparation services related to drawings and construction documents, observation of construction, and location, arrangement, and design of incidental and necessary tangible objects and features for the purpose of~~

- ~~(A) preservation and enhancement of land uses and natural land features;~~
- ~~(B) location and construction of aesthetically pleasing and functional approaches for structures, roadways, and walkways;~~
- ~~(C) establishing or maintaining trails, plantings, landscape irrigation, landscape lighting, and landscape grading; or~~
- ~~(D) generalized planning of the development of land areas in a manner that is sensitive to the area's natural and cultural resources;~~

the adequate performance of which requires the specialized knowledge of applied mathematics and physical and social-sciences, dealing with consultation, evaluation, planning, and design of landscape architecture projects, public and private; the teaching of advanced landscape architectural courses in institutions of higher learning, consultation and the direction of or the performance of preparing, filing, and administering landscape architecture plans, drawings, specifications, permits, and other contract documents involving projects that direct, inform or advise on the functional use and preservation of natural and built environments; landscape architectural review of drawings and specifications by regulatory agencies; “practice of landscape architecture” may, by regulation of the board, include architectural or engineering design of minor importance, but it does not include comprehensive architectural or engineering services;

Examination

12 AAC 36.068. ELIGIBILITY FOR LANDSCAPE ARCHITECT REGISTRATION BY EXAMINATION. (a) To be eligible for the professional landscape architect ~~registration~~ examination ~~as required in 12 AAC 36.100(e)~~, an applicant must submit

- (1) a complete application on a form provided by the department; and
- (2) except as provided in (c) and (i) of this section, satisfactory evidence that the applicant’s education ~~or~~ and work experience are equivalent to the requirements set out in the following table of education and work experience for professional landscape architect:

**TABLE OF EDUCATION AND WORK EXPERIENCE
REQUIREMENTS FOR PROFESSIONAL LANDSCAPE
ARCHITECT**

Classification	Education Credit Allowed In Years	Work Experience Credit Allowed In Years	Total Years of Education and Work Experience
LAAB accredited professional degree in landscape architecture and a master’s or doctorate degree in landscape architecture	5 - 6	2 - 3	8
LAAB accredited professional degree in landscape architecture	4 - 5	3 - 4	8
Non-LAAB accredited	4	4	8

professional degree in
landscape architecture and a
master's or doctorate degree
in landscape architecture

Non-LAAB accredited professional degree in landscape architecture	3	5	8
Non-LAAB accredited B.S./B.A. degree in landscape architecture	1 - 3	8 - 10	10
Course work in LAAB accredited landscape architecture curriculum – no degree	1 - 3	7 - 10	10
Course work in non-LAAB accredited landscape architecture program – no degree (Minimum of one year credit hours)	1	11 - 12	12

(b) Education for initial examination must be in the field of landscape architecture for full credit to be given. If the education is not in the field of landscape architecture, the board will determine the amount of credit to be given based on course work comparability with the field of landscape architecture as required by Landscape Architectural Accreditation Board (LAAB) for accredited programs. An applicant with a foreign degree shall submit

(1) a transcript of the applicant's education and if the transcript is not in English, submit a translation into English and a signed and notarized affidavit by the translator of the accuracy of the translation; and

(2) an evaluation of the applicant's education from an agency approved by the board unless the applicant's education has been earned at a school accredited by an accreditation agency recognized by the board.

(c) The minimum work experience must include 24 months of responsible charge. The board will accept up to a maximum of two years of subprofessional work experience for up to one half of the work experience required for registration based on its meeting the definition of "subprofessional work" in 12 AAC 36.990.

(d) To receive full credit for work experience, an applicant must

(1) gain experience while under the responsible control of a professional landscape architect registered in the United States, or

(2) successfully complete a mentoring program that meets the requirements of (f) – (h) of this section.

(e) Education and work experience may not be accumulated concurrently. A maximum of 12 months' credit may be claimed for a calendar year.

(f) Work experience for initial examination must be in the field of landscape architecture for full credit to be given. If the work experience is not in the field of landscape architecture, the board will determine the amount of the credit to be given based on comparability within the field of landscape architecture practice.

(g) To meet the mentoring requirements of this section, an applicant

(1) who holds a 5-year LAAB accredited professional degree in landscape architecture must complete three years of quarterly face-to-face meetings with a professional landscape architect registered in the United States;

(2) who holds a 4-year LAAB accredited professional degree in landscape architecture must complete four years of quarterly face-to-face meetings with a professional landscape architect registered in the United States.

(h) On a form provided by the department, an applicant shall submit a report for each meeting under (f) of this section, including

(1) a description of the applicant's work experience and topics reviewed during the meeting;

(2) a statement indicating whether or not the work experience reviewed was responsible charge work, if it was directly applicable to professional landscape architectural work and whether the work was performed according to industry standards; and

(3) the signature, date and seal of the professional landscape architect who served as the applicant's mentor.

(i) An applicant who completes a mentoring program under (f) of this section must submit a final report that includes a statement from the professional landscape architect who served as the mentor recommending the applicant for registration under AS 08.48 and this chapter.

(j) Upon submission of evidence of graduation from an LAAB accredited curriculum in landscape architecture, an applicant for examination as a landscape architect may sit for sections 1 and 2 of the examination as early as can be scheduled after graduation. Authorization to sit for the remaining portions of the examination will not be granted until satisfactory evidence that the applicant's education and work experience requirements set out in the table of education and work experience for professional landscape architect in (a)(2) of this section have all been satisfied.

Authority: AS 08.48.101 AS 08.48.171 AS 08.48.181

12 AAC 36.069. STANDARDS FOR REGISTRATION AS A LANDSCAPE ARCHITECT. In accordance with AS 08.48.331(b)*, and except as exempted in AS 08.48.331(a), design or creative work involving any of the following constitutes the practice of an aspect of landscape architecture that affects the public health or safety and thus requires registration as a landscape architect:

- (1) grading, clearing, or shaping of land;
- (2) landscape irrigation;
- (3) outdoor planting plans;
- (4) outdoor play apparatus;
- (5) outdoor structures.

Authority: AS 08.48.101 AS 08.48.181 AS 08.48.331
AS 08.48.171 AS 08.48.191

Exemption

***AS 08.48.331 (b)** The requirement to be registered as a landscape architect under this chapter only applies to a person who practices an aspect of landscape architecture that the board has determined affects the public health, safety, or welfare.

12 AAC 36.069. STANDARDS FOR REGISTRATION AS A LANDSCAPE ARCHITECT. In accordance with AS 08.48.331(b), and except as exempted in AS 08.48.331(a), design or creative work involving any of the following constitutes the practice of an aspect of landscape architecture that affects the public health or safety and thus requires registration as a landscape architect:

- ~~(3) grading, clearing, or shaping of land;~~
- ~~(4) landscape irrigation;~~
- ~~(5) outdoor planting plans;~~
- ~~(6) outdoor play apparatus;~~
- ~~(7) outdoor structures.~~

1. Investigation, selection and allocation of land and water resources for appropriate uses;
2. Formulation of feasibility studies, and graphic and written criteria to govern the planning, design and management of land and water resources;
3. Preparation, review and analysis of land use master plans, subdivision plans and preliminary plats;
4. Determining the location and siting of improvements, including buildings and other features, as well as the access and environs for those improvements;
5. Design of land forms and land form elements, storm water drainage, soil conservation and erosion control methods, pedestrian and vehicular circulation systems and related construction details;
6. Consultation, planning, designing or responsible supervision in connection with the development of land areas for preservation, restoration, remediation, stabilization and enhancement;
7. Design of non-habitable structures for aesthetic and functional purposes, such as pools, walls and structures for outdoor living spaces, for public and private use;
8. Determination of proper land use as it pertains to natural features; ground cover, use, nomenclature and arrangement of plant material adapted to soils and climate; naturalistic and aesthetic values; settings and approaches to structures and other improvements; and the development of outdoor space in accordance with ideals of human use and enjoyment;
9. Design with a priority to ensure equal access to all public goods and services through the use of barrier-free and inclusive design in compliance with the Americans with Disabilities Act (ADA);
10. Consultation, planning, designing and/or responsible supervision relative to natural drainage and the consideration, determination and solution of inherent problems of the land relating to erosion, wear and tear, blight or other hazards to include the implementation of low impact development and green infrastructure designs;
11. Design of land forms and land form elements relative to recreation and facilities, parks and playgrounds, and related construction details;
12. Consultation, planning, designing or responsible supervision in connection with urban renewal, multimodal transportation, urban design, and neighborhood planning
13. Consideration of the health, safety and welfare of the public. Public welfare is defined through: environmental sustainability; contribution to economic sustainability and benefits; promotes public health and well-being; builds communities; encourages landscape awareness/stewardship; offers aesthetic and creative experiences; and enables people and communities to function more effectively.

Comity

(+) **12 AAC 36.109. LANDSCAPE ARCHITECT REGISTRATION BY COMITY.** (a) An applicant for landscape architect registration by comity shall comply with 12 AAC 36.110 and verify the applicant's education and experience by submitting an application in compliance with 12 AAC 36.010; and CLARB council certificate; or

(2) verification of a current registration to practice landscape architecture in another licensing jurisdiction that was based upon CLARB certificate standards, or that was based upon education, experience, and examination requirements that in the opinion of the board were at least equivalent to the requirements of AS 08.48 and this chapter at the time that the applicant submits an application for registration by comity.

(b) In addition to complying with (a) of this section, an applicant for landscape architect registration by comity must complete a jurisprudence questionnaire prepared by the board, covering the provisions of AS 08.48 and this chapter.

Under AS 08.48.191(d), the board may issue a landscape architecture certificate of registration to an applicant who

- (1) documents education and passage of examinations that meet the requirements of (b) of this section;
 - (2) documents work experience that satisfies the requirements of (c) of this section;
 - (3) has completed the arctic engineering requirements of 12 AAC 36.110; and
 - (4) has completed a jurisprudence questionnaire prepared by the board, covering the provisions of AS 08.48 and this chapter.
- (b) An applicant for a certificate of registration as a landscape architect by comity must submit
- (1) an application for registration by comity in compliance with 12 AAC 36.010, including the applicable fees established in 12 AAC 02.110; and
 - (2) verification of a current registration to practice landscape architecture in a state, territory, or possession of the United States, the District of Columbia, or a foreign country that is based on education, experience, and examination requirements that the board determines were at least equivalent to the requirements of AS 08.48 and this chapter at the time the applicant's out-of-state registration was issued. AND
- (c) either
- (1) verification of at least 24 months of responsible charge experience as a landscape architect as defined under 08.48.341 (9) or as verified by the signature and seal, except as provided in (d) of this section, by the landscape architect who supervised the applicant and who at the time of providing supervision, was legally registered as a professional landscape architect in a state, territory, or possession of the United States, the District of Columbia, or a foreign country; OR
 - (2) if the applicant has been practicing landscape architecture for five years or more in a state, territory, or possession of the United States, the District of Columbia, or a foreign country, two letters of reference verifying that experience; each letter must be signed and sealed, except as provided in (d) of this section, by a landscape architect who is legally registered in a state, territory, or possession of the United States, territory, or possession of the United States, the District of Columbia, or a foreign country.
- (c) An applicant for a certificate of registration as a landscape architect by comity under this section may submit a council record issued by CLARB to verify the applicant's qualifications including
- (1) examination results;
 - (2) education; and
 - (3) registration in another licensing jurisdiction;
- (d) If a landscape architect who provides work experience verification under (b)(2) of this section or reference letter(s) under (b)(3) of this section does not possess a seal, the applicant must provide the board a statement from that landscape architect
- (1) providing that landscape architect's registration number; and
 - (2) for the landscape architect(s) providing a reference letter(s), certification that the registration of that landscape architect is current

Authority: AS 08.48.101 AS 08.48.181 AS 08.48.191
AS 08.48.171

X. Statute and Regulation Working Session

C. Update - Information on Delegating Application Approval to Staff

The AELS board is considering a statute change to allow staff to approve applications for registration that meet certain criteria. Following the August meeting, the Executive Administrator researched language and policies used by other programs within the Division as well as those used by other jurisdictions.

The board will be reviewing the compiled information.

CLARB

CLARB is pleased to present the following information re: filling out and approving landscape architectural licensure applications. The goal is to share with the Alaska board how other jurisdictions are handling applications as the Alaska board considers updating its law.

To help jurisdictions and applicants expedite the licensure process, CLARB has a service (the Council Record) that allows applicants to compile the information boards need when reviewing/approving applicants for licensure (education, exam results, work experience, professional references). CLARB verifies this information and sends it to boards in support of application when requested by applicants.

All jurisdictions accept the Council Record in support of application. Most jurisdictions accept all the information in the Council Record in support of application while a handful of jurisdictions (fewer than five out of 54) accept only one or two “categories” of information (i.e. education/transcript) in the Council Record. Alaska currently falls into the latter category and both the Alaska board and CLARB have received feedback from applicants that this creates friction in the licensure process.

In terms of applicants filling out board/jurisdictional licensure applications, all jurisdictions require a board/jurisdictional application to be completed; however, most jurisdictions ask applicants to only provide on the board/jurisdictional application the information not contained in the Council Record. Applicants may write “See CLARB Council Record” for the information requested on the application and available in the Council Record.

Some boards like Wyoming have different applications – one version for applicants applying with a Council Record, another version for applicants applying without a Council Record. The one for applicants applying with a Council Record is only two pages long whereas the other is four pages long. The shorter application is only asking for information from the applicant that’s not readily available and verified in the Council Record.

How a board handles its applications depends on how the statute/rules/regs are written. Wyoming’s law, for example, states that applicants “shall apply on a form prescribed by the board” and it’s up to the board to create a form and decide what information is collected on that form. In South Carolina, the law states applicants must fill out forms and applications “as approved by the board.” It’s this type of language that gives boards the flexibility they need to utilize the Council Record in support of licensure application, which allows boards to expedite the approval process, reduce frustrations, empower staff, free up board meeting time for more important business, and fulfill their legal responsibilities.

Another example of boards using flexible language regarding the application process is in the area of administrative approval of applications. How administrative approval typically works: boards determine a set of criteria that staff can use to evaluate applications. Once the staff evaluation of an application is done, if the criteria for licensure has been met, the license can be issued. If the criteria for licensure has not been met, the application is forwarded to the board (via email if legally allowed or presented at the next board meeting). If necessary, for those

CLARB

applications that meet the criteria for licensure as evaluated by staff, a consent agenda item could be added to the board's next meeting, so the board technically can approve those applications.

Administrative approval is heavily utilized because it expedites the approval process and frees up the board's time. Because of administrative approval and the use of the Council Record, in many jurisdictions such as Kansas and South Carolina, an applicant can be licensed in 24 hours to one business week. This is good for everyone involved.

In addition to utilizing the entire Council Record + administrative approval, there's one more tool CLARB offers to help boards license individuals quickly: CLARB Certification, a credential that carries with it CLARB's recommendation that this individual be licensed in any jurisdiction without further review because the individual's credentials meet a standard of eligibility which has been determined by the most commonly accepted requirements for licensure (i.e. an accredited landscape architecture degree, three years of experience, etc.). In many jurisdictions, not only are the Council Record and administrative approval utilized, so, too, is CLARB Certification – and this is when we definitely see applications being approved in 24 hours.

In summary, as the Alaska board looks at how it can create efficiencies, expedite the approval process, and free up time for the board, utilization of the CLARB Council Record, CLARB Certification, and administrative approval are helpful tools to consider.

I hope this summary is helpful. If additional information is needed, feel free to contact me.

Sincerely,

Missy Sutton

Missy Sutton, CAE

Member Engagement Manager
CLARB
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Suite 200
Reston, Virginia 20190
(Main) 571-432-0332 ext. 113
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X. Statute & Regulation Working Session

D. 12 AAC 36.050(b)(1)

Staff is requesting clarification to determine if an amendment may be required.

12 AAC 36.050. APPLICATION DEADLINES. (a) Except as provided in (e) and (f) of this section and in 12 AAC 36.040, before the board will review an application for examination, and at least 30 days before the meeting of the board that is immediately before the examination date, the department must receive the applicant's

(1) completed application form;

(2) application fee established in 12 AAC 02.110;

(3) all supporting documents required for board review of the application, as defined in 12 AAC 36.010(i).

(b) If the board has given conditional approval of an application for examination under 12 AAC 36.010(d), department staff may not schedule the applicant for the examination unless

(1) the department receives all missing supporting documents and other required application corrections identified by the board at least five days before the deadline for examination registration set by NCEES; and

(2) neither the documents nor the corrections must be resubmitted to the board under 12 AAC 36.010(e) because they require interpretation or discretion.

(c) To be reviewed by the board, an application for registration by comity, and all supporting documents required for board review of the application, as defined in 12 AAC 36.010(i), must be received by the department at least 30 days before the meeting of the board.

(d) If an application deadline in (a) - (c) of this section would fall upon a Saturday, Sunday, or holiday, the deadline is extended to the next business day.

(e) An application, a supporting document, or a correction is considered filed with the department on the date of receipt by the department in the Juneau office. The board will, in its discretion, accept a supporting document or a correction after the deadline set in this section upon showing of good cause.

(f) An application for registration upon examination as a professional landscape architect must be received by the department in the Juneau office at least 30 days before the quarterly meetings of the board held in February and August, respectively, in order to review the applicant's qualifications before the Landscape Architectural Registration Examination (LARE) dates in June and December.

Retired License Discussion

XII. Retired License Discussion

At the August meeting, the board discussed two requests to retire licenses in response to the Audit of Compliance with Continuing Education Requirements and requested staff to confirm with Division's paralegal staff on proper procedures. The Division's paralegal will be calling in to discuss the matter with the full board.

As reference, a memo from the Division's paralegal staff to the AELS board is included on the following pages.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

DIVISION OF CORPORATIONS, BUSINESS AND
PROFESSIONAL LICENSING

P.O. Box 110806
Juneau, AK 99811-0806
Main: 907.465.2550
Fax: 907.465.2974

MEMORANDUM

October 21, 2016

From: Charles Ward
Marine Pilot Coordinator

To: All members, Alaska State Board of Registration for
Architects, Engineers, and Land Surveyors

Through: Sarena Hackenmiller
Licensing Examiner
Alaska State Board of Registration for
Architects, Engineers, and Land Surveyors

Re: Retired license status for registrants under audit or investigation

EXECUTIVE SUMMARY

The Alaska State Board of Registration for Architects, Engineers, and Land Surveyors (Board) should be aware its statutes and regulations could potentially allow a registrant who fails a continuing education audit to retire their registration, then go through the steps to reactivate that registration a short time later without any discipline or monitoring conditions placed on that registration.

BACKGROUND

A registrant with the Board may apply to convert their registration to retired status, provided they pay a fee and provided their registration is "in good standing."¹ While "in good standing" is not defined, a license that has not been subject to disciplinary action, even if it is under investigation, is almost certainly still considered "in good standing."²

This would allow a registrant who finds themselves under investigation for a failed continuing education audit to retire their registration. The Division could still pursue its investigation and the Board could still impose discipline against a retired registration. However, a registrant may have a false impression that "retiring" their license ends the investigation, when it does not.

¹ AS 08.48.215(a).

² For a general discussion of this matter, please see *Cowan*, 13-0740-POT Alaska Office of Admin. Hearings (2013).

Further, the Division may decide to focus its investigative resources on other registrants with failed continuing education audits who wish to maintain their registrations. However, if there is no disciplinary action taken against a retired registrant, all that registrant would need to do to reactivate their registration is fill out a form, pay a fee and complete 24 hours of continuing education.³ This would allow a registrant with a failed continuing education audit to retire their registration upon being informed of the failed audit, then shortly thereafter apply to reactivate. Again, the Division could then resume or continue its investigation into the failed audit, but it may be better to require such a registrant to resolve that audit prior to reactivating or reinstating.

Another issue to consider is that retirement of a registration is not a reportable license action. The Board has been clear in its precedents that a registrant who fails a continuing education audit should receive discipline.⁴ If a registrant wishes to forgo practicing in Alaska after failing an audit, they can negotiate a surrender agreement. This would be a reportable event, so that other jurisdictions can be aware of the issues the registrant faced in Alaska.

CONCLUSION

If the Board wishes to allow registrants under investigation for failed continuing education audits to retire their registrations, then there is no change needed. The Division can then decide whether to pursue investigations into retired registrations or wait until and unless those registrants decide to reactivate or reinstate their registrations. This does create the possibility of retiring a registration without disciplinary action taken.

If the Board wishes to preclude the possibility of a registrant who fails a continuing education audit retiring their registration, or, preclude the possibility of a registrant reactivating or reinstating their registrations without addressing such an audit, then it should undertake a review of its regulations and perhaps encourage legislative change, to prevent a registrant under investigation from taking these actions.

³ 12 AAC 36.510(j). If the registration has been retired for longer than 5 years, the applicant for reinstatement may also need to retake a qualifying exam, in accordance with 12 AAC 36.165(b).

⁴ The current precedent for consent agreements in failed CE cases is for the registrant to complete the deficient CE, receive a public reprimand, pay a \$2,500 fine (with \$2,000 suspended) and an additional \$50 fine for each deficient hour (up to a maximum of \$1,000) and undergo a mandatory audit for the registrant's next two renewals. The Board has also accepted the voluntary surrender of a registration. In other disciplinary matters, the Board has imposed civil fines, and has approved letters of advisement. Whether these measures would be acceptable in failed CE audits is unclear. Of course, a registrant also has the option of an administrative hearing

Old Business

Materials to be provided at meeting.

New Business

XXVI. New Business


A. Arctic Course Review

The AELS Board received a request to review the Arctic Course offerings for compliance with AELS regulations.


Committee Updates

Committee Updates – August 2018 Meeting

COMMITTEE NAME	MEMBERS	Tasks/ Notes from MAY 2018
Investigative Advisory Committee	All Members	
Licensure Mobility	Chair- Koonce Members – Wallis, Urfer	Evaluate current application process for potential improvements/ streamlining Compile criteria for applications to be approved by staff in support of licensure mobility
Board Outreach	Chair – Hale Members – Full Board	Facilitating outreach with the following: - AGC - code officials - ICEE - APDC & Legislative Fly-In - zoning officials - ASPLS Conference - URISA user group Mott compiling a list of potential outreach opportunities Maynard to put together a standard slide deck for presentations
Guidance Manual	Chair – Urfer Members – Full Board	
Legislative Liaison	Chair – Maynard Members – Fritz, Urfer	
Emeritus Status	Chair - Maynard Members - Full Board	
Budget Committee	Chair - Koonce Members – Kerr, Hanson	
Continuing Education	Chair – R.V. Jones Members -	Request for data on lapsed licenses following renewal period (provided in Examiner's report) Confirmed 5% quota was met



National Organization Updates & Upcoming Meetings



2018 STATE HOLIDAY CALENDAR

JANUARY

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FEBRUARY

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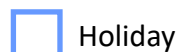
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State Holidays

Date	Holiday
01/01	New Year's Day
01/15	MLK Jr.'s Birthday
02/19	Presidents' Day
03/26	Seward's Day
05/28	Memorial Day
07/04	Independence Day



Holiday

State calendar maintained by the
Division of Finance,
Department of Administration
<http://doa.alaska.gov/calendars.html>
Rev. 07/10/2017

Biweekly employees please refer to appropriate collective bargaining unit agreement for more information regarding holidays.

State Holidays

Date	Holiday
09/03	Labor Day
10/18	Alaska Day
11/11	Veterans' Day (observed 11/12)
11/22	Thanksgiving Day
12/25	Christmas Day

2019 STATE HOLIDAY CALENDAR

JANUARY

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OCTOBER

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NOVEMBER

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DECEMBER

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Holiday

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State Holidays

Date	Holiday
09/02	Labor Day
10/18	Alaska Day
11/11	Veterans' Day
11/28	Thanksgiving Day
12/25	Christmas Day



CLARB

Reports &
Correspondence



CLARB Region 5 Pre-Annual Meeting Webcast

Wednesday, August 15, 2018

Representatives from the following jurisdictions attended the webcast: Alaska, California, Colorado, Hawaii, Idaho, Nevada, Oregon, and Washington. Missy Sutton and Veronica Meadows from CLARB also attended.

