

# ARKANSAS REGISTER

## Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency State Board of Licensure for Professional Engineers and Professional Surveyors

Department Department of Labor and Licensing

Contact Heather Richardson E-mail Heather.Richardson@Arkansas.gov Phone (501) 682-2824

Statutory Authority for Promulgating Rules A.C.A §17-30-101 (Engineers) A.C.A §17-48-101 (Surveyors)

**Rule Title:** Rules of the Board of Licensure for Professional Engineers and Professional Surveyors

### Intended Effective Date

(Check One)

☐ Emergency (ACA 25-15-204)

☒ 10 Days After Filing (ACA 25-15-204)

☐ Other \_\_\_\_\_  
(Must be more than 10 days after filing date.)

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Date

May 17, 2020

June 20, 2020

August 19, 2020

July 14, 2020

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Heather Richardson

Heather.Richardson@Arkansas.gov

August 21, 2020

Contact Person

E-mail Address

Date

### CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted  
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

(501) 682-2824

Phone Number

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E-mail Address

Director

Title

August 21, 2020

Date

## **RULES OF THE BOARD**

### **ARTICLE 1. GENERAL PROVISIONS**

#### **A. Practice of Engineering**

In order to safeguard life, health and property and to promote the public welfare, the practice of engineering in the State of Arkansas is subject to regulation. It shall be unlawful for any person to practice, or to offer to practice engineering in this state, as defined in the provisions of A.C.A. 17-30-101 et. seq., and the Administrative Procedure Act, A.C.A. 25-15-101 et. seq., or to assume, advertise, or use the person's name and title or description tending to convey the impression that the person is an engineer unless such person has been duly licensed under the provisions of these statutes. The Practice of Engineering shall be deemed a privilege granted by the State through the Licensing Board based on the qualifications of the individual as evidenced by their certificate of licensure, which shall not be transferable.

#### **B. Practice of Surveying**

In order to safeguard life, health and property and to promote the public welfare, the practice of surveying in the State of Arkansas is subject to regulation. It shall be unlawful for any person to practice, or to offer to practice, surveying in this state, as defined in the provisions of A.C.A. 17-48-101 et. seq., and the Arkansas Administrative Procedure Act, A.C.A. 25-15-101 et. seq. or to assume, advertise, or use the person's name, and title or description tending to convey the impression that the person is a surveyor unless such person has been duly licensed under these statutes. The Practice of Surveying shall be deemed a privilege granted by the State through the Licensing Board based on the qualifications of the individual as evidenced by their certificate of licensure, which shall not be transferable.

### **ARTICLE 2. DEFINITIONS**

A. Board – The term “Board” shall mean the Arkansas State Board of Licensure for Professional Engineers and Professional Surveyors.

B. Professional Engineer – The term “professional engineer” shall mean a person who has been duly licensed as a Professional Engineer by the Board.

C. Engineer Intern – The term “engineer intern” shall mean a person who complies with the requirements of the rules of the Board, who has passed an eight (8) hour National Council of Examiners for Engineering and Surveying (NCEES) Fundamentals of Engineering examination, and has been licensed by the Board.

#### **D. Practice of Engineering –**

1. The term “practice of engineering” shall mean any service or creative work, the adequate performance of which requires engineering education and experience in the application of special knowledge in the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, evaluation, planning and design of engineering works and systems relating to the use of air, land, and waters; municipal and regional planning; forensic services; teaching of junior level or above engineering subjects or courses related thereto; engineering surveys, and the observation of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces such service or work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, or projects, including such architectural services as is incidental to the practice of engineering.

2. Except as provided in 3. below, a person shall be construed to practice or offer to practice engineering who practices in any branch of engineering; or who, by verbal claim, sign, advertisement, letterhead, card

or in any other way, represents himself to be an engineer; or who through the use of some other title implies that the person is an engineer or that the person is licensed by the Board; or who holds himself out as able to perform or does perform any engineering service or work which is recognized as engineering, but such definition shall not include persons who operate or maintain machinery or equipment. The practice of engineering shall not include the act of measuring land, drawing or reading plans or other work normally done by mechanics, technicians, draftsmen or licensed surveyors.

3. A person who is a licensed engineer in another jurisdiction shall not be considered to be offering to practice engineering when soliciting work by any of the following means:

a. Advertising in publications or electronic media, provided there is no holding out of professional services in jurisdictions where not licensed;

b. Responding to letters of inquiry regarding requests for proposals, provides there is written disclosure that the engineer and firm are not licensed in this jurisdiction and the response is limited to inquiries regarding scope and to demonstrate interest;

c. Responding to letters of inquiry from prospective clients, provided there is written disclosure that the engineer and firm are not licensed in this jurisdiction and the response is limited to inquiries regarding scope of project and to demonstrate interest;

d. Submitting proposals to prospective clients in response to notices, inquiries or solicitations provided there is written disclosure that the engineer and firm are not licensed in this jurisdiction.

Regardless of the above, contracts may not be signed, or work commenced until the engineer and firm become licensed in this jurisdiction.

E. Professional Surveyor – The term “professional surveyor” shall mean a person who, by reason of special knowledge of mathematics, surveying principles and methods, and legal requirements that are acquired by education and experience, is qualified to engage in the practice of land surveying and surveying measurement certification; and who has been duly licensed by the Board.

F. Surveyor Intern – The term “surveyor intern” shall mean a person who complies with the requirements of the rules of the Board, who has passed an approved NCEES Fundamentals of Surveying examination and who has been licensed by the Board.

G. Practice of Surveying – Except as provided in 3. below, a person shall be construed to practice or offer to practice surveying who engages in surveying for others or who by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself to be able to perform surveying or who through some other title implies that the person is a professional surveyor or that the person is licensed by this Board.

1. Land Surveying – The term “land surveying” shall mean any determination of the location of land boundaries or land boundary corners; the preparation of plats showing the shape and areas of tracts of land and their subdivision into smaller tracts; the preparation of plats showing the location of streets, roads, easements or right-of-ways of tracts to give access to smaller tracts; the preparation of official plats or maps of land boundaries within the State of Arkansas; and teaching of land surveying. The term “land surveying” shall not include the measuring of acreage of timber, cotton, rice or other agricultural crops and/or surveying of irrigation levees.

2. Surveying Measurement Certification –

a. Means providing the professional service of certification or sealing of maps, documents, digital

files, or other data for the purpose of verifying that the maps, documents, digital files, or other data are authoritative professional determinations based upon accepted methods and principals of surveying measurements or analysis representing or listing the following types of surveying measurements:

- i. The configuration or contour of the earth's surface or the position of fixed objects on the earth's surface;
- ii. The position or elevation of any survey boundary or control monument or reference point; and
- iii. The alignment or elevation of any fixed works embraced within the practice of professional engineering.

b. The term "surveying measurement certification" shall not be construed to permit the preparation of engineering or architectural design documents or quantity payment documents.

3. Clarification to Offering to Practice Surveying – A person who is a licensed surveyor in another jurisdiction shall not be considered to be offering to practice surveying when soliciting work by any of the following means:

- a. Advertising in publications or electronic media, provided there is no holding out of professional services in jurisdictions where not licensed;
- b. Responding to letters of inquiry regarding requests for proposals, provides there is written disclosure that the surveyor and firm are not licensed in this jurisdiction and the response is limited to inquiries regarding scope and to demonstrate interest;
- c. Responding to letters of inquiry from prospective clients, provided there is written disclosure that the surveyor and firm are not licensed in this jurisdiction and the response is limited to inquiries regarding scope of project and to demonstrate interest.
- d. Submitting proposals to prospective clients in response to notices, inquiries or solicitations provided there is written disclosure that the surveyor and firm are not licensed in this jurisdiction.

Regardless of the above, contracts may not be signed, or work commenced until the surveyor and firm become licensed in this jurisdiction.

H. Metadata – The term "metadata" means a description of the content, ancestry and source, quantity, database schema, and accuracy of digital map data.

I. Responsible Charge – The term "responsible charge" shall mean direct control, supervision of and legal responsibility for all engineering and surveying performed. This responsible charge shall be of such a nature that the client may reasonably presume that the licensed engineer or surveyor of the firm which the client has employed is the provider of the professional services.

J. NCEES – The term "NCEES" shall mean the National Council of Examiners for Engineering and Surveying. It is composed of Boards from the U.S. and its territories. NCEES is a source for the engineering and surveying examinations. The Arkansas Board of Licensure for Professional Engineers & Professional Surveyors is a member of NCEES.

K. Firm – The term "Firm" means any form of business entity that offers professional engineering and/or professional surveying services to the public. The term shall not include an individual licensee operating in the individual's own name so long as:

1. The licensee is operating as a sole proprietorship;

2. The name of the entity is sufficient to identify the licensee from the Board's roster and includes, at a minimum, the licensee's last name and first and middle initials; and
3. The name is personal to the licensee and not a trade name, dba or otherwise fictitious name.

