

**ENGINEERING AND LAND SURVEYING
EXAMINING BOARD[193C]**

Adopted and Filed

Pursuant to the authority of Iowa Code section 542B.6, the Engineering and Land Surveying Examining Board amends Chapter 7, “Professional Development,” and Chapter 9, “Complaints, Investigations and Disciplinary Action,” Iowa Administrative Code.

The amendment to Chapter 7 expands acceptable professional development hours.

The amendment to Chapter 9 provides to licensees more detailed guidance pertaining to actions or omissions that could result in disciplinary action. The guidance is patterned after similar rules previously adopted by other professional licensing boards and has been adapted to the specific laws and rules of this Board.

Prior to publication of the Notice, stakeholder feedback was received from lobbyist David Scott, whose clients include the Iowa Engineering Society and the Society of Land Surveyors of Iowa. After discussion with stakeholders at several meetings of the Board, the proposed amendments were approved by all participants.

Notice of Intended Action for the amendments was published in the Iowa Administrative Bulletin on February 18, 2015, as **ARC 1886C**. A public hearing was held at 9 a.m. on March 11, 2015, at the offices of the Professional Licensing Bureau, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa. No comments were received.

These amendments are identical to those published under Notice.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

These amendments were adopted by the Board on May 14, 2015.

There is no fiscal impact. No current fees are being changed, and no new fees are being imposed.

After analysis and review of this rule making, no adverse impact on jobs was found. Although there should be no impact on jobs, the Board will continue to work with stakeholders to minimize any negative impact and maximize any positive impact toward jobs.

These amendments are intended to implement Iowa Code section 542B.21.

These amendments will become effective July 15, 2015.

The following amendments are adopted.

ITEM 1. Amend subrule 7.3(2) as follows:

7.3(2) PDH conversion. The following chart illustrates the conversion from other units to PDH:

ACTIVITY	PDH
1 College or unit semester hour Credit for qualifying college or community college courses will be based upon course credit established by the college.	45 PDH per semester hour
1 College or unit quarter hour Credit for qualifying college or community college courses will be based upon course credit established by the college.	30 PDH per quarter hour
1 Continuing Education Unit as defined in 193C IAC— 7.2(542B,272C)	10 PDH
1 Contact hour attendance in a class, course, seminar, or professional or technical presentation made at a meeting, in-house training session, convention or conference. Credit for qualifying seminars and workshops will be based on 1 PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional or technical society meetings will earn PDH units for the actual time of each program, <u>excluding</u> time for breaks and meals.	1 PDH per hour
1 Contact hour teaching a class, course, seminar, or a professional or technical presentation a. Teaching credit is valid for teaching a course or seminar for the first time only. b. Teaching credit does not apply to full-time faculty. c. Teaching credit is limited to 10 PDH per biennial renewal period.	2 PDH per hour
Each published paper, article, or book	10 PDH

ACTIVITY	PDH
Credit for published material is earned in the biennium of publication.	per publication
Active participation in a professional or technical society. Credit for active participation in professional and technical societies is limited to 2 PDH per renewal period per organization and requires that a licensee serve as an officer or actively participate in a committee of the organization. PDH credits are earned for a minimum of one year's service.	2 PDH per organization per renewal period
Each patent Credit for patents is earned in the biennium the patent is issued.	10 PDH per patent
Participation on an NCEES examination development committee participation or Iowa state specific land surveying examination development committee, including the writing and grading of examination questions, writing reference materials for examinations, and evaluating past examination question performance. Licensees may claim a maximum of 15 30 PDH per biennial renewal period for participation in this activity.	3 2 PDH per hour of committee participation

ITEM 2. Rescind rule 193C—9.3(542B) and adopt the following new rule in lieu thereof:

193C—9.3(17A,272C,542B,546) Grounds for discipline. The board may initiate disciplinary action against a licensee holding an active, inactive or lapsed license on any of the following grounds:

9.3(1) Fraud or deceit in procuring a license. Fraud or deceit in procuring or attempting to procure an initial, comity, renewal, or reinstated license includes any intentional perversion of or reckless disregard for the truth when an application, or information in support of another's application, is submitted to the board, including:

- a. False representation of a material fact, whether by word or by conduct, by false or misleading allegation, or by concealment of that which should have been disclosed.
- b. Attempting to file or filing with the board any false or forged record or document, such as a college transcript, diploma or degree, examination report, verification of licensure, or continuing education certificate.
- c. Reporting information, such as satisfaction of continuing education, in a false manner, through overt deceit, or with reckless disregard for the truth or accuracy of the information asserted.
- d. Otherwise participating in any form of fraud or misrepresentation by act or omission.