State Reports:

Idaho reported that they had participated in the ASLA/ CLARB Joint Licensure Summit in June and explained they had provided a case study of an executive order they received. Idaho stated that they responded to the order from the Lt. Governor's Office and indicated their response was perceived as thorough and well put together. The board followed up with the Lt. Governor's Office and said the meeting was extremely beneficial and helped to provided understanding to and opened up communication with legislators. Idaho explained an ad hoc committee containing senators was formed to review all the different boards and responses received to look for similarities and differences and make recommendations for the next legislative session for removing hurdles, streamlining, and building efficiency in government.

In regards to advocacy, Idaho and Montana are working with local ASLA chapter and state databases to provide the local chapter with a list of all registered landscape architects and who their representatives are to help licensees connect with them.

Alaska – Mentioned current regulation projects and mentioned looking at updating landscape architecture definition and registration requirements so they are more aligned with those of the other professions regulated by the board.

California – Developing a pathway to licensure that is experience-based. Under California architect board, and see us in alignment with procedures that they use for licensure. Learned Twenty-nine states have an experience-only pathway. Looking at how experience is tracked and caught between what is currently required and what the Board is legally allowed to do.

British Columbia – Launching a digital seal. Contracted with lawyer to work with them on policies and standardization. There will be webinars and training offered. The board is doing this because entities are requiring digital seals and LAs are losing work because of it. Washington LA workshop open to Canada candidates. The board is experiencing long delays in appointments to the board of examiners. Seats have been vacant for over a year and a half.

Hawaii – Starting Masters of Landscape Architecture program. State board is pushing through rules changes – 6-8 years ago, still trying to get them through. Clarifying the rules. Did have representation at CLARB/ASLA Licensure Summit and gained a better understanding of advocacy side of things and improving communication. Experiencing challenges with the processing of license applications because staff has retired and hiring replacements has been slow.

Nevada – Their strategic plan is moving forward. Meeting with Legislative review committee to update statutes, which mainly deals with updating language and fees, and clarifying duties of Executive Director. Sunset received a positive response. Gov. Office looking at audit. Staff are working on 2nd part of a 6 page questionnaire on how they operate and if they have the ability in statutes and administrative code. Believes their board is good and it is geared to other programs that might not be as aligned as they should be with their statutes and codes. Hopefully approving changes for continuing education and some other housekeeping changes. Thanked Missy for forwarding information regarding online designers selling plans over the internet.

Oregon – Had a special rules advisory committee to address overlap of landscape architecture, design, and construction and developed a set of recommendations and posted draft guidance. They are considering some rule definitions to help unlicensed folks understand what they can and what they can't do. Not sure if there will be a second round of the committee. Also working on revisions to rules re: stamping and signing due to a lack of clarification and contradiction in existing rules. Improved communications with ASLA Chapter and discuss vote at annual meeting. Mentioned they were not worried about deregulation previously, but messaging from national organization has been viewed as a wake-up call that they need to be ready.

Washington - Developed an electronic version of the state exam, which all licensees take that covers statutes and regulations. Attended ASLA/CLARB licensure summit. Ken was nominated as VP to CLARB board. Looking to add a public member to their board which will be a first. Last year there was bill to deregulate and anticipate something similar this year and plan to keep an eye out for that.

Evolving CLARB Leadership Q&A

Reviewed the Board of Directors Final Recommendation for CLARB Leadership and Bylaw changes. Discussed recommendations reflected a needs-based model, meaning appointments would be based upon needed perspectives and expertise. Some jurisdictions expressed their concern regarding loss of guaranteed regional representation on the leadership advisory council. Meadows responded that they will use a criteria of leadership competencies used to make decisions.

Meadows mentioned information would be available on the website and encouraged everyone to share it with their boards.

Virtual participation and voting will be available at the annual meeting in September.

Casting Vote on Bylaws Resolution


Reviewed of voting process. Reminded attendees that board representative must be present (virtual acceptable) and that only a member board member must cast the vote, an MBE can not vote on behalf of the board. Reminder to all jurisdictions to submit credentials letter by 9/21/18.

Friction Analysis – There will be a special webcast to share results of the analysis with everyone. Two-part approach. (1) Tactical – empower members, (2) Strategic – rethink regulation – better position to defend, and to get out front of issues and advocate/ communicate value of licensure.

Rethinking regulation – looking at friction points and what we can do to eliminate or reduce those points. Research identified 60 things on our part of licensure process, research with candidates, members and other perspectives. Webcast. September 13th – Analysis Discussion.

Annual Meeting activities and sessions include:

- Speed Networking and App How To
- Friction Analysis – Explore next steps
- Technology as a Disruptor
- Peer-to-Peer Problem Solving
- Student research results
- CLARB Leadership Academy
- Lunches by Board Types and MBE/MBM
- Town Hall (Ask CLARB Anything)



NCARB

Reports & Correspondence



ARE 4.0 Retires

Thanks to the hard work of NCARB volunteers and staff, the transition from ARE 4.0 to ARE 5.0 was completed on June 30, 2018. We are pleased to report that the issues seen in previous ARE transitions did not resurface, and many candidates are finding success in ARE 5.0. We hope to see the timeline to licensure shorten as candidates are able to better connect the new exam to architectural practice.

[READ THE MESSAGE FROM THE CEO](#) ▶



The FY18 Examination Committee met throughout the year to discuss the upcoming retirement and updates to ARE 5.0.

June/July Highlights

Introducing the New BOD

Following their election at the 2018 Annual Business Meeting in Detroit, the new FY19 officers joined NCARB staff at our offices for an onboarding session. [READ SENIOR OFFICE AND EXECUTIVE OFFICE OUTREACH](#) ▶

NCARB Issues Diversity Statement

NCARB's Board has issued a Statement on Diversity as a reference point on our efforts to improve diversity on the board, committee, and staff levels. [READ OUR PROGRESS ON STRATEGIC GOALS](#) ▶

NCARB in the Press



- [A License for Good Design](#) (Church Design Magazine)
- [Michael J. Armstrong and NCARB: Here's How Architectural Licensing Boards Can Uphold Ethical Practice](#) (Architect Magazine)
- [Diversity in Architecture Is Improving—Sort Of](#) (Curbed)
- [Inside the 2018 NCARB By the Numbers](#) (Architect Magazine)

Recent News



- [NCARB's Commitment to Diversity](#)
- [2018 Annual Business Meeting: Exploring New Horizons](#)
- [Kansas Architect David L. Hoffman Inaugurated as NCARB President](#)
- [NCARB Proposes Model Ethical Standards for Architects](#)
- [Architectural Diversity Improves, But Attrition Among Non-White Candidates Remains High](#)

Top Blog Posts



- [Infographic: Number of U.S. Architects Up 3 Percent](#)
- [ARE 4.0 Retirement FAQs](#)
- [NCARB's Centennial: Celebrating 100 Years of Facilitating Licensure](#)
- [Architect Spotlight: Danei Cesario](#)
- [The Distinguished Career of Norma Sklarek: the First African-American Female Architect](#)

Message from the CEO

Dear Colleagues,

June and July are the “transition months” on the NCARB calendar as we finish our fiscal year and host our Annual Business Meeting in June, and on-board our new officers and Board of Directors in July. Information on the ABM proceedings, including reports from our officers, can be found on our website and are highlighted later in this Update. However, an additional activity occurred at the end of June, which is a rarity: the sunset of a version of the Architect Registration Examination® (ARE®).

ARE 4.0 closed on June 30 with record deliveries throughout the final year and weeks of its run. Most remarkably, the efforts to message the transition to all current and potential candidates resulted in none of the problems that plagued the previous transition from ARE 3.1 to 4.0. We are most appreciative to the hundreds of volunteers and stakeholders around the United States, and abroad, who made sure the candidate community was prepared and took advantage of the ability to start in ARE 4.0 and finish in its successor, ARE 5.0.

The ability to develop a psychometrically sound examination that reflected findings from the most recent Practice Analysis was no easy task. Multiple years of examination subcommittees, psychometricians, and Boards of Directors guided and sanctioned this process. The emergence of a new exam that better typifies actual practice through utilization of case studies and divisions based on phases of practice has incentivized candidates to move more quickly through the examination process. It has also reduced the number of divisions candidates need to pass, which we hope will further shorten the [timeline to licensure](#) in future years. To the many volunteers and staff who made ARE 4.0 a reality and shepherded our focus toward the future, we thank you!

Best wishes,

Mike



NCARB CEO Michael Armstrong discusses the retirement of ARE 4.0 and upcoming changes to ARE 5.0 during his report at the 2018 Annual Business Meeting.

CEO Outreach



Joint Meeting of Collateral CEOs (ACSA, AIA, AIAS, NAAB, & NCARB)

Washington, DC | July 31

AIAS Grassroots

Washington, DC | July 19-20

Federation of Associations of Regulatory Boards (FARB) Annual Meeting and National Policy Summit

Chicago, IL | July 26

FARB Leadership Conference

Chicago, IL | July 27-28

Strategic Plan

Facilitating Licensure. Our diligent focus on absorbing a surge of candidate requests for ARE 4.0 administrations and assisting those wanting to transition from 4.0 to 5.0 helped drive total exam participation to record numbers in the closing weeks of June. Other indicators of maintaining our focus on this strategic goal included the awarding of licenses to multiple “first graduates” of Integrated Path to Architectural Licensure (IPAL) academic programs, and continued momentum in retaining Record holders for the Architectural Experience Program® (AXP™) and the NCARB Certificate.

Fostering Collaboration. Another new record was set in mid-June regarding visits to the NCARB booth at the annual American Institute of Architects (AIA) Conference on Architecture (A'18) in New York City. NCARB also hosted a help desk staffed by National Architectural Accrediting Board (NAAB) officials and co-hosted a “meet up” for students with the American Institute of Architecture Students (AIAS). The elevation to the AIA College of Fellows included inductees serving on the NCARB Board of Directors and several NCARB Member Boards. NCARB officials participated in media interviews, a panel on the future of regulation, and information sharing with leaders from foreign organizations and U.S. state and local AIA components. In July, new President David L. Hoffman, FAIA, NCARB, Hon. FCARM, addressed the annual AIAS Grassroots conference and NCARB staff led a workshop with student delegates.

The Council also issued a Statement on Diversity, referencing the paths and sources for NCARB volunteering and the efforts to promote diversity at staff and committee levels. You can [view the statement on our website](#).

Centralizing Credential Data. Greater data sharing regarding disciplinary cases across the United States continues to increase as NCARB works with Member Board Executives (MBE) to populate its national disciplinary database. A memorandum from NCARB legal counsel at the Venable law firm has been issued to clarify federal government intent regarding Social Security Number usage; the memo includes official statements that could resolve hesitation to provide state data to NCARB.



NCARB staff assisted customers and provided information about NCARB programs and initiatives at this year's A'18 Conference on Architecture in New York City.



CEO Armstrong, Past President Harding, FY18 Think Tank Chair Avik Guha, and Nicole Dosso discuss the future of regulation at the A'18 Conference on Architecture.

Organizational Development and Office Life

NCARB staff engaged in three special events during July, designed to raise awareness and foster internal collaboration:

- Each department hosted an on-boarding briefing for new President Hoffman, concluding with a “meet and greet” all-staff ice cream social with President Hoffman and new First Vice President/President-elect Terry L. Allers, NCARB, AIA.
- An internal kickoff to NCARB’s Centennial year featured a preview of NCARB history from consultant Kathi Brown and renaming of several office spaces to honor the Council’s first President Emil Lorch, first Executive Emery Stanford Hall, and longtime employee Earl Baine, who will celebrate 50 years with NCARB next year.
- The annual all-staff retreat, which challenged staff to collaborate across departmental lines via an office design exercise in the morning and an assembly-line team competition to supply 10,000 meals to individuals in areas of extreme famine or crisis around the world. Service awards and special staff achievements were also recognized.

July featured on-boarding of several Board Members stepping into new positions: new First Vice President/President-elect Allers; new Second Vice President Robert M. Calvani, FAIA, NCARB; new Treasurer Alfred Vidaurri Jr., FAIA, NCARB, AICP; and new Secretary Bayliss Ward, NCARB, AIA. Also, the staff welcomed new Board Member and former colleague Kathi Hillegas, now the Louisiana MBE who was elected to the Board as MBE Director.

NCARB staff had a strong presence at the summer Leadership Summit hosted by the Federation of Associations of Regulatory Boards (FARB). Chief Operating Officer (COO) Mary de Sousa stepped off the FARB Executive Board after 11 years; CEO Michael Armstrong was elected to serve for a new two-year term.

2018 All Staff Meeting



As part of NCARB’s corporate social responsibility efforts, NCARB staff worked together to pack 10,000 meals for individuals in need at this year’s July off-site retreat—protective, red hair nets and all!

Senior Officer and Executive Office Outreach

• June (FY18)

- Then-President Gregory L. Erny, FAIA, NCARB, Hon. FCARM; then-First Vice President/President-elect Hoffman; and CEO Armstrong attended A'18, engaging with leaders in the architectural profession and international community. NCARB was pleased to provide booth space for AIAS and NAAB. The three-organization space garnered 1,000 visitors this year.
- Erny chaired the final meeting of the FY18 Board of Directors immediately preceding the Annual Business Meeting. Member Board Members can view the BOD Brief covering outcomes of the meeting on the [Member Board Community](#).
- President Erny presided over NCARB's 99th Annual Business Meeting in Detroit, Michigan. Highlights from this meeting are:
 - Election of the FY19 Board of Directors
 - Passage of four resolutions
 - Presentations including a keynote address plus a workshop session with futurist Jack Uldrich; an engagement with next generation of architects; a workshop on current legislative challenges and best approaches to legislative issues; and an important discussion on the primary role of Member Board Members to ensure the health, safety, and welfare of the public.

• July (FY19)

- FY19 President Hoffman chaired the first meeting of the FY19 Board of Directors immediately following the Annual Business Meeting. Member Board Members can view the BOD Brief covering highlights of the meeting [on the Member Board Community](#).
- Hoffman visited the Council office and met with each staff team to experience staff culture and conduct information gathering.

First Vice President Allers joined him for an afternoon Q&A opportunity with all staff, followed by an ice cream social.

- Hoffman, Allers, and CEO Armstrong attended the opening session of the annual AIAS Grassroots conference. Opening events included an on-stage interview of President Hoffman conducted by former NCARB President Dennis S. Ward, FAIA, NCARB, who serves as the NCARB representative on the AIAS Board of Directors.
- New MBE Director Hillegas, Secretary Ward, Treasurer Vidaurri, Second Vice President Calvani, and First Vice President Allers attended various orientation sessions custom-built for each Board role.
- Armstrong, COO de Sousa, Director of Experience + Education Harry M. Falconer Jr., FAIA, NCARB, and Director of Council Relations Josh Batkin attended a National Policy Summit conducted by FARB. The National Policy Summit brings together the top executive level of associations of regulatory boards for a discussion of regulatory policy issues. This year's half-day joint session focused on opportunities for collective action by the regulatory community to be an authoritative voice for common sense regulation.
- Following the National Policy Summit, Armstrong, de Sousa, and Batkin also attended FARB's Leadership Conference. This day-and-a-half conference provides executive staff of the national associations a forum to discuss current topics, best practices, and future cooperative initiatives.

Regulatory Update

- Although most legislative sessions have concluded (14 states are still in session), we are tracking various committee meetings and governor-appointed task forces who are reviewing proposed compact legislation for the 2019 legislative session. The focus of the proposed legislation in 2019 will be to enable an easier path into workforce for military veterans and their spouses; we're seeing early signs of these bills in Utah and South Dakota. We expect other states with large military bases to also propose similar legislation (i.e. Missouri and Texas).
- NCARB staff attended the U.S House Subcommittee on Higher Education and Workforce hearing, where the topic was exploring the prevalence of occupational licensing, its effects on economic growth and upward mobility, and what is being done to address the issue within states and across state lines. While the hearing was focused on occupational licensing, the subcommittee was more concerned about all barriers to employment (mostly criminal background checks and discrimination) and finding solutions to building up the workforce (e.g. military licensure pathways). NCARB will continue to proactively engage in these types of hearings and contribute to testimony or legislative engagement where appropriate.



@architectmag

Nice work by @NCARB at #ncarb2018 in Detroit. Great passion and dedication to public protection on display. Reminds us that we need to, as they say, #gofurther and tell the story of common-sense professional regulation. @FARB_ORG @winslow_homer

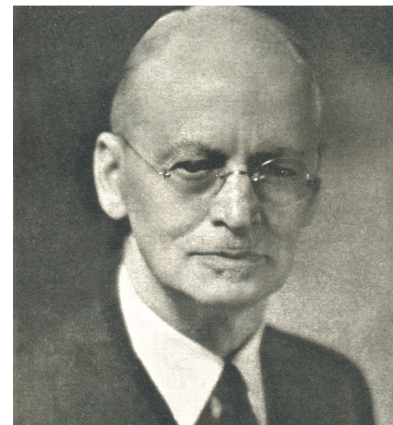
Spotlight on the Centennial

As we celebrate our 100th year, we'll be sharing snippets of NCARB history. This month, meet two of NCARB's founding fathers!



Emil Lorch, First NCARB President

In 1906, Lorch helped form the School of Architecture at the University of Michigan, where he spent most of his career as a professor of architecture—eventually becoming dean in 1931. As chair of the Michigan Board of Architecture in 1919, he attended a meeting about forming an organization that would recommend model law, examination, and education standards for the profession. His peers selected him as chair for this tentative organization (which would become NCARB) and then as its first president the following year.



Emery Stanford Hall, First NCARB Secretary

Hall never served as NCARB president, but the organization wouldn't exist without him. He organized the meeting in 1919 to discuss forming the organization that would become NCARB. He raised the money necessary to get the organization off the ground—receiving a loan from the Illinois Society of Architects (of which he was chair at the time) and providing money out of his own pocket.

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This Month in Architecture

Don't look down! This month, the Seattle Space Needle opened a new feature called the Loupe—a rotating glass floor that allows visitors to look down 500 feet. The Loupe also provides visitors a view of the inner workings of the landmark attraction, revealing the counter-weights and insides of the elevator. Along with the newly installed glass floor, there are newly opened glass walls and glass benches, which help give the illusion of floating above the city. More than 176 tons of glass were used in the renovation. Visit the [Space Needle website](#) for further details and pictures of this new feature.

NCARB Attends NCSL 2018 Legislative Summit

The Council Relations team recently attended the [National Conference of State Legislatures](#) (NCLS) [2018 Legislative Summit](#) in Los Angeles. At the summit, the team was able to connect with legislators to explore priorities for states heading into the 2019 legislative session. The conference offered an opportunity to help educate key state policymakers regarding the regulation of architecture and the valuable work licensing boards do to ensure the protection of the public. Additionally, we were able to engage in meetings with legislators regarding the challenges we see with overreaching occupational legislation (specifically compact bills).

During the conference a session titled the “Intersection of Antitrust Laws and Occupational Licensing” was offered to all attendees. The panel explored the ways states have been evaluating their licensing laws in the wake of the 2015 Supreme Court ruling in the North Carolina State Board of Dental Examiners v. FTC case. Panelists included Rebecca Haw Allensworth (Vanderbilt University), Colin Benjamin (Vermont Office of Professional Regulation), Cory Everett (Council on Licensure, Enforcement and Regulation), and Tyler Grimm (Office of Congressman Darrell Issa). Moderator Senator John S. McCollister (R-NE) led the discussion of federal and state level actions recently taken to prevent future

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regulatory decisions from being illegally anti-competitive. A common theme throughout the session was the issues hindering licensing—whether criminal records, the nomadic nature of military spouses’ lives, or a perceived lack of evidence supporting continuing education or competency. During the healthy debate over federal- versus state-level solutions, the panelists rehashed many of the same arguments made during the FTC’s Roundtables last year. Occupational licensing reform is a complicated issue that has captured the attention of several groups.

We will continue to engage with NCSL for future events and keep you informed. Reach out to us at council-relations@ncarb.org ✉ with any specific questions about the 2018 Legislative Summit.


ALEC Model Law – Occupational Licensing Consumer Act

At its 45th Annual Meeting in New Orleans, the [American Legislative Exchange Council](#) ✉ (ALEC) announced a dangerous draft model act allowing unlicensed individuals to practice an occupation if they disclose their unlicensed status to prospective customers. The potential for harm under such legislation would be disastrous for public health, safety, and welfare. NCARB staff are actively collaborating with coalition partners to educate stakeholders on the perils of this model act should it be approved for distribution to state legislations.


Developed by the [Commerce, Insurance and Economic Development](#) ✉ (CIED) Task Force, the [Occupational Licensing Consumer Act](#) ✉ provides “consumers with the right to choose a worker who best serves their needs irrespective of whether that person holds an occupational license.” Per the model law introduced, the act would protect workers from unnecessary licensing regulations, increase market competition, empower industry groups to self-regulate without government participation, and force regulators to be more efficient by focusing on regulating for the purposes of protecting public health, safety, and welfare. The model act in its current form could have unintended consequences and may detrimentally impact the regulation of occupations in states where it is adopted, as there are no mechanics for holding practitioners accountable. Regulatory boards, like those apart of NCARB, have established requirements and rules which provide practitioners with guidelines for practicing as well as help ensure the protection of the public.

Council Relations staff will continue to follow the progress of the Occupational Licensing Consumer Act and similar model acts, and seek opportunities to provide ALEC and the CIED Task Force with feedback and insights into the licensure and practice of architecture. Contact us at council-relations@ncarb.org ✉ if you have any questions about ALEC or this model.

Bring A Sample License to the MBC/MBE Leadership Summit

As part of NCARB's upcoming Centennial Celebration, we're asking each jurisdiction to bring a sample architect license (can be blank) to the Member Board Chairs and Executives Leadership Summit in St. Louis, Missouri. The licenses will be photographed and used as a background for your jurisdiction's history page in our commemorative book. If you have any questions, reach out to Amanda Pica at apica@ncarb.org .


NCARB Annual Report Reminder

If you haven't already, please submit your jurisdiction's report on FY18 activity for the FY18 NCARB Annual Report. You should have received a pre-populated template from our Council Relations team in mid-August. If you have any questions about your jurisdiction's report, please contact the Council Relations team at council-relations@ncarb.org .

Two Member Board Members Comment on the Role of NCARB and the Importance of Diversity on State Boards

Cynthia Shonaiya, AIA, LEED AP, and Mary Morissette, FAIA, NCARB, LEED AP, were recently featured in the Hord Coplan Macht (HCM) *Diverse Perspectives: HCM Women in Leadership* profile. They spoke about their experiences as women serving on licensing boards and the importance of diversity. Cynthia leads HCM's Senior Living Studio in Baltimore and serves on the Maryland Board of Architects. Mary leads the firm's healthcare practice in their Denver office and serves as the Chair of the Colorado State Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors. She is the first architect and female to serve as Board Chair since 2006 when the architects' board was combined with the engineers and land surveyors' board.

They shared what serving on their respective boards and the importance of having diverse perspectives represented has meant to them. "It is important to have diversity on the board, so the board represents the makeup of the profession and society," Morissette said. By doing so, concerns of underrepresented groups are more likely given attention. For Shonaiya, this means calling attention to the unacknowledged barriers and challenges faced by women pursuing licensure. When discussing these issues, they highlighted the steps NCARB and licensing boards have taken to help promote more inclusive paths into the profession, such as the Integrated Path to Architectural Licensure (IPAL) initiative and the education alternative for certification.

The insights they shared in the profile closely mirror the spirit of [NCARB's recently released statement](#)  committing the Council to improving diversity among staff, volunteer committees, and the 54 licensing boards.

The full profile can be found on the [HCM website](#) .

ICOR Statement on Design Profession Licensing Boards and Public Protection

In its continuous efforts to educate the public on the role of regulation, the Council and related design profession licensing board organizations have reaffirmed the vital role our members fulfill in protecting the public's health, safety, and welfare. Through the Interorganizational Council on Regulation (ICOR), we have jointly released a statement upholding the organization's commitment to advocating for reasonable regulation in pursuit of providing its licensing board members with the best tools possible to reliably protect the public. ICOR was formed almost two decades ago to share best practices and discuss collaborative efforts to advocate on behalf of design profession licensing boards' role in protecting the public. The organization is comprised of the Council for Interior Design Qualification (CIDQ), Council of Landscape Architectural Registration Boards (CLARB), National Council of Architectural Registration Boards (NCARB), National Council of Examiners for Engineering and Surveying (NCEES).


