

Members Present- Ron Bohannon, PE, Committee Chair
Dr. Walter Gerstle, PE
Karl Tonander, PE
Paul Brasher, PE
Julie Samora, PE

Others Present- Perry Valdez, BLPEPS, Executive Director
Miranda Gonzales, Administrative Manager

1. Convene, Roll Call and Introduction of Audience

Mr. Bohannon read the meeting script regarding the virtual meeting protocols. Mr. Bohannon convened the meeting at 9:06 a.m. Roll call was taken and a quorum noted. There was no one in the audience for introductions.

2. Meeting Notification

Mr. Valdez informed the Committee the meeting was noticed on the Board’s website.

3. Approval of Agenda

MOTION by Dr. Gerstle to approve the agenda as presented, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting ‘Aye’: Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Ms. Samora, Mr. Brasher

The motion **PASSED unanimously.**

4. NM Administrative Code (NMAC) Proposed Rule Changes

a. 16.39.1.17 – Status of Licensure

Mr. Valdez presented the proposed changes for section 16.39.1.17. He said the new section was regarding the status of intern certifications. Mr. Valdez explained once a certified intern was licensed as a Professional Engineer or Professional Surveyor, their intern certification would be superseded by the professional license and would no longer be active on the roster.

Mr. Valdez articulated the proposed changes to the retired and inactive status. He said the proposed language was an additional requirement for both sections. He read the proposed language, “the licensee does not have any pending complaints or litigation or has completed any imposed disciplinary actions.”

Mr. Valdez described the proposed change for a licensee to re-activate their license after six years of being on inactive status. He reported the language was struck concerning a licensee who has not maintained a current license in another jurisdiction and required to re-take an exam. Mr. Valdez said the proposed language would require the licensee to reinstate their license therefore replacing the requirement for re-taking an exam.

Dr. Gerstle recommended changing the conjunction 'or' to an 'and' so the proposed language read, "...does not have any pending complaints or litigation and has completed...". Mr. Bohannon and Mr. Brasher agreed with he recommended change.

After some discussion, it was decided to amend the proposed language for both the retired and inactive status requirements as follows,

the licensee does not have any pending complaints;
the licensee does not have any pending litigation; and
the licensee has completed any imposed disciplinary actions.

Mr. Brasher inquired about the the new proposed language for the intern certification status. He asked if someone were to lose their professional license through revocation, would they also lose their intern certification.

Mr. Bohannon responded it was his opinion the intern certification would not be revoked. He said the individual would still be considered a certified intern.

Mr. Valdez requested clarification on the intern status. He asked if someone had their license revoked if the intern certification would become 'active'. Mr. Bohannon responded in the affirmative.

MOTION by Mr. Brasher to approve the proposed language for 16.39.1.17 as amended, **SECONDED** by Dr. Gerstle,

Discussion: Mr. Brasher asked what the other members thought about the intern certification status and the revocation of a professional license. Dr. Gerstle commented once an individual is a certified intern, they are always an intern.

Mr. Bohannon said he did not think the intern certification could be revoked. Mr. Brasher noted he was postulating this scenario in case it ever happened and not because he was in favor of one decision or the other.

Mr. Valdez stated according to the proposed language the intern certification would no longer be active since it was superseded by the professional license. Mr. Brasher said then the intern certification would not automatically become active. Mr. Valdez responded that per the drafted language that was correct; that the intern certification would no longer be active, even if someone's license were revoked.

Mr. Bohannan stated then someone would need to come before the Board to have their certification to become active again. Mr. Tonander agreed.

Mr. Bohannan requested Dr. Gerstle to bring this discussion to the Rules Committee, regarding the intern certification question.

Roll Call Vote:

Voting 'Aye': Mr. Bohannan, Dr. Gerstle, Mr. Tonander, Ms. Samora, Mr. Brasher

The motion **PASSED unanimously.**

16.39.3.13 – Endorsements

MOTION by Mr. Tonander to approve the proposed language for 16.39.3.13,
SECONDED by Dr. Gerstle,

Discussion: Mr. Valdez explained the proposed change was adding the language for the expedited licensure path from the Engineering and Surveying Practice Act and incorporating it into the rules.

Mr. Tonander and Mr. Bohannan directed Mr. Valdez to add the language “licensure prior to July 1” for sections C and D.

There was discussion regarding the opening paragraph for section 16.39.3.13. It was decided not to make any proposed changes to the opening paragraph.

Roll Call Vote:

Voting 'Aye': Mr. Bohannan, Mr. Tonander, Ms. Samora, Mr. Brasher

Voting 'Nay': Dr. Gerstle

The motion **PASSED.**

b. 16.39.6.7 and 16.39.6.8 – Military Service Members, Spouses, and Veterans

Mr. Valdez presented the proposed changes to both sections. He explained the proposed language was done to comply with the Legislative changes made to the Uniform Licensing Act.

Mr. Valdez pointed out the addition of new definitions for section 16.39.6.7, which were for the terms ‘Spouse’, ‘the child’, and ‘Licensing Fee’. He pointed out the clean-up language for section 16.39.6.8, removing ‘the occupational or professional’ which carried over from the Uniform Licensing Act when the rule was initially adopted.