### **ARTICLE 3. BOARD – ORGANIZATION AND MEETING**

- A. Regular meetings of the Board shall be held bi-monthly and at such other times and places as the Board may designate. The President may call special meetings when the President deems necessary or upon the written request of three members of the Board.
- B. The Board shall elect a President and Vice-President annually. A Director shall be appointed by the Board and will serve also as Secretary-Treasurer of the Board.
- C. Roberts Rules of Order Newly Revised and Arkansas Administrative Procedure Act shall govern the procedures of the Board.
- D. The President shall be the executive head of the Board. The President shall preside at meetings, appoint committees, and perform all the duties pertaining to the office of President.
- E. The Vice-President shall exercise the duties and possess all the powers of the President in the absence or incapacity of the President.
- F. The Director, with the assistance of staff, shall:
  1. Keep minutes of the Board;
  2. Furnish a copy of all minutes to each member of the Board;
  3. Send written notice of regular and special meetings of the Board not less than ten (10) days in advance thereof;
  4. Examine each application for licensure prior to consideration by the Board;
  5. Address inquiries to references to verify qualifications of applicants;
  6. Make arrangements as required by the Board for examinations, interviews and hearings;
  7. Report the results of every examination and other evidence of qualifications to the Board members;
  8. Review and investigate, with the Complaint Committee, all complaints or alleged violations received by the Board;
  9. Prepare and present required reports, budgets, and rosters as the Board or Secretary of the Department of Labor and Licensing may direct;
  10. Keep all records;
  11. Keep all funds and fiscal records;
  12. Prepare official correspondence of the Board;
  13. Perform all other duties prescribed by the statutes and the rules of the Board; and
  14. Perform all other duties normally associated with office administration.
- G. Regular and special committees appointed by the President shall perform the duties assigned to them and shall present reports to the Board in a timely fashion as specified by the President.

### **ARTICLE 4. BOARD – POWERS**

- A. The Board shall have the power to adopt and amend all rules consistent with Arkansas law, including the adoption and promulgation of the Rules of Professional Conduct, which shall be binding upon persons licensed under the statutes and the rules of the Board.
- B. The Board may subpoena witnesses and require the submission of books, papers, documents, or other

pertinent data, when a violation of the statutes and/or the rules of the Board is alleged. Upon failure or refusal to comply with any such order of the Board or upon failure to honor its subpoena, the Board may apply to a court of competent jurisdiction to enforce compliance.

C. In the name of the State of Arkansas, the Board is authorized to apply for relief by injunction in the established manner provided in cases of civil procedure, without bond, to enforce the provisions of the statutes and the rules of the Board or to restrain any violation. In such proceedings, it shall not be necessary to allege or prove either that an adequate remedy at law does not exist or that substantial or irreparable damage would result from the continued violation. The members of the Board shall not be personally liable under these proceedings.

## **ARTICLE 5. RECEIPTS AND DISBURSEMENTS**

The Director of the Board shall receive and account for all money received under the provisions of the statutes and the rules of the Board.

## **ARTICLE 6. RECORDS AND REPORTS**

A. The Board shall keep a record of its proceedings and of all applications for licensure. All applications shall include:

1. The name, age, social security number, and address of each applicant;
2. The date of application;
3. The place of business of such applicant;
4. Education, experience and other qualifications of such applicant;
5. The Board's decision concerning the applicant;
6. The date of the Board's actions;
7. The examination taken and the results; and
8. Such other information as the Board deems necessary.

B. The Board's record shall be prima facie evidence of its proceedings and a transcript thereof, duly certified by the Director under seal, shall be admissible as evidence with the same force and effect of the original.

C. At its discretion, the Board may send, accept, create and retain any records, forms, applications, etc., either in written or electronic form or may convert written records to electronic records in a manner and format prescribed by the Board, so long as they comply with the provisions of the Uniform Electronic Transactions Act ("UETA") (A.C.A. § 25-32-101 et seq.). In addition, electronic signatures may be accepted in lieu of handwritten signatures so long as they comply with the UETA and the "Electronic Signature Standard" or any current standard developed by the Department of Information Systems and/or the Department of Finance and Administration as provided for in A.C.A. § 25-32-118(a)(2) and the Board may specify the type or level and format of electronic signature that may be used.

## **ARTICLE 7. ROSTER**

Rosters showing the names and addresses of all licensed engineers and surveyors shall be made available by the Board at intervals established by the Board. Such publication shall be in accordance with current Arkansas Law.

## **ARTICLE 8. GENERAL REQUIREMENTS FOR LICENSURE**

A. General Information

1. Each applicant must meet all qualifications as contained within the statutes and rules of the Board.

Each application shall be individually reviewed by the Board. Experience credit may be claimed to application date.

2. The term “Engineering Accreditation Commission of Accreditation Board for Engineering and Technology (EAC of ABET) approved, or equivalent” is used throughout these rules. The phrase “or equivalent” will be defined by the Arkansas Board as:

- a. Those who have both a degree from a non EAC of ABET undergraduate engineering or engineering technology program and a graduate engineering degree from an institution that offers an EAC of ABET accredited undergraduate degree in the same discipline as the graduate degree; or
- b. Those who have a degree or degrees from a non-accredited program(s) but have had their official transcripts evaluated and found acceptable by a Board-approved organization such as NCEES or have made up any deficiencies identified by the evaluation with courses offered by an EAC of ABET accredited degree program or equivalent.

3. An applicant will be considered as having graduated from an EAC of ABET accredited program if their program is/was accredited within three (3) years after their graduation.

4. The Board authorizes the Director to conditionally approve, subject to Board ratification, all comity and intern applicants who meet the requirements of the Board’s statutes and rules.

#### B. Engineer Intern

##### 1. Original Licensure.

An applicant who supplies proof of graduation from an EAC of ABET approved, or equivalent, engineering curriculum of four (4) years or more and has passed an approved NCEES examination in the fundamentals of engineering shall be licensed as an engineer intern.

##### 2. Reciprocity (Comity)

a. Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:

i. The applicant shall hold in good standing a substantially similar license in another U.S. jurisdiction.

(a) An engineer intern license from another state is substantially similar to an Arkansas engineer intern license if an applicant has, or the other state’s licensure qualifications require an applicant to have, proof of graduation from an EAC of ABET- approved, or equivalent, engineering curriculum of four (4) years or more.

(b) The applicant shall not have had a license revoked for:

- (1) An act of bad faith; or
- (2) A violation of law, rule, or ethics;

(c) The applicant shall not hold a suspended or probationary license in a U.S. jurisdiction; and

ii. The applicant shall be sufficiently competent in the field.

b. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.

- i. As evidence that the applicant's engineer intern license from another jurisdiction is in good standing and is substantially similar to an Arkansas engineer intern license, the applicant shall submit the following information:
  - (a) Evidence of current licensure in good standing in that state. The Board may verify this information online or by telephone; and
  - (b) Evidence that the applicant has, or the other state's licensure requirements match, the educational requirements in Article 8.B.2.a.i.(a). The Board may receive verification of an applicant's education directly from the applicant's school(s), or the Board may verify the applicant's education and the other state's licensure requirements online or by telephone; and
  - (c) To demonstrate that the applicant has not had a license revoked for bad faith or a violation of law, rule, or ethics, as required by Article 8.B.2.a.i.(b), and that the applicant does not hold a license on suspended or probationary status, as required by Article 8.B.2.a.i.(c), the applicant shall provide the Board with:
    - (1) The names of all states in which the applicant is currently licensed or has been previously licensed; and
    - (2) Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant's license has not been revoked for the reasons listed in Article 8.B.2.a.i.(b) and is not on suspended or probationary status as described in Article 8.B.2.a.i.(c). The Board may verify information online or by telephone.
- ii. As evidence that the applicant is sufficiently competent, the applicant shall pass an examination in the fundamentals of engineering.

## C. Professional Engineer

### 1. Original Licensure

- a. The applicant shall supply proof of graduation from an EAC of ABET approved, or equivalent, engineering curriculum of four (4) years or more and with a specific record of an additional four (4) or more years of progressive engineering experience of a grade and character which indicates to the Board that the applicant may be competent to practice and has experienced increased engineering responsibilities. Refer to Section Article 10. Professional Experience.
- b. Applicant shall submit five (5) references, three (3) of which shall be professional engineers having personal knowledge of the applicant's engineering experience. Preferably these references should include both present and past supervisors.
- c. One additional year of education may be substituted for experience for each Graduate Degree in engineering not to exceed two years of credit. Four (4) years must elapse after completing the requirements for the EAC of ABET degree.
- d. The applicant shall have previously passed an examination in the fundamentals of engineering that is acceptable to the Board.
- e. The applicant shall be admitted to an approved NCEES Professional Engineer examination once the applicant meets the above requirements, or the Board shall accept the results of an approved NCEES Professional Engineer examination that the applicant has previously passed.



f. Upon satisfactory completion of these requirements, the applicant shall be licensed in the State of Arkansas.

g. The Board may exempt an individual from the NCEES Fundamentals of Engineering Examination if the individual possesses an EAC of ABET accredited engineering degree and an earned doctorate in engineering from a school which has an accredited engineering degree program in that discipline. An oral interview/examination may replace the written examination. The NCEES Professional Engineering Examination will not be waived.

## 2. Reciprocity (Comity)

a. Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:

- i. The applicant shall hold in good standing a substantially similar license in another U.S. jurisdiction.
  - (a) A professional engineer license from another state is substantially similar to an Arkansas professional engineer license if the applicant meets one of the following, whichever is least restrictive:
    - (1) The applicant graduated from an EAC of ABET- approved, or equivalent, engineering curriculum of four (4) years or more; or
    - (2) The applicant meets the Arkansas requirements for licensure that were in effect at the time the applicant received his or her initial license as a professional engineer in another state.
  - (b) The applicant shall not have had a license revoked for:
    - (1) An act of bad faith; or
    - (2) A violation of law, rule, or ethics;
  - (c) The applicant shall not hold a suspended or probationary license in a U.S. jurisdiction;
- ii. The applicant shall be sufficiently competent in the field of professional engineering; and
- iii. The applicant shall meet the Board's least restrictive requirements, which are described below in Article 8.C.2.b.iii.

b. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.