We encourage you to read the complete statement, which is available on the [Member Board Community](#). If you have any questions about ICOR or the statement, please contact the Council Relations team at council-relations@ncarb.org.


Important Legislative Items




Although most sessions have concluded, we are continuing to monitor legislation that may impact the regulation of the profession and affect public health, safety, and welfare. Below are several proposed pieces of legislation you may find interesting:

- [OH S 320](#) and [OH H 716](#): Both Ohio Senate Bill 320 and House Bill 716 are intended to require occupational licensing authorities to issue temporary licenses to active duty military and their spouses who are licensed in another jurisdiction and have recently relocated to the state for active duty. If enacted, the proposed legislation in these bills would impact Ohio's sizable Air Force population. Interestingly, the Ohio Architects Board have a rule expediting licensure within three business days of receiving an applicant's required documents and fees, for armed services members, veterans, military spouses, and surviving spouses of armed service members or veterans ([4703-2-08\(1\)](tel:4703-2-0811)).
- [US HR 6515](#): Also known as the "Occupational Licensing Board Antitrust Damages Relief and Reform Act of 2018," U.S. House of Representatives Bill 6515 was recently introduced by Representatives Michael Conaway (R-TX) and Lamar Smith (R-TX) and intended to eliminate fiscal antitrust damage liability for state licensing boards, their members, and staff who are acting within their statutory mandate to protect the public. Currently, board members and staff are exposed to personal liability and treble damages for actions taken as part of their service on a board. The bill was developed by a coalition of professional licensing associations including the National Council of Architectural Registration Boards, the American Institute of Architects, the [Federation of State Medical Boards](#), the [Council of Landscape Architectural Registration Boards](#), and the [National Association of State Boards of Accountancy](#). In an effort to further occupational licensing reform, HR 6515 requires that a U.S. Government Accountability Office (GAO) report and make recommendations to states on the following:

the use of cost-benefit analyses in sunrise and sunset reviews, evaluating occupational licensing against less restrictive alternatives including certifications, how states can support license portability (particularly for veterans and military service members and spouses), and the impact of occupational licensing on low-income workers, the unemployed, immigrants with work authorizations, and individuals with criminal records.




- [US HR 2353](#) : The Strengthening Career and Technical Education for the 21st Century Act, which became law at the close of July, allows states to use career and technical education assistance funds from the U.S. Department of Education for a variety of activities, including those that foster innovation and prepare individuals for non-traditional fields or career pathways within state-identified, in-demand occupations or industries. While not directly impacting our Member Boards, this bill still may be of interest to you.

In addition to these bills, we believe the 2019 legislative sessions will include bills aimed at licensed military service members and their spouses, temporary licensure through interstate compacts, and fee-waivers for certain groups (e.g. military service members or low-income individuals). Earlier this year, the secretaries of the Air Force, Army, and Navy sent the National Governors Association a memorandum indicating that professional licensure reciprocity rules will be taken into consideration in future basing or mission alternatives. This spring the Utah [Occupational and Professional Licensure Review Committee](#)  held a hearing about the South Dakota interstate compact licensure bill, where a committee member remarked that similar bills may be introduced in Rhode Island, Connecticut, Arizona, and South Dakota.

We will continue to closely monitor these bills and legislative trends. You can access the full text of these bills and others through the State Net platform on the [Member Board Community](#)  under the [Advocacy](#)  heading. As always, feel free to contact Council Relations at council-relations@ncarb.org  with any legislative issues you would like us to monitor.

What's New at Your Board?

Have there been any new additions to your board? Has your board amended its rules? Have state legislators or the governor taken actions that can impact the board?

If you answered yes to any of these questions, we encourage you to contact the [Council Relations team](#) . Let us reflect your board's recent changes in the [Roster](#) , the [Licensing Requirements Tool](#) , and our internal systems. We strive to have accurate and up-to-date information available for licensure candidates, licensed architects, and other boards members.

Welcome New Member Board Members

We'd like to introduce the following new Member Board Members and Executives. Welcome!

- **Laura Zuniga:** Laura joined the California Architects Board as an executive.
- **Jack Poole:** Jack joined the Kansas State Board of Technical Professions: Engineering, Architecture,

Geology, Landscape Architecture and Land Surveying as an engineer member.

- **John Lilak:** John joined the Kansas State Board of Technical Professions: Engineering, Architecture, Geology, Landscape Architecture and Land Surveying as a landscape architect member.
- **Steve Small:** Steve joined the Montana Board of Architects & Landscape Architects as a public member.

Welcome!

Upcoming Meetings

As you plan for the year ahead, make sure to mark your calendars for these upcoming FY19 meetings:

- **Member Board Chairs and Executives Leadership Summit:** October 12-13, 2018, in St. Louis, MO
- **Committee Summit:** November 30 - December 1, 2018, in Atlanta, GA
 - The following volunteer groups will attend:
 - Education Committee
 - Examination Committee
 - Experience Advisory Committee
 - Model Law Task Force
 - Policy Advisory Committee
 - Re-Think Tank
 - Think Tank
- **MBE Workshop:** March 7, 2019, in Nashville, TN
- **Regional Summit:** March 8-9, 2019, in Nashville, TN
- **2019 Annual Business Meeting/NCARB Centennial:** June 19-22, 2019, in Washington, DC

Embracing Change

NCARB is working to evaluate and evolve our programs, initiatives, and services as we help licensing boards respond to deregulatory efforts and prepare for the future. This fall, we are increasing outreach visits to Member Boards and developing a “back to basics” focus to explore the fundamentals of the various roles in the regulation of architecture and protection of the public.

[READ THE MESSAGE FROM THE CEO](#)



The Futures Task Force met throughout FY18 and continues their work in FY19 to explore how NCARB can adapt and grow as the profession evolves.

August Highlights

NCARB Scholars

The inaugural training session of the NCARB Scholars in Professional Practice recently met at the NCARB office to explore new ways to help students connect school with real-world experience. Learn more about the NCARB Scholars.

[LEARN MORE ABOUT THE NCARB SCHOLARS](#)

Regulatory Update

There are several pieces of proposed legislation that could affect your board's work, and more to come in the FY19 legislative season.

[READ THE REGULATORY UPDATE](#)

NCARB in the Press



- [Retrofit: NCARB Data Report Includes Analysis on Attrition Along the Path to Licensure](#)
- [Architect Magazine: What's in a Number?](#)
- [Interior + Sources: NCARB Releases New Report on Diversity in Architecture](#)
- [Architect Magazine: A+ Session: The Future of Licensing Architects](#)

Top Blog Posts



- [Get to Know NCARB President David Hoffman](#)
- [Architect Spotlight: Yanwen Xiao](#)
- [Photos: NCARB Scholars in Professional Practice](#)
- [Record Number of Candidates Complete Core Licensure Requirements](#)

Message From The CEO

Dear Colleagues,

Wherever we turn, it seems, we experience conflict and debate regarding change versus the status quo. Whether it is our institutions, conventional wisdom, or traditional frameworks, there is “churn” in the culture. We in the regulatory community are certainly not immune from these discussions, particularly in relation to the ever-evolving practice of architecture. Rather than fearing or ignoring questions, we can benefit from encouraging and embracing fresh looks at our value and our mission.

We have begun that process by elevating our efforts to educate state legislatures—and the greater architecture community—regarding how regulation remains relevant and is capable of change itself. We also see change in the composition of our state boards and their staff, requiring a renewed focus on how things work and the rationale for developing the tools NCARB provides for its Member Boards.

This fall we are ramping up our outreach visits to Member Boards and developing a “back to basics” focus that will reintroduce the fundamentals underlying the NCARB/ Member Board dynamic. At the same time, we plan to build upon my remarks at the 2018 Annual Business Meeting regarding Member Board capacity and how NCARB can step in where needed and where it is helpful. Encompassing all of this at a high level will be our refreshed Strategic Plan, which will be unveiled next June.

As we seek to monitor and embrace change, we are beginning a multi-year process of designing our next Practice Analysis of Architecture, which will drive discussions on programmatic evolution for the next decade. We are fully committed to participating in a watershed convocation of architectural collaterals next summer to assess the role of architectural education relative to each of our missions. We are convening the latest iterations of our Think Tank of aspiring architects and Re-Think Tank of recently licensed architects. Our Futures and Model Law task forces are working diligently to provide road maps for sustained evolution. And we are planning a Centennial commemoration that will prioritize a look forward as we reflect on our past.

You will be hearing more from us in the coming months about specific findings, progress, and opportunities to engage with us as we adjust to constant change and embrace the tools that can keep us relevant in our mission to protect to the public.

Best Wishes,

Mike



At this year's Annual Business Meeting, CEO Armstrong shared how NCARB will expand its services to help our Member Boards better prepare for the future.

[Read a summary of the speech](#)

Strategic Plan

Fostering Collaboration. A new initiative focused on the community of professional practice instructors was launched in August. The inaugural gathering of the NCARB Scholars in Professional Practice featured training on teaching methods, best practices, curriculum development, and the steps to licensure. This collaborative effort between NCARB and instructors was bolstered by a survey commissioned by NCARB and conducted by the Association of Collegiate Schools of Architecture (ACSA). This collaborative effort marks a significant step in relations between NCARB and ACSA. More details on the scholars program are available in the Experience + Education report later in this Update. Collaborative efforts with licensure candidates to review and assess NCARB programs are an ongoing focus of the Think Tank, which got underway in August.

Centralizing Credential Data. Sustained efforts at encouraging disciplinary action reporting to NCARB's national disciplinary database are starting to pay off as more jurisdictions join the reporting process. Efforts are also underway to develop a tool to collect continuing education records so that annual auditing for license renewal could be easier to implement and more widespread in each jurisdiction. A stronger auditing capacity will assure the public of continuing competence to practice.

Facilitating Licensure. Over 400 students nationwide are now enrolled in programs accepted into the Integrated Path to Architectural Licensure (IPAL) community. Application for IPAL status is now open-ended rather than during a defined period, allowing schools to notify NCARB at any point in the year when they are ready to discuss offering a track that complies with National Architectural Accrediting Board (NAAB) accreditation, contains all curricula needed for the accredited degree, provides ample time to work outside the classroom and complete Architectural Experience Program® (AXP™) requirements, and the opportunity to take each division of the Architect Registration Examination® (ARE®) 5.0.

Organizational Development and Office Life

Design plans for the new NCARB offices are on schedule, with office, work station, meeting room, and conference center locations finalized. Preliminary decisions regarding design elements have been made. Demolition/construction at 1401 H Street is slated to start in October. As the plans have come into focus, the design team is working with its specialists to ensure that the space will achieve LEED Gold status.



The inaugural NCARB Scholars in Professional Practice training session took place over three days at the NCARB office in Washington, DC.

Regulatory Update

Although most sessions have concluded, we are continuing to monitor legislation that may impact the regulation of the profession and impact public health, safety, and welfare. Below are proposed pieces of legislation you may find interesting:

- At its 45th Annual Meeting in New Orleans, the [American Legislative Exchange Council \(ALEC\)](#) announced proposed model law for “[The Occupational Licensing Consumer Act](#).” The act would allow unlicensed individuals means of practicing an occupation if they disclose their unlicensed status to prospective customers. The potential for harm under such legislation would be disastrous for public health, safety, and welfare. NCARB staff are actively collaborating with coalition partners to educate stakeholders on the perils of this model act should it be approved for distribution to state legislations.
- [OH SB 320](#) and [OH HB 716](#): Both Ohio Senate Bill 320 and House Bill 716 are intended to require occupational licensing authorities to issue temporary licenses to active duty military and their spouses who are licensed in another jurisdiction and have recently relocated to the state for active duty. If enacted, the proposed legislation in these bills would impact Ohio’s sizable Air Force population. Interestingly, the Ohio Architects Board have a rule expediting licensure within three business days of receiving an applicant’s required documents and fees for armed services members, veterans, military spouses, and surviving spouses of armed service members or veterans ([4703-2-08\(I\)](#)).
- [US HR 6515](#): Also known as the “Occupational Licensing board Antitrust Damages Relief and Reform Act of 2018,” this bill was recently introduced by Representative Mike Conaway (R-TX) and Representative Lamar Smith (R-TX) and intended to eliminate fiscal antitrust damage liability for state licensing boards, their members, and staff who are acting within their statutory mandate to protect the public. Currently, board members and staff are exposed to personal liability and treble damages for actions taken as part of their service on a board. US HB 6515 was developed by a coalition of professional licensing associations including NCARB, AIA, the [Federation of State Medical Boards](#), the [Council of Landscape Architectural Registration Boards](#), and the [National Association of State Boards of Accountancy](#).

Spotlight on the Centennial

As we celebrate our 100th year, we'll be sharing snippets of NCARB history. This month, learn more about one of the first black female architects in the United States:



Often called the “Rosa Parks of architecture,” Norma Merrick Sklarek was one of the first African-American women to earn a license in the United States. When Norma Sklarek, FAIA, was appointed to the California Architects Board in fall 2003, she brought with her more than five decades’ worth of distinguished, often-unprecedented achievements as a practicing architect, teacher, and, above all, role model. In 2004, NCARB interviewed Sklarek about her upbringing, path to licensure, and involvement with the ARE®. [Read a short timeline of her career on the blog.](#)

Administration

- Recruiting for six positions. Details on these positions can be found [on our website](#).
- Jennifer Moore has joined the Administration Directorate as an Associate HR Generalist, moving from the Customer Relations team.
- The annual financial audit is underway. The audit report will be presented to the Board of Directors at their meeting in September.
- Finalizing meeting planning logistics for fall meetings, including committee meetings, the MBC/MBE Leadership Summit (St. Louis in October), and the Committee Summit (Atlanta in December).



@architectmag

The Future of Licensing Architects: Hear the case for reasonable regulation, how deregulation efforts could impact architects, and what's on the horizon from experts @NCARB CEO Michael Armstrong, Nicole Dosso, Kristine Annexstad Harding, and Avik Guha.
<http://bit.ly/2BGbjk>

Council Relations

- Regional Leadership Committee met to plan the 2018 Regional Summit. The committee, chaired by First Vice-President Terry Allers, welcomed four new members: Judy Belcher, John Rademacher, David Hornbeek, and Edward Marley.
- Facilitated welcome calls with five new Member Board Members and Executives, and continued to develop materials to orient and train new [Member Board Executives](#).
- Continued the planning and development for the MBC/MBE Leadership Summit. Information can be found on the Member Board Community.
- Attended the [National Conference of State Legislatures \(NCLS\) 2018 Legislative Summit](#) in Los Angeles. The conference offered an opportunity to connect with legislators to explore priorities for states heading into the 2019 legislative session, help educate key state policymakers regarding the regulation of architecture, and engage in meetings with legislators regarding the challenges we see with overreaching occupational legislation (specifically compact bills).
- Met with staff from the ALEC to discuss 2019 legislative priorities for the group, and to learn more about ALEC's recent "Occupational Licensing Consumer Act" model law.
- Released a joint statement with the Interorganizational Council on Regulation (ICOR) upholding the organization's commitment to advocating for reasonable regulation in pursuit of providing its licensing board members with the best tools possible to reliably protect the public.

Customer Relations

- The Professional Conduct Committee reviewed procedural documents in preparation for an upcoming meeting in Washington, DC.
- Collaborated with Information Systems on further improvements to the telephone system.
- If your board would like to add information to the Disciplinary Database, NCARB offers a variety of assistance with this task. Please contact Danielle Brokenborough at dbrokenborough@ncarb.org or 202-879-0520.

Examination

- Hosted the ARE Case Study Task Force meeting, which is charged with reviewing all current case studies as part of this year's efforts.
- Facilitated the final closeout of all ARE 4.0 score reporting. The last efforts related to ARE 4.0 delivery have concluded, allowing archiving efforts to begin this fall.
- Participated in the second annual Thought Leaders Exchange conference discussing the trends around the future of licensure and certification testing.
- The ARE Item Development Subcommittee completed multiple assignments in advance of their upcoming face-to-face meeting.



The ARE Case Study Task Force met at the NCARB office to begin their FY19 work of reviewing all current case studies.



@nyvarch

Excited for today's @ncarb Architect Licensing Advisors Retreat hosted by #aiany @CenterForArch glad to have it in New York City, and to have been part of the planning for Committee. Updates coming soon.



@down_inmy_heart

It's official!! 4,600 AXP hours, 6 months of studying + 6 tests later... I can officially call myself an Architect! Joy Sportel, R.A. has a nice ring to it I think... @NCARB #architect #licensed

Experience + Education

- Hosted the inaugural NCARB Scholars in Professional Practice event. Ten professional practice professors attended the three-day training session to learn from subject matter experts on topics including ethics, marketing, legal obligations, and best practices for engaging students.
- Hosted two inaugural Architect Licensing Advisors Retreats. The retreats have been designed to provide training and best-practice exchange for local architect licensing advisors in the “off-year” between our bi-annual Licensing Advisor Summits. Retreats were held in DC and New York City. Upcoming retreats are planned for Los Angeles, Chicago, and Boston.
- Facilitated the Certification Alternative Review Team (CART) training. The training provides a deep-dive into the requirements of the *NCARB Education Standard* to ensure rigorous and consistent review of Certificate Portfolios submitted by applicants for the NCARB Certificate through the Education Alternative.
- Facilitated the Continuing Education Subcommittee virtual meeting, kicking off the development of NCARB’s proposed new resource for Member Boards and architects: *NCARB Continuing Education Guidelines*.
- The 2018-2019 Think Tank held their introductory kick-off call.
- Launched the FY19 Re-Think Tank application in partnership with the Examination Directorate.



Volunteers are trained to review Certificate Portfolios submitted by applicants who are seeking NCARB certification through the Education Alternative.

August Outreach



Conferences

- 8/9 | Alabama Continuing Education Day
- 8/17 | Licensing Advisors Retreat in Washington, DC
- 8/23 | Licensing Advisors Retreat in New York, NY



@AIANational

In 2017, the architecture profession reached a record high: 113,554 licensed architects in the U.S. 2018 AIA President Carl Elefante, FAIA, shares his thoughts on this and other findings from @NCARB by the Numbers. Take a look: <http://bit.ly/2vsfKLZ>

Information Systems

- Hosted a booth at the American Society of Association Executives Annual (ASAE) Conference in Chicago to launch NCARB's proprietary software for team management in the association market.
- Updated our system to now allow multiple exam seat credits. Candidates will be able to purchase more than one seat credit for ARE 5.0 divisions.
- Business Intelligence Analyst Katherine Matthews was recently named the incoming vice chair for the ASAE Technology Section Council. She will serve a three-year leadership term (as vice chair, chair, and past chair). The Technology Section Council is responsible for leading the content selection for the annual Technology Conference as well as providing thought leadership to the broader association community.
- Automated a previously manual feature to allow licensure candidates with pending exam eligibilities who are added in IPAL to be able to immediately start testing in that jurisdiction.

Marketing & Communications

- Reviewing all NCARB forms for content updates and branding.
- Developed video on student outreach presentation to share after team visits to schools.
- Updated the August 2018 *Education Guidelines*, which includes updates from the June 2018 resolutions that went into effect on July 1 related to EESA and continuing education information.
- Continued to develop materials related to NCARB's upcoming Centennial celebration.
- Facilitated kick-off call with the 2018-2019 Think Tank.

Upcoming Outreach



Schools

- 9/12 | Howard University
- 9/12 | Pennsylvania State University
- 9/27 | Wentworth Institute of Technology
- 9/27 | Northeastern University

AIA Components

- 9/18 | AIA Baltimore

Conferences

- 9/28 | Licensing Advisors Retreat in Boston
- 9/29 | Boston Architecture/Design College Day

This publication is designed to provide timely updates on the actions and discussions of the NCARB Board of Directors immediately following meetings. Please remember that the information provided here may be confidential and will be indicated as such when necessary.

President/Chair of the Board David L. Hoffman, FAIA, NCARB, Hon. FCARM, presided at the fall meeting of the FY19 Board of Directors held September 20–22, 2018. During the meeting the Board:

- Reviewed the first draft of the proposed refreshed Strategic Plan, including potential edits to the Council's mission statement and revisions to the Strategic Goals of the updated plan;
- Proposed updates for two Board policies; and
- Accepted the report of the independent audit firm on the Council's 2018 financial audit.

In other sessions, the Board of Directors discussed several strategic initiatives, participated in leadership development sessions, and heard an update on the status of the Council's new business development initiative.

Additionally, President Hoffman reported to the Board on recent and upcoming engagements with international and collateral organizations, and CEO Michael Armstrong presented current program and customer metrics. The Board also heard jurisdictional news from regional directors and received updates on initial forays into FY19 committee work from committee liaisons.

Strategic Initiatives

Business Development

The meeting opened with a special report on the status of the development initiative to market two proprietary software products. In the past decade, Council staff developed several proprietary software products for internal use. Permission was granted by the 2017 Board of Directors to explore the marketability of four of these products. Market research showed broad marketability across multiple industries for one product, as well as smaller markets for the other three products—one of which would provide a licensing services system to benefit Member

Boards that could potentially be evolved to serve other jurisdictional regulatory board customers.

In 2017, the Board of Directors approved investing up to \$2 million from reserve funds for further development and marketing of NCARB propriety software as a possible source of additional revenue to benefit the Council's Member Boards and customers. After reviewing a feasibility assessment conducted by outside consultants, the development and marketing focus was narrowed to two products: the state licensing system software and software to support a volunteer/team management system, subsequently titled Lineup™. An NCARB-specific version of the volunteer management system has been in use for several years to assist incoming presidents in placing up to 300 volunteers on NCARB committees, work groups, and task forces. This system has allowed the incoming president to establish team diversity based on geography, experience, and demographic metrics including gender, race, and expertise (e.g., public member, board executive, architects, etc.). CEO Armstrong referenced earlier Board discussions regarding the purpose of reserves as serving to address both risk and opportunity as the basis for the provision of investment funds from that account. The investment was made by previous boards as a risk mitigation strategy for the purpose of diversifying the Council's revenue streams, as well as an opportunity strategy to monetize the Council's proprietary software. If successful, new revenue streams will provide opportunities to enhance services for Member Boards and customers while reducing dependency on the current revenue streams from the architectural profession. Armstrong also reviewed with the Board a future management option that would have the venture established into a separate subsidiary business entity—a common practice for nonprofit organizations similar to NCARB.

During the September Board meeting, Chief Innovation & Information Officer Guillermo Ortiz de Zárate and software start-up and business development consultant Laurie Buckley briefed Board members on recent developments. The state licensing system product's first customer, the Louisiana State Board of Architectural Examiners (LSBAE), is currently implementing the system; several other Member Board Executives have expressed interest in seeing demonstrations of the product. The Lineup system has been implemented by the National Architectural Accrediting Board (NAAB). Approximately 180 new client leads for Lineup have been developed, including several Fortune 500 companies. The Board engaged in discussions regarding the Council's product testing strategy, intellectual property rights, and pricing strategies, as well as additional opportunities for product use.

When the business development for software monetization initiative was launched in FY17, the Board of Directors instructed the Executive Committee to oversee this activity and authorized the Executive Committee to release reserve funds in \$500,000 increments, not to exceed a total of \$2 million, as appropriate. Thus far, \$1 million has been invested in the initiative. At this September meeting, the Executive Committee approved a third release of \$500,000, which will enable the Council to pursue the new client leads and continue marketing the products. The full Board indicated that given this significant momentum and potential for future Lineup sales, they would like continued updates at subsequent meetings. Armstrong indicated he would confer with legal counsel regarding possible future options and update the Board.

Strategic Plan Update

The Board's strategic advisor, Jay Younger, President/CEO of McKinley Advisors, presented the first draft of the updated Strategic Plan. The updated plan incorporates feedback collected over two years of surveys, focus groups, and interviews with several hundred key stakeholders including regional chairs, Member Board Members and Executives,

Record holders, and volunteers. As part of its review, the Board agreed to a modified mission statement and three updated Strategic Goals. This draft will be shared with Member Board Chairs and Executives at the Leadership Summit in October. The Board will conduct another content review in January 2019 and will finalize the plan in April. The final Strategic Plan will be introduced at the June 2019 Annual Business Meeting.

