



**Board of Licensure for
Professional Engineers
and Surveyors**



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NEWSLETTER

Nineteenth Edition

Repealer of the Licensure Law Removed

“Repealer” is the term signifying the date that a law is repealed if not re-enacted by the state legislature. A repealer may be included in legislation authorizing a state agency’s existence to allow the legislature the opportunity to conduct a review of that agency and its activities in order to decide if that agency should continue to exist (usually referred to as a “sunset review”).

The Mississippi PE/PS Board was established in 1928 and has licensed over 20,000 professionals and enrolled almost 8,000 interns in the past seventy-eight years. In 1982 a repealer was inserted into the PE/PS licensure law for the first time; attempts to have this repealer removed have been denied by the legislature.

During the 2004 sunset review, the Board again requested to have the repealer removed, or at least extended to ten years. Others lobbied to have the PE/PS Board’s repealer set at **one** year. In the Conference Report, a “compromise” set the PE/PS Board repealer at five years (2009).

During the 2006 legislative session, legislation was introduced to remove the repealer from the law authorizing the State Board of Registered Professional Geologists, an agency that has been in existence only since 1997. Through the efforts of the American Council of Engineering Companies/Mississippi (ACEC) and their Executive Director Judy Adams, this inequity was brought to the legislature’s attention. ACEC worked with Representative Warner McBride and Senator Bob Dearing to remove the repealer from the PE/PS licensure law.

Attributes of Responsible Charge

It is interesting that the question over responsible charge continues to surface and does frequently where a violation complaint has been filed. The following attributes serve as indicators of compliance with the responsible charge requirement over professional services:

1. Do you supervise the individual performing the work?
2. Do you obtain or set the project parameters or criteria?
3. Can you require changes to the work and dictate the manner and methods by which the work is performed or the scope of involvement by the individual? (over the individual's objections without negative impact on your job status, advancement or compensation)
4. Are you involved from start to finish as the individual performs the work?
5. Are there procedures for quality control and authority over the work that assure that you, as the professional licensee, are in control of the work and the individual performing the work?
6. Is the extent of time spent with the individual during the course of the performance of the work sufficient for you to be familiar with the details of the work?
7. How familiar are you with the capabilities and methods of the individual performing the work and over what period of time? (This goes to the question of how closely you must directly supervise the details of the individual's work.)
8. Did you train the individual?
9. Are you in close proximity or do you have readily accessible contact with the individual, either by physical location or by frequent, clear and full communication in verbal and visual form of the work being performed? (This allows consideration of electronic communication where it is the equivalent of personal contact in the extent of information exchanged.)
10. Are you competent by training and experience in the field of engineering or land surveying which is represented by the drawings or work in question?

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Regarding Surveying Brokers.....

The Board has been contacted by several Professional Surveyors concerned about the Request for Proposals (RFP) from "coordination services" companies, usually referred to as "brokers". The surveyor often has difficulty knowing if he will be in violation of Rule 17.057 (competitive bidding restriction) in responding to the RFP, because the RFP's wording isn't clear. For example, in a Board investigation, it was found that at least 8 surveyors were advised they'd been pre-qualified and were sent the same RFP from a broker. Responding would have constituted a violation of Rule 17.057 in that no more than 5 surveyors are to be short-listed and given a scope on which to submit a response.

In an attempt to address the issue of brokers and coordination services companies, the Board recently requested and received an opinion from the Attorney General's office. This opinion found that the solicitation of survey work by these companies does not appear to be an "offer to practice", and therefore, is not a violation of the PE/PS licensure law. The opinion also found that the procurement of surveying work by these companies is not a violation of the law because the statutory definition of practice does not expressly include the term "procurement." Finally, the opinion found that the affixing of the company's title block to the final plat does not appear to be a violation of the PE/PS licensure law.

The Board is consulting with MAPS, the state surveying society, about possible legislation to address this situation.

Continuing Education & Renewals

The 2006 license renewal notice required all non-exempt licensees to complete the PDH Activity Log showing their 2005 activities and to return it along with their renewal fee payment. This was the first time the Mississippi Board required non-exempt licensees to complete the Activity Log (outside of the annual continuing education audits).