- i. As evidence that the applicant's professional engineer license from another jurisdiction is in good standing and is substantially similar to an Arkansas professional engineer license, the applicant shall submit the following information:
  - (a) Evidence of current licensure in good standing in that state. The Board may verify this information online or by telephone; and
  - (b) Evidence that the applicant meets the requirements in either Article 8.C.2.a.i.(a)(1) or (2), whichever is less restrictive. The Board may receive verification of an applicant's education directly from the applicant's school(s), or the Board may verify information online or by telephone; and
  - (c) To demonstrate that the applicant has not had a license revoked for bad faith or a violation of law, rule, or ethics, as required by Article 8.C.2.a.i.(b), and that the applicant does not hold a license on suspended or probationary status, as required by Article 8.C.2.a.i.(c), the applicant shall provide the Board with:

- (1) The names of all states in which the applicant is currently licensed or has been previously licensed; and
  - (2) Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant's license has not been revoked for the reasons listed in Article 8.C.2.a.i.(b) and is not on suspended or probationary status as described in Article 8.C.2.a.i.(c). The Board may verify information online or by telephone.
- ii. As evidence that the applicant is sufficiently competent in engineering, an applicant shall:
  - (a) Submit five (5) references, three (3) of which shall be professional engineers having personal knowledge of the applicant's engineering experience. Preferably these references should include both present and past supervisors; and
  - (b) Pass an examination in the fundamentals of engineering, except that the fundamentals exam shall be waived for:
    - (1) Individuals with at least fifteen (15) years licensed practice; or
    - (2) An individual with an EAC of ABET accredited engineering degree and an earned doctorate in engineering from a school that has an accredited engineering degree program in that discipline.
- iii. As evidence that the applicant meets the Board's least restrictive requirements, the applicant shall:
  - (a) Have passed the NCEES Professional Engineer examination; and
  - (b) Have four (4) or more years of post-graduate engineering experience. Arkansas will accept an applicant's experience if the applicant's experience has been accepted by another state in which applicant holds a professional engineer license in good standing that is substantially similar to an Arkansas professional engineer license.

#### D. Surveyor Intern

1. Original Licensure. Effective January 1, 2017, an applicant shall submit:
  - a. Proof of graduation with a Bachelor of Science degree in Surveying, Geomatics, Geomatics Engineering, or Spatial Information Systems with a minor or emphasis in Surveying, from a program accredited by ABET or approved by the Board; or
  - b. Proof of graduation with an Associate of Science or Associate of Applied Science degree in Surveying or Surveying Technology from a program approved by the Board; or
  - c. Proof of graduation with a baccalaureate degree from a curriculum of four (4) years - and at least thirty (30) hours of surveying or surveying-related courses. One or more of the courses shall emphasize U.S. Public Land Survey System aspects and principles, and one or more of the courses shall emphasize Law and Professionalism in Geomatics or Surveying.
2. Applicants meeting the requirements of this section shall, upon consideration and approval of all materials required by the Board, and if otherwise qualified, shall have passed an approved NCEES examination in the fundamentals of surveying and shall be licensed as a surveyor intern upon successful completion of that examination.
3. An applicant who submitted an application prior to January 1, 2017 and found by the Board to meet the requirements in effect at that time, may take or continue to take the NCEES examination as provided in

Article 11. In no case, however, shall an applicant be allowed to take the NCEES examination after January 1, 2020 unless the applicant meets the requirements of subsection D.1.

#### 4. Reciprocity (Comity)

- a. Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:
  - i. The applicant shall hold in good standing a substantially similar license in another U.S. jurisdiction.
    - (a) A surveyor intern license from another state is substantially similar to an Arkansas surveyor intern license if an applicant has, or the other state's licensure qualifications require an applicant to have, one of the following:
      - (1) Proof of graduation with a Bachelor of Science degree in Surveying, Geomatics, Geomatics Engineering, or Spatial Information Systems with a minor or emphasis in Surveying, from a program accredited by ABET or approved by the Board; or
      - (2) Proof of graduation with an Associate of Science or Associate of Applied Science degree in Surveying or Surveying Technology from a program approved by the Board; or
      - (3) Proof of graduation with a baccalaureate degree from a curriculum of four (4) years and at least thirty (30) hours of surveying or surveying-related courses. One or more of the courses shall emphasize U.S. Public Land Survey System aspects and principles, and one or more of the courses shall emphasize Law and Professionalism in Geomatics or Surveying.
    - (b) The applicant shall not have had a license revoked for:
      - (1) An act of bad faith; or
      - (2) A violation of law, rule, or ethics;
    - (c) The applicant shall not hold a suspended or probationary license in a U.S. jurisdiction;
  - ii. The applicant shall be sufficiently competent in the field of surveying.
- b. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
  - i. As evidence that the applicant's surveyor intern license from another jurisdiction is in good standing and is substantially similar to an Arkansas surveyor intern license, the applicant shall submit the following information:
    - (a) Evidence of current licensure in good standing in that state. The Board may verify this information online or by telephone; and
    - (b) Evidence that the applicant has, or the other state's licensure requirements match, the educational requirements in Article 8.D.4.a.i.(a)(1), (2), or (3). The Board may receive verification of an applicant's education directly from the applicant's school(s), or the Board may verify the information online or by telephone; and
    - (c) To demonstrate that the applicant has not had a license revoked for bad faith or a violation of law, rule, or ethics, as required by Article 8.D.4.a.i.(b), and that the applicant does not hold a license on suspended or probationary status, as required by Article 8.D.4.a.i.(c), the applicant shall provide the Board with:

- (1) The names of all states in which the applicant is currently licensed or has been previously licensed; and
  - (2) Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant's license has not been revoked for the reasons listed in Article 8.D.4.a.i.(b) and is not on suspended or probationary status as described in Article 8.D.4.a.i.(c). The Board may verify information online or by telephone.
- ii. As evidence that the applicant is sufficiently competent in surveying, an applicant shall have passed an examination in the fundamentals of surveying.

## E. Professional Surveyor

### 1. Original Licensure

#### a. Effective January 1, 2017, an applicant shall submit:

- i. Proof of graduation with a Bachelor of Science degree in Surveying, Geomatics, Geomatics Engineering, Spatial Information Systems with a minor or emphasis in Surveying, from a program accredited by ABET or approved by the Board; or
- ii. Proof of graduation with an Associate of Science or Associate of Applied Science degree in Surveying or Surveying Technology from a program approved by the Board; or
- iii. Proof of graduation with a baccalaureate degree from a curriculum of four (4) years or more and at least thirty (30) hours of surveying or surveying-related courses. One or more of the courses shall emphasize Public Land Survey System aspects and principles, and one or more of the courses shall emphasize Law and Professionalism in Geomatics or Surveying.
- iv. Proof of three (3) years of acceptable experience if the applicant's educational qualifications meet the requirements of subsection i. or subsection iii. of this section or six (6) years of acceptable experience if the applicant's educational qualifications meet the requirements of subsection ii. of this section. Refer to Section Article 10. Professional Experience.

#### A. Those applicants requiring three (3) years' experience shall demonstrate:

1. At least one (1) year in performing field duties that would include all aspects of planning and performing boundary surveys in a public land survey system similar to that in Arkansas including finding and evaluating evidence, monumentation, checking distances and locations, and verifying accuracies and closures; and
2. At least one (1) year in performing office duties involving the research and planning of boundary, title, right-of-way or other surveys requiring the determination of boundary lines and corners for field crews, computations for plats, and the drawing, drafting, publishing of surveys and survey plats; and
3. The remainder of the three (3) years in either of the office or field procedures identified above or may be in other types of surveying whether in the office or field such as construction stakeout, surveying for engineering projects, topographical surveying or any activity constituting Surveying Measurement Certification.

B. Those applicants requiring six (6) years' experience shall demonstrate:

1. At least two (2) years in performing field duties that would include all aspects of planning and performing boundary surveys in a public land survey system similar to that in Arkansas including finding and evaluating evidence, monumentation, checking distances and locations, and verifying accuracies and closures; and
2. At least two (2) years in performing office duties involving the research and planning of boundary, title, right-of-way or other surveys requiring the determination of boundary lines and corners for field crews, computations for plats, and the drawing, drafting, publishing of surveys and survey plats; and
3. The remainder of the six (6) years can be in either office or field procedures identified above or may be in other types of surveying whether in the office or field such as construction stakeout, surveying for engineering projects, topographical surveying or any activity constituting Surveying Measurement Certification.

C. Time documented as spent in classroom training in engineering or surveying topics and that improve or enhance the applicant's skills in one or more of the areas identified in subsections A.3. or B.3. of this section may substitute for the field or office experience at the discretion of the Board. Surveying courses that are not included or required as part of the applicant's degree or educational requirements shall be presumed to qualify for experience credit. The amount of credit actually provided for classes or training shall be determined based on the time spent while taking or attending the course or class as well as its content and complexity, and the total of all classroom or training credit shall not exceed the experience for an applicant under subsections A.3. and B.3.

b. Applicant shall submit five (5) references, three (3) of which shall be from Professional Surveyors having personal knowledge of the applicant's surveying experience. These references should include both present and past supervisors.

c. The applicant shall have previously passed a NCEES examination in the fundamentals of surveying that is acceptable to the Board.

d. The applicant shall be admitted to an approved NCEES Professional Surveying examination once the applicant meets the above requirements, or the Board shall accept the results of an approved NCEES Principles and Practice of Surveying examination that the applicant has passed.

e. The applicant shall pass Arkansas state surveying examination(s).

f. Upon satisfactory completion of these requirements, the applicant shall be granted licensure in the State of Arkansas.

g. An applicant who submitted an application prior to January 1, 2017 and was found by the Board to meet the qualifications in effect at that time may take or continue to take the NCEES examination and state specific surveying examination as provided in Article 11. In no case, however, shall an applicant be allowed to take the NCEES and/or state examination after January 1, 2020 unless the applicant meets the requirements of subsection E.1.a.