Facilitating Licensure: A CE Audit/Management System

Earlier in 2018, the Board directed development of a system that will support Member Boards as they audit licensees' continuing education courses as a condition of license renewal. The tool will also allow architects to efficiently manage continuing education reporting by incorporating existing transcribed information if the licensee is utilizing a different CE tracking system. A "phase one" concept of the new system as it would apply to Member Board auditing was presented to the Board of Directors. A beta version of the system is expected to be ready for demonstration at the March Regional Summit and a first version ready for introduction at the June 2019 Annual Business Meeting.

Fostering Collaboration

NCARB hosted an engagement session with the officers and executive of the Association of Collegiate Schools of Architecture (ACSA): President Branko Kolarevic (Professor, University of Calgary), First Vice President/President-elect Rashida Ng (Chair and Associate Professor, Temple University), and Executive Director Michael Monti. This yearly event provides a forum for both ACSA and NCARB to ask questions and discuss areas of mutual interest and concern. Key topics under discussion this year included the 2019 Accreditation Review Forum (ARF) hosted by the NAAB and opportunities for partnership between the two organizations including enhancing website information, liaising with less-engaged academic programs, and evolving the new [NCARB Scholars in Professional Practice](#) outreach initiative.

Leadership Development

The Board also engaged with three key advisors to address legal, financial, and strategic issues. Legal counsel Ron Jacobs, from Venable LLC, spoke about the legal duties and responsibilities of a corporate Board of Directors. Strategic advisor Jay Younger addressed essential tenets of good governance including the explicit functions of a Board to establish mission and strategy, evaluate resources, and oversee results. Investment advisors Arun Sardana and Paul Grambsch, from UBS, addressed the fiduciary responsibilities of a Board, spoke about current economic conditions, and reviewed the performance of the NCARB investment portfolio—noting that the portfolio has outperformed the benchmarks required in the Board's investment policy for the one-year, three-year, and since-inception (July 2015) time periods.

On the following day, the Board of Directors heard from Venable's human resource legal experts in a session focused on appropriate behaviors and ensuring respect for diversity, inclusion, volunteers, and staff as members of the "NCARB workplace." This session is being presented to all Council leaders and staff this year, including committee chairs in May and the Regional Leadership Committee in August, as well as an upcoming session at the Member Board Chairs and Executives Leadership Summit in October. NCARB staff received the same training earlier in 2018.

NCARB Director of Experience + Education, Harry M. Falconer Jr., FAIA, NCARB, steered the Board through an initial session to prepare for the July 2019 Accreditation Review Forum (ARF) hosted by the NAAB. This symposium on accreditation and the future of architectural education relative to the missions of the five collaterals will be composed of the boards of directors from NCARB, NAAB, ACSA, the American Institute of Architecture Students (AIAS) and the American Institute of Architects (AIA). Starting with this September meeting, time will be devoted at each Board meeting through next June to learning more about the emerging key issues for the ARF—regarding both the NAAB and architectural education holistically.

Policy Reviews

Secretary Bayliss Ward, NCARB, AIA, introduced recommended edits to the Board's *Policy on Elections* and the Professional Conduct Committee (PCC) *Rules of Procedure*, complying with a Board practice to review each Board policy on a three-year cycle. The Board of Directors considered input provided by legal counsel, the Credentials Committee, and the PCC.

Secretary Ward reviewed the proposed revisions to the *Policy on Elections*, which were intended to align the policy with the newly revised *NCARB Bylaws* and introduce other housekeeping edits. The current policy was written as a placeholder policy until the *Bylaws* vote this past June, when subsequent adjustments were incorporated for Board review. After additional feedback to staff, the Board approved a new version of this policy.

Regarding the PCC Rules of Procedure, Public Director Darryl R. Hamm, Board liaison to the PCC, explained that legal counsel had worked closely with the PCC to redraft the *Rules of Procedure*. Clarifying that there were no changes in the levels of authority, prohibited conduct, or procedures, Hamm explained that the purpose of the proposed revisions is to: align with the revised *Bylaws*, remove references to the former *Rules of Conduct*, clarify key points for handling conduct cases, implement Board direction to add a sanction option, require ethics education, and streamline the document. After providing additional feedback to staff, the Board of Directors approved a final version of this policy.

The Board also discussed proposed edits to position descriptions for Council leadership roles. The edits align the descriptions with the revised *Bylaws*. The Board provided feedback to staff and will review the descriptions again in December. Following the review, the descriptions will be released to membership to assist potential Board candidates in their consideration of the 2019 Board elections.

Council Finances

Chair of the Audit Committee, Treasurer Alfred Vidaurri Jr. FAIA, NCARB, AICP, presented the FY18 audited financial statements and reports of the auditors. The financial audit is conducted by the independent audit firm Tate & Tryon. The Council again received a “clean” audit opinion, and the Board of Directors acted to accept the audit. The audited statements will be released to the membership in the Annual Report this fall.

In addition, Vidaurri informed the Board that he had attended an orientation session in the Council office where he conducted the annual audit of the CEO’s expense reports, finding no issues of concern. Vidaurri reported that he and former Treasurer/current Second Vice President Robert M. Calvani, FAIA, NCARB, had also attended meetings with the investment advisors and the auditors. He briefed the Board on the current state of the Council’s financial assets (the Operating, Short-Term and Strategic Reserve funds). The Operating and Short-Term Reserve funds are being maintained near the top of the Board-defined target ranges for each fund. The Strategic Reserve remains approximately \$1.5 million below \$21.2 million, which is the minimum target balance for that fund.

Armstrong reported the financial results of operating activities for the fiscal year that ended June 30, 2018 (FY18), and for the first two months of Fiscal Year 2019 (FY19). The net results of operating revenues and expenses for FY18 were net revenues of \$1.9 million. In reporting FY19 revenues, Armstrong shared trends and projections that show that current FY19 revenues are at or near expected budget levels.

Past President Gregory L. Erny, FAIA, NCARB, Hon. FCARM, shared an analysis of annual costs for the Executive Committee and the Board of Directors, which include travel, lodging, and consultant attendance. For the seventh consecutive year, costs have remained below the Board’s self-imposed benchmark of 2003 costs, adjusted for annual inflation. Total costs incurred in FY18 hit a 15-year low.

Reports

Director Reports

Directors provided the following updates on pre-Board meeting calls with stakeholders:

- **Public members** who requested access to NCARB’s Professional Conduct Monograph reported that the monograph provides an excellent tutorial for the lay person on the responsibilities of an architect.
- **Region 1:** Massachusetts recently lost two new board members due to a re-interpretation of statutes regarding prerequisites for board service; replacement members have been identified.
- **Region 2:** Region 2 has hired a new executive, Judy Belcher from West Virginia, and is preparing to host a fall symposium at Drexel University. West Virginia has a school that has been granted initial candidacy from the NAAB, the first step in becoming the first accredited program offered in West Virginia. Unlicensed practice remains a large issue for the region with six jurisdictions unable to fully address these disciplinary issues. Other key topics include an active supervision law being considered in the New Jersey legislature, significant budget issues in New York that are curtailing board meetings, and a mandate in Virginia to reduce regulations statewide by 25 percent.
- **Region 3:** Region 3 will host a training session for Region 3 Member Board Executives after the close of the NCARB Chairs/Executives Summit in St. Louis, Missouri; Alabama reported success in a court case affirming that design of townhomes requires an architect, although the case may be moving to the Alabama Supreme Court; Arkansas’ new governor is combining/eliminating boards; Louisiana is defining incidental practice and working with NCARB to implement the state licensing system; Mississippi is adopting a board member code of conduct.

- **Region 4:** Iowa indicated they are “delighted” with the NCARB disciplinary database; Wisconsin is having difficulty filling board vacancies; Minnesota joined NCARB’s Exam Eligibility Service; Kentucky reported that former executive Rex Cecil is being honored by AIA Kentucky in October.
- **Region 5:** Reported no significant issues in the region at the moment.
- **Region 6:** Key item of interest in the region is the credentialing of interior designers.

President’s Report

Hoffman reported on the release of a statement that was jointly authored by NCARB and three other organizations that frequently provide joint service to Member Boards, emphasizing the value and relevance of licensure and the argument for protecting the authority of Member Boards. The four organizations are NCARB, the Council for Interior Design Qualification (CIDQ), Council of Landscape Architectural Registration Boards (CLARB), and the National Council of Examiners for Engineering and Surveying (NCEES). The statement can be read on the [Member Board Community](#).

Hoffman also reported on a number of recent past and upcoming engagement activities: the AIAS Grassroots conference and an engagement with NCARB staff (July); the CLARB annual meeting (September); meetings of the Futures Task Force and Centennial Advisory Committee (October); a meeting of the senior officers and executives of the five architectural collateral organizations and the NAAB annual meeting (October), the MBC/MBE Leadership Summit (October); the ACSA Board of Directors meeting (October); the Canada/U.S./Mexico Tri-National Agreement review meeting (November); the executive committee of the Pan-American Federation of Associations of Architects (FPAA) (November); NCARB Committee Summit (December); AIA Presidential Inauguration (December); and AIAS Forum (December).

CEO Report

Armstrong reported a nearly 50 percent increase over the past two years in the number of Member Boards reporting disciplinary data for the national database. He indicated that Member Board outreach this year will highlight the importance of sharing data and will promote participation in Exam Eligibility Services and the Integrated Path to Architectural Licensure (IPAL) among other topics. He and/or other Council staff recently visited Wisconsin, California, and New York, and plan to visit at least 15 additional Member Boards by the end of the fiscal year in June 2019.

Licensure candidates continue to actively pursue completion of the examination following the retirement of the Architect Registration Examination® (ARE®) 4.0. Strong participation continues in the Architectural Experience Program® (AXP™), and Certificate holder retention is up 4 percent thus far in calendar year 2018. The first annual reports from participating IPAL programs were received this summer indicating the following statistics: 465 students are enrolled in IPAL programs across the United States; over 197,000 experience hours have been reported; and 80 IPAL students have taken at least one division of the ARE. A few programs are just launching their first cohort, and a couple of schools are still facing regulation challenges. In other program news, Falconer reported to the Board about the success of the inaugural NCARB Scholars in Professional Practice Program conducted in August. The program’s first enrollees heard from experts in teaching skills and subject matter while providing feedback toward a future model featuring best practices and common resource materials.

Armstrong updated the Board on the status of the office move, noting that permit applications have been submitted to the District of Columbia and that final design plans are nearly complete. Demolition at the new site is expected to begin in late October.

Committee Reports

Several committees reported recent or upcoming activity:

- The Centennial Advisory Committee is meeting the first weekend in October. The Board of Directors provided feedback on proposed modifications to the President's Medal and the President's Medal for Distinguished Service to be unveiled as part of the June 2019 Centennial Annual Business Meeting.
- Other committees with upcoming meetings include the Education Committee, the Experience Advisory Committee, the Futures Task Force, and the Interior Architecture Work Group.
- Several examination subcommittees are conducting a "pool review" to assess the state of every item in the exam item bank and complete appropriate updates. The Examination Committee will be meeting in late September and is working on a policy review and a shared charge with the PCC.
- The Member Board Executive Committee conducted the 2018 Quality Assurance Audit, planned the March 2019 MBE Workshop, engaged with the PCC on shared charges for development of disciplinary case studies, and held a lively discussion with the members of NCARB's Think Tank.
- The Model Law Task Force provided feedback for the first draft of the new *NCARB Model Law*, designed the upcoming engagement at the October MBC/MBE Leadership Summit in St. Louis, and devised an approach for updating NCARB's *Model Regulations*.
- The Policy Advisory Committee (formerly the Procedures and Documents Committee) is reviewing two NCARB white papers in partnership with several other committees.
- The PCC completed proposed edits to the *Model Rules of Conduct* and is collaborating with several committees on shared charges.
- The Regional Leadership Committee developed a theme for the 2019 Regional Summit, discussed regional opportunities regarding localized versions of the Licensing Advisor Summit; and participated in leadership development training.

September 2018

For Release: Immediately

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Northern Mariana Islands Joins NCARB Membership

Washington, DC—In September, the Northern Mariana Islands became the 55th member of the National Council of Architectural Registration Boards (NCARB), just as the nonprofit is gearing up to celebrate its [centennial year](#). The commonwealth's Board of Professional Licensing—which regulates the practice of architecture, engineering, land surveying, and landscape architecture—is returning to NCARB after previously being a member from 1984-2006.

NCARB's services for licensure candidates are now available to island residents, and NCARB-certified architects can apply for a reciprocal license in the commonwealth.

Through collaboration with [licensing boards](#) across the United States, NCARB shapes the future of architectural regulation. During the organization's annual meetings and forums, Member Boards such as the Northern Mariana Islands vote on national standards, provide input on programs for licensure and reciprocity, and elect regional and national officers.

"We are delighted to welcome the Northern Mariana Islands back into NCARB's community during our Centennial Celebration," said NCARB President David L. Hoffman, FAIA, NCARB, Hon. FCARM. "One hundred years after our founding, it's encouraging and motivating that our Member Boards recognize how NCARB's programs and services support their efforts and continue to benefit the public."

The Northern Mariana Islands Board is now also a member of NCARB's [Region 6](#), which is comprised of Alaska, Arizona, California, Colorado, Guam, Hawaii, Idaho, Nevada, New Mexico, Oregon, Utah, and Washington.

"With access to NCARB's programs and services, the Northern Mariana Islands Board of Professional Licensing can more effectively carry out our duty to protect the health, safety, and welfare of our residents," said Board Executive Director Esther S. Fleming.

To learn more about earning a license to practice architecture in the U.S. visit www.ncarb.org/get-licensed.

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About NCARB

The National Council of Architectural Registration Boards' membership is made up of the architectural registration boards of all 50 states as well as those of the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. NCARB assists its member registration boards in carrying out their duties and provides a certification program for individual architects.

NCARB protects the public health, safety, and welfare by leading the regulation of the practice of architecture through the development and application of standards for licensure and credentialing of architects. In order to achieve these goals, the Council develops and recommends standards to be required of an applicant for architectural registration; develops and recommends standards regulating the practice of architecture; provides to Member Boards a process for certifying the qualifications of an architect for registration; and represents the interests of Member Boards before public and private agencies. NCARB has established reciprocal registration for architects in foreign countries.

Visit: ncarb.org

Twitter: twitter.com/ncarb

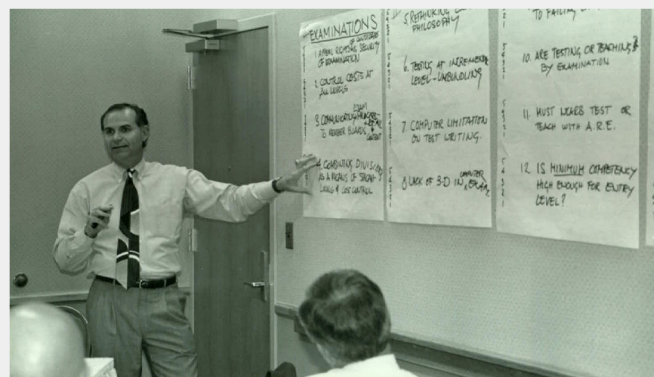
Facebook: facebook.com/ncarb

YouTube: youtube.com/NCARBorg

Thinking Strategically

As we review NCARB history during our Centennial year, efforts are also underway to update and refresh NCARB's Strategic Plan. By maintaining our commitment to collaboration and facilitation, we hope to ensure that our movement as an organization is forward rather than circular—even as we move through cycles regarding the value of licensure, NCARB programs, our services to boards, and more.

[READ THE MESSAGE FROM THE CEO](#)



NCARB has had multiple discussions and workshops regarding the Strategic Plan over the years—in this photo, Member Board Chairs discuss NCARB's Strategic Plan in 1996.

September Highlights

Northern Mariana Islands Rejoins NCARB

In September, the territory became NCARB's 55th member, and can now take advantage of all of NCARB's programs and services for licensure candidates and architects.

[READ FACILITATING LICENSURE](#)

Fostering Collaboration

Over the past month, NCARB has worked together with CLARB and other organizations on several efforts to combat deregulation including the formation of a new work group.

[READ FOSTERING COLLABORATION](#)

NCARB in the Press



- [The New York Times: Architecture Is No Longer Just a 'Gentleman's Profession'](#)
- [The Architect's Newspaper: How can architects build the equitable discipline we deserve?](#)

Recent News



- [Northern Mariana Islands Join NCARB Membership](#)

Top Blog Posts



- [Meet Dwight Dobberstein: The First Person to Complete NCARB's Experience Program](#)
- [Meet the First IPAL Graduates](#)

Message From The CEO

Dear Colleagues,

History, or rather our view of it, is complicated. We all have a selective memory of how we think things happened, and that memory sometimes blurs the line between intent versus impact. This happens in a variety of ways, including when we revisit an issue or when we review a documented narrative. These thoughts have been “front of mind” as we head into our Member Board Chairs/Executives (MBC/MBE) Leadership Summit and into a full schedule of Member Board visits, and as our Centennial Advisory Committee reviews drafts of a new publication documenting NCARB’s first 100 years. In each case, we hope to anticipate how our audiences may receive information, and how they may act based upon their own perspectives.

Some of our larger historic themes reoccur in cycles: the value of regulation, the validity and usefulness of programs, the sustainability of our mission, and our approach to equipping Member Boards to protect the public. We think it is important to keep encouraging questions, pursuing innovation, and embracing diversity in both thought and perspective. This sustained commitment to collaboration and facilitation will ensure that while we move through cycles, the movement is forward rather than circular.

One of the tools we rely upon as an engine for forward movement is our Strategic Plan. Unlike some who only emphasize the planning process as a forum for occasional engagement with no measurable outcomes or goals, we have carefully solicited input from hundreds of stakeholders over a two-year period to either validate, reject, or craft goals that incorporate essential deliverables and aspirations. The strategic planning culture is not new to NCARB. Over a number of years, the Council has prioritized both the design and implementation of Strategic Plans. The NCARB Board has focused on “strategic discussions” and encouraged its Member Board counterparts to revisit their mission and scope to acknowledge a role for strategic as well as operational conversation. Several NCARB regions are initiating or updating their strategic plan.

Whether it’s “touching base,” “checking in,” conducting a “gut check,” or some other favorite phrase used to seek validation and permission, our efforts are converging on these concepts as we move closer and closer to our Centennial commemoration next June. We hope all of you as stakeholders will take advantage of multiple opportunities to be part of writing our ongoing history, through a mutual commitment to a shared vision. Our collaboration only enhances our common interest in protecting the public.

Best Wishes.

Mike



CEO Armstrong meets with NCARB’s Centennial Advisory Committee to discuss the commemorative publication, microsite, and exhibit as we celebrate 100 years of facilitating licensure.

CEO Outreach



California Board Visit

September 11-13 | San Francisco, CA

Executive Committee Meeting

September 19 | New Paltz, NY

Board of Directors Meeting

September 20-23 | New Paltz, NY

Strategic Plan

The Board of Directors reviewed a first draft of a refreshed Strategic Plan at its September meeting. The Board members worked on adjusting the mission statement to more directly reference NCARB's primary role of supporting Member Boards, and expanded and/or updated existing goals to reflect current and emerging priorities. This draft will be presented for feedback at the October Member Board Chairs/Executives Leadership Summit. In January the Board will consider any additional revisions to the plan draft, after which the plan will undergo final design and preparation for presentation at the June Annual Business Meeting.

Facilitating Licensure

- The current goal of *facilitating licensure* is influencing staff revisions to provide greater Member Board access to information submitted by licensees seeking certification via the alternative path for those without architecture-related education. More information on this development will be provided to Member Boards within the next 60 days.
- Other metrics supporting this goal include early indicators that exam administrations and licensure candidate Records will meet budgetary expectations, and that the upward trend on Certificate holders is likely to continue.
- In September, the Northern Mariana Islands became the 55th member of NCARB. The commonwealth's Board of Professional Licensing is returning to NCARB after previously being a member from 1984-2006. NCARB's services for licensure candidates are now available to island residents, and NCARB certified architects can apply for a reciprocal license in the commonwealth. The Northern Mariana Islands Board is now also a member of NCARB's [Region 6](#).

Fostering Collaboration

- The participation of leaders from the Association of Collegiate Schools of Architecture (ACSA) at the September Board meeting resulted in a commitment to a focused collaboration on mutual enhancement of information-sharing and contributing to evolving programs. The conversation will continue as NCARB leaders attend the October ACSA Board Meeting during their annual Administrators Conference.
- President David L. Hoffman, FAIA, NCARB, Hon. FCARM, and other NCARB attendees at the annual meeting of the Council of Landscape Architectural Registration Boards (CLARB) in mid-September obtained valuable insights into the culture of a related design organization and interaction with shared executives and board members from multi-disciplinary boards, as well as other regulators. CEO Armstrong spoke to the CLARB delegates regarding: the collaborative efforts of NCARB, CLARB, and their counterparts for engineering and interior design via the Interorganizational Council on Regulation (ICOR); the CLARB/NCARB collaboration in presenting a joint orientation for new Member Board Members; and the initial meeting of a new advocacy work group, which also includes professional societies representing architects, landscape architects, and engineers.

Centralizing Credentialing Data

- The positive trend line over the past two years regarding Member Board submittals to the NCARB disciplinary database continues in a positive direction. Emphasis is being placed upon providing a service whereby NCARB staff members obtain and enter information from under-staffed jurisdictions and exploring reporting impediments via Member Board visits and discussion with Member Board legal counselors.

Organizational Development and Office Life

- Construction subcontractors were interviewed in anticipation of the October commencement of demolition of the former tenant space in the new NCARB offices, slated for occupation next March. Staff architects Harry M. Falconer, FAIA, NCARB, and Jared N. Zurn, AIA, NCARB, participated in the interview and selection process.
- The senior staff composed of the CEO, COO, CIO, and department directors organized the agenda for their fall retreat on October 1-3, focusing on emerging challenges relating to services, outreach, and office culture. The annual all-staff picnic will occur on October 10. Offices will be closed for several hours to ensure full participation.
- Training from staff and legal counsel continues regarding appropriate workplace behaviors, including targeted training to volunteer committees with emphasis on how the “NCARB workplace” applies to any gathering of volunteers and/or staff.

Collateral Engagement



AIA NY Meeting

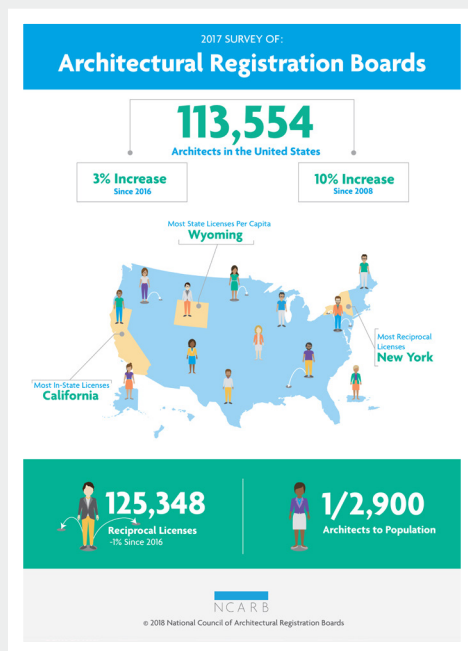
September 18 | Albany, NY

CLARB Annual Meeting

September 27-30 | Toronto, Canada

Senior Officer and Executive Office Outreach

- President Hoffman and CEO Armstrong attended the CLARB Annual Meeting.
- The NCARB Board of Directors meeting was held September 20-22, 2018. Read the BOD Brief [on the Member Board Community](#).



According to @NCARB the number of licensed architects in the U.S. reached a record high of 113,554 in 2017. That means that our profession has grown 10% in just the last decade. Learn more from the graphic below made by @NCARB #GMCA #architecture #architects #design

Spotlight on the Centennial

As we celebrate our 100th year, we'll be sharing snippets of NCARB history. This month, meet the first person to complete the IDP!



