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Division of Professional Licensure  
Board of Registration of Professional Engineers  
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COMMISSIONER, DIVISION OF  
PROFESSIONAL LICENSURE

### Minutes of the April 22, 2021 Open Meeting

Meeting was held remotely by video conference and telephone as an alternate means of public access pursuant to an Order issued by the Governor of Massachusetts dated March 12, 2020 suspending certain provisions of the open meeting law.

*The following attendance was recorded:*

**Board Members Present**

Paul Tyrell, PE, PLS, Chairman  
Ronald Willey, PE, Vice Chairman  
Shannon Slaughter, Public Member  
Daniel Caron, PE  
Joyce Hastings, PLS  
Azu Etoniru, PE, PLS  
Maurice Pilette, PE  
Paul Tsang, PE  
Kenneth Anderson, PLS

**Board Members Absent**

Erin Joyce, PE

**Members of the Public Present**

Abbie Goodman, TECET  
Gerber Ramos, PE Applicant  
Mark St Fleur, PE Applicant

**Division Staff Members Present  
at Various Times during the Meeting:**

Matthew Keigan, Executive Director  
Sheila York, Board Counsel  
Eric Funk, Board Administrator  
Jenna Hentoff, Prosecuting Counsel

1. Vice Chairman Ronald Willey opened the meeting at 9:01AM and reminded members that when working on ladders of heights of greater than 15 feet, safety is of even greater importance as falls from that height could be fatal.
2. Chairman Paul Tyrell joined the meeting at 9:05AM.
3. The Board reviewed the minutes of the March 25, 2021 Open Meeting. Azu Etoniru moved, seconded by Joyce Hastings, to accept the meeting minutes with an edit to the recusal noted on page 5. Motion passed with a vote of 9-0. Members in Favor: Paul Tsang, Maurice Pilette, Ronald Willey, Shannon Slaughter, Kenneth Anderson, Joyce Hastings, Dan Caron, Azu Etoniru, and Paul Tyrell. Members opposed: None.



4. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on May 27, 2021. Dan Caron indicated that he would not be in attendance.
5. Executive Director Matthew Keigan provided the Board with an update on the possible transition of the paper and pencil State Specific Jurisprudence (JP) exam to a Computer Based Testing (CBT) format.

He provided the Board with a bit of background on the exam noting that it is a paper and pencil exam comprised of forty (40) questions; is proctored by the Board's application vendor Professional Credential Services, Inc. (PCS); and is held on the first day of the two (2) day exam offering in April and October each year.

Sheila York stated that she would continue to evaluate the impact that transitioning the JP to a CBT examination would have on the current contract the Board has with PCS. She further stated that the small number of candidates the exam typically has each year could prevent the switch as the cost could outweigh the benefit.

Executive Director Matthew Keigan stated that NCEES is in the final stages of the transition of all of its exams to CBT so PCS may be open to the change from a cost benefit perspective.

The Board raised a number of topics that should be researched. Sheila York indicated that based on the track of the discussion, the Board will need to appoint members for a subcommittee to perform the research and report back to the full Board.

Vice Chairman Ronald Willey, Azu Etoniru, and Joyce Hastings were appointed to the subcommittee and they agreed to conduct research and meet with Executive Director Matthew Keigan and Board Counsel Sheila York on May 20, 2021 to compile the information which will be reported to the full Board on May 27, 2021.

Sheila York indicated that the subcommittee meeting would need to be posted to comply with the open meeting law.

This topic will remain on the Board's agenda moving forward.

6. Sheila York gave the Board an update regarding the Governor's recent Executive Order to support military families transferring to Massachusetts. The Executive Order directs the "Division of Professional Licensure (DPL) to improve license portability for military personnel and their spouses so that they can continue their civilian careers and provide for their families without interruption." She provided the Board with a copy of the legislation known commonly as Valor Act/Valor Act II and briefed the Board regarding M.G.L. Chapter 112, Section 1(b) (e), which states, *Notwithstanding any general or special law to the contrary, the commissioner of the division of professional licensure and each of the boards of registration and examination under the supervision of the commissioner, shall upon the presentation of satisfactory evidence by an applicant for certification or licensure, expedite the issuance of a license or certification for a person: (i) who is certified or licensed in a state other than the commonwealth; (ii) whose spouse is a member of the armed forces in the United States; (iii) whose spouse is the subject of a military transfer to the commonwealth; and (iv) who left employment to accompany a spouse to the commonwealth. The procedure shall include, but not be limited to: (1) issuing the person a license or certificate if, in the opinion of the department, the requirements for licensure or certification of such other state are substantially equivalent to the requirements for licensure or certification in the commonwealth; or (2) issuing the person a temporary license or certificate to allow the person to perform services while completing any specific requirements that may be required in the commonwealth but were not required in the state in which the person was licensed or certified.*

Sheila York reminded the Board that the language in the Executive Order closely tracks the language found in the 2014 Massachusetts legislation known as Valor Act II, which supplemented the original 2012 Valor Act legislation. She further explained that the new Executive Order is intended to allow military members and their spouses recently transferred to Massachusetts to obtain conditional licensure while completing the process for licensure which was already a part of the Division's mandate as evidenced by the language in M.G.L. Chapter 112, Section 1(b) (e).

