

SUMMER 2014

BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

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# BULLETIN



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Kathy Jones Irish

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## CONTRIBUTORS:

Richard B. Moore, P.L.S.,  
Executive Officer

Brooke C. Phayer, *Bulletin* Editor



## Message from Board President

KATHY JONES IRISH AND FORMER BOARD PRESIDENT ERIK N. ZINN, P.G., C.E.G.

*"Change is the law of life. And those who look only to the past or present are certain to miss the future."*

—John F. Kennedy

The publication of this message and Bulletin marks our annual transition of presidents, as well as several recent important events and changes. The end of Erik Zinn's term and the beginning Kathy Jones Irish's presidential term are marked by recent permission to attend upcoming out-of-state national examination meetings and a drafted revision of our Board's strategic plan.

The recent permission by the State allowing our members to travel to out-of-state national meetings that set educational and testing standards for licensure was not a spontaneous event. The permission came about as a direct result of three years of repeated and varying approaches by our staff to lay out the fundamentals regarding attendance to the national board meetings, in response to denial of our requests in light of the Governor's statewide freeze for what is considered to be non-mission critical travel. Our intent has never changed during the past three years, since our participation at the national level has always been needed to help develop a fair and impartial test for measuring competency and to provide our Board with our only opportunity to participate in the examination development process. This travel is absolutely mission critical to our Board—if the tests are inadequate, we cannot ensure that licensees are meeting our stipulated standards for licensing. Hopefully we can continue to receive permission to send our duly funded Board delegates to the meetings, as we continue to resurrect our national leadership and presence.

Also, we have recently completed the draft of our new strategic plan for 2014–2018, which represents a huge effort and input by our stakeholders, staff, Board members, and the Department of Consumer Affairs. The timing of the plan is perfect, since this revision of our priorities and goals corresponded with the addition of new Board members in the last two years. We encourage everyone to reference our revised strategic plan as we perform our day-to-day duties, since it is a "living" document with a carefully structured framework. This document will help us assess and adjust our approach and direction as we respond to future changes, both within the Board organization and externally. Further, we have the benefit of our collective understanding and agreement as to the Board's mission, vision, and goals that should support our continued commitment to public-focused and responsible decision-making, which remains our foremost concern.



## Message from the Executive Officer

RICHARD B. MOORE, P.L.S.

With the ending of one fiscal year and the beginning of another, there are many changes happening at the Board for Professional Engineers, Land Surveyors, and Geologists (Board) that should have a positive and direct impact on the individuals served by the Board. Whether those individuals are consumers seeking fair and professional treatment, applicants seeking licensure to further their careers, or licensees who have unfortunately been faced with the reality of dealing with a disciplinary issue, the Board is actively pursuing changes to how we conduct business.

Recognizing that the Board's current Strategic Plan was nearing its end, an open public planning session was held during the last Board meeting of fiscal year 2013–14 to map out the goals and objectives to further commit to positive improvements in customer service. This session would not have been possible without all the valuable input from Board members, Board staff, and over 2,000 individuals from the professional industries and the public who responded to our survey questionnaire. It is expected that the Board will finalize and approve the new Strategic Plan during the July 31–August 1 Board meeting.

This edition of the *Bulletin* provides reminders about recent law changes that all licensees should be aware of, updated information on how to contact the Board, and information pertaining to the Board's Enforcement Program, including an introductory discussion on the effectiveness of the Board's efforts on addressing unlicensed activities.

We look forward to continuing our commitment to improve service to everyone and the changes coming during this next year.

## Board Appointments

The 15 members of the Board for Professional Engineers, Land Surveyors, and Geologists (Board) are appointed under authority of Business and Professions Code Sections 6710, 6711, 6712, and 6713. Eight members of the Board shall be public members. Seven members shall be licensed under the Professional Engineers Act, the Professional Land Surveyors' Act, and the Geologist and Geophysicist Act, as follows: one member shall be licensed as a civil engineer, one as an electrical engineer, one as a mechanical engineer, one as a structural engineer, one licensed in one of the remaining branches of engineering, one as a land surveyor, and one as a geologist or geophysicist. The Governor shall appoint the professional members and six of the eight public members. The Senate Committee on Rules shall appoint one public member, and the Speaker of the Assembly shall appoint one public member. One of the professional engineer or land surveyor members shall be from a local public agency and one from a State agency.