## 2. Reciprocity (Comity)

- a. Required Qualifications. An applicant applying for reciprocal licensure shall meet the following requirements:
  - i. The applicant shall hold in good standing a substantially similar license in another United States jurisdiction.
    - (a) A professional surveyor license from another state is substantially similar to an Arkansas professional surveyor license if the applicant has, or the other state's licensure qualifications require an applicant to have, one of the following, whichever is least restrictive:
      - (1) Proof of graduation with a Bachelor of Science degree in Surveying, Geomatics, Geomatics Engineering, or Spatial Information Systems with a minor or emphasis in Surveying, from a program accredited by ABET or approved by the Board; or
      - (2) Proof of graduation with an Associate of Science or Associate of Applied Science degree in Surveying or Surveying Technology from a program approved by the Board; or
      - (3) Proof of graduation with a baccalaureate degree from a curriculum of four (4) years and at least thirty (30) hours of surveying or surveying-related courses. One or more of the courses shall emphasize U.S. Public Land Survey System aspects and principles, and one or more of the courses shall emphasize Law and Professionalism in Geomatics or Surveying; or
      - (4) The applicant meets the Arkansas requirements for licensure that were in effect at the time the applicant received his or her initial license as a professional surveyor in another state.
    - (b) The applicant shall not have had a license revoked for:
      - (1) An act of bad faith; or
      - (2) A violation of law, rule, or ethics;
    - (c) The applicant shall not hold a suspended or probationary license in a United States' jurisdiction; and
  - ii. The applicant shall be sufficiently competent in the field of professional surveying; and
  - iii. The applicant shall meet the Board's least restrictive requirements, which are described below in Article 8.E.2.b.iii.
- b. Required documentation. An applicant shall submit a fully-executed application, the required fee, and the documentation described below.
  - i. As evidence that the applicant's professional surveyor license from another jurisdiction is in good standing and is substantially similar to an Arkansas professional surveyor license, the Board shall receive the following information:
    - (a) Evidence of current licensure in good standing in that state. The Board may verify this information online or by telephone to the other state's licensing board; and
    - (b) Evidence that the applicant has, or the other state's licensure requirements match, the educational requirements in Article 8.E.2.a.i.(a)(1), (2), or (3). The Board may receive verification of an applicant's education directly from the applicant's school(s), or the Board may verify the information online or by telephone; and

- (c) To demonstrate that the applicant has not had a license revoked for bad faith or a violation of law, rule, or ethics, as required by Article 8.E.2.a.i.(b), and that the applicant does not hold a license on suspended or probationary status, as required by Article 8.E.2.a.i.(c), the applicant shall provide the Board with:
    - (1) the names of all states in which the applicant is currently licensed or has been previously licensed; and
    - (2) Letters of good standing or other information from each state in which the applicant is currently or has ever been licensed showing that the applicant's license has not been revoked for the reasons listed in Article 8.E.2.a.i.(b), and is not on suspended or probationary status as described in Article 8.E.2.a.i.(c). The Board may verify information online or by telephone.
- ii. As evidence that the applicant is sufficiently competent in surveying, an applicant shall:
  - (a) Submit five (5) references, three (3) of which shall be Professional Surveyors having personal knowledge of the applicant's surveying experience. Preferably these references should include both present and past supervisors; and
  - (b) Passed an examination in the fundamentals of surveying. For those individuals with at least fifteen (15) years licensed practice, the Fundamentals of Surveying Examination may be waived.
- iii. As evidence that the applicant meets the least restrictive requirements, the applicant shall:
  - (a) Have passed the NCEES Principles and Practice of Surveying examination; and
  - (b) Pass the Arkansas state surveying examination; and
  - (c) One of the following, as applicable. Arkansas will accept an applicant's experience if the applicant's experience has been accepted by another state in which applicant holds a professional surveyor license in good standing that is substantially similar to an Arkansas professional surveyor.
    - (1) If the applicant has a bachelor's degree, the applicant must have three (3) years of experience; or
    - (2) If the applicant has an associate's degree, the applicant must have six (6) years of experience.

#### F. Reinstatement

1. Engineer and Surveyor Intern – Any Intern licensee who meets the requirements of Ark. Code Ann. § 17-1-107 shall be reinstated administratively by paying the appropriate fees and penalties as provided in Article 9.D
2. Professional Engineers and Surveyors - Any licensee whose license has been on inactive status or non-renewed may apply in writing for reinstatement. Inactive license holders seeking reinstatement shall submit a written request, proof of 15 hours per year of Continuing Professional Competency Training (CPC), not to exceed a total of 30 hours and pay a fee as prescribed in Article 9.E. Those seeking to be reinstated for non-renewing a license may do so in one of the following 3 ways:
  - a. Licensees who have been non-renewed for 2 years or less may be reinstated administratively by paying the appropriate fees and penalties as provided in Article 9.D.;
  - b. Licensees who have been non-renewed for more than 2 years but can demonstrate continuous active registration in another jurisdiction with no disciplinary actions during that period can be

reinstated conditionally by the Director subject to later ratification by the Board by submission of a completed application for reinstatement covering all experience and/or activities subsequent to the date of licensure, proof of 15 hours per year of Continuing Professional Competency Training (CPC), not to exceed a total of 30 hours and payment of a reinstatement fee and 2 years renewal fees and late penalties as prescribed in Article 9.E.;

c. Licensees who have been non-renewed for more than 2 years and meets the requirements of Ark. Code Ann. § 17-1-107 shall submit a completed application covering all experience and/or activities subsequent to the date of licensure, five (5) references, proof of 15 hours per year of Continuing Professional Competency (CPC) training, not to exceed a total of 30 hours, and payment of a reinstatement fee and the biennial renewal fees and late penalties as prescribed by Article 9.E..

#### G. Certificate of Authorization (COA)

1.. The practice of or offer to practice for others as defined in A.C.A. 17-30-101, or A.C.A. 17-48-101, by individuals licensed under this chapter through a firm as officers, employees, or agents, is permitted, subject to the provisions of this chapter; provided, that:

a. One (1) or more personnel of said firm designated as being responsible for the engineering or surveying activities and decisions is a professional engineer or surveyor under this chapter;

b. All personnel of said firm who act in its behalf as professional engineers or surveyors are licensed under A.C.A. 17-30-101 et. seq. or 17-48-101 et. seq.; and

c. Said firm has been issued a Certificate of Authorization by the board as hereinafter provided. The one exception to this requirement is where the firm is a sole proprietorship practicing in the name of the licensee.

2. A firm desiring a certificate of authorization shall file with the board an application, using the form provided by the Board, provide all the information required by the Board, and also of the individual duly licensed to practice engineering or surveying in this state who shall be in responsible charge of the practice of engineering or surveying in the state through said firm, must accompany the renewal fee. If the person in responsible charge changes during the year, an updated form must be filed with the Board within thirty (30) days of the effective date of the change.

3. The COA shall expire biennially and any firm that does not renew may later reapply for reinstatement by submitting an updated application along with reinstatement fee and up to two (2) years accumulated dues and penalties. In the event there shall be a change in any of these persons during the year, such changes shall be designated on the same form and filed with the Board within thirty (30) days after effective date of said changes.

4. If all of the requirements of this subsection G. are met, the Director may conditionally approve the application and Board shall ratify the issuance of a COA to such firm and such firm shall be authorized to contract for and to collect fees for furnishing engineering and surveying services.

5. The requirements of this chapter shall not prevent a firm from performing engineering or surveying services for the firm itself or a subsidiary or an affiliate of said firm.

6. No such firm shall be relieved of responsibility for the conduct or acts of its agents, employees, officers, or partners by reason of its compliance with the provisions of this section. No individual practicing engineering or surveying under the provisions of this chapter shall be relieved of responsibility for



engineering or surveying services performed by reason of employment or other relationship with a firm holding an authorization certificate.

7. An engineer or surveyor who renders occasional, part-time or consulting engineering or surveying services to or for a firm may not, for the purposes of subsection G., be designated as being in responsible charge of the professional activities of the firm unless the engineer or surveyor is an officer or owner of the firm.

8. Each firm that is issued a Certificate of Authorization (COA) shall obtain a seal. Refer to Article 12 subsection B.3 and B.4 for seal requirements and placement on engineering and surveying documents and drawings.

#### H. Temporary License

- i. The Board's Director shall issue a temporary license immediately upon receipt of the required fee and the documentation required to show that the applicant has a license from another jurisdiction that is in good standing and is substantially similar to an Arkansas engineer intern, professional engineer, surveyor intern, or professional surveyor license.
- ii. An applicant shall submit a completed the application with all required remaining documentation in order to receive a license.
- iii. The temporary license shall be effective for 90 days or until the Board makes a decision on the application, whichever occurs first.

