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MIKE KENNEALY  
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Commonwealth of Massachusetts  
Division of Occupational Licensure  
Board of Registration of Professional Engineers  
and Land Surveyors

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EDWARD A. PALLESCHI  
UNDERSECRETARY OF CONSUMER  
AFFAIRS AND BUSINESS  
REGULATION

LAYLA R. D'EMILIA  
COMMISSIONER, DIVISION OF  
OCCUPATIONAL LICENSURE

## Minutes of the July 28, 2022 Open Meeting

Meeting was held remotely by video conference and telephone pursuant to Chapter 22 of the Acts of 2022: *An Act Making Appropriations for the Fiscal Year 2022 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects*, signed into law on February 12, 2022 and amended July 16, 2022.

*The following attendance was recorded:*

### **Board Members Present**

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

### **Board Members Absent**

### **Members of the Public Present**

Abbie Goodman, TECET  
Charles Henke, PE Applicant

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

Jason Wentworth, Executive Director  
Jenna Hentoff, Board Counsel  
Esther Laine, Deputy Commissioner of  
Boards  
Eric Funk, Board Administrator

1. At 9:02AM, Azu Etoniru motioned, seconded by Dan Caron, to open the meeting. Motion passed with a vote of 9-0. Members in Favor: Erin Joyce, Joyce Hastings, Paul Tyrell, Azu Etoniru, Dan Caron, Shannon Slaughter, Paul Tsang, Maurice Pilette, and Kenneth Anderson. Members opposed: None.
2. Chairman Paul Tyrell reminded the Board of the importance to stay hydrated, especially during the hot summer days that are forecasted.
3. The Board reviewed the minutes of the June 23, 2022 Open Meeting. Azu Etoniru moved, seconded by Kenneth Anderson, to accept the meeting minutes with a minor edit

to #7, amending the third sentence of the second paragraph. Motion passed with a vote of 9-0. Members in Favor: Erin Joyce, Joyce Hastings, Paul Tyrell, Azu Etoniru, Dan Caron, Shannon Slaughter, Paul Tsang, Maurice Pilette, and Kenneth Anderson. Members opposed: None.

4. Vice Chair Ronald Willey joined the meeting at 9:06AM.
5. Chairman Paul Tyrell informed the Board that the next meeting is scheduled to take place on August 25, 2022. Several conflicts were noted among the Board as members would be traveling for the NCEES Annual Meeting in California. After discussion, the Board agreed to reschedule the meeting for August 30, 2022.

Eric Funk stated that a cancellation notice for the August 25, 2022, date would be completed, and a new calendar invite for the August 30, 2022 date would be sent.

6. Board Counsel Jenna Hentoff briefed the Board on the recent Executive Order signed by Governor Baker protecting access to reproductive health care services in the Commonwealth. A copy of the Order was provided to Board members. The Order was in response to the recent Supreme Court decision overturning Roe v. Wade.
7. Board Counsel Jenna Hentoff advised the Board that on July 16, 2022, an extension to the remote meeting provisions of Chapter 22 of the Acts of 2022 was signed by the Governor. The Board is permitted to continue holding its meetings remotely until March 31, 2023 pursuant to this extension.

Board Counsel Jenna Hentoff informed the Board that under the Open Meeting Law, 940 CMR 29.10, if they chose to meet in person, remote participation in the meeting would be permitted by a Board member so long as a quorum is physically present at the meeting location. In such instance, a Board member may attend a meeting remotely if physical attendance would be unreasonably difficult.

Kenneth Anderson motioned, seconded by Azu Etoniru, to adopt the remote meeting procedures. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Joyce Hastings, Paul Tyrell, Azu Etoniru, Dan Caron, Shannon Slaughter, Paul Tsang, Maurice Pilette, Kenneth Anderson, and Ronald Willey. Members opposed: None.

8. Attestation Review was tabled until the August 30, 2022 meeting.
9. Board Counsel Jenna Hentoff informed the Board that the most recently amended draft language regarding Continuing Professional Competency (CPC) regulations has been sent to the Office of Consumer Affairs and Business Regulation (OCABR) for review. She stated that once reviewed and approved, the next step would be to schedule public hearings.
10. Board Counsel Jenna Hentoff informed the Board that she is working with AR Board Counsel Lynn Read on the final round of edits to the "Professional Practice: A Guide to the Practice of Architecture, Engineering, and Land Surveying in Massachusetts."
11. Board members were provided with a memo regarding the Swansea Board of Health's local permit and/or licensure requirements, dated July 28, 2022, from Board Counsel Jenna Hentoff.

Board Counsel Jenna Hentoff inquired if the Board had any questions or comments regarding the memo. There were no questions or comments from the Board regarding the memo.

12. Board Counsel Jenna Hentoff stated that there were no further legal topics for discussion.

13. Eric Funk informed the Board that after review of the NCEES Enforcement Exchange, there were no new complaints opened against licensees for failure to notify the Board of discipline in another jurisdiction within the thirty (30) day window to report such discipline as outlined in the regulations.
14. Eric Funk advised the Board that an update to the case tracking spreadsheet should be available for distribution for the August 30, 2022 meeting now that the Complaint Committee has had an opportunity to meet and review cases.
15. Eric Funk stated that the Board received a Self-Report of discipline from Licensee #47932-C. The Licensee was disciplined by the MS Board for deficient seismic design methodology used in the construction of the Legacy Park Building 4 in Olive Branch, Mississippi. Licensee provided notice of a signed consent agreement that indicates he was fined \$11,020.00, his license was placed on probation for 2-years, and he was required to complete an ASCE Seismic Design and Detailing of Steel and Concrete Building Class. Eric Funk informed the Board that the Licensee did not report the discipline within the required 30-day timeframe but acknowledged that fact and was properly reporting such discipline to MA.

