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Commonwealth of Massachusetts
Division of Professional Licensure
Board of Registration of Professional Engineers
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AFFAIRS AND BUSINESS
REGULATION

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PROFESSIONAL LICENSURE

Minutes of the March 25, 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
Erin Joyce, PE
Daniel Caron, PE
Joyce Hastings, PLS
Azuz Etoniru, PE, PLS
Maurice Pilette, PE
Paul Tsang, PE
Kenneth Anderson, PLS
Shannon Slaughter, Public Member

Board Members Absent

Members of the Public Present

Abbie Goodman, TECET
Paul Matos, PLS Applicant

Division Staff Members Present at Various Times during the Meeting:

Matthew Keigan, Executive Director
Sheila York, Board Counsel
Eric Funk, Board Administrator
Seth Henderson, Prosecuting Counsel
Mary Pixley, Prosecuting Counsel

1. Chairman Paul Tyrell opened the meeting at 9:02AM and reminded members that with the warmer weather approaching it is important to keep safety at the top of your mind when in, on, or near the water.
2. The Board reviewed the minutes of the February 25, 2021 Open Meeting. Azuz Etoniru moved, seconded by Ronald Willey, to accept the meeting minutes as written. Motion passed with a vote of 9-0. Members in Favor: Erin Joyce, Joyce Hastings, Azuz Etoniru, Kenneth Anderson, Ronald Willey, Paul Tsang, Paul Tyrell, Dan Caron, and Maurice Pilette. Members opposed: None.
3. Shannon Slaughter joined the meeting at 9:06 AM.



4. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on April 22, 2021. Vice Chairman Ronald Willey will chair the meeting as Chairman Paul Tyrell will not be able to be in attendance.
5. Chairman Paul Tyrell requested that the Board convene a small working group to research the transition of the paper and pencil State Specific Jurisprudence (JP) exam to a Computer Based Testing (CBT) format.

To determine the feasibility of such a switch, the working group may need to reach out to NCEES, PCS, the DPL Procurement Legal Counsel, and the JP exam subcommittee.

Once the research has been completed, the Board will create a subcommittee to perform an overall review of the gathered material to present to the Board.

Ronald Willey and Azu Etoniru volunteered to perform the research and report back to the Board.

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

6. Sheila York briefed the Board 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."

Sheila York informed 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 replaced the original 2012 Valor Act legislation. She 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.

Sheila York acknowledged that the Board has raised significant concerns with the Executive Order. She stated that those concerns will be codified and provided to the Governor's Office once vetted by the DPL.

Dan Caron again suggested that the Board provide the Governor's Office with a copy of the licensure process so that they have a clearer picture of how the Board handles applications for licensure.

Azu Etoniru 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 stated that she would take all of the Board's concerns into consideration and would provide the Board with a copy of MA Valor Act II and M.G.L. Chapter 112 language for discussion at the April 22, 2021 meeting.

7. Sheila York provided the Board with an update on the email from James Hall, dated November 9, 2020, regarding the Swansea Board of Health's proposal for "local licensure." He informed the Board that Sheila York has been in contact with DPL General Counsel regarding how best to address the matter with the Swansea Board of Health.

Sheila York stated that Abbie Goodman had advised her that the Swansea Board of Health had updated their website to clarify that Swansea would be following the same

procedural format as Seekonk, MA. The process would require licensed engineers and land surveyors to pay a fee to be added to an approved vendor list prior to being allowed to perform work in their town.

Sheila York informed the Board that the DPL General Counsel has been apprised of the new vendor list requirement in Swansea.

Chairman Paul Tyrell reiterated 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.

Maurice Pilette informed the Board that the Town of Brookline had recently passed legislation 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.

Abbie Goodman stated that her organization shares the same concerns as the Board and views the “fee to practice” list as a barrier to the engineering field whose applicants go through a thorough and lengthy application process and pay fees to obtain licensure to practice in Massachusetts.

8. Sheila York informed the Board that there was no new update on the status of draft language regarding Continuing Professional Competency (CPC). She did advise the Board that Joyce Hastings gave a presentation at the Virtual 2021 MALSCE Convention regarding recent initiatives and matters impacting the land surveying profession.

Joyce Hastings mentioned that the potential impact on multi-license holders was a topic of discussion and concern.

9. 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 that the Architect Board provided Executive Director Matthew Keigan with their edits and additions for Board review.

Executive Director Matthew Keigan advised the Board that Architecture Board John Pesa requested an additional change to the edits provided which would need to be included in the draft prior to dissemination to and discussion by the Board.

10. Sheila York stated that there were no additional pending legal matters that required discussion that this time.
11. Executive Director Matthew Keigan informed the Board he opened one (1) complaint against a licensee who reported discipline to the NCEES Enforcement Exchange but 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.
12. Executive Director Matthew Keigan advised the Board that the case tracking spreadsheet that was distributed to all members had been updated to reflect the one (1) new case that will be reviewed by the Complaint Committee at the next meeting.