In 1979, Dwight Dobberstein of Iowa City, Iowa, became the first person to complete NCARB's experience program—then the Intern Development Program (IDP). After completing the program, Dwight went on to earn a license in Iowa and become NCARB certified. We interviewed Dwight and his supervisors in 1979, and here's what Dwight had to say about the program:

"I would think that as people become more familiar with the program, they will be looking for it in their applicants for jobs. With IDP behind you, you can lay out a pretty well documented case for being really experienced."

[Read the full story on our blog!](#)

Administration

- The Audit Committee accepted the FY18 annual financial audit results from independent audit firm, Tate & Tryon. The auditors again provided a “clean” opinion of the state of the Council’s financial records, procedures, internal controls, and policies. The Board of Directors subsequently accepted the audit at their meeting in September. This was the sixth year that Tate & Tryon conducted the financial audit. In accordance with Board policy, which requires a new “audit partner” from the existing consultant or new consultant every five years, the Audit Committee had transitioned to a new audit partner from Tate & Tryon to manage the FY18 audit.
- Supported the Member Board Executive (MBE) Committee with the annual Quality Assurance Audit of Council Records transmitted to Member Boards for licensure requests. The committee examined 125 randomly selected “very short” reciprocity transmittals. This year, the committee was also able to view results from the new “Feedback Dashboard.” This dashboard allows Member Boards to provide perpetual feedback on reciprocity and licensure candidate transmittals throughout the year.
- Recruiting for several vacant positions. Details on these vacancies can be found at <https://www.ncarb.org/about/careers>.
- Completed meeting logistics for all committee meetings occurring through the end of the calendar year. Current focus is on the upcoming MBC/MBE Leadership Summit in St. Louis, Missouri, in October, and the Committee Summit in Atlanta, Georgia, in December.

Customer Relations

- Participated in an outreach event at Howard University. Collaborated with the Examination and Experience + Education teams to provide support.
- Welcomed new Assistant Director, Cassandra Walker, to the team. Cassandra brings her experience in service and team development to help manage the Customer Relations team as it supports NCARB’s Member Boards and customers.
- Supported the meeting of the Professional Conduct Committee (PCC), who recommended several updates to the PCC Rules of Procedure to the NCARB Board of Directors for consideration at the September meeting. The committee also collaborated with the MBE Committee and met with the chair of the Examination Committee on shared charges.



NCARB’s Member Board Executives and Professional Conduct committees collaborated on joint charges during a meeting at NCARB’s office in Washington, DC.

Council Relations

- NCARB is making inroads into shifting the conversation about licensure, and we have a good recent example from the Federal Trade Commission (FTC), which was the litigant in the North Carolina dental board case. In September, FTC staff [issued a report and press release](#) that has been partially informed from our contributions to their Economic Liberty Task Force over the last year. The new report credits some national licensure portability models—including NCARB specifically—as a best practice achieved through *Model Law* and the Certificate. The overall report still contains some of the same arguments we disagree with, but it represents a more balanced exploration of the options available to encourage reciprocity in various occupations.
- CEO Armstrong and Council Relations Director Josh Batkin provided an NCARB program update to members of AIA San Francisco and AIA East Bay. Additionally, they met with AIA San Francisco President Rosa Sheng, FAIA, to discuss NCARB's support for her ongoing efforts via the AIA SF "Equity by Design" initiative to address important research regarding diversity and equity.
- Held a strategy meeting with Benenson Strategy Group to begin polling and focus group research regarding public sentiment about regulation and licensure.
- In coordination with the CLARB, the American Institute of Architects (AIA), the American Society of Landscape Architects (ASLA), the National Society of Professional Engineers (NSPE), the American Society of Civil Engineers (ASCE), and the American Council of Engineering Companies (ACEC), held a first-ever joint strategy meeting to discuss 2019 state legislative priorities and coordinated multi-disciplinary coalition advocacy efforts within states.
- Met with the International Code Council (ICC) to identify collaboration efforts on projects that would help communicate the value of architects and building code officials to policymakers and other stakeholder audiences. Additionally, discussed state-level engagement with ICC during the 2019 legislative session (and beyond).
- Supported the meeting of the MBE Committee, who conducted the annual Quality Assurance Audit. Results from the audit were shared in the September edition of Fast Facts and with attendees at the MBC/MBE Leadership Summit.
- The MBE Committee also began planning for the 2019 Member Board Executives Workshop, which will be held on March 7, 2019, in Nashville, Tennessee.
- Attended the CLARB Annual Meeting in Toronto, Canada, where issues of mutual concern were discussed.



@npwaugh

Happy 100th Anniversary to @NCARB!
#LetsGoFurther

Examination

- Finalized updates to exam questions to align with the 2017 family of AIA contracts and the 2015 International Building Codes.
- Completed final updates to case study resources following the August Case Study Subcommittee meeting.
- Item Development Subcommittee met and continued their efforts to complete a full review of the Architect Registration Examination® (ARE®) item pool.
- Examination Committee met and began efforts to research emerging technology in testing and complete a final evaluation of the ARE 4.0 retirement.
- Examination team members Mike Yates and Bill Johnson participated in the Council on Licensure, Enforcement, and Regulation (CLEAR) annual conference, beginning greater training on investigation support.



The Examination Committee met at the NCARB office in Washington, DC, to begin efforts to research emerging technology and complete a review of ARE 4.0's retirement process.



@EcoreCommercial

Did you know that 36% of new architects are women? Take a look at more stats gathered by @NCARB here: <https://t.co/YLzH74GyuO>

Experience + Education

- The Education Committee reviewed the proposed *Continuing Education (CE) Guidelines* in collaboration with the CE Subcommittee, began discussions on promoting awareness of resilient design in architectural education, and laid the groundwork for joint discussions with the Experience Advisory Committee regarding the education continuum.
- Released two Mini-Monographs:
 - [Security Planning and Design Part IV: Building Hardening](#)
 - [Improving Building Performance Case Studies Part III: Deer Park Junior/Senior High School Career Academy](#)

Information Systems

- Added Northern Mariana Islands to the list of jurisdictions that accept a Record transmittal. Also added contacts for Northern Mariana Islands in the Roster's Group Mail feature under Region 6.
- Completed final system enhancements, quality assurance testing, and created a "How To" guide to support the launch of the Online License Verification feature for Member Boards. Beginning October 1, Member Boards will be able to verify licenses or notify NCARB of closed transmittals directly from the Transmittal section of [My NCARB's](#) Member Resources portal.
- Integrated language about NCARB's *Model Rules of Conduct* into the annual certificate renewal system to raise awareness.
- Implementation continued regarding the State Licensing System software product being utilized by the Louisiana Board. Enhancements include credit card payment processing, license application and license renewal, automatically updates of licensee records, and an automated email feature supporting appropriate messaging at different touch points of the license application and license renewal process.

September Outreach



Schools

- 9/12 | Howard University
- 9/12 | Penn State University
- 9/27 | Wentworth Institute of Technology

AIA Components

- 9/18 | AIA Baltimore

Conferences

- 9/28 | Licensing Advisors Retreat - Boston
- 9/29 | Boston Architecture/Design College Fair



@MNAELSLAGID

Miss the Sept 4 @NCARB live webinar on earning an #architect license? You can watch a recording.

<https://t.co/5PezYxlyQu>

Marketing & Communications

- Helped facilitate the first FY19 Think Tank meeting, where members explored charges related to NCARB's programs and services, the role of architects, improving equity along the path to licensure, ethical standards, and more.
- Updated the *ARE Guidelines* and *ARE Handbook* to reflect upcoming changes in October.
- Broadcast *NCARB Live*, a live webinar for students hosted by the Examination Directorate's Michelle Cohn. The webinar covered licensure basics and viewers had the opportunity to ask questions.
- NCARB Centennial:
 - Designed layout for Member Board history submissions for the Centennial book. Member Boards will receive the draft layout for review following the MBC/MBE Leadership Summit in October.
 - Work continued to finalize the Centennial book content.
 - Planning underway for traveling exhibits to feature Centennial material, which will be shown in Nashville at the March NCARB Regional Summit and Las Vegas at the June AIA A'19 Conference on Architecture before being shown in Washington, DC, at the late-June NCARB Annual Business Meeting. Material from the exhibits will also be repurposed for ongoing outreach commitments and post-ABM display opportunities at venues around the United States.
 - Design of a Centennial "microsite" to be hosted on the NCARB website is underway.



NCARB's FY19 Think Tank discusses equity along the path to licensure, NCARB's programs and services, and more.

Upcoming Outreach



Schools

- 10/3 | Judson University
- 10/3 | University of Kansas
- 10/3 | University of California, Los Angeles
- 10/4 | Kansas State University
- 10/17 | School of the Art Institute of Technology
- 10/24 | Roger Williams University
- 10/25 | Rhode Island School of Design

AIA Components

- 10/3 | AIA Chicago
- 10/3 | AIA Kansas City

Conferences

- 10/2 | Association of Licensed Architects
- 10/2 | Licensing Advisors Retreat - Los Angeles
- 10/4 | Region 2 Education Summit
- 10/4 | Licensing Advisors Retreat - Chicago
- 10/4-5 | Construct (CSI)
- 10/17-20 | National Organization of Minority Architects Conference
- 10/20 | Chicago Architecture + Design College Day
- 10/21 | 2018 ICC Annual Conference & Expo
- 10/25 | ACSA Administrators Conference



NCEES

Reports &
Correspondence





Travel Action Summary Report

Submit to the CBPL Travel Desk no later than seven business days after the meeting has concluded. Save a copy in your program files for the end-of-year compilation of all travel-related savings and deliverables for your program.

Board:	Architects, Engineers & Land Surveyors	Dates of Business:	August 15-18, 2018								
Person Reporting:	Colin Maynard, PE, SE	# of Travelers: Employees	0	Board Members	4						
Type of Meeting:	<table><tr><td><input type="checkbox"/> Regular board business</td><td><input type="checkbox"/> Adjudication only</td></tr><tr><td><input type="checkbox"/> Special board meeting</td><td><input type="checkbox"/> Subcommittee meeting</td></tr><tr><td><input type="checkbox"/> On-site Investigation/Inspection</td><td><input checked="" type="checkbox"/> Other:</td></tr></table>					<input type="checkbox"/> Regular board business	<input type="checkbox"/> Adjudication only	<input type="checkbox"/> Special board meeting	<input type="checkbox"/> Subcommittee meeting	<input type="checkbox"/> On-site Investigation/Inspection	<input checked="" type="checkbox"/> Other:
<input type="checkbox"/> Regular board business	<input type="checkbox"/> Adjudication only										
<input type="checkbox"/> Special board meeting	<input type="checkbox"/> Subcommittee meeting										
<input type="checkbox"/> On-site Investigation/Inspection	<input checked="" type="checkbox"/> Other:										

Cost Savings

What expenses were reduced?

1. Airfare paid by NCEES
2. Hotel paid by NCEES
3. Registration paid by NCEES

What is the estimated savings?

\$3500.00
\$5250.00
\$1800.00

Meeting Deliverables

Information gained:

Voted on Modifications to NCEES Model Laws and Rules, various policies, and budget.

Attended Engineering Forum to discuss issues common to all the State's Boards, including CBT implementation schedule, mobility, "piling on", industrial exemption, attacks on licensure, discontinuation of Software PE exam.

Attended the Surveyor's Forum. Learned about the PLSS module development.

Had nobody to attend the Member Board Administrator's Forum, so learned nothing from this meeting.

Attended the Western Zone Meetings. Learned of issues in other states. Shared our problems with stamped standard details.

Action recommended:

Volunteer on National Committees to ensure voice in changes.

Monitor CBT implementation and assure applicants are aware of changes. Monitor attempts to remove licensure.

Continue monitoring the development of a module based PS exam.

Assure one staff member attends the Annual meeting.

Continue to follow mobility developments in other states.



PUBLIC PROTECTION AND DESIGN PROFESSIONS LICENSING BOARDS: Our Commitment to a Shared Mission

Council for Interior Design Qualification (CIDQ)
Council of Landscape Architectural Registration Boards (CLARB)
National Council of Architectural Registration Boards (NCARB)
National Council of Examiners for Engineering and Surveying (NCEES)

The current debate regarding the role of regulation in the United States must include recognition of the value of jurisdictional oversight boards. These boards are typically made up of citizen volunteers appointed by governors, who license and enforce licensing rules consistent with laws passed by their legislatures. Regulatory boards in each state and territory have the unique responsibility of protecting the public health, safety, and welfare of their citizens by establishing the standards necessary for competent practice.

The Interorganizational Council on Regulation (ICOR), comprised of our four organizations, was formed almost two decades ago to share best practices and discuss our complementary focus on advocating on behalf of the public protection role our regulatory boards play. As nonprofit associations, membership in our organizations is comprised of these boards—whose functions include licensing and other credentialing—for engineering and surveying, architecture, landscape architecture, and interior design. In many jurisdictions our professions share boards when they regulate multiple disciplines.

Our collective mission is to support and advocate for sound regulation focused on protecting the public health, safety, and welfare and to facilitate licensure.

While jurisdictional requirements may vary, our shared and individual regulatory boards all require candidates to successfully complete a combination of education, practical experience, and examination to earn a license or other credential—vital milestones on a path designed to qualify practitioners to protect the public. Through our organizations, these boards come together to establish uniform standards that ensure professional competence while also facilitating mobility and reciprocity between jurisdictions. These standards provide consumers with reliable and broader choices and more opportunities for practitioners.

In addition, based on guidance from our member boards, we deliver fair, valid, reliable, and psychometrically defensible examinations that serve as cornerstones of the regulatory framework. As a repository for verified candidate records of examination, education, and experience, we offer jurisdictions resources to facilitate enhanced reciprocity, portability and mobility.

Our boards regulate these disciplines so that the public is protected from harmful consequences. Reasonable regulation reduces risk while minimizing barriers to entry for applicants who acquire the necessary knowledge and experience to be able to protect the public.

We are committed to advocating for sound and reasonable regulation in pursuit of our common goal to provide our licensing board members with the best tools possible to reliably protect the public.

Policy Perspectives

Options to Enhance Occupational License Portability



Federal Trade Commission
September 2018

FEDERAL TRADE COMMISSION

September 2018

Joseph J. Simons	Chairman
Maureen K. Ohlhausen	Commissioner
Noah Joshua Phillips	Commissioner
Rohit Chopra	Commissioner
Rebecca Kelly Slaughter	Commissioner

This policy paper represents the views of the FTC staff, and does not necessarily represent the views of the Commission or any individual Commissioner. The Commission has voted to authorize the staff to issue this policy paper.

Policy Perspectives

Options to Enhance Occupational License Portability

Bilal Sayyed, Director, Office of Policy Planning

Tara Isa Koslov, Former Acting Director, Office of Policy Planning
Chief of Staff, Office of the Chairman

Author

Karen A. Goldman, Office of Policy Planning

This Policy Perspective was developed under the auspices of the FTC's Economic Liberty Task Force, convened by former Acting Chairman Maureen K. Ohlhausen.¹

Inquiries concerning this Policy Perspective should be directed to Karen A. Goldman, Office of Policy Planning, at (202) 326-2574 or kgoldman@ftc.gov.

This Policy Perspective is available online at
www.ftc.gov/policy/reports/policy-reports/commission-and-staff-reports
The online version of this report contains live hyperlinks.

¹ See *infra* p. iv.

About the Economic Liberty Task Force

The [Economic Liberty Task Force](#)² addresses regulatory hurdles to job growth, entrepreneurship, innovation, and competition, with a particular focus on the proliferation of occupational licensing. The Task Force was convened in March 2017 by former Acting Chairman Maureen K. Ohlhausen as her first major policy initiative for the agency. The Task Force builds on the FTC's long history of urging policymakers to reduce or eliminate unnecessary occupational licensing requirements.

Nearly 30 percent of American jobs require a license today, up from less than five percent in the 1950s. For some professions, occupational licensing is necessary to protect the public against legitimate health and safety concerns. But in many situations, the expansion of occupational licensing threatens economic liberty. Unnecessary or overbroad restrictions erect significant barriers and impose costs that harm American workers, employers, consumers, and our economy as a whole, with no measurable benefits to consumers or society. Based on recent studies, the burdens of excessive occupational licensing—especially for entry- and mid-level jobs—may fall disproportionately on our nation's most economically disadvantaged citizens.

To aid in the FTC's analysis of these issues and develop policies for addressing them, the Task Force has hosted a series of public events on issues related to occupational licensing. It has also collaborated with state elected leaders and other officials who share the goal of occupational licensing reform. The FTC's Economic Liberty Task Force looks forward to continuing this work and bringing greater attention to these important issues. Occupational licensing reform is good for competition, workers, consumers, and the American economy.

Economic Liberty Task Force Members

Maureen K. Ohlhausen, Former Acting Chairman; Commissioner

William F. Adkinson, Jr.	Daniel J. Gilman	Patricia Schultheiss*
Katherine Ambrogio	Karen A. Goldman	Haidee Schwartz
Gustav P. Chiarello	Tara Isa Koslov	Kelly Signs
Neil Chilson*	James F. Mongoven	Michael Vita
Timothy A. Deyak*	Derek Moore	Melissa Westman-Cherry
James Frost	Christine Noonan Sturm	John P. Wiegand
Svetlana Gans*	David R. Schmidt	

*No longer with the FTC.

² See Fed. Trade Comm'n, Economic Liberty: Opening Doors to Opportunity, <https://www.ftc.gov/policy/advocacy/economic-liberty>.

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EXECUTIVE SUMMARY

Occupational licensing, which is almost always state-based, inherently restricts entry into a profession and limits the number of workers available to provide certain services. It may also foreclose employment opportunities for otherwise qualified workers. This reduction in the labor supply can restrain competition, potentially resulting in higher prices, reduced quality, and less convenience for consumers.

For some professions, licensing can nevertheless serve a beneficial role in protecting the health and safety of the public. However, even when state licensure serves a useful role, some aspects of licensure may create significant and unintended negative effects. In our increasingly mobile and interconnected society, state-by-state occupational licensing can pose significant hurdles for individuals who are licensed in one state, but want to market their services across state lines or move to another state. The need to obtain a license in more than one state can reduce interstate mobility and practice, and may even lead licensees to abandon an occupation when moving to another state. These effects fall disproportionately on licensees who are required to move frequently, such as military spouses. The challenges of multistate licensure are also particularly acute for professionals who are more likely to provide services across state lines, such as telehealth or accounting services. The deleterious effects of state-by-state licensing are not borne only by those who wish to provide services in a new state. This thicket of individual state licensing regulations can reduce access to critical services or increase their prices to ordinary consumers.

Recognizing the costs to both consumers and licensees of overly burdensome multistate licensing requirements, the FTC's Economic Liberty Task Force held a Roundtable, *Streamlining Licensing Across State Lines: Initiatives to Enhance Occupational License Portability*, to examine ways to mitigate the negative effects of state-based occupational licensing requirements.³ This *Policy Perspective* builds on the key points that emerged from the Roundtable regarding the development of effective license portability initiatives.

The earliest initiatives to improve license portability were model laws, some of which have been adopted by almost all U.S. jurisdictions. More recently, a number of occupations, primarily in the health professions, have developed interstate compacts authorized by the compact clause of the U.S. Constitution. Unlike model laws, which need not be identical, interstate compacts, as contracts between the states, must be adopted verbatim; thus, they offer great uniformity and

³ See Fed. Trade Comm'n, Streamlining Licensing Across State Lines, Initiatives to Enhance Occupational License Portability (July 27, 2017), <https://www.ftc.gov/news-events/events-calendar/2017/07/streamlining-licensing-across-state-lines-initiatives-enhance>. All of the materials from the Roundtable, including a video of the proceedings, are available on this webpage. A transcript is also available. Fed. Trade Comm'n, Roundtable Transcript, Streamlining Licensing Across State Lines, Initiatives to Enhance Occupational License Portability (July 27, 2017), https://www.ftc.gov/system/files/documents/public_events/1224893/ftc_economic_liberty_roundtable_-_license_portability_transcript.pdf [hereinafter Roundtable Tr.].

stability, but limited flexibility. In addition to model laws or interstate compacts for individual occupations, the U.S. Department of Defense’s State Liaison Office has proposed a number of initiatives to encourage state adoption of measures to improve portability for military spouses in multiple licensed occupations. Regardless of the legal structure of a portability initiative, strong support from within the profession is likely to be critical to nationwide adoption.

Adoption and effectiveness of a licensure portability initiative also depend on how it achieves portability. Model laws and interstate compacts generally rely on either a “mutual recognition” model, in which a multistate license issued by one state affords a privilege to practice in other member states, or a procedure for expedited licensure in each member state. Mutual recognition of a single state license poses a lower barrier to cross-state practice than expedited licensure, and thus could be more effective in enhancing cross-state competition and improving access to services. On the other hand, expedited licensure could ease relocation to another state. A successful portability initiative could be crafted to achieve both goals.

Whether a portability initiative is based on mutual recognition or expedited licensure, supporters can build confidence in an initiative by incorporating coordinated information systems and procedures to ensure that licensees are held accountable for complying with state law wherever they provide services. Harmonizing state licensing standards also builds confidence in the qualifications of those who provide services in a state pursuant to the initiative. By selecting the least restrictive licensing standards that can gain the support of states nationwide, developers of portability initiatives can limit unnecessary restrictions on labor supply and reduce barriers to competition that arise from state licensing.

For occupations that generally require state licensing as a public protection measure, FTC staff encourages stakeholders – such as licensees, professional organizations, organizations of state licensing boards, and state legislatures – to take steps to improve license portability. Each type of portability initiative has advantages and disadvantages, and all take time and effort to develop and implement. However, a thoughtful consideration of the needs of a profession and the consumers it serves is likely to lead to a solution that can gain the support of licensees, licensing boards, the public, and state legislatures. Moreover, by enhancing the ability of licensees to provide services in multiple states, and to become licensed quickly upon relocation, license portability initiatives can benefit consumers by increasing competition, choice, and access to services, especially with respect to licensed professions where qualified providers are in short supply.

I. Introduction

Because states require licensing for more occupations, the percentage of U.S. jobs that require licensure has increased from less than five percent in the 1950s to between 25 and 30 percent today.⁴ This marked shift has made occupational licensing a major component of labor regulation, and has profound implications for competition in the provision of services to consumers.⁵ Thus, the Federal Trade Commission has had a long-standing interest in the competitive effects of occupational licensing.⁶

Although for some professions licensing can serve a beneficial role in protecting the health and safety of the public,⁷ it generally limits the number of workers who can provide certain services. This reduction in the labor supply erects entry barriers in labor markets, which can restrain competition, potentially resulting in higher prices and reduced access to services.⁸ Moreover, while licensing may increase the wages of licensees at the expense of higher prices paid by consumers, studies show that it does not improve quality.⁹

⁴ See, e.g., Morris M. Kleiner & Evgeny Vorotnikov, *Analyzing occupational licensing among the states*, 52 J. REG. ECON. 132 (2017); MORRIS M. KLEINER, THE HAMILTON PROJECT, REFORMING OCCUPATIONAL LICENSING POLICIES 5 (2015),

http://www.hamiltonproject.org/assets/legacy/files/downloads_and_links/reforming_occupational_licensing_morris_kleiner_final.pdf.

⁵ See, e.g., Maury Gittleman et al., *Analyzing the Labor Market Outcomes of Occupational Licensing*, 57 INDUS. RELATIONS 57 (2018) (“occupational licensing has become an increasingly important factor in the regulation of services in the United States”).

⁶ See *infra* notes 20-22 and accompanying text.

⁷ Such considerations may be especially important in the health professions, where the risk of harm from an unqualified provider may be considerable and consumers may have difficulty determining whether a provider is qualified. See, e.g., FTC STAFF, POLICY PERSPECTIVES: COMPETITION AND THE REGULATION OF ADVANCED PRACTICE NURSES (“APRNs”) 12-13 (2014), <https://www.ftc.gov/system/files/documents/reports/policy-perspectives-competition-regulation-advanced-practice-nurses/140307aprnpolycypaper.pdf> (describing information asymmetries between professionals and consumers and other reasons supporting the importance of licensure in health care).