Dan Caron again asked if the Board intended to provide the Governor's Office with a copy of the licensure process so that they have a clearer picture of how the Board handles PE and LS applications for licensure.

Azu Etoniru again raised the question of how the Executive Order impacts licensure as a Land Surveyor. Specifically, how a conditional license can be issued to someone who has not had the required oral exam/interview to be approved to take the State Specific Jurisprudence exam.

Sheila York indicated that the concerns has been escalated to the DPL's General Counsel and that the Board would need DPL approval before sending anything to the Governor's office.

Azu Etoniru asked if the order contained a sunset provision. Sheila York stated that it did not but that the Governor can rescind Executives orders.

Dan Caron asked if a temporary license would expire if the military member or their spouse moved/was transferred out of state prior to the issuance of the official license.

Sheila York stated that the question at hand was how the Board can best comply with the Executive Order as well as the Board's regulations.

Chairman Paul Tyrell reminded the Board that there are technically two (2) different issues. One is compliance with the Executive Order and the other is how does the order impact the State Specific Jurisprudence Exam. Sheila York indicated that these issues may need to be addressed separately.

Vice Chairman Ron Willey stated that when the subcommittee meets on May 20, 2021 it will discuss these items and consider how best to address the numerous concerns and report back to the Board at the meeting on May 27, 2021.

Executive Director Matthew Keigan informed the Board that DPL management had inquired as to how many interstate compacts existed for engineers and land surveyors. He and Sheila York researched and reported back that they only found one (1) between Wyoming, Nevada and North Dakota and it is for Model law engineers.

Chairman Paul Tyrell explained to the Board that interstate compacts allow for states to join together in agreement to accept certain types of licenses between their states without the need for additional qualifications or requirements. He further stated that the New England states pose an issue with such compacts due in part to the widely varying requirements for licensure among the states.

7. Vice Chairman Ronald Willey notified the Board that for the upcoming NCEES Northeast Zone Meeting, the Board needed to select a voting delegate and determine how the delegate will cast votes on behalf of the Board.

Chairman Paul Tyrell indicated that due to his position as Treasurer, NCEES Board of Directors, he should not be considered for the role of delegate for the meeting.

Vice Chairman Ronald Willey and Azu Etoniru informed the Board that they would both be attending the meeting.

Joyce Hastings motioned, seconded by Shannon Slaughter, to nominate Azu Etoniru as the Board delegate at the Northeast Zone Meeting. Motion passed with a vote of 9-0. Members in Favor: Paul Tsang, Maurice Pilette, Ronald Willey, Shannon Slaughter, Kenneth Anderson, Joyce Hastings, Dan Caron, Azu Etoniru, and Paul Tyrell. Members opposed: None.

Chairman Paul Tyrell recused himself from the discussion of how the Board would cast votes at the meeting.

Paul Tsang had a prior engagement and logged off the meeting.

Vice Chairman Ronald Willey informed the Board that there were two (2) positions that the Board needed to cast votes for, 2021-2022 nominees for NE Zone President-Elect and Vice President-Elect. The official election will be held in August at the NCEES Annual Meeting. He then provided the Board with a brief overview of each of the candidates for consideration.

For NE Zone President-Elect, Vice Chairman Ronald Willey motioned, seconded by Maurice Pilette, to cast a vote in support of Christopher Duhamel, P.E., P.L.S., (Rhode Island). Motion passed with a vote of 8-0. Members in Favor: Maurice Pilette, Ronald Willey, Shannon Slaughter, Kenneth Anderson, Joyce Hastings, Dan Caron, Azu Etoniru, and Paul Tyrell. Members opposed: None.

For NE Zone Vice President-Elect, Vice Chairman Ronald Willey motioned, seconded by Maurice Pilette, to cast a vote in support of Tomas Orisich, P.L.S., (Maryland). Motion passed with a vote of 8-0. Members in Favor: Maurice Pilette, Ronald Willey, Shannon Slaughter, Kenneth Anderson, Joyce Hastings, Dan Caron, Azu Etoniru, and Paul Tyrell. Members opposed: None.