#### I. Military Licensure

1. As used in this subsection, "returning military veteran" means a former member of the United States Armed Forces who was discharged from active duty under circumstances other than dishonorable.
2. The Board shall grant expedited licensure to an individual who holds a substantially equivalent license in another U.S. jurisdiction and is:
  - a. An active duty military service member stationed in the State of Arkansas;
  - b. A returning military veteran applying for licensure within one (1) year of his or discharge from active duty; or
  - c. The spouse of a person under Article 8.I.2.a. or b.
3. The Board shall grant such expedited licensure upon receipt of all of the below:
  - a. Payment of the initial licensure fee;
  - b. Evidence that the individual holds a substantially equivalent license in another state; and
  - c. Evidence that the applicant is a qualified applicant under Article 8.I.2.a., b., or c.; and
  - d. For professional surveying applicants, evidence that the applicant has passed the Arkansas state surveying examination.

### ARTICLE 9. FEES

#### A. Application

1. Application for licensure as a professional engineer or engineer intern or a professional surveyor or surveyor intern may be on forms furnished by, or electronically in a format specified by, the Board.
  - a. The prescribed fees shall be submitted when the application is filed. The applicant will be responsible for delivery of the blank reference forms to the applicant's references.
  - b. The application will not be considered complete and processed until all references and

verifications of degrees and licensing have been received at the Board office.

c. The Board may accept the information contained in the NCEES record in lieu of the information required on the forms prescribed by the Board.

2. Examinations may be given in various formats and with different application submittal dates depending on the examination format.

a. For examinations administered once or twice a year, completed applications for original licensure by examination must be received at the office of the Board by January 1st for the spring examination administration and July 1st for the fall examination administration.

b. For examinations administered in a computer-based format at more frequent intervals, there is no prior application required and no deadline, and an applicant or examinee may take an exam at any time and will be subject to the requirements imposed by the exam developer or administrator. See Article 11 for more information.

c. Regardless of the examination format, applicable experience requirements must be satisfied by the date of the application.

## B. Fees

### 1. Application

#### a. Professional Engineer

Original	\$ 75.00
Comity	\$200.00
Engineer Intern	\$ 50.00

#### b. Professional Surveyor

Original	\$ 75.00
Comity	\$200.00
Surveyor Intern	\$ 50.00

c. Certificate of Authorization \$150.00

### 2. Examination Fees

#### a. Arkansas State-Specific Surveying Examination

Fees for the Arkansas state-specific surveying examination shall be paid to the Board. Applicants and/or examinees approved by the Board, but who cancel or postpone a scheduled exam administration (15) or more days prior to the date of the exam shall be charged a fee of 50% of the exam fee amount and be credited the remainder for the next exam administration. The fee for cancelling or postponing an examination less than 15 days prior to the exam, failing to appear or complete an examination after being admitted to the examination room for any reason shall be 100% of the exam fee amount.

Arkansas State Specific Surveying	\$100.00
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b. Fees for examinations developed and administered by NCEES shall be paid to

NCEES at the amounts established by that organization. Payments shall be in accordance with any procedures and policies established by NCEES, and any credits, refunds, cancellations, postponements or any other action or request shall also be in accordance with NCEES policies and procedures.

C. Biennial License Renewal

1. Engineer	\$ 80.00
2. Engineer Intern	\$ 10.00
3. Surveyor	\$ 60.00
4. Surveyor Intern	\$ 10.00
5. Certificate of Authorization	\$100.00

D. License Renewal Late Penalty

1. 50% of renewal fee amount 1 to 60 days after renewal date
2. 100% of renewal fee amount 61 days to 2 years

E. Other Charges

1. Reinstatement from Inactive Status (see Article 8.F)	\$100.00
2. Reinstatement from non-renewed status (see Article 8.F)	\$100.00
3. Returned check	\$ 25.00
4. Temporary License	\$150.00
5. Replacement License Certificate	\$ 5.00

F. Refunds

There will be no refunds for application fees unless the refund request comes immediately after payment, and before Board staff has begun processing the application. Other than as specifically provided for in subsection B.2. of this Article, examination fees shall be refunded or credited to the next exam cycle only when the fee is paid at the time of application and the application is not approved. There will be no refund of full or partial license renewal fees.

**ARTICLE 10. PROFESSIONAL EXPERIENCE**

A. Professional experience of an applicant will include only such experience gained after the applicant's eighteenth (18th) birthday and shall be experience that requires the exercise of original thought and independent responsibility.

B. In the field or shop or laboratory, experience shall begin only after apprenticeship, or other subordinate position, unless the work accomplished specifically shows the applicant possesses originality and has responsibility in the subordinate position.

C. In the office, experience shall begin when the applicant ceases to do technicians duties and begins work that requires original thought and responsibility.

D. Teaching

1. Teaching engineering at the junior level or above in an approved curriculum of four (4) years or more

may be considered as engineering experience.

2. Teaching surveying in an approved curriculum of two (2) or four (4) year or more may be considered surveying experience.

E. Experience gained from training programs, sales, applications, contracting and manufacturer's representation or any other non-defined experience will be evaluated by the Board.

F. Experience shall be obtained under the direct supervision of a professional licensee of the respective profession, which is generally presumed to mean that the professional licensee is in close proximity and available for regular personal interaction and mentoring rather than in a remote manner. This provision may be waived at the discretion of the Board if the applicant can demonstrate that another supervisory arrangement provides similar oversight and guidance.

G. Professional experience shall begin only after completing the requirements for graduation for those applicants graduating from an approved engineering or surveying program.

H. The provisions of this Article 10 shall not apply to Reciprocity applicants to the extent that the applicant's experience has been accepted by another state in which applicant holds a license that is substantially similar to Arkansas's.

## **ARTICLE 11. EXAMINATIONS**

A. Examinations will be held semi-annually or at such other times and at places designated by the Board, NCEES or the Exam Administrator.

B. Examinees seeking to take or retake the NCEES Fundamentals of Engineering Examination or the NCEES Fundamentals of Surveying Examination in a computer-based format shall register directly with NCEES.

C. Examinees seeking or required to take the NCEES Principles and Practice of Engineering Examination, the NCEES Principles and Practice of Surveying Examination or the Arkansas specific surveying examination as part of an application for original or comity licensure shall be admitted in accordance with the following procedures:

1. Prior to admitting applicants, the Board will review all applications and may interview applicants. On the basis of all formally submitted information, supplemented by information obtained at the interview, (if held), the Board will either admit or deny the applicant to the examination.

2. Upon being approved for an examination the applicant will be referred to NCEES or other designated firm or entity for further instructions, fee payments, and examination administration.

3. The applicant must receive a minimum passing grade or meet standards for passing as established by NCEES.

4. Applicants who fail to pass the Arkansas state-specific surveying exam will be notified and those desiring to sit again must notify the Board of their intentions. The date and time for readmission will be at the discretion of the Board but will generally be at the next regularly scheduled administration.

D. Examinees shall abide by the Board's and exam administrator's examination policies and procedures. An examinee who does not fully comply with the exam administrator's policies or engages in other misconduct may be subject to dismissal or score invalidation by the exam administrator and be subject to any of the following:

1. An examinee may be subject to disciplinary or other Board action following a written report from

the exam administrator that the examinee engaged in misconduct including, but not limited to:

- a. Cheating on the examination;
- b. Giving assistance to, or receiving assistance from, another person;
- c. Compromising the integrity or security of the examination;
- d. Disruptive or abusive behavior;
- e. Violation of any exam policies or procedures.

2. An examinee failing to comply with the Board's or exam administrator's policies and procedures or engaging in any of the misconduct identified in subsection D.1. before, during or subsequent to an examination may be subject to:

- a. Having the examinee's exam results invalidated either by the exam administrator or the Board;
- b. Being prohibited from taking the examination(s) for a period of time as determined by the Board;
- c. Having any pending application for examination or licensure denied or re-evaluated.

3. The Board may consider an applicant's or examinee's conduct before, during or subsequent to an examination in another state or jurisdiction when evaluating the applicant's qualifications or fitness for licensure in this state.

4. The Board may choose not to consider or accept the results of any licensure examination taken and passed in another state by an applicant or licensee during the time an applicant or licensee has been prohibited from taking an examination in this state for failing to comply with the provisions of this section.

## **ARTICLE 12. CERTIFICATES AND SEALS**

### **A. Certificates**

1. For all Professional Engineers and Professional Surveyors, all Engineer Interns and Surveyor Interns, the Board shall issue a Certificate. The certificate shall show the name of the licensee, the license number and shall be signed by the President and Director with the embossed seal of the Board.

2. The issuance of a Certificate of Licensure by the Board shall be Prima Facie Evidence that the person named therein is licensed while the certificate remains unrevoked.