⁸ See, e.g., Kleiner & Vorotnikov, *supra* note 4, at 134, 155 (2017) (the restriction in the supply of labor created by occupational licensing has long been known to increase the price of services paid by consumers, which are transferred to licensed workers in the form of higher wages); Morris M. Kleiner et al., *Relaxing Occupational Licensing Requirements: Analyzing Wages and Prices for a Medical Service*, 59 J.L. ECON 261 (2016) (explaining that “occupational licensing may function as a barrier to entry that drives up wages in the licensed profession and increases the price of products and services that are produced by licensed workers”); Gittleman et al, *supra* note 5, at 57 (those with a license earn higher pay and are more likely to be employed).

⁹ See, e.g. KLEINER, *supra* note 4, at 12-13, 15 (a review of studies finds that occupational licensing has little effect on the quality of products or services, but it may function “as if the government were granting a monopoly in the market for the service, with the long-term impacts being lower-quality services, too few providers, and higher prices”); Sean Nicholson & Carol Propper, *Medical Workforce*, in HANDBOOK OF HEALTH ECONOMICS, Vol. 2, ch. 14, 885 (2012) (empirical studies of the effects of licensing in medical labor markets “conclude that licensing is associated with restricted labor supply, an increased wage of the licensed occupation, rents, increased output prices, and no measurable effect on output quality.”).

It is particularly hard to justify licensing-related barriers to entry when a practitioner qualified and licensed by one state wishes to provide identical services in another state. Because licensing rules are almost always state-based,¹⁰ it can be difficult for a qualified person licensed by one state to become licensed in another state. For some occupations, state licensing standards vary considerably, so applicants licensed in one state may need additional education or training to qualify to practice in another state.¹¹ Even when a profession's underlying standards are national and state licensing requirements are similar throughout the United States, the process of obtaining a license in another state is often slow, burdensome, and costly.¹² Indeed, a recent study shows that occupational licensure requirements may substantially limit the interstate mobility of licensed workers, especially for occupations with state-specific licensing requirements.¹³

State-based licensing requirements are particularly burdensome for licensees who provide services in more than one state, and thus need multistate licensing. They are also especially hard on military families, because trailing spouses often follow service members who are required to move across state lines, and therefore must bear the financial and administrative burdens of applying for a license in each new state of residence. The need to obtain a license in another state can sometimes even lead licensees to exit their occupations when they must move to another state.¹⁴

¹⁰ See, e.g., *Dent v. West Virginia*, 129 U.S. 114 (1889) (upholding the right of the state of West Virginia to license physicians); Health Resources & Services Admin., U.S. Dep't of Health & Human Services ("DHHS"), SPECIAL REPORT TO THE SENATE APPROP. COMM., TELEHEALTH LICENSURE REPORT, Requested by Senate Rep't 111-66 (2010) ("For over 100 years, health care in the United States has primarily been regulated by the states. Such regulation includes the establishment of licensure requirements and enforcement standards of practice for health providers, including physicians, nurses, pharmacists, mental health practitioners, etc."); NAT'L CONFERENCE OF STATE LEGISLATURES, THE STATE OF OCCUPATIONAL LICENSING: RESEARCH, STATE POLICIES AND TRENDS 2 (2017), <http://www.ncsl.org/research/labor-and-employment/report-the-state-of-occupational-licensing.aspx> ("An occupational license is a credential that government—most often states—requires a worker to hold in certain occupations.").

¹¹ See, e.g., Roundtable Tr. at 14-15 (Rogers) (although experienced teachers can get a certificate in a new state with little difficulty, inexperienced teachers "have to start literally all over with assessments and course requirements, and it's a very, very frustrating experience"); *id.* at 26 (Rogers) (for teacher certification, "there are so many variations with the states").

¹² See, e.g., DHHS, *supra* note 10, at 9 ("The basic standards for medical and nursing licensure have become largely uniform in all states. Physicians and nurses must graduate from nationally approved educational programs and pass a national medical and nursing licensure examination."); American Medical Association, Medical Licensure ("The process of obtaining a medical license can be challenging and time consuming. . . . Physicians seeking initial licensure or applying for a medical license in another state should anticipate delays due to the investigation of credentials and past practice as well as the need to comply with licensing standards."), <http://www.ama-assn.org/ama/pub/education-careers/becoming-physician/medical-licensure.page>.

¹³ See Janna E. Johnson & Morris M. Kleiner, *Is Occupational Licensing a Barrier to Interstate Migration*, Working Paper 24107, NAT'L BUREAU ECONOMIC RES. (Dec. 2017).

¹⁴ See U.S. Dep't of the Treasury & U.S. Dep't of Defense, Supporting our Military Families: Best Practices for Streamlining Occupational Licensing Across State Lines 6-11 (2012), http://archive.defense.gov/home/pdf/Occupational_Licensing_and_Military_Spouses_Report_vFINAL.PDF.

Multistate licensing requirements can also limit consumers' access to services. For example, licensure requirements can prevent qualified service providers from addressing time-sensitive emergency situations across a nearby state line or block qualified health care providers from providing telehealth services to consumers in rural and underserved locations.¹⁵

Recognizing the costs to both consumers and licensees of multistate licensing requirements, the FTC's Economic Liberty Task Force held a Roundtable, [*Streamlining Licensing Across State Lines: Initiatives to Enhance Occupational License Portability*](#), to examine ways to mitigate the effects of state-based occupational licensing requirements that make it difficult for those licensed by one state to obtain a license in another state and compete across state lines.¹⁶

To assist state licensure boards, professional organizations, state legislatures, and others seeking to improve licensure portability, this *Policy Perspective* builds on the key points that emerged from the Roundtable regarding the development of effective license portability initiatives that can help reduce barriers to entry, enhance competition, and promote economic opportunity. After explaining the interest and experience of the FTC in occupational license portability, the *Policy Perspective* considers: (1) how the importance of license portability to an occupation and consumers affects development and adoption of a portability initiative; (2) the use of interstate compacts and model laws to improve licensure portability; (3) portability procedures—a comparison of mutual recognition of a single state license with expedited licensure in multiple states; (4) the need for harmonization of licensing requirements; (5) disciplinary action across state lines; and (6) license portability for military families.

The *Policy Perspective* also analyzes options in light of their potential competitive effects. FTC staff encourages the use of options that will enhance portability while imposing the fewest restrictions on competition and labor supply, because such restrictions can lead to higher prices, lower quality, and reduced access for consumers, as well as fewer job options for service providers.

¹⁵ See, e.g., *Occupational Licensing: Regulation and Competition: Hearing Before the Subcomm. on Regulatory Reform, Commercial and Antitrust Law of the H. Comm. on the Judiciary*, 115th Cong. 1, 8-9 (2017) (statement of Maureen K. Ohlhausen, Acting Chairman, Federal Trade Commission), https://www.ftc.gov/system/files/documents/public_statements/1253073/house_testimony_licensing_and_rbi_act_sept_2017_vote.pdf; KLEINER, *supra* note 4, at 15 ("To the extent that licensing slows both the influx of new workers and greater competition, consumers are not able to take advantage of services at the lowest cost."); Dep't of the Treasury Office of Economic Policy, Council of Economic Advisers, Dep't of Labor, *Occupational Licensing: A Framework for Policymakers* 12-16 (2015), https://obamawhitehouse.archives.gov/sites/default/files/docs/licensing_report_final_nonembargo.pdf.

¹⁶ See *supra* note 3.

II. Interest and Experience of the Federal Trade Commission

Competition is at the core of America's economy,¹⁷ and vigorous competition among sellers in an open marketplace gives consumers the benefits of lower prices, higher quality products and services, and increased innovation. To this end, the FTC is charged under the FTC Act with preventing unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce.¹⁸ In addition, Section 6 of the FTC Act generally authorizes the FTC to investigate and report on market developments "in the public interest" and make recommendations based on those investigations.¹⁹ This authority supports the FTC's research, education, and competition advocacy efforts.

The Commission and its staff have focused on occupational regulations that may unreasonably impede competition for more than thirty years. FTC staff have conducted economic and policy studies on occupational licensing²⁰ and focused inquiries into laws and regulations relating to licensing for various occupations.²¹ Building on this work, in 2017 the FTC formed the Economic Liberty Task Force ("ELTF"), which has examined a broad range of licensing issues, including occupational license portability.²² This *Policy Perspective* arises from the ELTF efforts, especially the 2017 Roundtable, *Streamlining Licensing Across State Lines: Initiatives to Enhance Occupational License Portability*.²³

¹⁷ *Standard Oil Co. v. FTC*, 340 U.S. 231, 248 (1951) ("The heart of our national economic policy long has been faith in the value of competition.").

¹⁸ Federal Trade Commission Act, 15 U.S.C. § 45.

¹⁹ 15 U.S.C. § 46.

²⁰ See, e.g., CAROLYN COX & SUSAN FOSTER, BUREAU OF ECON., FED. TRADE COMM'N, THE COSTS AND BENEFITS OF OCCUPATIONAL REGULATION (1990), http://www.ramblemuse.com/articles/cox_foster.pdf.

²¹ See FTC Staff Comment to the Hon. Laura Ebke, Nebraska State Senator 2 (Jan. 17, 2018), https://www.ftc.gov/system/files/documents/advocacy_documents/federal-trade-commission-staff-comment-nebraska-state-senate-regarding-nebraska-lb299-occupational/v180004_ftc_staff_comment_to_nebraska_state_senate_re_lb_299_jan-18.pdf (referring to FTC advocacy comments on nurses, eye doctors and vendors of optical goods, lawyers and other providers of legal services, dental hygienists, and real estate brokers).

²² See, e.g., *Occupational Licensing: Regulation and Competition: Hearing Before the Subcomm. on Regulatory Reform, Commercial and Antitrust Law of the H. Comm. on the Judiciary*, 115th Cong. 1, 3, 6-7 (2017) (statement of Maureen K. Ohlhausen, Acting Chairman, Federal Trade Commission), https://www.ftc.gov/system/files/documents/public_statements/1253073/house_testimony_licensing_and_rbi_act_sept_2017_vote.pdf.

²³ See *supra* note 16 and accompanying text.

III. Importance of License Portability to an Occupation and Consumers

Professional organizations and associations of state licensing boards often spearhead license portability initiatives. If those stakeholders believe interstate mobility is important to the profession, the development and implementation of a successful license portability initiative is more likely to succeed.²⁴ Without such agreement, a portability initiative may stall.²⁵

Agreement on the need for interstate mobility is often driven by changes in technology that allow licensees to provide services to remote customers, and the growth of licensees and firms with a nationwide presence.²⁶ For occupations that depend on interstate mobility, license portability not only benefits licensees who wish to practice across state lines, but also consumers who seek better access to services or expect licensees to provide services nationwide. In such occupations, the need for interstate mobility likely outweighs local concerns, such as minor variations in the qualifications of licensees from different states.

Developing a license portability initiative and obtaining nationwide adoption takes time. Initiatives with broad support often arise from a profession's long-term efforts to streamline licensing.²⁷ For example, the founding policy and governance documents of several organizations of licensing boards have recognized the need for interstate mobility for decades or even a century.²⁸ Perhaps because the need for interstate mobility is integral to these professions,

²⁴ See, e.g., National Council of Architectural Registration Boards ("NCARB"), Comment to the FTC (2017), at 2, https://www.ftc.gov/system/files/documents/public_comments/2017/07/00024-141093.pdf [hereinafter NCARB Comment] (NCARB facilitates license transfer because "[e]ase of mobility is an essential business requirement for an architect and is of paramount importance to the profession."). State programs that ease licensing of many occupations when a military spouse is required to move to a new state have enjoyed widespread support, and have been adopted by states. See Roundtable Tr. at 23 (Beauregard) (DoD found "that states were very accommodating" in finding ways to ease licensure of military spouses).

²⁵ See, e.g., Roundtable Tr. at 16 (K. Thomas) (explaining that states were not adopting the original Nurse Licensure Compact because of a lack of agreement on licensing standards and other matters).

²⁶ See, e.g., Roundtable Tr. at 9 (Masters) (the drivers for licensure portability include advances in technology such as cell phones and computers that facilitate practicing across state lines); Roundtable Tr. at 18 (Webb) (agreement on the need for licensure mobility in the Uniform Accountancy Act arose from "technology [that] was allowing the profession to provide services across state lines from one spot to clients in many states. And the idea that the licensure model that kind of depended heavily on presence in a state might not work so well in the future.").

²⁷ See, e.g., Roundtable Tr. at 17 (Webb) (the mobility effort for certified public accountants ("CPAs"), which began in 1997, was a joint effort of the American Institute of Certified Public Accounts and the National Association of State Boards of Accountancy); *id.* at 19 (Webb) ("we've worked hard for the last 20 years to get this done").

²⁸ See, e.g., Doug McGuirt, *The Professional Engineering Century*, PE MAG. 24, 27 (June 2007) (The National Council of Examiners for Engineering and Surveying ("NCEES") "worked throughout the 1920s to coordinate reciprocal relations among the state licensing boards" and began issuing reciprocal licenses in 1925. NCEES developed a model law establishing uniform licensing guidelines and recordkeeping procedures to improve license portability, and 29 jurisdictions had adopted the model law by 1932). See also *infra* notes 67-69, 77-79 and accompanying text.

their license portability provisions already have been implemented nationwide.²⁹ Moreover, their policies appear to be able to evolve to address changes in practice and technology, to reduce state-based differences in licensing and disciplinary standards, and to reach a consensus on how to streamline procedures. The effectiveness of portability in these professions suggests both that a number of viable models for increased portability exist, and that additional professions can likely benefit from the approaches taken by the professions with greater portability experience.

IV. Legal Structures: Interstate Compacts and Model Laws

Most license portability initiatives for individual occupations have been based on one of two types of legal structures: interstate compacts and model laws. While the legal structure does not dictate whether an initiative improves portability by mutual recognition of a single state license by all member states, or expedited licensure in multiple states,³⁰ it has important effects on the extent to which states can modify the proposed portability initiative both at adoption and in the future.

A. Interstate Compacts

Interstate compacts, which are authorized by the U.S. Constitution, art. I, § 10, cl. 3,³¹ are formal, binding contracts between two or more states that are neither purely state nor purely federal in nature. States acting in their sovereign capacity enter into these contracts by enacting proposed compact legislation.³² States must adopt such proposed legislation verbatim, and all compact states must agree to any modifications. Because compacts cannot be unilaterally amended, they “can provide member states with a predictable, stable, and enforceable mechanism for policy control and implementation.”³³ Because of these characteristics, compacts historically have been used to address matters requiring a long-term, stable solution such as boundary disputes, water rights, and regional transportation systems spanning multiple states.³⁴ There are more than two

²⁹ See *infra* notes 66, 69, 72 and accompanying text.

³⁰ See *infra* note 97 and accompanying text.

³¹ “No state shall, without the Consent of Congress . . . enter into any Agreement or Compact with another State, or with a foreign Power[.]” U.S. Constitution, art. I, § 10, cl. 3. See Roundtable Tr. at 9 (Masters) (“And while that clause seems to say that all compacts require the consent of Congress, the Supreme Court has made it clear that that’s only the case where the compact infringes on some enumerated power that is reserved to the federal government under the US Constitution.”). None of the existing occupational licensure compacts have required the consent of Congress.

³² See MICHAEL L. BUENGER ET AL., THE EVOLVING LAW AND USE OF INTERSTATE COMPACTS xxi, 1, § 2.1.2 (2d ed. 2016).

³³ *Id.* at 26.

³⁴ See *id.* at §§ 1.2.3, 1.3.1.

hundred interstate compacts, but only a few, relatively recent ones address occupational licensing.³⁵

Occupational licensure compacts typically provide procedures that improve license portability among compact jurisdictions, such as mutual recognition or expedited licensure; address licensing standards and procedures; and enhance sharing of applicants' and licensees' records and disciplinary histories among compact states. However, compacts generally do not alter the scope of practice provisions of state practice acts.³⁶

Federal grants to state professional licensing boards specifically encouraged the development and implementation of licensure compacts in the health professions, many of which have relied on the expertise of the National Center for Interstate Compacts of the Council of State Governments to develop a compact.³⁷

Presently, there are licensure compacts for seven occupations, six of which are health professions. Three of the compacts are in operation, carrying out the licensure portability functions specified in the compact legislation. Two compacts are in effect, but are not operational because the administrative structure necessary for implementation is under development. The other two compacts have not been adopted by enough states to go into effect.³⁸

- **Nurse Licensure Compact ("NLC").**³⁹ The NLC, which was the first interstate licensure compact, was initially implemented in 1999 and was substantially revised in 2015.⁴⁰ It was "designed to reduce barriers, to make it easier for nursing to meet the

³⁵ See *id.* at § 9.10; Roundtable Tr. at 9 (Masters); National Center for Interstate Compacts ("NCIC"), Fact Sheet on Interstate Compacts, <http://www.csg.org/knowledgecenter/docs/ncic/FactSheet.pdf>; NCIC Compacts Database, <http://apps.csg.org/ncic/Default.aspx>.

³⁶ See Roundtable Tr. at 10 (Masters) ("The interstate compacts regulating health professions do not impact state practice acts, and are only geared toward the procedure by which professionals can gain occupational licensure across state lines.").

³⁷ See 42 U.S.C. § 254c-18; Office for the Advancement of Telehealth, U.S. Dep't Health & Human Services, Funding Opportunity Announcement HRSA-16-014 (2016); Recognition of EMS Personnel Licensure Interstate CompAct ("REPLICA"), <https://www.nremt.org/rwd/public/document/replica> (describing funding for REPLICA from the Dep't of Homeland Security, Office of Health Affairs, and subject matter expertise from the NCIC, Council of State Governments).

³⁸ See, e.g., BUENGER ET AL., *supra* note 32, at §§ 4.6, 7.3.3.7.1 (most interstate compacts specify the number of states that must adopt the compact legislation for the compact to go into effect, while some provide a date certain or are silent on the matter). Once effective, implementation of an occupational licensure compact may require formation of a compact commission, adoption of rules, and development of administrative structures as specified by the legislation. Implementation allows the compact to become operational with respect to the functions set forth in the legislation. See, e.g., *infra* notes 42, 46, 48, 50 and accompanying text.

³⁹ See NURSE LICENSURE COMPACT (May 4, 2015), https://www.ncsbn.org/NLC_Final_050415.pdf.

⁴⁰ See Health Resources & Services Admin., *supra* note 10, at Attachment 1 (NLC first implemented by Maryland on July 1, 1999); BUENGER ET AL., *supra* note 32, at 261, § 9.10.1 (describing revision of the original Nurse Licensure Compact in 2015 after it had been adopted by 25 states); Sandra Evans, *The Nurse Licensure Compact: A Historical Perspective*, 6 J. NURS. REG. 11 (2015).

needs of the health care delivery system and the needs of patients.”⁴¹ The revised NLC, sometimes referred to as the Enhanced Nurse Licensure Compact (“eNLC”), has been adopted by 30 states. It superseded the original NLC and became operational on January 19, 2018.⁴²

- **Interstate Compact on Licensure of Participants in Live Racing with Pari-Mutuel Wagering** (the “National Racing Compact”).⁴³ Fifteen states are members of the National Racing Compact, which is operational and went into effect in 2000.⁴⁴
- **Interstate Medical Licensure Compact** (“IMLC”).⁴⁵ Twenty-four states and one territory have entered into the IMLC, which began expediting licensing of physicians in 2017.⁴⁶
- **The Physical Therapy Licensure Compact** (“PTLC”).⁴⁷ The PTLC, which has been enacted by 21 states, went into effect in April 2017 after adoption by the tenth state, and is expected to go into operation shortly.⁴⁸
- **Recognition of Emergency Medical Services Licensure Interstate Compact** (“REPLICA”).⁴⁹ REPLICA, which has been adopted by 14 states, became effective in May 2017 after adoption by the tenth state.⁵⁰

⁴¹ Roundtable Tr. at 33 (K. Thomas).

⁴² See National Council of State Boards of Nursing, Licensure Compacts, <https://www.ncsbn.org/compacts.htm> (accessed Aug. 3, 2018); The Interstate Commission of Nurse Licensure Compact Administrators (“ICNLCA”), Final Rules § 301 (Dec. 12, 2017), <https://www.ncsbn.org/eNLCFinalRulesadopted121217.pdf> (“The Compact shall be implemented on January 19, 2018.”). Because of the substantial revision of the original NLC, the eNLC set forth in detail the how states would make the transition to the new compact and when the new compact became effective. States that were members of the prior compact were deemed to have withdrawn from it six months after the effective date of the eNLC. See NLC, art. X. sec. a; BUENGER ET AL., *supra* note 32, at 261.

⁴³ INTERSTATE COMPACT ON LICENSURE OF PARTICIPANTS IN LIVE RACING WITH PARI-MUTUEL WAGERING, <http://www.racinglicense.com/modellegislation.html>.

⁴⁴ See National Racing Compact, Participating Jurisdictions (in addition to the 15 members, nine other jurisdictions participate but have not passed legislation to become members of the compact), <http://www.racinglicense.com/accepted.html>; National Racing Compact, About the National Racing Compact: History, <http://www.racinglicense.com/history.html>.

⁴⁵ INTERSTATE MEDICAL LICENSURE COMPACT (Oct. 27, 2015), <https://imlcc.org/wp-content/uploads/2018/04/IMLC-Compact-Law.pdf>.

⁴⁶ See IMLC, <http://www.imlcc.org/> (accessed Aug. 3, 2018); IMLC, FAQs, <https://imlcc.org/faqs/> (accessed Aug. 3, 2018).

⁴⁷ PHYSICAL THERAPY LICENSURE COMPACT (Oct. 2015), http://www.fsbpt.org/Portals/0/documents/free-resources/LicensureCompactLanguage_20170105.pdf.

⁴⁸ See Physical Therapy Licensure Compact, <http://www.fsbpt.org/FreeResources/PhysicalTherapyLicensurecompact.aspx> (accessed June 23, 2018); http://www.fsbpt.org/Portals/0/documents/free-resources/PTLC_Milestones_Updated20160706.pdf (PTLC will become operational after bylaws and rules are finalized).

⁴⁹ RECOGNITION OF EMERGENCY MEDICAL SERVICES LICENSURE INTERSTATE COMPACT (Sept. 2014), <https://content.nremt.org/static/documents/replica/EMS-Personnel-Licensure-Interstate-Compact-model.pdf>.

- **Psychology Interjurisdictional Compact (“PSYPACT”).**⁵¹ PSYPACT has not yet been adopted by enough states to go into effect.⁵²
- **Advanced Practice Registered Nurse Compact (“APRN Compact”).**⁵³ The APRN Compact is not yet in effect.⁵⁴

B. Model Laws and Model Rules

Model laws were among the earliest initiatives to improve license portability. Some have been adopted by almost all states and other U.S. jurisdictions.⁵⁵ They serve many of the same purposes as interstate compacts. As explained by the Uniform Law Commission (“ULC”), one of the purposes of a model law is to promote uniformity, and “[a]n act may be designated as ‘model’ if the act’s principal purposes can be substantially achieved even if the act is not adopted in its entirety by every state.”⁵⁶ The model laws that address occupational license portability have been developed by professional associations and associations of licensing boards, not the ULC.⁵⁷ Although the ULC has not undertaken any projects on occupational licensure portability, a uniform act could be a good vehicle for such an initiative, because uniform acts have the backing of the ULC and are generally more widely adopted than ULC model laws that do not receive such support.⁵⁸

Unlike standalone interstate licensure compacts, occupational license portability provisions in model laws are often only a small part of a model state practice act that covers all aspects of practice, including scope of practice and disciplinary standards.⁵⁹ Addition of portability

⁵⁰ See Recognition of EMS Personnel Licensure Interstate CompAct, <https://www.nremt.org/rwd/public/document/replica> (accessed Aug. 3, 2018) (“The compact administration is now working to implement the law.”).

⁵¹ PSYCHOLOGY INTERJURISDICTIONAL COMPACT (Jan. 2016), https://cdn.ymaws.com/www.asppb.net/resource/resmgr/psypact_docs/Psychology_Interjurisdiction.pdf.

⁵² See Psychology Interjurisdictional Compact, <http://www.asppb.net/page/PSYPACT>.