Mr. Valdez presented the added language for subsection three of section A of 16.39.6.8. He said the added language detailed the required documentation to show proof of the following: military service members, military spouses, dependent children of military, and veterans. Mr. Valdez indicated the new sections C and D were the 30-day time limit to approve an application and the language for not charging a licensing fee for the first three years of an issued license.

MOTION by Dr. Gerstle to approve the proposed language for 16.39.6.7 and 16.39.6.8, **SECONDED** by Mr. Brasher,

Roll Call Vote:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Ms. Samora, Mr. Brasher

The motion **PASSED unanimously**.

c. 16.39.3.12 Seal of License

Mr. Valdez presented the proposed language for section 16.39.3.12 which was drafted by the Rules Committee. He reported subsection 'H' added the language for electronically transmitted plans and the required electronic signature. Mr. Valdez informed the Committee subsections 'I' and 'J' were new proposed sections regarding electronic seals and signatures.

Mr. Bohannon informed the members he was requesting a motion, and then he would request a discussion on the motion and the proposed language.

MOTION by Mr. Brasher to approve the proposed language for 16.39.3.12, **SECONDED** by Dr. Gerstle,

Discussion: Mr. Bohannon explained the proposed language addressed the issue of multiple licensees sealing plans. He said this item would always be a topic of discussion because of the continued advancement of technology and how the pandemic accentuated the need for electronic signatures and seals.

Mr. Tonander commented he did not think a separate section, of 16.39.7.2, for definitions for a specific subject was permissible. He suggested moving the proposed language to item 16.39.7. Definitions.

The Committee's focus was directed back to section 16.39.3.12. There was discussion regarding the existing language of 'supplemental survey information'. It was decided to move the existing language to section 16.39.3.11, as subsection letter 'F' of the 'Practice of Engineering'.

There was consideration and discussion regarding the use of electronic signatures, their industry use and what the counties and municipality planning departments requested and required. It was decided to completely remove the proposed language of subsection 'J' because the proposed language in subsection 'H' explained what an authenticated file was, and if a file was not authenticated then the language was not necessary.

Further discussion regarding the security of electronic signatures and their potential theft. Ms. Samora commented the licensee was required to take responsibility to safeguard their electronic seal and that the Board was continually sought out to provide guidance on this issue.

Mr. Tonander suggested reviewing the language from the New Mexico Secretary of State's Office regarding electronically notarizing documents. Mr. Valdez was unable to find the legislative language.

After a lengthy discussion, it was decided to remove the following proposed language from subsection 'H', "...and be transmitted with an independent (each signature) or collective Security Procedure with advisories sent to all other licensees signing the document." It was also decided to completely remove the proposed language of subsection 'I' because the Board could not be agree upon the proposed language.

Mr. Valdez noted an error on the agenda. He informed the Committee the next agenda item "d." should have been 16.39.3.7.2 and not 16.39.7.2. Mr. Valdez stated section 16.39.7.2 pertained to the scope of the violation section. He recommended a motion to move the proposed language to section 16.39.3.7.2.

Mr. Brasher amended his motion for the proposed language of section 16.39.3.12.

MOTION by Mr. Brasher to approve the proposed language for 16.39.3.12 removing subsection 'I' and 'J' of the proposed language, amending the proposed language for subsection 'H', and move proposed letter 'J' to section 16.39.3.11, **SECONDED** by Dr. Gerstle,

Roll Call Vote:

Voting 'Aye': Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Ms. Samora, Mr. Brasher

The motion **PASSED unanimously.**

- d. **16.39.7.2 – New Definitions for Electronic Seals, Signatures, and Transmittal**
MOTION by Ms. Samora to approve the new proposed definitions, **SECONDED** by Mr. Tonander,

Discussion: After the discussion and vote on agenda item e. 16.39.3.12 Seal of License, the Committee reviewed and removed the definitions which were no longer necessary. The new proposed definitions which remained were definitions ‘D’ and part of ‘H’.

Definition ‘H’ was amended as follows, "Signature means a physical or digital representation of the name of the person who applied it."

Ms. Samora amended her motion.

MOTION by Ms. Samora to approve the amended proposed definitions, **SECONDED** by Mr. Tonander,

Roll Call Vote:

Voting ‘Aye’: Mr. Bohannon, Dr. Gerstle, Mr. Tonander, Ms. Samora, Mr. Brasher

The motion **PASSED unanimously.**

5. **Advisory Opinion**

- a. **Advisory Opinion – The Use of Standard “As-built” Drawings in Design Sets**
Mr. Bohannon stated this item was tabled.

6. **Next Scheduled Meeting Date:**

- a. June 2021 – Santa Fe or Virtual (To be rescheduled for a later date)
The Committee members discussed possible dates for rescheduling the meeting. It was decided to reschedule for the afternoon on June 17, 2021.

7. **Adjourn**

Meeting adjourned at 11: 47 a.m.

Submitted by:

Approved by:

Perry Valdez, Executive Director

Ron Bohannon, Committee Chair

_____ Approved Date