### **B. Seals**

1. Upon licensure each professional engineer may obtain a seal of the design authorized by the Board bearing the licensee's name, license number and the legend "Licensed Professional Engineer".

a. Each page of each final engineering document to include drawings, and the cover sheet of specifications and the signature page of written reports prepared by a licensee shall, when issued, be dated, signed and stamped with the said seal or facsimile thereof by the responsible licensee(s).

b. It shall be unlawful for an engineer to affix, or permit the engineer's seal or facsimile thereof to be affixed to any engineering drawing, specifications, plats or reports after the expiration of the engineer's license or for the purpose of aiding or abetting any other person to evade or attempt to evade any provision of the statutes and the rules of the Board.

c. Record or as-built drawings representing what is believed to be constructed shall not be sealed unless specifically required by contract and shall then contain a caveat or disclaimer that provides as applicable:

- i. The information in the drawing is a compiled representation of the constructed project;
  - ii. Identifies the source and basis of information used in preparing the drawing;
  - iii. States or declares that the drawing is believed to be correct to the best of the professional's knowledge but it cannot be guaranteed accurate.
2. Upon licensure each professional surveyor may obtain a seal of the design authorized by the Board, bearing the licensee's name, license number and the legend "Licensed Professional Surveyor". Each page of final drawings, plats, and the signature page of reports, and the cover sheet of specifications prepared by a licensee shall, when issued, be dated, signed and stamped with the said seal or a facsimile thereof. It shall be unlawful for a licensee to affix or permit the licensee's seal and signature or facsimile thereof to be affixed to any document the licensee did not personally prepare or supervise the preparation of or after the expiration of the licensee's license or for aiding or abetting any other person to evade or attempt to evade any provision of the statutes and rules of the Board.
3. Each firm that is issued a Certificate of Authorization (COA) shall obtain a seal of the design authorized by the Board, bearing the name of the firm and the COA number and attach, at a minimum, to the cover sheet of the plans, or cover page or the seals page of specifications, and reports for documents where the professional seal is required.
4. The Board hereby establishes the design of and clarifies the use of the seal by a licensee as follows:
- a. The engineer and surveyor and certificate of authorization seals shall use the following designs, however, seals previously acquired in compliance with then current rules need not be changed nor modified as a result of subsequent rule changes unless specifically required;



- b. The seal shall be from 1 ¼ to 2 inches diameter and have a milled edge in conformance with the above designs. A facsimile rubber stamp is authorized in lieu of a seal. The stamp may have either a milled edge, or two (2) concentric circles with the outer and inner circles corresponding with the respective edges of the milling on the seal. The licensee's name and number inscribed in the seal shall correspond to the name and certificate number shown on the Certificate of Licensure;
- c. The seal shall be affixed to documents and instruments only when the license certificate is current and in good standing, and then only on such documents and instruments which have been prepared by the licensee or under the supervision of the licensee. The licensee shall be responsible for assuring the seal, however affixed, is legible on the document;
- d. By affixing the licensee's seal to any documents or instruments, a licensee accepts full responsibility and liability for the professional work represented on such documents or instruments; and
- e. Documents may be sealed electronically and may be signed and/or transmitted electronically if done

in one of the following ways:

- i. Documents digitally signed may be transmitted electronically as long as the signature is unique to and under the sole control of the person who applied it, be capable of verification and be linked to the document in such a manner that the signature is invalidated if any data on the document is altered;
- ii. Documents manually or digitally sealed but not signed may be transmitted electronically so long as an original signature and date shall be affixed over the seal and maintained on a paper or electronic copy of the document in the office of record. The electronically transmitted file shall contain the following: "This document was originally issued and sealed by (name of licensee), (license number) on (date). This copy is not a signed and sealed document."; or
- iii. Documents manually or digitally signed and sealed may be digitally copied and transmitted by electronic means;

### **ARTICLE 13. EXPIRATIONS AND RENEWALS.**

A. License certificates for professional engineers shall expire biennially. The Director of the Board will mail, to every licensee, a notice showing the date of the expiration of said license and the fee required for renewal. Such notice will be mailed to the licensee at the licensee's last known address at least one month in advance of the date of the expiration of said certificate. It is the responsibility of each licensee to notify the Board, in writing, of a change of address.

B. License certificates for professional surveyors shall expire biennially. The Director of the Board will mail, to every licensee, a notice showing the date of the expiration of said license and the amount of the fee required for its renewal. Such notice shall be mailed to the licensee at the licensee's last known address at least one month before the expiration date. It is the responsibility of each licensee to notify the Board, in writing, of a change of address.

C. License certificates of dual registrants shall expire biennially. The Director of the Board will mail, to every licensee, a notice showing the date of the expiration of said license and the amount of the fee required for its renewal. Such notice shall be mailed to the licensee at the licensee's last known address at least one month before the expiration date. It is the responsibility of each licensee to notify the Board, in writing, of a change of address.

D. Certificates of Authority shall expire biennially. The Director of the Board will mail, to every [firm and licensee not operating as a sole proprietorship](#), a notice showing the date of the expiration of said license and the amount of the fee required for its renewal. Such notice shall be mailed to the licensee at the licensee's last known address at least one month before the expiration date. It is the responsibility of each licensee to notify the Board, in writing, of a change of address.

E. Late penalty for renewals shall be as described in Article 9.

### **ARTICLE 14. DISCIPLINARY ACTION**

A. The Board may take disciplinary action to the fullest extent permitted by law against any licensee who is convicted of a felony listed under Ark. Code Ann. § 17-3-102 or whom the Board finds guilty of any of the following:

1. Fraud or deceit in obtaining a certificate of licensure or authorization;

2. Any gross negligence, incompetence or misconduct in the practice of engineering as a professional engineer or surveying as a professional surveyor;
3. Any violation of the Rules of Professional Conduct and/or rules of the Board;
4. Violations of the Arkansas Standards of Practice No. 1 for Property Boundary Surveys and Plats in force at the time of the survey; and
5. Practicing engineering or surveying with an invalid or expired license.

B. The Board may discipline nonlicensees who violate this chapter by imposing a fine of not more than five thousand dollars (\$5,000) per violation.

## **ARTICLE 15. COMPLAINTS, HEARING PROCEDURES, & DECLARATORY ORDERS**

### **A. Complaints**

Any person, including, the Director of the Board, may file a written complaint alleging violation of the statutes and/or the rules of the Board. The respondent shall be mailed a copy of the complaint and shall enter an answer within 20 days unless an extension is granted by the Board.

1. A preliminary investigation shall be conducted by a Complaint Committee appointed by the President. The Complaint Committee may:
  - a. Find that probable cause exists that a violation has occurred, and recommend to the Board that the matter be set for hearing; or
  - b. Find that the allegations are not evidence of a violation or are otherwise unfounded and recommend to the Board that the Complaint be dismissed: or
  - c. Hold informal meetings with any persons or parties it deems appropriate and recommend informal disposition by stipulation, settlement, consent order or default; or
  - d. If directed or authorized by the Board, adjudicate and prepare a proposal for Board decision as provided for and in accordance with the Administrative Procedure Act (A.C.A. § 15-201 et seq).
2. Unless dismissed or otherwise resolved, all charges shall be heard by the Board within 12 months from the time the complaint is received unless the time limit is waived by agreement of the Board and the respondent or respondents.

### **B. Hearing Procedures**

This sub article applies in all administrative adjudications conducted by the Arkansas Board of Licensure for Professional Engineers and Professional Surveyors. This procedure is developed to provide a process by which the Board formulates orders (for example, an order revoking a license to practice, or imposing civil penalties).

1. The Board shall preside at the hearing or may designate one or more members of the Board or one or more examiners, referees, or hearing officers to preside at a hearing.
2. Unless otherwise specified in these rules, all hearings will be conducted in accordance with the Administrative Procedures Act, Ark. Code Ann. §§ 25-15-201 et seq.



3. If there are separate matters that involve similar issues of law or fact, or identical parties, the matters may be consolidated if it appears that consolidation would promote the just and speedy resolution of the proceedings, and would not unduly prejudice the rights of a party.
4. If it appears that the determination of the rights of parties in a proceeding will necessarily involve a determination of the substantial interests of persons who are not parties, the presiding officer may enter an order requiring that an absent person be notified of the proceeding and be given an opportunity to be joined as a party of record.
5. An administrative adjudication is initiated by the issuance by the Board of a notice of hearing.
  - a. The notice of hearing may be sent to the respondent by U.S. Mail to the named recipient or agent. Notice shall be sufficient when it is so mailed to the respondent's latest address on file with the Board.
  - b. Notice will be mailed at least 20 days before the scheduled hearing and shall include:
    - i. A statement of the time, place, and nature of the hearing;
    - ii. A statement of the legal authority and jurisdiction under which the hearing is to be held; and
    - iii. A short and plain statement of the matters of fact and law asserted.
6. The Board, either through its Attorney or Director may grant a continuance of hearing for good cause shown. Requests for continuances will be made in writing. The request must state the grounds to be considered and be made as soon as practicable and, except in cases of emergencies, no later than five (5) days prior to the date noticed for the hearing. In determining whether to grant a continuance, the Board may consider:
  - a. Prior continuances;
  - b. The interests of all parties;
  - c. The likelihood of informal disposition;
  - d. The existence of an emergency;
  - e. Any objection;
  - f. Any applicable time requirement, although the respondent may choose to waive the time limitation in subsection A.2. of this Article when making the request;
  - g. The existence of a conflict of the schedules of counsel, parties, or witnesses;
  - h. The time limits of the request; and
  - i. Other relevant factors.

The Board may require documentation of any grounds for continuance.

7. The presiding officer is charged with maintaining the decorum of the hearing and may refuse to

admit, or may expel, anyone whose conduct is disorderly.

8. A party seeking admission of an exhibit shall provide a sufficient number of copies of each exhibit at the hearing. The presiding officer shall provide the opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. All exhibits admitted into evidence should be appropriately marked and be made part of the record;

9. Reasonable inferences. The Board may base its findings of fact upon reasonable inferences derived from other evidence received.

10. If a party fails to appear or participate in an administrative adjudication after proper service of notice, the Board may proceed with the hearing and render a decision in the absence of the party.