⁵³ ADVANCED PRACTICE REGISTERED NURSE COMPACT (May 4, 2015), https://www.ncsbn.org/APRN_Compact_Final_050415.pdf.

⁵⁴ See APRN Compact, <https://www.ncsbn.org/aprn-compact.htm>; Roundtable Tr. at 17 (K. Thomas).

⁵⁵ See *infra* notes 64, 69, 72 and accompanying text.

⁵⁶ See Uniform Law Commission, *Statement of Policy Establishing Criteria and Procedures for Designation and Consideration of Uniform and Model Acts* § 2(e), <http://www.uniformlaws.org/Narrative.aspx?title=Criteria%20for%20New%20Projects>.

⁵⁷ Model laws providing for occupational licensure are not in the database of the ULC, which is limited to uniform and model laws drafted by the ULC. See <http://www.uniformlaws.org/Acts.aspx>. There appears to be no centralized database or list of model laws affecting occupational licensing.

⁵⁸ See Bruce H. Kobayashi & Larry E. Ribstein, *The Non-Uniformity of Uniform Laws*, 35 J. CORP. L. 327, 330 (2009) (“fewer states adopt [ULC] proposals that [ULC] does not push for uniform adoption (which [ULC] designates as “model” acts) than proposals that [ULC] urges for uniform adoption”). In addition to developing its own projects, the ULC also considers proposals from outside organizations. See ULC, New Project Proposals, <http://www.uniformlaws.org/Narrative.aspx?title=New Project Proposals>.

⁵⁹ See *infra* notes 63, 70, 76, 81 and accompanying text.

provisions to a practice act may encourage adoption by state legislatures, and also promote adoption of uniform licensing requirements.⁶⁰ In some cases, license portability provisions are included in model rules, rather than model laws, encouraging adoption by state licensing boards without legislative action.⁶¹

The number of model laws that incorporate license portability provisions cannot be readily determined because there is no centralized database of model laws with portability provisions.⁶² In connection with the Roundtable, FTC considered a diverse set of these initiatives. These efforts vary in both the rationale behind their adoption and the procedures they use to achieve greater portability.

In 1998, to eliminate “artificial barriers to the interstate practice and mobility of certified public accountants” arising from differing state requirements for licensing, the American Institute of Certified Public Accountants (“AICPA”) and the National Association of State Boards of Accountancy (“NASBA”) added provisions to enhance interstate mobility to the Uniform Accountancy Act (“UAA”).⁶³ These provisions, which are based on the substantial equivalency of state licensing standards for individuals, have been adopted by 55 jurisdictions, including 50 states, the District of Columbia, and four U.S. territories.⁶⁴ The high level of adoption reflects technological advances that have allowed accountants to provide services across state lines electronically, as well as sustained support from the AICPA and NASBA.⁶⁵ In 2014, building on the popularity of the individual mobility initiative, the two organizations added provisions for firm license mobility to the UAA; these have been adopted by 21 states.⁶⁶

For older license portability initiatives, a model law or rule may be secondary to streamlining procedures arising from a professional organization’s governance documents, policies, or programs. For example, the National Association of Boards of Pharmacy (“NABP”) was founded

⁶⁰ See AICPA – NASBA, UNIFORM ACCOUNTANCY ACT I-1-2 (2018) [hereinafter UAA] (describing how a 1916 model bill to regulate the practice of public accountancy became the 1984 predecessor to the UAA, to which mobility provisions were added in 1997). See also Roundtable Tr. at 17-18 (Webb) (“the UAA was the vehicle for moving this mobility effort”); *id.* at 28 (Webb) (“[W]e already had a model or a uniform act that was being promoted. And the idea, one of the goals is to promote uniformity. The availability of the practice privilege if your state adopts the uniform standards for licensure is a way to move the whole process.”). See also *infra* notes 70-81 and accompanying text.

⁶¹ See *infra* notes 74-76 and accompanying text. Alternatively, model rules may provide details on portability that were not set forth in the model law’s portability provision. See NASBA, UNIFORM ACCOUNTANCY ACT MODEL RULES, art. 6, Rule 9; art. 23 (2018) (Interstate practice, Substantial Equivalency).

⁶² See *supra* note 57.

⁶³ UAA, *supra* note 60, at I-2. While “Uniform” is in its title, the UAA is not a uniform act drafted by the ULC.

⁶⁴ See *id.*; *id.* at I-8, ¶ 3; *id.* at sec. 23; Roundtable Tr. at 19 (Webb) (see also presentation materials).

⁶⁵ See *supra* notes 26 and 27.

⁶⁶ See Roundtable Tr. at 19 (Webb) (firm mobility provisions have been adopted by 21 jurisdictions; see also presentation materials); AICPA, *CPA Firm Mobility* (June 19, 2018) <https://www.aicpa.org/advocacy/state/cpafirmmobility.html> (addition of firm mobility provisions in 2014).

in 1904 “around building a license transfer process for pharmacist licensure.”⁶⁷ Indeed, Article II of the *NABP Constitution* states that the “purpose of the Association is to provide for the interstate transfer in pharmacist licensure[.]”⁶⁸ Since the *NABP Constitution and Bylaws* require members to participate in the NABP Electronic Licensure Transfer Program, all jurisdictions have implemented NABP’s portability program.⁶⁹ The license transfer provisions are also set forth in the *Model State Pharmacy Act and Model Rules of the National Association of Boards of Pharmacy*.⁷⁰

Similarly, in the 1920s, the National Council of Examiners for Engineering and Surveying (“NCEES”) began programs to facilitate reciprocal recognition of the licenses of engineers and surveyors in member states.⁷¹ These efforts, and a centralized recordkeeping service established in 1932,⁷² led to NCEES’ current “Model Law” programs for expedited licensure by comity of professionals who meet certain requirements.⁷³ The expedited comity provisions for “Model Law Engineers,” “Model Law Surveyors,” and “Model Law Structural Engineers” are set forth in

⁶⁷ National Association of Boards of Pharmacy (“NABP”), Comment to the FTC (2017), at 1-2, https://www.ftc.gov/system/files/documents/public_comments/2017/07/00016-141084.pdf [hereinafter NABP Comment].

⁶⁸ NABP, Constitution and Bylaws (2017), <https://nabp.pharmacy/wp-content/uploads/2016/06/Constitution-Bylaws-2017.pdf> (Constitution, art. II).

⁶⁹ See NABP Comment, *supra* note 67, at 2 (“As required by the *NABP Constitution and Bylaws*, all NABP members participate in e-LTP and the NABP Clearinghouse.”); NABP Bylaws, art. II (“Active member boards shall utilize the NABP Clearinghouse to process requests for the transfer of examination scores and licenses . . .”). While all states participate in the Electronic Licensure Transfer Program, some have additional requirements such as a jurisprudence examination or maintenance of the license of original examination as a basis for transfer). See NABP, Licensure Transfer, <https://nabp.pharmacy/programs/licensure-transfer/>.

⁷⁰ See NABP, Model State Pharmacy Act and Model Rules of the National Association of Boards of Pharmacy (2017), <https://nabp.pharmacy/wp-content/uploads/2017/11/NABP-Model-Act-2017.docx> (Model Act sec. 303, Qualifications for Licensure Transfer); NABP Comment, *supra* note 67, at 2.

⁷¹ See McGuirt, *supra* note 28, at 24, 27 (during the 1920s NCEES worked to coordinate reciprocal relations among state licensing boards, leading to the use of “reciprocal cards” accepted by all member states in 1925).

⁷² See *id.* at 29; Craig N. Musselman et al., *Licensure Issues of Strategic Importance to the Civil Engineering Profession – and ASCE*, PROC. AM. SOC. ENGINEERING EDUC. ANN. CONF. 8 (2016), <https://www.asee.org/public/conferences/64/papers/14392/download> (“The Council Record Program provides a very significant benefit to engineers who practice in multiple jurisdictions in that, if the individual is deemed a “Model Law Engineer,” expedited comity is provided in most, not all, jurisdictions.”).

⁷³ See NCEES, Model Law designation, <http://ncees.org/records/model-law-designation/>.

NCEES' Model Rules⁷⁴ and Manual of Policy and Position Statements;⁷⁵ it is anticipated that these provisions will be added to NCEES' Model Law in 2020.⁷⁶

In the field of architecture, reciprocal licensing goes back to the 1919 charter of the National Council of Architectural Registration Boards ("NCARB").⁷⁷ Under the charter, a core part of NCARB's mission is "to foster consistent rules and regulations that facilitate interstate practice."⁷⁸ The NCARB Certificate, a credential for architects who meet certain education, examination, and experience requirements, was first offered in 1937 and is now the primary vehicle for multistate practice.⁷⁹ The certificate alone is sufficient to allow reciprocal licensing in about half the states, while most other Boards consider it as a factor for expedited licensing.⁸⁰ Requirements for certification are set forth in NCARB's model law and model regulations for the practice of architecture, which also encourage adoption of consistent licensing requirements and provide for acceptance of the NCARB Certificate by member states.⁸¹

C. Modifying Interstate Compacts and Model Laws

An important difference between model laws and interstate licensure compacts is that the former need not be identical, while the latter, as contracts between the states, must be adopted verbatim.⁸² While the core features of model laws are typically the same, they can accommodate

⁷⁴ NCEES, Model Rules §§ 210.20(B), 230.60(F) (2015), <https://ncees.org/wp-content/uploads/ModelRules-2017.pdf>.

⁷⁵ NCEES, Manual of Policy and Position Statements, Professional Policies 5 & 6, and Position Statement 17 (2016), <https://ncees.org/wp-content/uploads/Policy-manual-2017.pdf>.

⁷⁶ See NCEES Model Law, https://ncees.org/wp-content/uploads/Model_Law_2017.pdf; Craig N. Musselman et al., *A Primer on Engineering Licensure in the United States*, Sec. 4, PROC. AM. SOC. ENGINEERING EDUC. ANN. CONF. (2011).

⁷⁷ See NCARB Comment, *supra* note 24, at 1 ("NCARB was formed in 1919 with the specific goal of facilitating reciprocal licensing clearly articulated in its charter.").

⁷⁸ *Id.* at 1, 4.

⁷⁹ See NCARB Comment, *supra* note 24, at 2, 4; NCARB Certificate, <https://www.ncarb.org/advance-your-career/ncarb-certificate>.

⁸⁰ See NCARB Comment, *supra* note 24, at 4.

⁸¹ See *id.*; see also NCARB, Legislative Guidelines and Model Law, Model Regulations (2016-2017), https://www.ncarb.org/sites/default/files/Legislative_Guidelines.pdf (Legislative Guideline IV, Qualification for Registration under Reciprocity Procedure; Model Law sec. 3, Registration Qualifications; Model Regulations, § 100.501, Registration of NCARB Certificate Holders).

⁸² See BUENGER ET AL., *supra* note 32, at 37 ("While compacts have many of the characteristics of uniform and model laws, in contrast to compacts, states are not required to enact uniform laws or model acts verbatim. . . . [therefore] uniform and model acts do not constitute a contract between the states even if adopted by all states in the same form."). Cf. Roundtable Tr. at 36 (Masters) ("The unique thing about compacts is that the language, because it's contractual, has to be substantially similar. And so unlike other types of legislation, legislators aren't free to just amend the statute . . ."). See also UAA, *supra* note 60, at I-3 ("Whether the UAA is considered for adoption wholly or only in part, adjustments may also be appropriate in light of other laws in effect in the particular state in question.").

not only variations between states, but also incremental changes to meet changing needs.⁸³ Some organizations of state licensing boards and professional organizations propose such changes periodically, leading to nationwide evolution of a model law over time.⁸⁴ In other cases, such changes have been achieved through the use of model rules adopted by state licensing boards.⁸⁵

Since changes in interstate compacts must be adopted by all member jurisdictions to be effective, changing an interstate licensure compact can be difficult; it may require the adoption of an entirely new compact, as was the case with the NLC.⁸⁶ Accordingly, once enacted, compacts “may be static for long periods of time.”⁸⁷ Indeed, a recognized cost of uniformity via compact is impeding evolution of state law.⁸⁸

This problem can sometimes be avoided. If an interstate licensure compact provides for a compact commission with the power to promulgate rules with the force and effect of state law, changes can be made much more rapidly, without the involvement of state legislatures.⁸⁹ But while compact commissions may have the power to make binding changes equivalent to state law expeditiously, this can be controversial because commission rules may override contrary

⁸³ Craig N. Musselman et al., *A Primer on Engineering Licensure in the United States*, sec. 2, PROC. AM. SOC. ENGINEERING EDUC. ANN. CONF. (2011) (no state statute or rule is identical to the NCEES model law or rule, but states “have made significant efforts to assure that their statute and rules are reasonably consistent with the Model Law and Model Rules such that duly qualified professional engineers who are residents in that state will be able to be licensed in other states.”).

⁸⁴ See, e.g., UAA, *supra* note 60, at I-3 (“Beginning with the 1992 edition, the Uniform Accountancy Act has been designed as an ‘evergreen’ document.”); UAA, letter to interested parties, at 1 (“To keep the UAA ‘evergreen,’ a continuous process of refreshing the document is necessary.”).

⁸⁵ See NABP Comment, *supra* note 67, at 3 (explaining that changes at the state level often occur via the regulatory process because state boards can move expeditiously, without waiting for a state legislature to convene); Federation of Associations of Regulatory Boards (“FARB”), Comment to the FTC (2017), at 2, https://www.ftc.gov/system/files/documents/public_comments/2017/07/00015-141083.pdf (regulatory boards can efficiently promulgate relevant rules and regulations). While the ability to modify a model law may improve consistency or accommodate differing needs of states, it can also reduce uniformity, contrary to the purpose of the model law. See BUENGER ET AL., *supra* note 32, at § 2.1.1.

⁸⁶ See Roundtable Tr. at 29 (K. Thomas) (describing the difficulty of getting all member jurisdictions to adopt a change to the NLC, leading to a decision to develop a new compact with a commission with rulemaking authority); BUENGER ET AL., *supra* note 32, at 261 (describing provisions in the 2015 revision of the NLC for the transition from the original version); FARB, *supra* note 85, at 3 (“The effectiveness of such arrangements is limited by the fact that every state must enact verbatim legislation . . .”).

⁸⁷ BUENGER ET AL., *supra* note 32, at 27.

⁸⁸ See, e.g., Larry E. Ribstein & Bruce H. Kobayashi, *Uniform Laws, Model Laws and Limited Liability Companies*, 66 U. COLO. L. REV. 947, 949 (1995) (“[U]niformity may impose costs, such as impeding evolution of state law. These costs are likely to outweigh the benefits of uniformity for laws for which interstate variation does not impose excessive information or compliance costs.”).

⁸⁹ See NLC, art. VII, sec. g(1) (giving the compact commission the power to promulgate uniform rules with the force and effect of law, binding on all party states); BUENGER ET AL., *supra* note 32, at § 9.10.1 (the NLC’s compact commission has “the authority to make uniform rules, but makes it more efficient by allowing the rules to become effective without a duplicative requirement that each state adopt the uniform rules in addition to adoption by the compact governing body.”).

state laws adopted by elected legislatures.⁹⁰ Nonetheless, to provide some flexibility, recent interstate compacts addressing occupational licensing have provided for a compact commission with the power to promulgate rules with the force and effect of state law.⁹¹

D. Achieving Nationwide Licensure Portability: Comparison of Interstate Compacts and Model Laws

License portability can be achieved either with a model law or with an interstate compact. Model laws have a longer track record, and some have been adopted or implemented by nearly all states.⁹² Interstate licensure compacts also hold considerable promise for improving interstate license portability and streamlining multistate practice, but whether states will adopt them nationwide remains to be seen.

Experts on compacts acknowledge that “it is difficult to get state legislatures to adopt compacts because of the strict requirement of substantive sameness between all member states and the tendency of parochial interests to trump consideration for interstate cooperation.”⁹³ Achieving nationwide adoption, however, is difficult even when the requirement of uniformity is less strict.⁹⁴

Whether a portability initiative is based on a compact or a model law, strong support from its developers and licensees likely is critical to achieving nationwide adoption.⁹⁵ Without widespread agreement, supporters of interstate licensing initiatives need a deep understanding of the objections of those who are opposed, so that they can attempt to address their concerns and increase support for the portability initiative.⁹⁶ In addition, the extent to which an initiative is

⁹⁰ See BUENGER ET AL., *supra* note 32, at 50-51 (explaining that a compact may provide that rules promulgated by its commission have the force and effect of statutory law and are binding on member states unless a majority of the states’ legislatures reject the rule); Roundtable Tr. at 28 (Masters) (compact commission rulemaking is controversial when states see it as a surrender of sovereignty; thus, it is necessary to make clear to legislators that the rulemaking covers portability initiative procedures, not the substance of a state practice act); *id.* at 31 (J. Thomas). (“There’s concern that this commission is going to draft laws and do something to take over the practice of medicine. It really just governs the process.”).

⁹¹ See APRN COMPACT, art. VII, sec. g(1); IMLC sec. 2(m); PTLC, sec. 7(C)(5); PSYPACT, art. II, sec. W; REPLICA, sec. 2(O). A compact commission is also considered essential to effective administration of a compact. See, e.g., Roundtable Tr. at 34 (J. Thomas), *id.* at 34 (K. Thomas).

⁹² See *supra* Sec. IV.B.

⁹³ BUENGER ET AL., *supra* note 32, at 27.

⁹⁴ For example, one study found that, on average, uniform laws developed by the ULC have been adopted by only 20 jurisdictions out of 53. See Larry E. Ribstein & Bruce H. Kobayashi, *An Economic Analysis of Uniform State Laws*, 25 J. LEGAL STUD. 131, 135 (1996).

⁹⁵ See *supra* Sec. III. See also Kobayashi & Ribstein, *supra* note 58, at 330; Ribstein & Kobayashi, *supra* note 94, at 131, 182, 187.

⁹⁶ See Roundtable Tr. at 35 (K. Thomas) (it is important “to know who your supporters are and know who may be working against you, and try to resolve issues”).

adopted and effective may turn as much on an initiative's procedures for achieving portability and the consistency of state licensing requirements, as the overall legal structure of the initiative.

V. Portability Procedures: Mutual Recognition and Expedited Licensure

Multistate portability initiatives have used two procedures to improve portability: “mutual recognition” and expedited licensure. Under a mutual recognition model, licensees only need one state license (a multistate license), which gives them a privilege to practice in other states that have entered into the initiative. By contrast, initiatives based on expedited licensure require application for a license in each intended state of practice, but make the process more efficient than it otherwise would be. Both model laws and interstate licensure compacts have employed these two approaches.⁹⁷

A. Mutual Recognition

Mutual recognition by all member states of multistate licenses issued by any member of the initiative is a simple, efficient approach for multistate practice. Applicants who meet certain criteria⁹⁸ need apply for only a single state license; in general, no additional fees, paperwork, or review are required.⁹⁹ Mutual recognition initiatives may also allow licensees to exercise a

⁹⁷ Interstate licensure compacts that rely on a mutual recognition model include: the NLC (*see* Roundtable Tr. at 15 (K. Thomas)); the APRN COMPACT (*see id.* at 17 (K. Thomas)); PTLC (*see* PTLC secs. 2(4)), 4; REPLICA (sec. 4); and PSYPACT (art. IV (telepsychology), art. V (temporary practice)). The UAA is an example of a model law portability initiative that uses a mutual recognition model (privilege to practice). *See* Roundtable Tr. at 18-19 (Webb). The IMLC is an example of a compact that uses an expedited licensure process. *See* Roundtable Tr. at 11 (J. Thomas). Examples of model law portability initiatives that use expedited licensure include the NABP, *supra* note 70 (Model Act sec. 303 (license transfer is a process whereby a licensed pharmacist obtains a license in another state)), NABP, *supra* note 67 (“the license transfer process is expedited”); NCEES, *supra* note 74 and accompanying text; and NCARB, *supra* notes 79-80 and accompanying text. The National Racing Compact (“NRC”) is unlike other initiatives in that its compact committee, rather than a state, issues licenses (“national licenses”) that are recognized by other compact states and may be recognized by noncompact states. *See* NRC, Model Legislation, sec. 7(3), sec. 11(A)(1) (2014), <http://www.racinglicense.com/modellegislation.html>; NRC, History, <http://www.racinglicense.com/history.html>.

⁹⁸ For example, nurses must qualify for a multistate license to practice across state lines under the NLC. *See* Roundtable Tr. at 16 (K. Thomas) (Under the NLC, “to have a multistate license, you have to meet these uniform requirements. And we’re talking about pretty basic things like passing a national licensure exam, the NCLEX, and having a social security number, having an FBI criminal background check.”). Alternatively, states may not have separate licenses for single and multistate practice, allowing licensees to exercise a privilege to practice in other states on the basis of substantial equivalency of the state’s licensure requirements or the individual’s qualifications based on criteria established by the portability initiative. *See* UAA, *supra* note 60, at sec. 23(a)(1), (2). A variation on this approach is requiring applicants seeking authorization for multistate practice to meet criteria for a certificate issued by an association of licensing boards or other relevant organization; the certificate provides a privilege to practice in other compact jurisdictions. *See* PSYPACT, arts. II, secs. L, Q, IV sec. B(6), V sec. B(6).

⁹⁹ None of the mutual recognition initiatives discussed in note 97 require additional paperwork for multistate practice except for the PTLC. Although the PTLC does not require licensure in every state of practice, it requires licensees to notify the compact commission of their intent to practice in another state; the commission then grants a compact privilege to the licensee upon payment of applicable fees. *See* PTLC secs. 3(C), (D), 4(A)(5), (6).

privilege to practice without notice to other member states, because the legislation ensures that licensees are automatically considered to be within each state's jurisdiction for purposes of disciplinary authority.¹⁰⁰ The ease of multistate practice under a mutual recognition model may explain why it is favored by a number of professions that frequently use telework and electronic communications, or require emergency movements across state lines.¹⁰¹

While a mutual recognition model provides an efficient mechanism for practicing in multiple states without obtaining multiple licenses, licensees typically must apply for a new license when they move to another state or establish a principal place of business in another state.¹⁰² Initiatives address this issue in different ways, and the extent of streamlining varies. The UAA provides for reciprocity and routine issuance of a new license for CPAs who apply for a license in a new state of principal place of business if they personally possess qualifications that are substantially equivalent to the Act's licensure provisions.¹⁰³ On the other hand, under the NLC, licensees moving from one member state to another must rely on each state's endorsement or other procedures for licensing of out-of-state applicants.¹⁰⁴ The NLC, however, eliminates the period

¹⁰⁰ See, e.g., Roundtable Tr. at 25 (Webb) (notice is not necessary under the UAA because it is a complaint-based system); UAA, *supra* note 60, at I-9, ¶ 9 (UAA provides "a no notice, no fee, and no escape approach for granting practice privileges across state lines for CPAs and CPA firms from states meeting UAA standards as well as for CPAs who individually meet UAA standards"), *id.* at sec. 23(a)(3) (licensees exercising the privilege to practice in another state are under the disciplinary authority of that state's Board); Roundtable Tr. at 25 (K. Thomas) (tracking practitioners was unrealistic, and unnecessary because the compact is notified about complaints immediately); *but see id.* at 25 (Masters) (the PTLC has provisions to notify each state when a licensee is practicing in it); *supra* note 99 (discussion of PTLC). See also *infra* notes 112, 123 and accompanying text (discussion of coordination of enforcement and disciplinary actions).

¹⁰¹ See Roundtable Tr. at 18 (Webb) (discussing the UAA); *id.* at 15 (K. Thomas) (NLC arose from "changes in health care delivery including telehealth technologies . . . and nurses having a need to practice in multiple states from one central location"); *id.* at 16 (K. Thomas) (APRNs who provide mental health services often use telecommunications to provide services in rural areas across state lines); PSYPACT, art. I (the purpose of PSYPACT is to regulate the practice of telepsychology and temporary in-person services across state lines), art. IV (setting for the "Compact Privilege to Practice Telepsychology"); REPLICA sec. 1 ("This Compact is intended to facilitate the day to day movement of EMS personnel across state boundaries in the performance of their EMS duties").

