



# INTERchange

Informing Professional Engineers of developments that influence their honored profession

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Cross Lanes, WV

**L.A. Gates, PE**  
Beckley, WV



West Virginia State Board  
of Registration for  
Professional Engineers

300 Capitol Street  
Suite 910  
Charleston, WV 25301

TEL 304-558-3554  
800-324-6170

FAX 304-558-6232

[WWW.WVPEBD.ORG](http://WWW.WVPEBD.ORG)

**Lesley L. Rosier-Tabor, PE**  
Executive Director  
Lesley@wvpebd.org  
info@wvpebd.org

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## Change Is Constant ... But That Doesn't Make It Easy

**LESLEY L. ROSIER-TABOR, PE,  
EXECUTIVE DIRECTOR**



When I joined the Board in 2002, a series of strategic planning sessions revealed the need for an annual publication to inform stakeholders and the Professional Engineering community of developments and changes that influence their honored profession. At that time, these included the newly created Board staff positions (MINE!), new Board members, a new office location, new communication tools under development, an official website, and so on. When our editorial guru presented this transportation engineering gal with possible titles for our new annual publication, I immediately latched on to the "INTERchange." As a verb, it can mean "when two or more people exchange things with each other." As a noun, it can mean "the action of exchanging ideas or information" or "a road junction designed so that traffic can cross safely and without interruption through the same point at different grades / levels." Seemed perfectly fitting then and still does today.

As you will see with each turn of the page, this edition is again filled with **change ... change** of Board member terms, **change** of Board counsel, **change** of WV legislative rules, **change** of NCEES leadership, **change** of NCEES headquarters location, **change** of NCEES exam specs, **change** of PE exam formats, etc. **Change** is constant and happens whether we like it or not. As a creature of habit, I admit I do not always embrace change. *Shucks, have you noticed I continue to use my original 2003 staff photo? Why? Perhaps I cling to those younger years and avoid advertising inevitable changes (extra pounds, new wrinkles, or silver "sparkles" in my hair).* Sometimes it comes in like a tsunami and other times it just creeps up on you quietly and slowly. Sometimes it is exciting and filled with new opportunities, other times it is devastating and a tragedy. The WV PE Board has experienced both in recent months and both were somewhat difficult and painful for me personally.

**1.** The first **change** came when my dear friend and colleague, **Debra Hamilton**, officially announced her retirement in mid-2018. It marked her well-deserved reward for decades of tireless legal work. The time had arrived for her to relax, explore, and have fun unburdened by the daily grind. It was undoubtedly a jubilant day for her but admittedly one where a little panic set in for me. What would we do without her wisdom and talent? Who would take her place? This change created many unanswered questions for me because she had been a constant with our Board for over 15 years. However, as you will read further in this newsletter, she aided the Board in a smooth transition and left us in new, good and capable hands.

**2.** The second **change** was much more difficult and that was mourning the loss of our dear friend and former Board member, Dr. Bill Pierson, PE. This was an unfortunate and tremendous loss for the entire WV Engineering and Education community. Personally, Bill was my teacher and mentor at WV Tech in the late 80's - early 90's, then my faculty colleague in the mid 90's - early 2000's, our WV PE Board member (and therefore my boss) from 2006 - 2016 and someone I will always consider to be my dear friend. I am so thankful that my family went to his home in late July for a visit. We spent 2+ wonderful hours together with Bill and Barbara (his wife of 51 years). We told stories, he and my husband solved many of the world's problems, my daughter Paisley played a number of piano pieces for them and Bill was his witty, humorous self. He wanted updates about the Board and NCEES activities and was thrilled to hear Garth Thomas and I were carrying on his work with the NCEES Education Committee. He asked me to tell all of his long-time friends "hello" knowing I would be attending the 2019 NCEES Annual meeting in the following weeks (which I certainly did). Before we left, he told me one of the things he missed most was working on his NCEES FE Exam committee tasks and traveling to Clemson several times a year to write FE exam questions. Bill was an extremely humble human but I am so happy the WV PE Board secretly submitted a nomination a few years ago to recognize him for this very work, over 25 years of volunteering his time, knowledge and talent to write FE exam questions that would ultimately appear on the national licensing exams. Both the NCEES Awards Committee and the NCEES Board of Directors agreed he was more than worthy of receipt and so he was presented with the 2016 NCEES National Distinguished Examination Service Award, an honor he was very proud of. Bill was a good, good person and I miss him terribly.