If you are interested in applying for appointment to the Board, please click on [www.dcaboardmembers.ca.gov](http://www.dcaboardmembers.ca.gov) to visit the Department of Consumer Affairs website for more information.

## Role of the Board's Enforcement Program

Through its enforcement program, staff, contracted consultants, and the Office of the Attorney General, the Board for Professional Engineers, Land Surveyors, and Geologists (Board) takes action against licensees and unlicensed individuals who have potentially violated provisions outlined in the *2014 Handbook of Laws and Rules for the California Board for Professional Engineers, Land Surveyors, and Geologists*.

Covered in the *Handbook* are:

- The Professional Engineers Act
- The Professional Land Surveyors' Act
- Board rules and regulations
- The Geologist and Geophysicist Act
- Regulations relating to geology and geophysics
- Related sections of California codes

The *Handbook* also includes information on initiating disciplinary actions and issuing administrative citations with monetary fines.

The 2014 edition of the *Handbook of Laws and Rules* is available for purchase from the Board. The cost per copy is \$10. You may request a copy by sending a letter with your mailing address, along with a check or money order payable to the "Department of Consumer Affairs," to the Board for Professional Engineers, Land Surveyors, and Geologists; 2535 Capitol Oaks Drive, Suite 300; Sacramento, CA 95833.

The Board's active enforcement program ensures that the laws governing its disciplines are enforced in a fair and judicious manner. The enforcement program addresses three main goals articulated in its mission statement: 1) establish regulatory standards of practice for those licensed; 2) protect consumers by preventing violations and effectively enforcing laws, codes, and standards when violations occur; and 3) increase public awareness of the Board's mission, activities, and services.

To achieve these goals, the Board makes recommendations on initiatives and policies. This includes publishing *A Guide for Consumers: What you should know before you ... hire a Professional Engineer ... hire a Professional Land Surveyor* and *A Guide to Engineering & Land Surveying for City and County Officials*. Both are currently available in print format (booklet) and as an electronic file (PDF). Both documents are in the process of being updated to include the discipline of geology and geophysics.

In addition, the Department of Consumer Affairs initiated the Consumer Protection Enforcement Initiative (CPEI) in 2009. Based on the recommendations of the CPEI, the Board established a systematic approach for prioritizing cases for formal investigation and discipline, and complaint processing. Board staff continues to improve its process, leading to enhanced consumer protection.

## Board Subscribers List Reminder and Survey

Receiving e-mail notifications regarding meetings, legislation, or e-news from the California Board for Professional Engineers, Land Surveyors, and Geologists (Board) couldn't be easier. Simply join our subscribers list on the Board's website. You will then be connected to new issues of the Board *Bulletin*, notified when the Board holds meetings, and receive information related to consumers, candidates, or licensees.

Joining the subscribers list can be done in just a few easy steps:

1. Visit the Board's website at [www.bpelsg.ca.gov](http://www.bpelsg.ca.gov).
2. Click on the "Join Our Email List" link in the "Quick Hits" section.
3. Enter your e-mail address and the specified text or audio link to validate submission of your data.

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## Changes to Reporting of Legal Actions Program Effective January 1, 2014

Effective January 1, 2014, Articles 4.5 and 5.7 of the Professional Engineers Act and the Professional Land Surveyors' Act (Business and Professions Code Sections 6770 et seq. and 8776 et seq.), relating to the Reporting of Legal Actions Program, were amended. These laws require a professional engineer or a professional land surveyor to report any criminal convictions; civil action judgments, settlements, and arbitration awards; and administrative actions to the Board for Professional Engineers, Land Surveyors, and Geologists (Board) within 90 days of their occurrence or from when the licensee has knowledge of the action.

The laws have been amended to require that any civil action settlements or administrative actions resulting in a settlement greater than \$50,000 be reported to the Board. Additionally, the laws require that any civil action judgment, binding arbitration award, or administrative action resulting in a judgment or binding arbitration award of \$25,000 or greater against the licensee be reported to the Board.