¹⁰² See, e.g., NLC art. IV, sec. c ("If a nurse changes primary state of residence by moving between two party states, the nurse must apply for licensure in the new home state, and the multistate license issued by the prior state will be deactivated . . .").

¹⁰³ See Roundtable Tr. at 19 (Webb) ("the UAA was changed to allow for expedited reciprocity if you personally had qualifications that matched those of the [UAA]"); UAA, *supra* note 60, at sec. 6(c)(2) (comment: . . . "With substantial equivalency established, however, this application process for an individual would essentially be routine and just a matter of filing an application and paying an appropriate fee.").

¹⁰⁴ See U.S. Dep't of the Treasury & U.S. Dep't of Defense, *supra* note 14, at 12-13 (nurses moving across state lines must apply for licensure by endorsement and pay any applicable fees; "[a]lthough the NLC and NURSUS provide some standardization to the licensure by endorsement process, they do not ensure straightforward license portability for nurses moving across state lines and do not eliminate many of the non-uniform aspects of the application process[.]"). State endorsement processes can reduce the burden of obtaining a license and enhance competition. See, e.g., Comment from FTC staff to the New York State Education Department (April 6, 2018), <https://www.ftc.gov/policy/advocacy/advocacy-filings/2018/04/ftc-staff-comment-new-yorks-proposal-allow-licensure> (supporting a proposed amendment that would permit experienced, licensed Canadian dentists to use the

when a nurse might be unlicensed and unable to work by allowing licensees to practice under the existing multistate license during processing of the application by the new state of residence.¹⁰⁵

B. Expedited Licensure

Under an expedited licensure model, multistate practice is a multistep process in which applicants must obtain a license in each intended state of practice. Typically, the process begins when applicants provide their credentials to a central repository for storage and transfer. Repository officials or officials from the principal state of licensing then determine whether an applicant qualifies for expedited treatment.¹⁰⁶ If deemed qualified, applicants receive expedited treatment in other member jurisdictions. Although the process involves multiple steps, the use of centralized databases and processes for confirming an applicant's qualifications may reduce paperwork and review time, especially after the initial determination of qualification.¹⁰⁷ Fees, however, may be higher, because payments to each state board and a central administrative body may be required.¹⁰⁸ Although multistate practice under an expedited licensure model generally involves more paperwork than a mutual recognition model, expedited licensure procedures may facilitate a move to another state.¹⁰⁹

same endorsement procedures that practicing dentists in other U.S. states follow to become licensed in New York State).

¹⁰⁵ See, e.g., NLC art. IV, sec. c(1) ("The nurse may apply for licensure in advance of a change in primary state of residence"); Roundtable Tr. at 23 (K. Thomas) (under the NLC, applicants may receive a temporary license while their application for licensure in a new home state is being processed); See ICNLCA, Final Rules sec. 403(1) (Dec. 12, 2017) ("A nurse who changes his or her primary state of residence from one party state to another party state may continue to practice under the existing multistate license while the nurse's application is processed and a multistate license is issued in the new primary state of residence.").

¹⁰⁶ For some professions, the determination of qualification for expedited licensure is made by a central organization. See, e.g., NCARB, *supra* note 79 and accompanying text; NCEES, *supra* note 73 and accompanying text. IMLC's expedited process is based on a letter of qualification issued by the state of principal licensure. See Roundtable Tr. at 11 (J. Thomas). Initiatives that use mutual recognition models also use central databases to facilitate handling of credentials, but access is unnecessary for multistate practice. See, e.g., Roundtable Tr. at 26 (K. Thomas) (describing the database administered by the National Council of State Boards of Nursing); NLC, art. VI (requiring party states to participate in a coordinated licensure information system that includes information on licensure and disciplinary history).

¹⁰⁷ See, e.g., Roundtable Tr. at 12 (J. Thomas) (upon receiving a letter of qualification and a fee, "a state shall issue a license"), 32-33 (some of the first applicants for expedited licensure under the IMLC received their licenses in a very short time); NABP Comment, *supra* note 67, at 3 ("Currently, the average processing time for a transfer application is less than 3 days. In some cases, license transfer applications are processed on the same day of receipt of the application."). Note that for some initiatives, a licensee may need to apply for a determination of eligibility for expedited treatment more than once. See Interstate Medical Licensure Comm'n ("IMLCC"), Rule on Expedited Licensure, sec. 5.6(1)(b) (2017) ("A letter of qualification is valid for 365 days from its date of issuance to request expedited licensure in a member state.").

¹⁰⁸ See, e.g., Roundtable Tr. at 12 (J. Thomas) (the fee for expedited licensure through the IMLC is \$700, \$400 of which goes to the IMLCC; in addition, the applicant must pay the licensing fee for each state of licensure).

¹⁰⁹ See, e.g., *supra* note 97 (discussion of expedited licensure pursuant to the processes of NABP, NCEES, and NCARB). Cf. IMLC sec. 4(c) ("The Interstate Commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.").

C. Easing Barriers and Maintaining Accountability under Mutual Recognition and Expedited Licensure Initiatives

Mutual recognition of a single state license poses a lower barrier to cross-state practice than expediting licensure in multiple states. Those who favor expedited licensure tend to emphasize each state's ability to take adverse disciplinary action under its own license. Expedited licensure initiatives assert that their approach strikes the right balance between reducing the burden of multistate licensure and maintaining accountability at the state level.¹¹⁰

By contrast, initiatives that provide a privilege to practice under a single license tend to emphasize the ease of multistate practice,¹¹¹ and maintain that their systems protect the public by giving each state enforcement authority and providing for coordination of investigations and disciplinary actions.¹¹² For such initiatives, ease of multistate practice is further enhanced when licensees are not required to notify member states in which they are not licensed that they are practicing there. Such an arrangement likely will be the most effective in enhancing cross-state competition, improving access to services, and reducing the tendency of licensing to increase prices.

The nature of a profession, particularly the relative importance of multistate practice compared to relocation to another state, may be an important consideration in choosing a procedure for achieving license portability. On the other hand, a portability initiative could be crafted to achieve both goals—easing multistate practice through use of a mutual recognition model, while also expediting licensure upon relocation in another state. As discussed in the next section, the latter may depend on whether states' licensing standards are substantially equivalent, or can be harmonized pursuant to the portability initiative.

VI. Harmonization of Licensure Requirements

To instill confidence in the qualifications of practitioners licensed by other states and to encourage adoption of portability measures, both mutual recognition and expedited licensure initiatives have moved toward harmonization of state licensing standards in core areas. Generally, these include education, examination, and disciplinary and criminal history; some

¹¹⁰ See, e.g., Roundtable Tr. at 11 (J. Thomas) (“For states to be able to take action on a physician whose standard of care falls below the minimum standard, they need to act on a license. And so a reciprocal process would not work. We felt that each state would have to issue a license, but we would expedite the process, and we’d make the process much more efficient.”).

¹¹¹ See, e.g., Roundtable Tr. at 16 (K. Thomas) (under mutual recognition model, nurses do not have to apply for licensing in multiple states, pay fees in those states, and wait for approval before employment); *id.* at 24 (K. Thomas) (mutual recognition model makes “it easier for the licensees and easier for the bureaucrats who have to process all of this work”).

¹¹² See *infra* notes 123-125 and accompanying text.

professions also have experience requirements.¹¹³ While similar standards foster the acceptance of each state's licensees by other states, the standards need not be identical; rather, substantial equivalence of licensing requirements may be sufficient to generate confidence in out-of-state licensees, even under a mutual recognition model.¹¹⁴ Initiatives that expedite licensure also seek harmonization, to assure states considering adoption of an initiative that applicants licensed under expedited procedures will have met comparable standards.¹¹⁵

The licensing standards set by portability initiatives are often as demanding as those of the most restrictive states, or even higher.¹¹⁶ For example, the IMLC requires physicians to be board certified to qualify for expedited licensure; no individual jurisdiction has such a requirement.¹¹⁷ Representatives of such initiatives assert that higher standards are necessary to encourage widespread adoption by many states.¹¹⁸ They also point out that licensees who do not meet these standards may still qualify for an individual state license without a privilege to practice in other states, or may be able to obtain a license without the use of expedited procedures.¹¹⁹

¹¹³ The revised NLC (eNLC) includes certain uniform licensing requirements that were not in the original NLC, such as graduation from an approved nursing program, passing a standardized licensure examination, having an unencumbered state license, and having an FBI criminal background check. *See* Roundtable Tr. at 16 (K. Thomas) (explaining that these requirements were included in the revised version of the NLC because adoption of the original NLC had stalled and states said that the lack of uniform license requirements was a barrier to adoption); NLC art. III, secs. b, c (May 4, 2015). The UAA focused on standardizing the “three Es,” education, examination, and experience. *See* Roundtable Tr. at 18 (Webb); UAA, *supra* note 60, at I-9, ¶ 8 (uniformity among jurisdictions, especially with regard to examinations, education, and experience requirements, is a fundamental principle of the legislative policies of the AICPA and NASBA).

¹¹⁴ *See supra* notes 64, 98 and accompanying text (discussing the UAA's substantial equivalency standard and its adoption by 53 jurisdictions). The UAA relies on an the NASBA National Qualification Appraisal Service to determine whether state requirements for CPA licensure are substantially equivalent to those of other states, as well as whether individuals' qualifications are substantially equivalent. *See* UAA, *supra* note 60, at sec. 23(a); UAA, *supra* note 60, at App. B.

¹¹⁵ *See* Roundtable Tr. at 11 (J. Thomas) (states considering adoption of the IMLC needed standards for licensure of applicants for expedited licensing that all states could agree on); Craig N. Musselman et al., *A Primer on Engineering Licensure in the United States*, Sec. 3, 4, PROC. AM. SOC. ENGINEERING EDUC. ANN. CONF. (2011) (describing education, examination, and experience requirements for receiving “expedited comity” as a Model Law Engineer).

¹¹⁶ *See, e.g.*, Roundtable Tr. at 30 (K. Thomas) (the NLC “set[s] the highest standard . . . to make states comfortable with that mobility”).

¹¹⁷ *See* Roundtable Tr. at 29 (J. Thomas) (the IMLC “sets the bar higher than the usual licensure standard” and requires physicians to be board certified); IMLC § 2(k)(4).

¹¹⁸ *See* Roundtable Tr. at 29 (J. Thomas) (to encourage states to join the compact, IMLC requires board certification “because the states felt that if they were going to enter into this compact, it needed to be a higher bar.”); *infra* note 121.

¹¹⁹ *See* Roundtable Tr. at 16 (K. Thomas) (under the NLC, “[s]tates can still evaluate individuals for single-state license” that would not provide a privilege to practice in other states); *id.* at 29 (J. Thomas) (although the vast majority of physicians can meet the IMLC's standard for expedited licensure, those who cannot can still “apply through the traditional route to get a license in the traditional way.”).

Nonetheless, some oppose the imposition of higher standards and the extent to which these higher standards may exclude or deter some otherwise qualified applicants.¹²⁰ While many support certain requirements imposed by most states, such as criminal background checks,¹²¹ a substantive standard not imposed by most states could inhibit adoption of an initiative and reduce practitioners' use of portability procedures in participating states. Moreover, higher licensing standards exacerbate the tendency of licensing to restrict the labor supply and reduce competition, which may further increase prices, without any countervailing quality, health, or safety benefits.¹²² Thus, in designing a license portability initiative, developers of the initiative should aim for the least restrictive licensing standard that can gain the support of states nationwide.

VII. Authority for Disciplinary Action Across State Lines

For portability initiatives in which a single state license provides a privilege to practice in all member jurisdictions, mechanisms to ensure that disciplinary action may be taken against a practitioner, regardless of where a violation occurs, are essential to acceptance and adoption of the initiative. Because a state can only revoke a license that it issued, portability initiatives that operate under a mutual recognition model generally have procedures for member states to bring adverse actions that can affect not only the privilege to practice in the state where the violation occurred, but also an out-of-state practitioner's license. The initiative may require the state of licensing to evaluate out-of-state conduct under its own laws, or the laws of the other state.¹²³ To help coordinate investigations and adverse actions in member jurisdictions, license portability

¹²⁰ See *id.* at 29 (J. Thomas) (“there’s been criticisms that [the IMLC] is meant to keep certain individuals out. That’s actually not the case. It’s meant to just set a higher standard of safety.”).

¹²¹ See *id.* at 30 (K. Thomas) (“So one of the big issues for us was criminal backgrounds. And states would not feel comfortable with any state that did not do an FBI criminal background check. In particular, felonies were a big concern to the states that wouldn’t join before.”). Cf. *id.* at 12-13 (J. Thomas) (explaining that instituting FBI criminal background checks has been challenging because not all states that joined the IMLC meet the statutory requirements to obtain FBI criminal background checks of applicants; such states cannot serve as a state of principal license).

¹²² See, e.g., Nicholson & Propper, *supra* note 9, at 885; Morris M. Kleiner & Robert T. Kudrle, *Does Regulation Affect Economic Outcomes: The Case of Dentistry*, 43 J.L. ECON. 547, 576-77 (2000) (stricter state licensing standards did not improve dental health outcomes, but did raise the prices of dental services).

¹²³ For example, under the UAA, CPAs providing services in a state under a privilege to practice must comply with that state’s practice act and are automatically subject to the disciplinary authority of the Board of that state. Moreover, the Board of the state of licensure is required to investigate complaints made by Boards of other states, and also has the authority to discipline licensees who violate the laws of other states when providing services in them. See Roundtable Tr. at 19 (Webb) (describing the authority of states to take action against a licensee’s privilege to practice, and the requirement that home states investigate and discipline licensees for violations of other states’ laws); UAA, *supra* note 60, at sec. 23(a), (b). Similarly, under the NLC, party states are rapidly notified about complaints and have the authority to take action against a nurse’s privilege to practice in their states. In addition, the Board of the state of licensure must take action under its own laws regarding conduct in other states as if the conduct occurred in-state. See Roundtable Tr. at 25 (K. Thomas); NLC art. III, secs. d, e; art. V, sec. a(1).

initiatives typically require states to report complaints and adverse actions to a central database of licensee information, as well as to the state of licensing.¹²⁴ Such provisions may provide for “stronger and more efficient state board enforcement in the context of modern cross-border and electronic commerce in which state lines are often blurred.”¹²⁵

Portability initiatives that expedite licensure, rather than allow multistate practice under a single license, may also enable member states to coordinate information about licensees’ conduct and adverse actions, even though every state where a practitioner practices has the authority to take action based on its own license. For example, the IMLC requires certain information about licensees’ conduct and disciplinary actions to be submitted to a central database.¹²⁶ It also allows a state to investigate, by itself or jointly with other states, violations of state medical practice acts that occurred in other member states.¹²⁷ Moreover, when the state of principal license revokes or suspends a physician’s license, the physician’s licenses in other member states are automatically placed on the same status; a disciplinary action by *any* IMLC member board can lead to disciplinary action by other member jurisdictions.¹²⁸

VIII. Streamlining Licensure in Multiple Occupations: Portability Initiatives for Military Families Required to Move to Another State

While license portability initiatives can streamline licensing upon a move to a new state, some initiatives primarily address multistate practice rather than the mechanics of relicensing in a new state. Moreover, many occupations have not taken steps to improve license portability. The burden of obtaining a license in a new state, which may be costly and delay employment, falls disproportionately on populations that move frequently. Because military families typically move every two to four years, the burden of applying for a new license with each move across

¹²⁴ See, e.g., Roundtable Tr. at 27 (K. Thomas) (people who are under investigation in one state cannot escape by moving to another state, because of the information in the database); NLC art. III, sec. d (notice of adverse action to coordinated licensure information system and home state); art. VI secs. a, c (requiring member states to participate in a coordinated licensure information system covering licensure and disciplinary history, and to report significant investigative information and any adverse action); UAA, *supra* note 60, at sec. 12(k) (requiring Boards to report disciplinary actions against CPAs with a privilege to practice in other states to state boards or a multistate enforcement network).

¹²⁵ UAA, *supra* note 60, at I-2.

¹²⁶ See, e.g., IMLC sec. 8; Roundtable Tr. at 12 (J. Thomas) (“any complaint in any of the compact states is shared automatically with other states . . . [the compact] provides better information sharing” when physicians have licenses in multiple jurisdictions).

¹²⁷ See, e.g., IMLC sec. 9.

¹²⁸ See IMLC sec. 10.

state lines is high for the 35 percent of military spouses in the labor force who work in occupations that require state licensing.¹²⁹

The U.S. Department of Defense State Liaison Office (“DoD-SLO”) has worked with states to reduce barriers to licensing for relocated military spouses working in many or most occupations requiring licensing.¹³⁰ The DoD-SLO has encouraged states to use one or more of three options to enhance license portability for military spouses: (1) facilitating endorsement of existing licenses from jurisdictions with substantially equivalent requirements (avoiding the need for re-examination); (2) providing temporary licenses for spouses who do not qualify for endorsement; and (3) expediting the process of getting a license.¹³¹ Fifty-six percent of the states have adopted statutory provisions requiring all three approaches, and all states now require at least one mechanism to aid military spouses.¹³²

However, certain professions, such as teaching, are not covered by most states’ provisions for streamlining licensing of military spouses. Teachers seeking licensure in a new state often must take additional courses and tests, and the process takes time and is costly—especially for young teachers with little experience.¹³³ Thus, the DoD-SLO is working with states to remove specific impediments to licensing of transitioning military spouses for teaching and other occupations that are not otherwise covered by their streamlining initiative.¹³⁴ For some occupations, the DoD-

¹²⁹ See Roundtable Tr. at 20 (Beauregard); U.S. Dep’t of the Treasury & U.S. Dep’t of Defense, *supra* note 14, at 3, 7, 9.

¹³⁰ See Roundtable Tr. at 20-21 (Beauregard). A statutory provision facilitating licensure of military spouses may apply to many or all licensing boards within a regulatory agency that oversees the licensing boards. See, e.g., U.S. Dep’t of the Treasury & U.S. Dep’t of Defense, *supra* note 14, at 16 (discussing legislation to facilitate the licensure by endorsement process for military spouses that is applicable to 77 occupations regulated by the Colorado Department of Regulatory Agencies).

¹³¹ See Roundtable Tr. at 21 (Beauregard). The processes for expedited licensure for these initiatives is not the same as those discussed above. Rather, an application may be expedited by other means, including allowing military spouses to use time-saving options, such as submitting photocopies of state certificates and test scores; setting deadlines for adjudication of applications from military spouses; or giving individual boards authority to approve a license based on an affidavit from the applicant that the information provided is true and that verification has been requested. See, e.g., U.S. Dep’t of Defense, Removing Certification Impediments for Transitioning Military Spouse Teachers, Best Practices, 1, <http://download.militaryonesource.mil/12038/USA4/2016/best-practices/Sp-Teacher-Certification-BPI5.pdf>; Roundtable Tr. at 23 (Beauregard).

¹³² See Roundtable Tr. at 21 (Beauregard); Beauregard, FTC Presentation, at 4, https://www.ftc.gov/system/files/documents/public_events/1224893/slides_-_marcus_beauregard_dod_-_slo.pdf.

¹³³ See U.S. Dep’t of Defense, Removing Certification Impediments for Transitioning Military Spouses, 1, <http://download.militaryonesource.mil/12038/USA4/2017/one-pagers/Sp-Teacher-Certification-OPI9.pdf>; Roundtable Tr. at 14 (Rogers) (although almost all jurisdictions have signed the Interstate Agreement of the National Association of State Directors of Teacher Education and Certification, which provides a database of state requirements, licensure of teachers is very complex and state certification requirements vary, so it is very difficult for inexperienced teachers such as young military spouses to become licensed in a new state).

¹³⁴ See Roundtable Tr. at 22 (Beauregard). See USA4 MilitaryFamilies, DoD-SLO, *Removing Certification Impediments for Transitioning Military Spouses*, http://www.usa4militaryfamilies.dod.mil/MOS/?p=USA4:ISSUE:0:::P2_ISSUE:9. The DoD-SLO has also commissioned a study to find out more about how the states have implemented their statutory measures to facilitate

SLO also is addressing the issue by supporting interstate licensure compact provisions that facilitate licensing of military members and their spouses.¹³⁵

A potential bonus from the DoD-SLO's initiatives is that some of the procedures that have proven useful for expediting licensing of military spouses could be adopted for general use, to speed licensing for anyone. For example, temporary licensing, allowing submission of photocopies of state certificates and test scores until official copies can be obtained, and conditionally approving applications without waiting for a board meeting, could be made more broadly available to all applicants.¹³⁶

IX. Conclusion

Occupational licensing can protect consumers from health and safety risks, generally in situations where consumers lack sufficient information to assess the qualifications of professionals. That said, licensing occupations also restricts competition. By establishing the entry requirements for an occupation, licensing regulations tend to reduce the number of market participants. In turn, this reduction in supply leads to a loss of competition, potentially resulting in higher prices and lower quality and convenience of services.

A key barrier imposed by licensing is the inability of qualified professionals licensed by one state to work in another state. There is little justification for the burdensome, costly, and redundant licensing processes that many states impose on qualified, licensed, out-of-state applicants. Such requirements likely inhibit multistate practice and delay or even prevent licensees from working in their occupations upon relocation to a new state. Indeed, for occupations that have not implemented any form of license portability, the harm to competition from suppressed mobility may far outweigh any plausible consumer protection benefit from the failure to provide for license portability.

Moreover, a slow and burdensome process for cross-state practice is unnecessary. There are many options to enhance license portability. Individual states have adopted initiatives to streamline licensing of military spouses in many occupations. Some professions have developed model laws or interstate compacts that improve licensure portability nationwide. These examples of successful portability suggest further liberalization and reform is both possible and beneficial.

licensure for military members and spouses, and how effective these requirements have been. *See* Roundtable Tr. at 21 (Beauregard).

¹³⁵ *See, e.g.*, Roundtable Tr. at 22 (Beauregard); Licensing Compacts Recognizing Military Requirements, http://www.usa4militaryfamilies.dod.mil/MOS/?p=USA4:ISSUE:0:::P2_ISSUE:7; REPLICA sec. 7(b) (Sept. 2014) ("Member states shall expedite the processing of licensure applications submitted by veterans, active military service members, and members of the National Guard and Reserves separating from an active duty tour, and their spouses."); PTLC sec. 5 (military members and spouses may designate the home of record, permanent change of station, or state of current residence as the home state).

¹³⁶ *See* Roundtable Tr. at 24 (J. Thomas) (discussion of expediting licensure of physicians in Minnesota).

Accordingly, for occupations that generally require state licensing as a public protection measure, FTC staff encourages stakeholders such as licensees, professional organizations, organizations of licensing boards, and state legislators to consider the likely competitive effects of options to improve license portability. As stakeholders evaluate those options, we suggest that they consider the following points:

- Both model laws and interstate compacts have been used to improve licensure portability for individual occupations
- For reducing barriers to multistate practice, consider the use of a mutual recognition model, in which licensees need only one state license to practice in other member states and are not required to give notice of their intent to practice in another state
- Alternatively, consider easing multistate practice by expediting licensure in each intended state of practice
- Take steps to ease licensure upon relocation to a new state, whether by expediting the process or by allowing licensees to practice in the new state of residence under an existing multistate license during processing of the application
- Harmonize state licensure standards, using the least restrictive standard that can gain the support of states nationwide
- State-based efforts to reduce barriers to licensing of relocated military spouses often address multiple occupations that require licensing
- At the state level, consider expanding the use of temporary licensing and other procedures that have helped reduce the burden of licensing for relocated military spouses to all applicants licensed by another state

Each type of portability initiative has advantages and disadvantages, and all take time and effort to develop and implement. However, a thoughtful consideration of the needs of a profession and the consumers it serves is likely to lead to a solution that can gain the support of licensees, licensing boards, the public, and state legislatures. Moreover, by enhancing the ability of licensees to provide services in multiple states, and to become licensed quickly upon relocation, license portability initiatives can benefit consumers by increasing competition, choice, and access to services, especially where providers are in short supply.

X. Appendix

Panelists

FTC Roundtable, *Streamlining Licensing Across State Lines, Initiatives to Enhance Occupational License Portability* (July 27, 2017)

Katie Ambrogio, Attorney Advisor, Office of Policy Planning (moderator)

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