The Board office received hundreds of phone calls from licensees, secretaries and wives, asking for last year's continuing education information for the licensee. Obviously we couldn't assist these callers, because this was the first year we've required this information. *Even more alarming is how many licensees mistakenly think the Board maintains their continuing education records.* This was a common question, ***"How am I supposed to complete this PDH Activity Log if you don't tell me what courses I took?"***

Rule 23, the Continuing Professional Competency rule clearly states, **"The responsibility of maintaining records to be used to support credits claimed is the responsibility of the licensee."**

Rule 23 also requires full compliance by December 31. *Licensees who attempt to renew after December 31 and submit logs claiming PDH's obtained after December 31 are subject to disciplinary action for violation of Rule 23.*

Finally, please be advised that during the busy 2007 renewal period the Board office staff will **not** be able to stop and research last year's PDH logs for licensees. **If you need to know the carryover PDH you reported on last year's Activity Log, please submit your request no later than August 31 to tthompson@pepls.state.ms.us.**

A significant number of licensees have confused renewal of their Certificate of Authority with renewal of their individual license. These are entirely separate licenses – one for the firm and the other for the individual – BOTH due December 31 each year.

Newsletter Survey Results

The Winter, 2006 newsletter asked for responses to these questions: Should the Board continue the Continuing Professional Competency exemption for licensees age 60 and older with 20 or more years of experience *and* should the Board seek a revision to the surveying licensure law to require applicants to have at least a two year college degree?

The overwhelming response to both questions was a resounding **"yes."**

Freebies

On our web site at www.pepls.state.ms.us you can get **free** copies of the Board rules, the current law, the current roster of PE's, PE's by Miss. County, PS's, PS's by Miss. County, Retirees, Engineering COA's, Surveying COA's, and the Standards of Practice for Surveys checklists. You can also print out verification of your individual licensure; **this replaces the wallet card mailing.**

April, 2006 Exam Results

Discipline	Tested	Passed	%
Civil	42	25	59
Electrical	5	4	80
Environmental	17	2	12
Mechanical	9	3	33
FE	161	106	66
FS	21	7	33
PS	11	5	45
Miss. Section	25	16	64

Surveying Certificate of Authority Reminder

Rule 16 now requires that your designated Professional Surveyor must be a principal officer or partner of the firm. "Principal officer" means president, vice-president, or secretary.

In order to comply, your firm may need to change their designated PS by filing an *amended* COA application. Firms that do not comply may not renew their COA for 2007.

Disciplinary/Legal Actions The Board office receives and processes complaints regarding engineering and surveying activities. Some investigations result in disciplinary actions while others result in administrative actions such as letters of education or closing unsubstantiated/insufficient complaints. Below is a recap of recent disciplinary actions.

Paul Baxter, PS, of Hattiesburg, MS, agreed to a consent order for providing surveys that contained Minimum Standards violations. He was fined \$500 with \$250 waived for a probationary period of one year, during which he must take a Minimum Standards course. He was ordered to submit his next three plats for Board review.

Rance House, PS, of Columbus, MS, agreed to a consent order for providing surveys that contained Minimum Standards violations. He was fined \$500 with \$250 waived for a probationary one year period, during which he must take a MAPS Standards of Practice course.

John William Weilenman, Jr., PS, of Stoneville, MS, agreed to a consent order for providing surveys that contained Minimum Standards violations and for practicing on an expired license. He was fined \$1,100 with \$550 waived for a probationary period of one year, during which he must take a MAPS Standards of Practice course. He was further ordered to submit his next three plats for Board review after his license is re-issued.

The PE and PS licenses of a licensee were suspended due to a violation of Rule 17.07, in that he has been convicted of a felony by a federal court; he was also assessed \$350 for Board administrative expenses. The Board's decision was appealed to Chancery Court.

The PE license of Gordon Thomas Tollison, Waveland, MS, was suspended due to a violation of Rule 17.07, in that he has been convicted of a felony by a federal court. The suspension is for one year, followed by one year of probation. He was also assessed \$350 for Board administrative expenses.

The Public Integrity Division of the Attorney General's office is currently prosecuting two cases of unlicensed practice of surveying involving Aaron Smith and David Glass.

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