250 CMR 7.00: ENFORCEMENT AND DISCIPLINE

Section

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7.01: Authority

Pursuant to M.G.L. c. 112, §§ 61 through 65E and 81D through 81T, the Board has authority to discipline any individual improperly practicing or offering to practice Engineering or Land Surveying.

This authority applies to anyone who is currently Licensed to practice; who has a suspended, revoked, or lapsed License; or who has never been Licensed.

Disciplinary actions may include but are not limited to suspension, revocation, probation, fine, reprimand, denial of renewals, injunctive or declaratory relief and civil administrative penalties. Additional penalties, including criminal penalties, may apply for unlicensed or unauthorized practice under M.G.L. c. 112, §§ 65 and 65A.

7.02: Basis for Discipline

(1) The Board may initiate disciplinary action against a Registrant or an unlicensed individual or entity on its own or upon written complaint of any individual who alleges violation of any law or regulation within the Board's jurisdiction, including but not limited to M.G.L. c. 112, §§ 61 through 65E, 81D through 81T and 250 CMR.

(2) The Board may, after a consent agreement between the parties or an opportunity for adjudicatory proceedings conducted pursuant to M.G.L. c. 30A, discipline a Registrant if it is determined that the Registrant has engaged in, without limitation to, the following types of conduct:

(a) misconduct or any crime involving moral turpitude; fraud; deceit; incompetence; negligence; or exceeding the authorized scope of their registration;

(b) practice while incapacitated by reason such as mental illness, dementia, alcohol or drugs;

(c) committing fraud or deceit in obtaining or renewing a registration or License;

(d) affixing one's Signature or seal to plans, drawings, specifications or other Instruments of Service which have not been prepared by them, or under their Direct Charge and Supervision;

(e) permitting one's name to be used for the purpose of assisting any individual to evade the provisions of the Board's laws, rules and regulations;

(f) violating any law, rule or regulation of the Board;

(g) having been convicted of a criminal offense which is reasonably related to the Practice of Engineering or Practice of Land Surveying;

(h) knowingly permitted, aided or abetted an unauthorized individual in performing activities requiring registration;

(i) continuing to practice during periods of suspension, revocation, cancellation or lapsed License;

(j) having a license or registration to practice issued by another Jurisdiction and having been disciplined by that Jurisdiction;

(k) failure to cooperate with the Board in response to a complaint or inquiry against individuals practicing engineering or surveying;

7.02: continued

(l) providing false testimony or information to the Board;
(m) knowingly making false statements or signing false statements, certifications, or affidavits in connection with the Practice of Engineering or Practice of Land Surveying; and
(n) engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(3) The Board may assess and collect civil administrative penalties from an individual who, without holding a required License, engages in the Practice of Engineering or Practice of Land Surveying, per M.G.L. c. 112, § 65A.

(4) The Board may assess and collect civil administrative penalties from business entities offering engineering or land surveying services that are not in compliance with the provisions of M.G.L. c. 112, § 81R(f).

7.03: Summary Suspensions

In accordance with M.G.L. c.112, § 65B, the Board may summarily suspend or refuse to renew the Registrant's License if the Board determines that the Registrant's continued practice poses an immediate and serious threat to the public health, safety or welfare. In such event, the Board shall follow procedures set forth in M.G.L. c. 112, § 65B.

7.04: Investigatory Process

Complaints filed against individuals who come under the Board's jurisdiction shall be subject to the following process:

(1) The Board Chair may appoint a complaint investigative committee to assist the investigative process and advise the Division's Office of Investigations.

(2) Complaints filed with the Division may be evaluated by the complaint investigative committee to determine if further investigation is warranted.

(3) The complaint investigative committee may schedule an informal conference with the complainant, the respondent, their counsel or any other individual to determine if the case should be dismissed, further investigation is required, or an Order to Show Cause is warranted.

(4) After review, the complaint investigative committee will recommend an appropriate course of action to the Board. The Board shall then take appropriate action under the provisions of the statutes.

(5) In instances where the evidence indicates an immediate and serious threat to the public, the Board may issue a summary suspension order in accordance with M.G.L. c.112, § 65B and 250 CMR 7.03.

(6) When an Order to Show Cause is issued by the Board, subsequent proceedings shall be in accordance with the provisions of M.G.L. c. 30A.