Kenneth Anderson motioned, seconded by Azu Etoniru to take no action against Licensee. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Joyce Hastings, Paul Tyrell, Azu Etoniru, Dan Caron, Shannon Slaughter, Paul Tsang, Maurice Pilette, Kenneth Anderson, and Ronald Willey. Members opposed: None

16. Chairman Paul Tyrell presented the application review report provided by Eric Funk for Board consideration. Azu Etoniru moved, 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, Paul Tyrell, Azu Etoniru, Dan Caron, Shannon Slaughter, Paul Tsang, Maurice Pilette, Kenneth Anderson, and Ronald Willey. Members opposed: None.
17. Board Counsel Jenna Hentoff provided the Board with a brief overview of applicant #1026990, who indicated that they had pending discipline from another state's engineer licensing board. The applicant had provided a partially executed consent agreement with their application and noted that the fully executed consent agreement would be forthcoming.

The Board requested that the item be tabled until such time that the fully executed consent agreement was available for review.

18. Board Counsel Jenna Hentoff provided the Board with a brief overview of applicant #1026667, who indicated that they had discipline from another state's engineer licensing board. The applicant, who was part of the project but was not a licensed PE in the state and was not the engineer of record, was disciplined by the AL Board for inadvertently allowing his name to appear on a supporting electrical document that was filed with the project plans. Applicant was fined a total of \$4,130.00 by the AL Board.

Kenneth Anderson motioned, seconded by Azu Etoniru to take no further action against Licensee and allow his application to move forward in the licensure process. Motion passed with a vote of 10-0. Members in Favor: Erin Joyce, Joyce Hastings, Paul Tyrell, Azu Etoniru, Dan Caron, Shannon Slaughter, Paul Tsang, Maurice Pilette, Kenneth Anderson, and Ronald Willey. Members opposed: None

19. Board Counsel Jenna Hentoff provided the Board with a brief overview of applicant #1020354, who had previously been licensed by the MA Board but had his license revoked. Applicant submitted a new application to the Board for licensure by examination but did not provide sufficient information related to prior discipline on his application.

After further discussion by the Board, it was determined that additional context was required, and the applicant's current and previous file be provided to Board Chair Paul Tyrell for review and consideration of next steps.

20. Board Counsel Jenna Hentoff provided the Board with an email from Bruce Hopper, Deputy General Counsel for Litigation at the Massachusetts Department of Environmental Protection, dated July 15, 2022, regarding the electronic submittal of a scan of a plan with a PE seal and handwritten signature.

The Board discussed the question and determined that a plan that contains a wet signature and seal that is then scanned and electronically submitted is not per se a violation of the Board's rules and regulations. Whether to accept such a plan is up to the approving authority.

The Board further noted that in such instance, there would be no way to authenticate the signature of the individual such as there is with the use of a digitized seal and encrypted digital signature as is outlined in 250 CMR 5.03(11), which states, "when a digital signature is used, it must have an electronic authentication process that is uniquely associated with the licensee which allows for the signature to be authenticated and is invalidated if anything is changed."

Board Counsel Jenna Hentoff stated that she would provide the Board's response to Mr. Hopper.

21. There were no public comments.
22. At 10:15AM, Azu Etoniru moved, seconded by Kenneth Anderson, to end the Open Session of the meeting and enter 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, Paul Tyrell, Azu Etoniru, Dan Caron, Shannon Slaughter, Paul Tsang, Maurice Pilette, Kenneth Anderson, and Ronald Willey. Members opposed: None.

Report of actions taken during closed investigate conference:

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|-----------------------|---|
| ➤ 2021-001026-IT-ENF: | Send to Prosecutions (Paul Tyrell recused)  |
| ➤ 2021-001027-IT-ENF: | Send to Prosecutions (Paul Tyrell recused)  |
| ➤ 2021-001142-IT-ENF: | Dismiss with Advisory (Paul Tyrell recused) |
| ➤ 2021-001153-IT-ENF: | Dismiss (Azu Etoniru recused)               |
| ➤ 2021-001210-IT-ENF: | Send to Prosecutions                        |
| ➤ 2022-000016-IT-ENF: | Dismiss (Kenneth Anderson recused)          |
| ➤ 2022-000078-IT-ENF: | Dismiss                                     |
| ➤ 2022-000108-IT-ENF: | Dismiss with Advisory                       |
| ➤ 2022-000109-IT-ENF: | Dismiss with Advisory                       |
| ➤ 2022-000145-IT-ENF: | Dismiss with Advisory                       |
| ➤ 2022-000159-IT-ENF: | Send to Prosecutions                        |
| ➤ 2022-000194-IT-ENF: | Dismiss (Joyce Hastings recused)            |

Respectfully submitted by,

  
Eric Funk  
Board Administrator

- Agenda for July 28, 2022 Meeting
- Draft Minutes of June 23, 2022 Open Meeting
- Copy of Notice and Executive Order #600 Protecting Access to Reproductive Health Care Services in the Commonwealth
- Memo to Board, dated July 28, 2022
- Email from Bruce Hopper, Deputy General Counsel for Litigation at the Massachusetts Department of Environmental Protection, dated July 15, 2022, regarding whether a scan of a wet signature/seal submitted electronically is acceptable