Executive Director Matthew Keigan reminded the Board that the NCEES Annual Meeting would be held in New Orleans in August and that travel by the Board was still prohibited due to the pandemic.

8. Sheila York provided the Board with an update on the review of possible proposed regulations in the town of Swansea based on the email from James Hall, dated November 9, 2020, regarding the Swansea Board of Health's proposal for "local licensure."

Sheila York stated that the Board had also requested that she look into local licensure requirements in Seekonk, MA. The process appears to require licensed engineers and land surveyors to pay a fee to be added to an approved vendor list, but not clear from Seekonk's website whether an engineer must be on the approved list before being allowed to perform work in their town.

Sheila York informed the Board that the DPL General Counsel has been appraised of the vendor list requirement and proposed requirements in these towns and the Board's concerns.

Maurice Pilette again raised the issue of "by-law conflicts" and mentioned to the Board that the Town of Brookline had recently passed bylaws that would have prohibited the installation of oil and gas infrastructure in new most construction and major renovations. He further stated that the Attorney General had overturned the ban after determining that the way the legislation was written is inconsistent with state law. Specifically, the bylaw

conflicts with the 1975 statewide building code which states that municipalities cannot create their own requirements and permitting processes.

Sheila York indicated that she was still trying to assess the actual intentions of the Swansea Board of Health were with respect to the vendor list requirement and that she continued to monitor the situation. She further clarified that the Seekonk vendor list also involved an annual permit system for soil evaluators which falls under the purview of the DEP.

Azu Etoniru reiterated Chairman Paul Tyrell's comments from the March 2021 meeting that no city or town in Massachusetts has the authority to impose limitation on the ability of licensed engineers or land surveyors to practice. He stated that preventing a licensed P.E. or PLS from practicing in Swansea because they have not paid a fee to the town could be viewed as a restrictive practice and would run afoul of the Board's regulations. Sheila York stated that the Board does not regulate municipalities, but there are other government entities that may have jurisdiction to review municipal actions. Any licensee harmed by the town's enforcement of those requirements may want to consult a lawyer to discuss their legal options.

Chairman Paul Tyrell commented that a local authority overstepping their authority to require a licensed P.E. to obtain their approval to perform work in their city/town was a slippery slope.

Sheila York noted that in the Brookline by-law situation the relevant licensing board had been specifically contacted by the AGO and asked to provide their opinion on the impact of proposed by-laws. Sheila York stated that her recommendation is for the Board not to opine on the matter until the Board has specific factual information about the application of the by-law to a PE or PLS, or receives a specific request from an entity with jurisdiction to review the town's actions. Any such letter would need to get approved by the General Counsel at DPL before it was sent out.

Azu Etoniru commented that if the Board did not respond in writing to the Swansea Board of Health, their silence on the matter could be viewed as acquiescence to the proposed vendor approval process.

Abbie Goodman stated the Swansea Board of Health's modeling of their proposed process after the Seekonk system is inappropriate and that the Board should consider addressing the issue with both Swansea and Seekonk as both systems are anti-competitive.

Sheila York advised that more research was needed to determine if the requirement/use of vendor lists was outside the purview of the Board.

Kenneth Anderson expressed concern that in the event that a licensed P.E. filed a complaint against a town that utilized such a vendor system, the town would act punitively against that P.E.

Chairman Paul Tyrell and Sheila York will work together to craft a correspondence to the Swansea Board of Health outlining the Board's concerns.

9. Sheila York informed the Board that there was no new update on the status of draft language regarding Continuing Professional Competency (CPC).
10. Sheila York gave an update to the Board regarding the draft language in "Professional Practice, A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts." She stated all of the Architect Board's edits had now been received and that she would be meeting with their Board Counsel to discuss their edits and comments.

Sheila York hoped to have an update for the Board at the meeting on May 27, 2021.

11. Sheila York informed the Board that there would be an adjudicatory Hearing scheduled for April 28, 2021 in the matter of case# 2019-001437-IT-ENF. Chairman Paul Tyrell stated that he would check his availability but would plan on attending.
12. Sheila York stated that there were no additional pending legal matters that required discussion at this time.
13. Executive Director Matthew Keigan informed the Board that he opened two (2) complaints against licensees whose discipline was reflected on the NCEES Enforcement Exchange but who failed to notify Massachusetts of the discipline in another jurisdiction within the thirty (30) day window to report such discipline as outlined in the regulations. He further stated that he is monitoring two (2) additional licensees who reported discipline to NCEES and are currently within the thirty (30) day window to report the discipline to Massachusetts.
14. Executive Director Matthew Keigan advised the Board that the case tracking spreadsheet that was distributed to all members had been updated.
15. Paul Tsang rejoined the meeting.
16. Executive Director Matthew Keigan provided an update to the Board regarding licensee #52020-C who was disciplined in 2018 by the Louisiana Board for failure to obtain a Certificate of Authorization to Offer and/or Practice Engineering in the State of Florida prior to providing engineering services in the state.