11. Subpoenas requiring attendance of witnesses and/or production of documents at a hearing may be issued by the Board, and:

a. The requesting party shall specify whether the witness is requested to bring documents and reasonably identify said documents;

b. A subpoena may be served by any person specified by law to serve process or by any person who is not a party and who is eighteen (18) years of age or older. Delivering a copy to the person named in the subpoena shall make service. Proof of service may be made by affidavit of the person making service. The party seeking the subpoena shall have the burden of obtaining service of the process and shall be charged with the responsibility of tendering appropriate mileage fees and witness fees pursuant to Rule 45, Arkansas Rules of Civil Procedure. The witness must be served at least two days prior to the hearing. For good cause, the Board may authorize the subpoena to be served less than two days before the hearing;

c. The Board shall reasonably comply with any request for issuing a subpoena but may refuse if the party requesting it fails or refuses to provide sufficient justification that the witness or documents will provide relevant evidence and/or are not otherwise obtainable. Any objection to refusal to issue a subpoena shall be made on the record at the hearing.

12. In addition to any other considerations permitted by A.C.A. §§ 17-30-101 et. seq. and A.C.A. §§ 17-48- 101 et. seq. if applicable, the Board in imposing any sanction may consider the following:

a. The nature and degree of the misconduct for which the licensee is being sanctioned;

b. The seriousness and circumstances surrounding this misconduct;

c. The loss or damage to clients or others;

d. The assurance that those who seek similar professional services in the future will be protected from the type of misconduct found;

e. The profit to the licensee;

f. The avoidance of repetition;

g. Whether the conduct was deliberate, intentional, or negligent;

- h. The deterrent effect on others;
- i. The conduct of the individual during the course of the disciplinary proceeding;
- j. The professional's prior disciplinary record, including warnings;
- k. Matters offered by the professional in mitigation or extenuation, except that a claim of disability or impairment resulting from the use of alcohol or drugs may not be considered unless the professional demonstrates the successful and good faith pursuit of a program of recovery;
- l. Any other factors or circumstances deemed relevant or important.

### C. Declaratory Orders

A declaratory order is a means of resolving a controversy or answering questions or doubts concerning the applicability of statutory provisions, rules, or orders over which the Board has authority. A petition for declaratory order may be used only to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory order is not the appropriate means for determining the conduct of another person or for obtaining a policy statement of general applicability from a Board. A petition or declaratory order must describe the potential impact of statutes, rules, or orders upon the petitioner's interests.

The process to obtain a declaratory order is begun by filing with the Director at the Board's Offices a petition that provides the following information:

1. The caption shall read: Petition for Declaratory Order Before the Board of Licensure for Professional Engineers and Professional Surveyors;
2. The name, address, telephone number, and facsimile number of the petitioner;
3. The name, address, telephone number, and facsimile number of the attorney of the petitioner;
4. The statutory provision(s), Board rule(s), or Board order(s) on which the declaratory order is sought;
5. A description of how the statutes, rules, or orders may substantially affect the petitioner and the petitioner's particular set of circumstances, and the question or issue on which petitioner seeks a declaratory order;
6. The signature of the petitioner or petitioner's attorney;
7. The date;
8. Request for a hearing, if desired.

The Board may hold a hearing to consider a petition for declaratory statement. If a hearing is held, it shall be conducted in accordance with A.C.A. §25-15-208 and §25-15-213, and the Board's rules for adjudicatory hearings.

The Board may rely on the statements of fact set out in the petition without taking any position with regard to the validity of the facts. Within ninety (90) days of the filing of the petition, the Board will render a final order denying the petition or issuing a declaratory order.

## **ARTICLE 16. VIOLATIONS AND PENALTIES**

A. Any person or entity who commits any of the following actions shall be subject to disciplinary action by the Board:

1. Practice, or offer to practice, engineering or surveying in the State of Arkansas without being licensed under the provisions of the Acts;
2. Using or employing the words “engineer”, “engineering”, “surveyor”, or “surveying” or any modification or derivative thereof in its name, form of business, or activity except as authorized in the statutes and rules of the Board;
3. Presenting or attempting to use the license or the seal of another;
4. Giving false or forged evidence of any kind to the Board or to any member thereof in obtaining or attempting to obtain licensure;
5. Falsely impersonating any other licensee of like or different name;
6. Attempt to use an expired, revoked, or non-existent license;
7. Practice or offer to practice when not qualified; or
8. Falsely claiming to be licensed under the statutes and the rules of the Board.

B. Any complaint filed with the State Surveyor’s office or the Board against a surveyor for any reason shall automatically authorize the state surveyor to investigate the subject surveyor’s compliance with the Arkansas Standards of Practice No. 1 which requires the filing of plats with the State Surveyor’s office. Violations of the Arkansas Standards of Practice No. 1 shall become part of the original complaint or may, at the discretion of the Board, constitute a complaint in their own right. Each plat which is found not to have been properly filed shall constitute a separate violation. Each violation shall be punished by a penalty of no more than \$100.00.

C. The Board is empowered to impose a civil penalty of not more than five thousand dollars (\$5,000.00), per instance, against any individual violating any portion of the statutes or rules of the Board pertaining to the practice of Engineering and/or Surveying. Civil penalties may be imposed on licensees or non-licensees.

## **ARTICLE 17. RIGHT TO PRACTICE**

A. An individual may practice or offer to practice engineering or surveying for others if licensed or permitted under the Board’s statutes and rules, subject to the provisions contained therein.

B. A firm, association, partnership or corporation may not engage in the practice of engineering or surveying unless the practice as engaged in is done under the supervision and direction of an engineer or surveyor licensed in the State of Arkansas.

C. A firm, association, partnership or corporation may engage in the practice of engineering or surveying with relation to its own property or business so long as such practice is done under the supervision of a licensed engineer or licensed surveyor.

D. All final drawings, specifications, plans, reports, plats, or other papers or documents involving the practice of engineering or surveying, as defined in the statutes, when issued or filed for public records, shall be dated and bear the signature and seal of the professional engineer or of the professional surveyor who prepared or supervised and approved them.

## **ARTICLE 18. EXEMPTION**

A. The statutes and rules of the Board will govern the activities of the engineer and surveyor and shall not be construed to prevent the practice of any other legally recognized profession.

B. The statutes and rules of the Board shall not be construed to prohibit the work of an employee or a subordinate of a licensee or any employee of a person practicing lawfully under Article 2, provided such work does not include final engineering or surveying decisions and is done under the direct supervision of and verified by a licensee or a person practicing lawfully under Article 8.

C. The statutes and rules of the Board shall not apply to:

1. The usual symbols and statements of the cartographic representation of scale and direction, including, but not limited to, scale ratios, scale bar, and north arrows;
2. The preparation and attachment of metadata or to the scientific analysis of measurement data for research by a person who is not a professional surveyor or professional engineer; and
3. Any government agency or office in conducting its statutory or constitutional duties to certify representations or spatial data.

D. The statutes and rules of the Board shall not impair or reduce the scope of the professional practice of the professional architects as defined by statute and rules of the Arkansas State Board of Architects.

#### **ARTICLE 19. CONTINUING PROFESSIONAL COMPETENCY (CPC)**

A. Introduction.

In order to safeguard life, health, property and to promote public welfare, it has been determined that the practice of engineering and surveying will require continuing education in order to renew licenses.

B. Definitions

Terms used in this article are defined as follows:

1. Professional Development Hours (PDH) – An hour (nominal) of instruction or presentation.
2. Continuing Education Unit (CEU) – Unit of credit customarily used for continuing education courses. One Continuing Education Unit equals ten (10) hours of class in an approved education course;
3. College/Unit Semester/Quarter Hour – Credit for approved course or other related college course approved in accordance with “Section E” of this article;
4. Course/Activity – Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee’s field of practice; and
5. Dual Licensee – A person who is licensed as both a professional engineer and a professional surveyor.

C. Requirements -

Continuing Professional Competency (CPC) is required as follows:

1. Every professional engineer or professional surveyor licensee is required to report a minimum of thirty (30) PDH units for each renewal period. If a licensee exceeds the requirement in any renewal period, a maximum of thirty (30) PDH units may be carried forward into the subsequent renewal period.

2. A professional surveyor, including a professional surveyor who is a dual licensee, is required to have at least two (2) PDH hours of Arkansas Standards of Practice No. 1 for Property Boundary Surveys and Plats for each renewal period.

3. Dual licensees are required to report a minimum of forty (40) PDH units for each renewal period, with at least ten (10) PDH units earned in each profession. The remaining twenty (20) PDH units may be obtained in either profession. If a licensee exceeds the requirement in any renewal period, a maximum of forty (40) PDH units may be carried forward into the subsequent renewal period (no more than 30 in either profession).

D. Units –

1. Units may be earned as follows:

- a. Successful completion of college courses;
- b. Successful completion of continuing education courses;
- c. Successful completion of correspondence, televised, videotaped, audiotape, and other short courses/tutorials;
- d. Presenting or attending qualifying seminars, in-house courses, workshops, or professional, technical, or managerial presentations made at meetings, conventions, or conferences;
- e. Teaching or instructing in (a) through (d) above;
- f. Authoring published papers, articles, or books;
- g. Active participation in professional or technical societies; and
- h. Patent grants.

2. Unit conversion for other credit to PDH Units is as follows:

- a. 1 College or unit semester hour-----45 PDH
- b. 1 College or unit quarter hour-----30 PDH
- c. 1 Continuing Education Unit-----10 PDH
- d. 1 Hour of professional development in course work, seminars, or professional, or management, or technical presentations made at meetings, conventions or conferences----- 1 PDH
- e. For teaching items 2.a. through d. above, apply a multiple of 2 (teaching credit is valid for teaching a course or seminar for the first time only).
- f. Each published paper, article, or book-----10 PDH Max.
- g. Active participation in professional and technical society (each organization)----2 PDH
- h. Each patent granted-----10 PDH Max.

