

481—1053.3(10A,17A,272C,542B) Grounds for discipline. The board has authority pursuant to Iowa Code chapters 10A, 542B, 17A and 272C to impose discipline for violations of those chapters and the rules promulgated thereunder and may initiate disciplinary action against a licensee holding an active, inactive or lapsed license on any of the grounds identified in Iowa Code section 542B.21.

1053.3(1) 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.

1053.3(2) 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 that 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 481—Chapters 1055 and 1056.

e. Engaging in engineering or land surveying practices that 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 rule 481—1052.3(542B).

1053.3(3) Deceptive practices 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 that 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 rule 481—1052.3(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 481—Chapter 1050 involving a licensee's seal or certificate.

1053.3(4) Behaviors and conduct that 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 481—Chapter 1052.

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).

1053.3(5) Lack of proper qualifications, as provided in Iowa Code section 272C.3(2)“*b*,” 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. Violation of Iowa Code section 542B.21(4) that adversely affects the licensee’s ability to practice in a safe and competent manner.

1053.3(6) Professional misconduct, which includes, but is not limited to, revocation, suspension, or other disciplinary action taken against a licensee by a licensing authority of this state or another state, territory, or country. “Disciplinary action” includes a voluntary surrender of a license to resolve a pending disciplinary investigation or proceeding. A stay by an appellate court does 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. A licensee shall notify the board of such disciplinary action within 30 days of the disciplinary action.

1053.3(7) Willful or repeated violations include the willful or repeated violation or disregard of any provision of Iowa Code chapter 272C or 542B or any administrative rule adopted by the board in the administration or enforcement of such chapters.

1053.3(8) 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. The board will vacate any discipline based solely on a conviction, if that conviction is overturned or reversed by a court of last resort.

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