(7) The investigatory process may result in dismissal, formal adjudicatory proceedings under the M.G.L. c. 30A process, or a negotiated settlement.

(8) A dismissed complaint does not constitute disciplinary action.

(9) Investigative and settlement conferences may be held in closed session in accordance with M.G.L. c.112, § 65C.

7.05: Disciplinary Process

(1) All complaints, unless dismissed, shall be heard by the Board or its designated agent in accordance with M.G.L. c. 30A and 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*.

(2) The Board or its designated agent(s) may approve a negotiated agreement with the respondent.

(3) As part of a consent agreement or following an adjudicatory proceeding conducted pursuant to M.G.L. c, 30A, a majority of the Board's members may vote to impose penalties, including but not limited to any of the following:

(a) suspend, revoke, cancel, decline to renew, or place on probation a Registrant's License;
(b) reprimand or censure a Registrant;
(c) assess civil administrative penalties under the provisions of M.G.L. c. 112, §§ 61, 65, and 65A on Registrants and unlicensed individuals;
(d) require a Registrant to complete additional education, training, or testing as a condition of retention or future consideration of reinstatement of Registrant's License;
(e) require a Registrant to practice under appropriate supervision for a period of time as determined by the Board as a condition of retention or future consideration of reinstatement of their License;
(f) require a Registrant to participate in an alcohol or drug rehabilitation program as a condition of retention or future consideration of reinstatement of their License;
(g) require a Registrant with mental health or dementia issues to provide the Board with a medical evaluation;
(h) require an unlicensed individual to cease and desist all Board regulated activities; and
(i) limit the Registrant's scope of practice.

(4) The Board, in determining appropriate sanctions, shall consider factors, including but not limited to, the following:

(a). Seriousness of the offense;
(b) Prior disciplinary record;
(c) Acknowledgment of wrongdoing;
(d) Willingness to cooperate with the Board;
(e) Consequences to public health, safety or welfare; and
(f) Other mitigating or aggravating circumstances.

7.06: Appeal Process

Any individual aggrieved by an action of the Board to suspend or revoke a License or certificate, or to refuse to grant a registration or a Temporary Permit for any cause may appeal such action as provided under M.G.L. c. 30A; M.G.L. c. 112, § 64; and M.G.L. c. 112, § 81S.

7.07: Reinstatement Following Disciplinary Action

The Board, for any reason which it may deem sufficient, may reinstate a revoked, voluntarily surrendered or suspended License of any Registrant. A Registrant seeking reinstatement of a revoked, surrendered or suspended License may be required to submit appropriate applications, applicable fees, appear before the Board for an interview and meet any such other requirements set by the Board prior to consideration by the Board.

7.08: Practice after License Expiration, Suspension, Revocation or Cancellation

An individual shall not practice or offer to practice engineering or land surveying in the Commonwealth while his or her License is expired, suspended, revoked or otherwise cancelled.

An individual who practices or offers to practice engineering or land surveying in the Commonwealth during a period in which said individual's License to practice is expired, suspended, revoked or otherwise cancelled may be subject to penalties provided for by law, including but not limited to pursuant to M.G.L. c. 112, §§ 65 and 65A and may also be subject to the imposition of discipline by the Board, including but not limited to reprimand, probation, suspension and revocation.

7.09: Unauthorized Practice

(1) The practice or offer to practice engineering in the Commonwealth by any individual who is not currently registered as a Professional Engineer by the Commonwealth or a holder of a current Temporary Permit to practice engineering in the Commonwealth shall be considered unauthorized practice.

(2) The practice or offer to practice land surveying in the Commonwealth by any individual who is not currently registered as a Professional Land Surveyor by the Commonwealth or a holder of a current Temporary Permit to practice land surveying in the Commonwealth shall be considered unauthorized practice.

(3) Unauthorized practice includes, but is not limited to, the production by any unlicensed individual of engineering or land surveying Instruments of Service that do not comply with the provisions of 250 CMR 5.04 *Direct Charge and Supervision* and 5.05: *Business Entities*.

(4) Those individuals engaging in unauthorized practice shall be subject to assessment and collection of civil administrative financial penalties by the Board as set forth in M.G.L. c. 112, § 65A and other applicable penalties as otherwise provided by law.

REGULATORY AUTHORITY

250 CMR 7.00: M.G.L. c. 12, § 45; c. 112, §§ 61 through 65E; and 81D through 81T.