The laws continue to require a licensee to report all felony convictions and any misdemeanors convictions or

infractions that are substantially related to the practice of professional engineering or land surveying to the Board within 90 days of knowing of the conviction.

In addition to these requirements for licensees, liability insurers, California courts, and all self-insured local and state governmental agencies are also required to report criminal convictions, civil judgments, settlements, and awards to the Board. A licensee is required to report the information to the Board even if his or her liability insurer has already reported the matter.

Once the report is received by the Board, the Enforcement Unit will review the information reported to determine if a formal investigation case should be opened to see whether violations of the Professional Engineers Act or Professional Land Surveyors' Act have occurred.

The form for reporting such actions is available on the Board's website at [www.bpelsg.ca.gov/pubs/forms/reporting\\_form.pdf](http://www.bpelsg.ca.gov/pubs/forms/reporting_form.pdf).

For more information, contact Julie Baker, Enforcement Analyst, at (916) 263-2237 or [Julie.Baker@dca.ca.gov](mailto:Julie.Baker@dca.ca.gov).

## Enforcement Unit Recruiting Technical Expert Consultants

The Board for Professional Engineers, Land Surveyors, and Geologists' (Board's) Enforcement Unit is recruiting professional engineers, professional land surveyors, professional geologists, and professional geophysicists to serve as technical expert consultants for complaint investigation matters. The Enforcement Unit maintains a pool of technical expert consultants in all disciplines of licensure. Currently, the Enforcement Unit especially needs more technical expert consultants who are licensed as electrical engineers, mechanical engineers, professional geologists (including certified engineering geologists and certified hydrogeologists), and professional geophysicists. However, civil engineers (including geotechnical engineers and structural engineers) and land surveyors are encouraged to submit their resumes as well.

**Duties:** Technical expert consultants review enforcement complaint investigation cases for compliance with the laws and regulations and the standards of care and practice. Upon completion of a review, a written report of the opinion must be submitted to the Enforcement Unit. Experts may also be asked to testify at administrative hearings regarding their opinions.

**Qualifications:** Technical expert consultants must be California residents and have been licensed in California for a minimum of five years. Additionally, they cannot have been the subject of any complaints or enforcement actions.

**Reimbursement:** Technical expert consultants are paid an hourly rate for case review, report preparation, and actual time

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**Enforcement Unit Technical Expert Consultants (continued from page 4)**

spent testifying at administrative hearings. Travel costs associated with testifying are reimbursed.

If you are interested in assisting the Board's Enforcement Unit as a technical expert consultant, please submit your current resume/curriculum vitae along with the appropriate Areas of Expertise form (see links below) to the following address:

**Board for Professional Engineers, Land Surveyors, and Geologists**

Attention: Enforcement Unit  
2535 Capitol Oaks Drive, Suite 300  
Sacramento, CA 95833

Areas of Expertise Forms

**Land Surveyors and Civil Engineers (including Geotechnical Engineers and Structural Engineers):**

[www.bpelsg.ca.gov/pubs/forms/experts\\_aoe\\_ce\\_ls.pdf](http://www.bpelsg.ca.gov/pubs/forms/experts_aoe_ce_ls.pdf)

**Electrical Engineers and Mechanical Engineers:**

[www.bpelsg.ca.gov/pubs/forms/experts\\_aoe\\_me\\_ee.pdf](http://www.bpelsg.ca.gov/pubs/forms/experts_aoe_me_ee.pdf)

**Professional Geologists (including Certified Engineering Geologists and Certified Hydrogeologists) and Professional Geophysicists:**

[www.bpelsg.ca.gov/pubs/forms/experts\\_aoe\\_pg\\_pgp.pdf](http://www.bpelsg.ca.gov/pubs/forms/experts_aoe_pg_pgp.pdf)

If you would like more information about being a technical expert consultant, you may call the Enforcement Unit at (866) 780-5370 or e-mail at [BPELS.Enforcement\\_Information@dca.ca.gov](mailto:BPELS.Enforcement_Information@dca.ca.gov).

Updated 7/9/2014

**Board Subscribers List Reminder (continued from page 3)**

4. Click on "Submit."
5. You will then receive a confirmation e-mail.

Also, in an effort to make the Bulletin an accurate reflection of your informational needs and professional interests, please click on [www.surveymonkey.com/s/BPELSG\\_Bulletin](http://www.surveymonkey.com/s/BPELSG_Bulletin) to complete our survey. We would like to hear your feedback, as well as topic ideas for future Bulletin articles.

