

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

**Members Absent-** Julie Samora, PE

**Others Present-** Perry Valdez, BLPEPS, Executive Director  
Miranda Gonzales, Administrative Manager  
Angelica Urioste, Compliance Officer  
Valerie Joe, Legal Counsel  
Maxine McReynolds

**1. Convene, Roll Call and Introduction of Audience**

Dr. Gerstle read the meeting script regarding the virtual meeting protocols. He convened the meeting at 1:09 p.m. Roll call was taken and a quorum noted.

**2. Meeting Notification**

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

**3. Approval of Agenda**

**MOTION** by Mr. Bohannon to approve the agenda as presented, **SECONDED** by Mr. Brasher,

**Roll Call Vote:**

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

The motion **PASSED unanimously**.

**4. Approval of Minutes**

**a. Minutes of July 8, 2021**

**MOTION** by Mr. Bohannon to approve the minutes of July 8, 2021 as presented, **SECONDED** by Mr. Brasher,

**Roll Call Vote:**

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

The motion **PASSED unanimously**.

5. **Requested Public Comment/Correspondence**

There was no public comment or correspondence.

6. **Old Business**

a. **Proposed Criminal Offenses Language**

Ms. Joe provide a summary of the required change. Ms. Joe explained the reason for the updated language was due to chaptered Senate Bill 2, from the 2021 special legislative session. She indicated the bill required all boards to replace the terms 'moral turpitude' and 'good character' with a list of criminal offenses; that list would be a reason for an application not to be approved.

Mr. Valdez placed the proposed language on the screen for the members to view. He explained that Mr. Bohannon went through the spreadsheet list of criminal offenses and based on Mr. Bohannon's selection he placed the offenses into the proposed language. Mr. Valdez noted that because there were so many, he categorized the types of crimes and placed the criminal offenses under each category of crime, such as assault and battery crimes and then bribery crimes, so on and so forth.

Mr. Bohannon pointed out the list of crimes contained approximately 400 criminal offenses. He explained he went through the list of offenses and picked out the crimes which he thought violated the principles of the Engineering and Surveying Practice Act. Mr. Bohannon stated he may have missed selecting some offenses from the spreadsheet but for the most part those listed in the proposed language are the most egregious.

Mr. Valdez noted he did not include the offense of "driving under the influence of intoxicating liquor or drugs" because it was marked with a question mark. Mr. Bohannon said DUI offenses have been an offense the Board has dealt with for a number of years. He reminded the Members that there have been some individuals who reported DUIs, some of those had multiple DUIs, so he was not sure if the offense should be included in the proposed language and wanted to have it discussed by the Board.

Dr. Gerstle expressed his concern with the DUI criminal offense, that the Board doesn't want to deny somebody the chance to be a productive member of society if they served their time for the crime committed. He said he would not feel comfortable denying somebody a license for having a problem with drinking.

Mr. Brasher explained how the Colorado Board would bring the individual before their Board and ask that individual to explain what they are doing to improve on the pattern of DUI offenses.

Mr. Bohannan indicated the Board has struggled with DUI offenses and based on advice from previous legal counsel, it was asked, how does this impair somebody from practicing engineering and endanger the public? He said there is a disease and could fall under the Disabilities Act. Mr. Bohannan requested Ms. Joe's opinion on the matter.

Ms. Joe opined that someone who has the level of impairment with respect to their ability to drive, the court has methods to monitor a person to operate a vehicle or not operate a vehicle, there are measures in place to ensure they are prevented from being a hazard to the public. She said how it impacted someone's ability to perform engineering or surveying services is for the Board to consider, but just having several DUIs such as 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, or 12<sup>th</sup> offense the courts would monitor such a person. Ms. Joe stated if the problem was that severe, the Board would need to consider if the person could work a full day without being under the influence, how it would impact their work.

Dr. Gerstle asked Ms. Joe if the Board could still decide if somebody committed one of the listed crimes and paid their due for it, that the Board could decide whether to revoke their license or not.

Ms. Joe answered this section would be for initial licensure or license renewal. She said the Board can ask questions of the person.

Mr. Tonander asked Ms. Joe, based on previous legal counsel advice, could the offense be legally included; was the Board allowed to consider DUIs?

Ms. Joe responded the legislature mandated a list of offenses of what the Board will consider in place of the term 'moral turpitude'.

Mr. Brasher asked if the list of offenses can also be for those already licensed, not just for initial licensure and renewals? Ms. Joe suggested adding "...a licensee from retaining a license issued by the board" in part 1 of subsection F.