13. Executive Director Matthew Keigan briefed the Board regarding licensee #48521-M who was disciplined, along with his firm, by the Louisiana Board for failure to obtain a Certificate of Authorization to Offer and/or Practice Engineering in the State of Louisiana prior to providing engineering services in the state.

There was no action taken by the Board.

14. Executive Director Matthew Keigan briefed 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 informed the Board that monthly review of the NCEES Enforcement Exchange was not common practice at the time of the licensee's discipline.

Dan Caron recommended that the Board review the matter for discussion at the April 2021 meeting.

There was no action taken by the Board.

15. 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 10-0. Members in Favor: Erin Joyce, Joyce Hastings, Azu Etoniru, Kenneth Anderson, Ronald Willey, Paul Tsang, Paul Tyrell, Dan Caron, Maurice Pilette, and Shannon Slaughter. Members opposed: None.

16. Sheila York updated the Board regarding two (2) applications indicating prior discipline by a State Board where the applicant did not provide documentation of the resolution of said matters.

Sheila York provided an overview of the discipline imposed against PE licensure by comity applicant #1020717 by the Minnesota (MN) Board which led to reciprocal discipline by the Boards of Colorado (CO), Oklahoma (OK), and Pennsylvania (PA). She stated that the applicant had subsequently provided the consent orders for CO, OK, and PA for Board review and that the discipline in those states was as a result of the initial discipline in MN, which was reported to the MA Board.

Dan Caron motioned, seconded by Ronald Willey to allow applicant #1020717 to move forward in the licensure process. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Joyce Hastings, Azu Etoniru, Kenneth Anderson, Ronald Willey, Paul Tsang, Paul Tyrell, Dan Caron, Maurice Pilette, and Shannon Slaughter. Members opposed: None.

Sheila York provided an overview of the discipline imposed against PE licensure by comity applicant #1020582 by the New Jersey (NJ) Board for failure to provide a signed and sealed survey with the submission of a site plan prepared under his supervision.

Azu Etoniru motioned, seconded by Ronald Willey to allow applicant #1020582 to move forward in the licensure process. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Joyce Hastings, Azu Etoniru, Kenneth Anderson, Ronald Willey, Paul Tsang, Paul Tyrell, Dan Caron, Maurice Pilette, and Shannon Slaughter. Members opposed: None.

17. Chairman Paul Tyrell noted that there was no correspondence for Board discussion.

18. Vice Chairman Ronald Willey informed the board that he would not be moving forward in the nomination process for the position of Northeast Zone Assistant Vice President with NCEES. He thanked the Board for their nomination.

19. Chairman Paul Tyrell acknowledged Abbie Goodman who informed the Board that ACEC Massachusetts would be filing comments prior to the April 1, 2021 deadline in response to the Department of Public Utilities' (DPU) proposed regulations, 220 CMR 105: Use of Professional Engineers for Gas Utility Work. She further stated that she has been contacted by the press to comment on the alleged push by some gas companies to scale back proposed regulations that would require licensed engineers to sign-off on specific types of construction work.

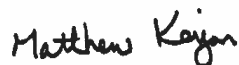
Sheila York stated that the Board would review the initial comment filings prior to submitting comment during the rebuttal comment period ending on April 15, 2021.

20. At 10:13AM, Kenneth Anderson motioned, seconded by Ronald Willey, to end the Open Session of the video conference call and enter into Closed Investigative Session under M.G.L. c. 112 §65C. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Joyce Hastings, Azu Etoniru, Kenneth Anderson, Ronald Willey, Paul Tsang, Paul Tyrell, Dan Caron, Maurice Pilette, and Shannon Slaughter. Members opposed: None.

Report of actions taken during closed investigate conference:

- 2020-000207-IT-ENF: Refer back to Prosecutions (Shannon Slaughter Recused)
- 2019-001498-IT-ENF: Dismiss with Advisory Letter
- 2020-000721-IT-ENF: Dismiss without Prejudice
- 2020-001642-IT-ENF: Dismiss without Prejudice
- 2020-001643-IT-ENF: Dismiss without Prejudice
- 2020-001646-IT-ENF: Dismiss without Prejudice
- 2021-000017-IT-ENF: Dismiss with Advisory Letter
- 2020-000711-IT-ENF: Refer to Prosecutions
- 2020-001604-IT-ENF: Refer to Prosecutions
- 2020-001711-IT-ENF: Dismiss with Advisory Letter

Respectfully submitted by,



Matthew Keigan
Board Executive Director

Documents used at the public meeting

- Agenda for March 25, 2021 Meeting
- Draft Minutes of February 25, 2021 Open Meeting
- Copy of Executive Order to Support Military Families Transferring to Massachusetts