Thank you for your help in making our publication of greater value to you, our licensees.

## Spring 2014 Engineer, Land Surveyor, and Geology Exam Statistics

CIVIL ENGINEERING				
	PASS	FAIL	TOTAL	PASS RATE
Principles & Practices	751	669	1,420	53%
Seismic Principles*	751	812	1,563	48%
Engineering Surveying*	662	907	1,569	42%
STRUCTURAL ENGINEERING				
	PASS	FAIL	TOTAL	PASS RATE
Lateral Forces	43	76	119	36%
Vertical Forces	39	82	121	32%
OTHER ENGINEERING DISCIPLINES				
	PASS	FAIL	TOTAL	PASS RATE
Chemical	20	13	33	61%
Electrical	115	168	283	41%
Industrial	1	3	4	25%
Mechanical	177	124	301	59%
LAND SURVEYING				
	PASS	FAIL	TOTAL	PASS RATE
Principles & Practices	45	38	83	54%
Surveying*	48	172	220	22%
GEOLOGY				
	PASS	FAIL	TOTAL	PASS RATE
Practice of Geology	49	13	62	79%
California Specific Examination*	38	55	93	41%
FUNDAMENTALS				
	PASS	FAIL	TOTAL	PASS RATE
Engineering	991	512	1,503	66%
Land Surveyor	13	32	45	29%
Geology	66	24	90	73%

\*State-specific examinations. All others are national examinations.

## How Does the Board Enforce Against Unlicensed Activity?

Richard B. Moore, P.L.S.

Occasionally when speaking with a licensee, or a group of licensees, the topic of unlicensed activity arises, and the questions or comments typically pertain to the perceived lack of authority that the Board has over unlicensed individuals. As an observation, the comments typically exhibit a general misunderstanding of the Board's authority, most likely obtained through word-of-mouth rather than approaching the Board for factual information. Contrary to popular belief, the Board does have enforcement authority over individuals attempting to practice without being legally authorized to do so. While the investigative process is very much the same regardless of whether the subject of the investigation is a licensee or an unlicensed individual, the difference in authority arises when the investigation is completed with evidence indicating that the subject violated the Board's laws.

By viewing the Board meeting agenda materials posted on the Board's website, especially the section entitled Enforcement Statistics ([www.bpelsg.ca.gov/about\\_us/meetings/index.shtml](http://www.bpelsg.ca.gov/about_us/meetings/index.shtml)), one can see a snapshot of the Board's activities related to unlicensed individuals attempting to circumvent regulated practice. For example, of the 295 investigative cases opened for the 2013–14 fiscal year (through the end of May), 81 are directly related to unlicensed activity. Additionally, over the previous three years, with an average of 354 investigative cases opened each year, unlicensed activity accounted for an average of 83 of those cases on an annual basis.

Looking further into the statistics, one can see that the split between engineering and land surveying investigations involving unlicensed activities gives a slight edge each year toward the engineering aspect. Please note that if you add the numbers from this chart together, it will not necessarily total exactly the numbers described in the previous charts mentioned above. Sometimes, an individual is alleged to have performed both engineering and land surveying activities, which require multiple licenses.

If upon completion of the investigative stage, evidence indicates violations have occurred, the next step generally proceeds in one of two directions, either an Administrative Citation and Fine or Formal Disciplinary Action. Since this article is discussing unlicensed individuals, the latter is not an option simply because the Board cannot take action affecting the status of one's licensed authority to practice because the individual has not obtained that authority. However, the former option is very actively implemented in these cases and is not to be taken lightly by the subjects of those investigations or anyone associated with it.