9.3(2) Professional incompetence. Professional incompetence includes, but is not limited to:

- a. A substantial lack of knowledge or ability to discharge professional obligations within the practice of engineering or land surveying.
- b. A substantial deviation from the standards of learning or skill ordinarily possessed and applied by other practitioners in the state of Iowa acting in the same or similar circumstances.
- c. A failure to exercise the degree of care which is ordinarily exercised by the average practitioner acting in the same or similar circumstances.
- d. Failure to conform to the minimum standards of acceptable and prevailing practice of engineering or land surveying in this state, including the land surveying standards set forth in Iowa Code chapters 354 and 355 and 193C—Chapters 11 and 12.
- e. Engaging in engineering or land surveying practices which are outside the technical competence of the licensee without taking reasonable steps to associate with a competent licensee or other steps to ensure competent practice.
- f. Any other act or omission that demonstrates an inability to safely practice in a manner protective of the public's interest, including acts or omissions described in 193C—8.3(542B).

9.3(3) Deceptive practices. Deceptive practices are grounds for discipline, whether or not actual injury is established, and include, but are not limited to, the following:

- a. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of engineering or land surveying.
- b. Use of untruthful or improbable statements in advertisements. Use of untruthful or improbable statements in advertisements includes, but is not limited to, an action by a licensee in making information or intention known to the public which is false, deceptive, misleading or promoted through fraud or misrepresentation.

- c. Acceptance of any fee by fraud or misrepresentation.
- d. Falsification of business or client records.
- e. Submission of false or misleading reports or information to the board including information supplied in an audit of continuing education or as a condition of probation, or in a reference submitted for an examination or a license applicant or in any reports identified in this rule or 193C—8.3(542B).
- f. Knowingly presenting as one's own the license, signature, or seal of another or of a fictitious licensee, or otherwise falsely impersonating a person holding an engineering or land surveying license.
- g. Representing oneself as a professional engineer or professional land surveyor after the license has been suspended, revoked, surrendered, or placed on inactive status or has lapsed.
- h. Fraud in representations as to skill or ability.
- i. Any violation of Iowa Code section 542B.16 or associated rules in 193C—Chapter 6 involving a licensee's seal or certificate.

9.3(4) Unethical, harmful or detrimental conduct. Licensees engaging in unethical conduct or practices harmful or detrimental to the public may be disciplined whether or not injury is established. Behaviors and conduct which are unethical or harmful or detrimental to the public include, but are not limited to, the following actions:

- a. A violation of the code of professional conduct in 193C—Chapter 8.
- b. Verbal or physical abuse, or improper sexual contact, if such behavior occurs within the practice of engineering or land surveying or if such behavior otherwise provides a reasonable basis for the board to conclude that such behavior could occur within such practice and, if so, would place the public at risk.
- c. Aiding or abetting a violation of a provision of Iowa Code section 542B.27(1).

9.3(5) Lack of proper qualifications. Lack of proper qualifications includes, but is not limited to:

- a. Continuing to practice as an engineer or land surveyor without satisfying the continuing education required for license renewal.
- b. Habitual use of or addiction to alcohol or other drugs, or other impairment, which adversely affects the licensee's ability to practice in a safe and competent manner.
- c. As provided in Iowa Code section 272C.3(2) "b," any act, conduct, or condition, including lack of education or experience, or a pattern of careless or intentional acts or omissions that demonstrate a lack of qualifications which are necessary to ensure a high standard of professional care or that impair a practitioner's ability to safely and skillfully practice the profession.

9.3(6) Professional misconduct. Professional misconduct includes, but is not limited to, the following:

- a. Engaging in any conduct that subverts or attempts to subvert a board investigation of a licensee, license applicant, or unlicensed firm, individual, or other entity.
- b. Failure to fully cooperate with a disciplinary investigation of a licensee or license applicant or with an investigation of firms, individuals or other entities that are not licensed by the board.
- c. Failure to comply with a subpoena issued by the board or to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the licensee's last address on file with the board.
- d. Revocation, suspension, or other disciplinary action taken against a licensee by a licensing authority of this state or another state, territory, or country. A "disciplinary action" includes a voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A stay by an appellate court shall not negate this requirement; however, if such disciplinary action is overturned or reversed by a court of last resort, discipline by the board based solely on such action shall be vacated.
- e. Violation of the terms of an initial agreement with an impaired practitioner review committee or violation of the terms of an impaired practitioner recovery contract with an impaired practitioner review committee.
- f. Engaging in the practice of engineering or land surveying while the person's license is lapsed or inactive.
- g. Failure to comply with the terms of a board order or the terms of a settlement agreement or consent order or other board decision imposing discipline.

h. The board's receipt of a notice of noncompliance, as more fully described in rules 193—7.43(252J) (child support), 193—7.44(261) (student loans), and 193—7.45(272D) (state debt).

9.3(7) Willful or repeated violations. Willful or repeated violations include the willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 542 or any administrative rule adopted by the board in the administration or enforcement of such chapters.

9.3(8) Conviction of felony. Conviction of felony includes the conviction of a felony under the laws of the United States, of any state or possession of the United States, or of any other country. If such conviction is overturned or reversed by a court of last resort, discipline by the board based solely on the conviction shall be vacated.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/10/15.