Executive Director Matthew Keigan reminded the Board that monthly review of the NCEES Enforcement Exchange was not common practice at the time of the licensee's discipline and therefore, did not have sufficient details regarding the initial discipline in Florida.

At the request of Dan Caron, Executive Director Matthew Keigan contacted the licensee and requested copies of the signed/executed Settlement Stipulation which the licensee provided.

Upon review of the documentation, Chairman Paul Tyrell motioned, seconded by Joyce Hastings to take no action. Motion passed with a vote of 9-0. Members in Favor: Paul Tsang, Maurice Pilette, Ronald Willey, Shannon Slaughter, Kenneth Anderson, Joyce Hastings, Dan Caron, Azu Etoniru, and Paul Tyrell. Members opposed: None.

17. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Azu Etoniru motioned, seconded by Kenneth Anderson to accept the report and ratify the application approvals. Motion passed with a vote of 9-0. Members in Favor: Paul Tsang, Maurice Pilette, Ronald Willey, Shannon Slaughter, Kenneth Anderson, Joyce Hastings, Dan Caron, Azu Etoniru, and Paul Tyrell. Members opposed: None.
18. Sheila York informed the Board that upon receiving additional information from two (2) applicants who indicated prior discipline by a State Board, it may be necessary for each applicant to be invited before the Board to discuss said matters. Final determination would be made upon review of the applicant's documentation.
19. Sheila York presented an email from Shaun Loughlin, dated April 7, 2021, regarding the registration statute.

Sheila York provided the Board with an overview of the inquiry which pertained to the use of appurtenant fixtures on a specific project.

Dan Caron stated that the question should best be addressed by providing the individual with a link to the Board's regulations regarding professional practice.

Chairman Paul Tyrell agreed with that assessment and indicated that he had provided Sheila York with an email response reminding the writer to be aware of not only the MA professional engineering licensing laws, but also be fully versed in the building codes governing construction. The Board agreed to send that response to Mr. Loughlin.

20. Sheila York presented an email from Benjamin Crysler, Ranger Engineering Consulting, dated February 25, 2021, regarding machine control models.

Vice Chairman Ronald Willey read the email to the Board prior to discussion noting that the inquiry involves the use of GPS machine control models and the Board's interpretation of their use with respect to the practice of engineering.

Chairman Paul Tyrell indicated that the use of GPS machine control models is prevalent in practice in Massachusetts as it involves the operation of software similar to that used in drone mapping/surveying.

Dan Caron recommended that the Board's response indicate that so long as licensed professionals are implementing the use of the GPS machine control models there would be no conflict with the Board's regulations.

Sheila York stated that she would craft a response and provide it to Chairman Paul Tyrell for review prior to sending it to Mr. Crysler.

21. Chairman Paul Tyrell noted that there were no further topics for discussion at the Open Meeting Session.
22. At 10:53AM, Kenneth Anderson motioned, seconded by Maurice Pilette, to end the Open Session of the video conference call and enter into Closed Investigative Session under M.G.L. c. 112 §65C. The meeting will adjourn after the closed session with no further open meeting matters. Motion passed with a vote of 9-0. Members in Favor: Paul Tsang, Maurice Pilette, Ronald Willey, Shannon Slaughter, Kenneth Anderson, Joyce Hastings, Dan Caron, Azu Etoniru, and Paul Tyrell. Members opposed: None.

Report of actions taken during closed investigate conference:

- |                       |                              |
|-----------------------|------------------------------|
| ➤ 2021-000225-IT-ENF: | Refer to Prosecutions        |
| ➤ 2019-001437-IT-ENF: | Proceed to Hearing           |
| ➤ 2020-000054-IT-ENF: | Dismiss with Advisory Letter |

Respectfully submitted by,



Eric Funk  
Board Administrator

**Documents used at the public meeting**

- **Agenda for April 22, 2021 Meeting**
- **Draft Minutes of March 25, 2021 Open Meeting**
- **Copy of Executive Order to Support Military Families Transferring to Massachusetts**
- **Copy of Valor Act/Valor Act II**
- **Copy of M.G.L. Chapter 112, Section 1 (b) (e)**
- **Copy of email from Shaun Loughlin, dated April 7, 2021, regarding the registration statute.**
- **Copy of email from Benjamin Crysler, Ranger Engineering Consulting, dated February 25, 2021, regarding machine control models.**