For instance, and still referring to the previous statistics, in Fiscal Year 2013–14, the Board has issued 67 Administrative Citations (as of May 31, 2014) as a result of the investigation, and of those, 16 citations were directly related to violations of practice by unlicensed individuals with a combined fine total of just under \$110,000. In the previous fiscal year (2012–13), 24 citations directly pertained to unlicensed activities (total of 84 citations issued) totaling just under \$135,000 in fines. These facts indicate a significant policy toward the Board's intention to reduce or eliminate instances of unlicensed practice particularly when one considers that the maximum allowable fine per violation is \$5,000. It is important to understand that the final fines may differ due to considerations resulting from an informal conference with the Executive Officer or formal appeal of the Board's action through the administrative hearing process. Additionally, if an unlicensed individual receives an Administrative Citation that includes a fine and does not comply with paying the fine, the Board provides notification to the California Franchise Tax Board for collection through the state tax process.

## Legislation and Regulation News and Updates

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) continually strives to track, introduce, pursue, add, amend, or repeal statutes and regulations in an effort to positively impact the professions we license and regulate. Below is a list of recently approved regulation changes that affect the professions the Board licenses.

**Applicant Fingerprinting** - Adding Sections 420.1 and 3021.1 to Title 16 of California Code of Regulations. Approved by the Office of Administrative Law and endorsed by the Secretary of State's Office on November 6, 2013. Effective on January 1, 2014.

**Examination Subversion** - Amending Sections 442 and 3035 of Title 16 of California Code of Regulations. Approved by the Office of Administrative Law and endorsed by the Secretary of State's Office on October 17, 2013. Effective on January 1, 2014.

**Seal, Signature, and Address Change** - Amending Sections 411, 412, 3008, and 3009 of Title 16 of California Code of Regulations. Approved by the Office of Administrative Law and endorsed by the Secretary of State's Office on November 18, 2013. Effective on January 1, 2014.

**Code of Professional Conduct** - Amending Sections 475, 476, and 3065 of Title 16 of the California Code of Regulations. Approved by the Office of Administrative Law and endorsed by the Secretary of State's Office on January 17, 2014. Effective on April 1, 2014.

**Criteria for Rehabilitation and Disciplinary Orders** - Amending Sections 419, 3061, and 3064 of Title 16 of the California Code of Regulations. Approved by the Office of Administrative Law and endorsed by the Secretary of State's Office on June 16, 2014. Effective on October 1, 2014.

Documents pertaining to the regulation changes, including the Final Statement of Reasons, Std. 400 form stamped/endorsed by the Secretary of State's Office, and Order of Adoption, can be found on the Board's website at [www.bpelsg.ca.gov/about\\_us/rulemaking.shtml](http://www.bpelsg.ca.gov/about_us/rulemaking.shtml).

**Coming Soon!** The Board will provide a roadmap to the regulation process as an informational guide and allow our readers to follow along with upcoming regulation changes.

## National Surveyors Week

Senate Resolution 32, honoring professional surveyors by designating the week of March 16–22, 2014, as National Surveyors Week, unanimously passed the Senate.

“The work of surveyors is essential and wherever there are roads, dams, or bridges to be built,” said Senator Andy Vidak. “Former notable surveyors include George Washington, Thomas Jefferson, Abraham Lincoln, and Henry David Thoreau.”

*Pictured left to right are California Land Surveyors Association President Rolland Van De Valk, Senator Andy Vidak, and Pat Tami, a professional land surveyor and member of the Board for Professional Engineers, Land Surveyors, and Geologists.*





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## Social Media: Board Facebook and Twitter Pages

The Board for Professional Engineers, Land Surveyors, and Geologists (Board) is asking for your help in getting the word out regarding the launch of its Facebook and Twitter pages. The Board is now posting information of interest to postsecondary institutions and students on a regular basis. This information includes regulatory changes, updates to our website, interesting articles, useful resources, and a host of other Board-related data.

For those institutions that communicate with students through e-mail or some other means, we invite you to share this information with them. The Board is anxious to use these social media outlets as an ongoing way to reach our stakeholders. Thank you for your assistance in spreading the word.

Please take a few minutes to “like” us on Facebook and “follow” us on Twitter:

 **Facebook** - [www.facebook.com/pages/The-Board-for-Professional-Engineers-Land-Surveyors-and-Geologists/107020752801578](http://www.facebook.com/pages/The-Board-for-Professional-Engineers-Land-Surveyors-and-Geologists/107020752801578)

 **Twitter** - [twitter.com/CA\\_Engineers](http://twitter.com/CA_Engineers)



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