Mr. Tonander commented that in the case of DUIs, the Board would be best served by requiring periodic review of the individual's work product to ensure they are following the correct codes and designs.

Mr. Bohannan stated the Board would want to take action right away for some of the crimes listed, and not wait for licensure renewal in order to do so.

Ms. Joe provided additional information, referencing section 28-2-4, of the Criminal Employment Offenders Act, titled "The power to refuse, renew, suspend, or revoke public employment or license". She read aloud subsection A

and B. Ms. Joe stated the Board has the ability to bring a disciplinary proceeding against someone who has committed one of the listed criminal offenses. Mr. Brasher recommended adding to the end of 16.39.7.9 D. the following language, "...as listed in subsection F."

Mr. Tonander suggested adding the following language to 16.39.7.9, subsection F, part 1., "...from receiving licensure or disciplinary action including but not limited to suspension or revocation, or a licensee from..."

After some discussion, the language in subsection F, part 1, was amended to the following,

"F. CRIMINAL CONVICTIONS:

(1.) Convictions for any of the following offenses, or their equivalents in any other jurisdiction, that may disqualify an applicant from receiving licensure, or disciplinary action including but not limited to suspension or revocation:"

Mr. Bohannon recommended placing the criminal offense of DUI on the list. Mr. Valdez inserted the offense into the group of miscellaneous offenses.

Mr. Brasher asked how the list would be available for people to reference. Ms. Joe noted that Mr. Valdez and she discussed this issue, she said Mr. Valdez suggested having a link to a pdf document of the criminal offenses for the renewals and an appendix for the applications.

The Committee discussed subsection F, parts 2 through 4. The following language was added to the following parts,

Part 2, "...an application for licensure, or license renewal, unless..."

Part 3, "...or revoke a license, or impose disciplinary action on a licensee..."

Part 5, "...application for licensure or a license renewal, or disciplinary action, the board..."

**MOTION** by Mr. Bohannon to approve the proposed language for section 16.39.7. A., D., E., and new section F., as modified with the changes that the Committee just completed, **SECONDED** by Mr. Brasher,

**Roll Call Vote:**

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

The motion **PASSED unanimously.**

7. **New Business**

There was no new business.

8. **Application Review – Recommended Approval**

There were no applications for recommended approval.

9. **Executive Session**

**MOTION** by Mr. Brasher that the Committee enter into closed Executive Session to discuss the items listed on the agenda pursuant to NMSA 1978, Section 10-15-1 (H) (1) and (3) to discuss matters pertaining to the issuance, suspension, renewal or revocation of a license and to deliberate on pending cases. **SECONDED** by Mr. Bohannon,

**Roll call vote taken, voting ‘Yes’:** Dr. Gerstle, Mr. Bohannon, Mr. Brasher, Mr. Tonander

10. **Action on Items Discussed During Executive Session**

Dr. Gerstle brought the Committee back into open session and affirmed that while in closed session it discussed only those matters specified in the motion to close the meeting and listed on the agenda under executive session, in accordance with NMSA 1978 Section 10-15-1 (H) (1) and (3).

a. **Disciplinary Cases**

1) **3-PE-10-28-2019 – Complaint Manager’s Report**

**MOTION** by Mr. Bohannon to dismiss the case, after review of the evidence, it did not raise to the level of a violation. Staff is directed to write a letter of admonition to the respondent in regard to the preparation of preliminary plans, **SECONDED** by Mr. Brasher,

**Roll Call Vote:**

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

The motion **PASSED unanimously.**

b. **Applications for Review**

1) **Exam**

a) **Starr, J.**

*\*\*Dr. Gerstle recused himself from the review.\*\**

Tabled until the next meeting, because of a lack of a quorum.

2) **PE Endorsement**

a) **Smalley, M.**

**MOTION** by Mr. Tonander to approve for PE endorsement in mechanical engineering, **SECONDED** by Mr. Brasher,

**Roll Call Vote:**

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

The motion **PASSED unanimously.**

**b) Olave-Torres, C.**

**MOTION** by Mr. Tonander to approve for PE endorsement in electrical engineering, **SECONDED** by Mr. Brasher,

**Roll Call Vote:**

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

The motion **PASSED unanimously.**

**11. Next Scheduled Meeting Date:**

- a. August 12, 2021 – Albuquerque or Virtual

**12. Adjourn**

Meeting adjourned at 3:15 p.m.