*I wanted to share this photo strip that is one of many wonderful memories shared with both Debra and Bill. It was from an impromptu picture opportunity we took advantage of during a fun evening spent together at the 2016 NCEES Annual Meeting in Indianapolis in 2016 (the night Bill received the NCEES National Distinguished Examination Service Award). When I returned to the office the following Monday, I taped this photo strip to my credenza, within a few inches of my computer screen, where I have glanced at it daily for the last 3 years. In the last few months, it continues to make me smile all while tugging at my heartstrings.*

**It will remain there until I retire.**





Left to right in photo:

- Mr. Bhajan Saluja**  
Board President  
Term expires June 30, 2021
- Mr. L.A. Gates, PE**  
Board Member  
Term expires June 30, 2020
- Dr. Larry Nottingham, PE**  
Board Secretary  
Term expires June 30, 2022
- Mr. Edward Robinson, PE**  
Board Member  
Term Expired June 30, 2019
- Mr. Garth Thomas, PE**  
Board Vice-President  
Term expires June 30, 2023

## Board Updates

### REAPPOINTMENT OF MR. GARTH THOMAS, PE

Since our last **INTERchange** publication, the West Virginia State Board of Registration for Professional Engineers received a welcomed reappointment to the Board. Per a gubernatorial notification made by Governor Jim Justice on August 29, 2018, Mr. Garth Thomas was reappointed to his first full 5-year term ending on June 30, 2023. Mr. Thomas was originally appointed on June 8, 2016 to fill the unexpired term of Dr. William E. Pierson who resigned due to illness. Mr. Thomas is from the Seventeenth Senatorial District and lives in Charleston, West Virginia.

### WELCOME TO THE TEAM!

The WV PE Board is pleased to welcome N. Edward Eagloski, II who began serving as Legal Counsel to the Board in June 2018. Edward is a graduate of West Virginia University where he earned his Bachelor's degree in Chemical Engineering in 1981 and his Doctor of Jurisprudence in Law in 1987. He has been a member of the West Virginia State Bar since 1987 and the Florida State Bar since 1988. He is also admitted to practice before the United States Supreme Court and the U.S. District Courts for the Southern and Northern Districts of West Virginia.

Mr. Eagloski currently owns a small private law firm in Hurricane, WV, which is a general practice law firm providing legal services to small businesses and individuals. His services range from family to consumer, wills and estates, criminal and DUI defense, administrative appeals, business law and personal injury. In addition, he has worked as in-house counsel for Mountaineer Gas and as an Associate with the law firm Masters and Taylor, LC.

**Mr. Eagloski has a distinguished career with several elected and appointed positions including the following:**

- Circuit Judge, 29th Judicial Circuit, Winfield, WV (1/2001- 12/2008)
- Municipal Judge City of St. Albans, St. Albans, WV (7/1997 - 12/2000)
- West Virginia Supreme Court of Appeals, 2004 (temporary assignment)

Mr. Eagloski brings a unique perspective to his position as Counsel to the Board given he has a Chemical Engineering background as well. In the early 1980's, he worked for Gulf Oil Chemicals/ Chevron Chemicals in Marietta, Ohio. As a Process Engineer, he was responsible for day-to-day engineering and technical support of the company's crystal polystyrene product line, worked in research and development for new/enhanced products, and improved plant efficiency by raising production rates and lowering substandard materials during transition of products in the continuous flow production line.

We are confident that Mr. Eagloski will fulfill his role to the best of his ability and maintain the high standards of the Board. If you would like to contact our new Board Counsel, please feel free to do so at [counsel@wvpebd.org](mailto:counsel@wvpebd.org).