E. Determination of Credit – The Board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit.

1. Credit for college or community college approved courses will be based upon credit established by the college.
2. Credit for qualifying seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn PDH units for the actual time of each program.
3. Credit determination for activities D.1.f and D.1.h is the responsibility of the licensee (subject to review as required by the Board).
4. Credit for activity D.1.g., active participation in professional and technical societies (limited to 2 PDH per organization), requires that a licensee serve as an officer and/or actively participate in a committee of the organization. PDH credits are not earned until the end of each year of service is completed.

F. Records. – The maintenance of records to support credits claimed is the responsibility of the licensee. Records required include, but are not limited to:

1. A log showing the type of activity claimed, sponsoring organization, location, duration, instructors or speaker's name, and PDH credits earned;
2. Attendance verification records in the form of completion certificates, or other documents supporting evidence of attendance; and
3. Records as maintained by the Professional Development similar repositories.

These records must be maintained for a period of three (3) years, and copies may be requested by the board for audit verification purposes.

G. Exemptions. A licensee may be exempt from the professional development education requirements for one of the following reasons:

1. New licensees by way of examination or comity shall be exempt for their first renewal period;
2. A licensee on active duty in the Armed Forces of the United States shall be exempt from obtaining professional development hours required during that biennium;
3. A licensee experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board may be exempt. Supporting documentation must be furnished to the Board;
4. A licensee listed as "inactive" on the Board- approved renewal form certifying that they are no longer receiving any remuneration from providing professional engineering or professional surveying services shall be exempt from the professional development hours required;
5. A Professional Surveyor may be exempt if at least sixty (60) years of age and has twenty (20) years of acceptable professional experience. This request must be submitted on forms supplied by the Board; and
6. A Professional Engineer may be exempt if at least sixty-five (65) years of age and has twenty-five (25) years of acceptable professional experience. This request must be submitted on forms supplied by the Board.

H. Forms – All renewal applications will require the completion of a continuing education certificate stating the number of PDH credit claimed. The licensee must maintain sufficient records to permit audit verification, when requested.

I. Audit – The Board may conduct random audits each year of reported continuing education credit after each license renewal period according to the following procedures:

1. The population to be audited for Continuing Professional Competency compliance shall consist of those licensees who are renewing their licenses with the Board, and who are not claiming PDH and qualifies for an exemption under Section G. of this Article or who do not report sufficient hours as provided in Section K. of this Article.
2. The sample for the audit shall be chosen not less than 180 days after the renewal period is ended.
3. The sample size for each audit group shall be two percent (2%) of the population, chosen at random, without replacement.
4. Each licensee chosen for audit shall provide within 30 days, on the form supplied by the Board, a log of continuing education obtained during the previous licensing period, with supporting documents attached, according to the requirements specified in section F. of this Article.
5. Those auditees failing to respond, or unable to verify their claims to continuing education may be served with a complaint and charged with having obtained renewal of their licenses by false statements according to the provisions and procedures in Articles 14. and 15. of these rules.

J. Noncompliance for reporting less than required hours -

1. A licensee who does not satisfy the continuing education requirement by reporting less than the required number of hours shall be placed on probationary status and notified of that status. The licensee shall have six months from the renewal dates to provide documentation of having obtained both the originally reported and the necessary additional hours or the licensee's license will be placed in an inactive status.
2. Licensees placed on inactive status may return to active status as provided for in Article 8. Section F. of these rules.

## **ARTICLE 20. ETHICS AND RULES OF PROFESSIONAL CONDUCT**

The following Rules of Professional Conduct shall be binding on every person holding a Certificate of Licensure. The Rules of Professional Conduct delineate specific obligations the licensee must meet. In addition, each licensee is charged with the responsibility of adhering to standards of highest ethical and moral conduct in all aspects of the practice of Professional Engineering and Professional Surveying.

Licensees shall avoid conflicts of interest and faithfully serve the legitimate interest of their employers, clients and customers within the limits defined by these rules. A Licensee's professional reputation shall be built on the merit of the licensee's services and shall not compete unfairly with others.

A. Licensee's Obligation to Society

1. Licensees, in the performance of their services for clients, employers and customers, shall be cognizant



that their first and foremost responsibility is to the public welfare.

2. Licensees shall approve and seal only those design documents and surveys that conform to accepted engineering and surveying standards and safeguard the life, health, property and welfare of the public.
3. Licensees shall notify their employer or client and such other authority as may be appropriate when their professional judgment is overruled under circumstances where the life, health, property and welfare of the public is endangered.
4. Licensees shall be objective and truthful in professional reports, statements or testimony. They shall include all relevant and pertinent information in such reports, statements or testimony.
5. Licensees shall express a professional opinion publicly only when it is founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter.
6. Licensees shall issue no statements, criticisms or arguments on technical matters which are inspired or paid for by interested parties, unless they explicitly identify the interested parties on whose behalf they are speaking and reveal any interest they have in the matters.
7. Licensees shall not permit the use of their name or firm name by, nor associate in business ventures with, any person or firm which is engaging in fraudulent or dishonest business or professional practices.
8. Licensees having knowledge of possible violations of any of these Rules of Professional Conduct shall provide the Board with information and assistance necessary for the final determination of such violation.
9. Licensees who are salespersons or who represent a particular product or system shall qualify any public statement made concerning their product or system.

**B. Licensee's Obligation to Employer, Clients, and Customers**

1. Licensees shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or surveying involved.
2. Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competence, nor to any such plan or document not prepared under their direct control and personal supervision.
3. Licensees may accept assignments for coordination of an entire project, provided that each element is signed and sealed by the licensee responsible for preparation of that element.
4. Licensees shall not reveal confidential facts, data or information obtained in a professional capacity without the prior consent of the client or employer except as authorized or required by law.
5. Licensees shall not solicit or accept financial or other valuable consideration, directly or indirectly, from contractors, their agents or other parties in connection with work for employers or clients, unless the conditions in Article 20.B.7. are met.
6. Licensees shall make full prior disclosures to their employers or clients of potential conflicts of interest or other circumstances which could influence or appear to influence their judgment or the quality of their service.

7. Licensees shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

8. Licensees shall not solicit or accept a professional contract from a governmental body on which a principle or officer of their organization serves as a member. Conversely, licensees serving as members, advisors, or employees of a governmental body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by said concern to the governmental body which they serve.

C. Licensee's Obligation to Other Licensees

1. Licensees shall not falsify or permit misrepresentation of their, or their associates; academic or professional qualifications. They shall not misrepresent or exaggerate neither their degree of responsibility in prior assignments nor the complexity of said assignments. Presentations incidental to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments.

2. Licensees shall not offer, give, solicit or receive, either directly or indirectly, any commission, gift, or other valuable consideration in order to secure work, and shall not make any political contribution with the intent to influence the award of a contract by a public authority.

3. Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects practice or employment of other licensees, nor indiscriminately criticize other licensee's work.

4. Licensees who are aware of any alleged violations of the law, rules of the Board, or these Rules of Professional Conduct by a fellow licensee may counsel with that licensee to determine the facts. If correction is not made the licensee shall report the violation to the Board and other proper authorities.

**ARTICLE 21. PRE-LICENSURE CRIMINAL BACKGROUND CHECK AND WAIVER REQUEST**

A. Pre-Licensure Criminal Background Check

1. Pursuant to Act 990 of 2019, an individual may petition for a pre-licensure determination of whether the individual's criminal record will disqualify the individual from licensure and whether a waiver may be obtained.
2. The individual must obtain the pre-licensure criminal background check petition form from the Board.
3. The Board will respond with a decision in writing to a completed petition within a reasonable time.
4. The Board's response will state the reasons for the decision.
5. All decisions of the Board in response to the petition will be determined by the information provided by the individual.
6. Any decision made by the Board in response to a pre-licensure criminal background check petition is not subject to appeal.
7. The Board will retain a copy of the petition and response and it will be reviewed during the formal application process.

B. Waiver Request

1. If an individual has been convicted of an offense listed in A.C.A. § 17-3-102(a), except those permanently disqualifying offenses found in A.C.A. § 17-3-102(e), the Board may waive disqualification of a potential applicant or revocation of a license based on the conviction if a request for a waiver is made by:
  - a. An affected applicant for a license; or
  - b. An individual holding a license subject to revocation.
2. The Board may grant a waiver upon consideration of the following, without limitation:
  - a. The age at which the offense was committed;
  - b. The circumstances surrounding the offense;
  - c. The length of time since the offense was committed;
  - d. Subsequent work history since the offense was committed;
  - e. Employment references since the offense was committed;
  - f. Character references since the offense was committed;
  - g. Relevance of the offense to the occupational license; and
  - h. Other evidence demonstrating that licensure of the applicant does not pose a threat to the health or safety of the public.
3. A request for a waiver, if made by an applicant, must be in writing and accompany the completed application and fees.
4. The Board will respond with a decision in writing and will state the reasons for the decision.
5. An appeal of a determination under this section will be subject to the Administrative Procedures Act § 25-15-201 *et seq.*

## **ARTICLE 22. EFFECTIVE DATE**

The rules shall be adopted and take effect as provided by the Administrative Procedures Act on September 1, 2020.