### 2019-2020 BOARD LEADERSHIP ELECTION RESULTS

During the July 22, 2019 Board meeting, the WV PE Board held officer elections for the upcoming fiscal year, FY2020. Upon unanimous vote, the current officer slate remained unchanged:

- **Mr. Bhajan Saluja, PE**  
Board President
- **Mr. Garth Thomas, PE**  
Board Vice-President
- **Dr. Larry Nottingham, PE**  
Board Secretary



*N. EDWARD EAGLOSKI, II*

# When Goodbye Just Doesn't Seem Enough



[LEFT TO RIGHT] DEBRA HAMILTON PICTURED WITH FORMER BOARD PRESIDENT EDWARD ROBINSON, PE, PS

Ms. Debra Hamilton announced her plan to retire on June 30, 2018. Debra had been practicing law for nearly 40 years. She spent over 20 years in state government as counsel to the WV Legislature in the 1980's and then the last 16 years as Managing Deputy Attorney General as well as counsel to the WV PE Board. It is never easy to bid farewell to a co-worker but even more difficult when you have come to rely on such immense talent and work ethic as exemplified by Debra. She not only provided excellent counsel to the Board, but became a dear friend to all. We certainly miss working with her on a daily basis but know she has moved on to more exciting adventures.

Those of us who know Debra best are confident that she will never truly retire. Instead, Debra has shifted focus to pursue her passions: travel, politics, advocating for noble causes and those less fortunate, and spending time with family and friends. During a recent email exchange with Debra, she shared that she "is spending too much time at her computer networking and organizing around issues important to her, doing some traveling, wishing it would rain more - except on days when it is raining, and praying that the gas pipelines were well-engineered and are being expertly installed" all while maintaining her law license just in case!

We will be forever grateful that Debra was kind enough to take the time to "train" our new Board attorney during her last month of employment (June 2018) which eased the transition. The Board recognized Debra at her last meeting during the summer of 2018 and Executive Director Rosier-Tabor surprised those in attendance with a video montage highlighting both Debra's personal and professional activities over the years. A few tears were shed, but mostly sharing lots of accolades and well wishes. Board President Ed Robinson presented Debra with several gifts, including a beautiful, one-of-a-kind cake bearing the WV State seal and a heartfelt "thank you" gift handmade with love and admiration by Rosier-Tabor and her husband. It is our hope that this rustic state outline, made from reclaimed wood, found its way to the perfect spot in Debra's home ... somewhere she walks by daily and fondly remembers her many years of honorable public service to the Board and the State of WV.

In honor of Debra's love for words, her ease in crafting sentences, and valuable English-teacher talents inherited from her mother which certainly came in handy over the years (albeit used for legislation and Board consent orders), we want to impart a little extra wisdom to our readers. As explained in a recent Oxford Dictionary blog, despite their different constructions and etymologies, expressions of parting ways across languages tend to communicate similar things, many of them outlining the hope of meeting again. We certainly hope our paths will cross again with Debra ... she is a gem and we miss her. Sometimes just saying "Goodbye" is not enough, let's say it a dozen different ways!

**adiós, adieu, addio, adeus** - Besides adieu in French, there are also adiós in Spanish, addio in Italian, and adeus in Portuguese.

**aloha** - This Hawaiian word is used as both a welcome and farewell, but also for expressions of good wishes, love, and affection.

**arrivederci** - In Italian, arrivederci means 'until we see each other again'. You might be tempted by the arrive- to think that the word has something to do with a greeting, but the word actually comes from a ('until') + rivederci ('we see each other again').

**sayonara** - Short for sayō naraba, which literally translates as 'if it be thus', sayonara is used to 'qualify desire to meet again so as not to tempt fate'.

**shalom** - The Hebrew word can be used as both a welcome and farewell, and is the widespread Hebrew goodbye that translates as 'peace'.

**auf Wiedersehen** - A common send off in Germany, this farewell directly translates into 'until we see again'.

**bon voyage** - Another common French term with widespread usage is bon voyage, 'good journey' used to express good wishes to someone who is about to embark on a trip.

**vale** - The archaic farewell vale, meaning 'goodbye' in Latin.

**aurevoir** - Au revoir directly translates in France as 'to the seeing again', anticipating a meeting in the future.

**ciao** - Originally from the Venetian language, ciao does double duty as both a term of greeting and parting in the Italian language.

**totsiens** - South Africans might send each other off by saying totsiens, which means 'until we meet again'.

**zàijàn** - A common send-off in China is 再见(zàijàn), being a verb 'to bid farewell'.





## KUDOS TO LONGSTANDING BOARD EMPLOYEES

Choosing a career in government positions is extremely noble and cause for recognition and celebration. For this reason, the State of West Virginia observes Public Service Recognition Week (PSRW) during May of each year. This national campaign honors public employees who serve in federal, state, county, and municipal government. As part of PSRW, Governor Justice recognizes employees who have achieved twenty or more years of public service, in increments of five.

Both our Board Administrator, Sue Rubenstein, and our Executive Director, Lesley Rosier-Tabor, PE, were recognized in May 2018 and 2019 respectively. Sue was recognized for 35 years of state service including her work at WVU, the WV Board of Law Examiners, and her last 12 years with the WV PE Board. Lesley was recognized for 25 years of state service including her 8 years as a professor of Civil Engineering at WV Tech and her last 17 years with the WV PE Board.



[LEFT TO RIGHT] LESLEY ROSIER-TABOR, PE, SUE RUBENSTEIN, BOARD ADMINISTRATOR, FORMER BOARD PRESIDENT EDWARD ROBINSON, PE, PS

The Board would like to publicly offer a heartfelt "Thank You" to these employees for their hard work, dedication, and many years of service to the State of West Virginia. They have reached these recognizable milestones in their careers by being loyal and dedicated employees which are the foundation to any successful organization. The Board would also like to recognize our additional staff who have between 5, 8 and 17+ years of service with our agency, all who continue to work tirelessly and devotedly to provide the needed services of state government.



*"West Virginians are known for their strong work ethic and commitment to getting the job done. The time that you have given as a public servant is invaluable to our state and the programs and services you offer help many people across our state each day."*

– **Jim Justice,**  
Governor of West Virginia





# Licensure and the First Amendment

## A BOARD MEMBER'S PERSPECTIVE

GARTH E. THOMAS, JR., PE, BOARD VICE PRESIDENT

*The practice of professional licensure is being challenged in legislatures and the courts as infringing on the right of free expression as guaranteed by the first amendment to the U.S. Constitution. This challenge raises an important question. What restrictions exist on the scope of professional licensing laws with respect to the right of free expression? This article will attempt to summarize the issues as well as recent actions by the courts.*

The power of legislatures, both state and federal, to regulate economic activity, including professional licenses, has generally been accepted since the decision of the U.S. Supreme Court in *West Coast Hotel Co. v Parrish* (1937). This decision upheld a state minimum wage law, establishing the precedent that economic regulation can supersede liberty of contract when the regulation provides for the protection of vulnerable groups or the general safety, health and welfare of the public. This regulatory power has also been considered to avoid strict review under the first amendment if communication was only one component of the practice being regulated. In contrast, the state licensing of journalists, writers, film makers and other individuals whose business is primarily communication would be considered to violate first amendment protections.

The first major challenge to regulatory restrictions on the basis of first amendment rights was presented by *Lowe v SEC* (1988). Christopher Lowe had been a financial adviser whose registration was revoked because of a conviction for misappropriation of funds. After his registration was revoked, he continued to publish an investment newsletter. The Securities and Exchange Commission issued a cease and desist order under the Investment Advisors Act of 1940. The Supreme Court ruled that the act did not require that Lowe be registered to publish a newsletter. However, Justice White added a concurrence that addressed the first amendment issue. His opinion stated that "The power of government to regulate the professions is not lost whenever the practice of a profession entails speech." He further

added a guideline concerning when professional speech could be restricted that entailed the consideration of a "fiduciary" relationship. This statement has generally been interpreted to mean that if a professional was providing individualized advice to a specific client the "speech" in that interaction could be regulated.

Justice White's concurring opinion was based in part on an earlier concurring opinion by Justice Jackson in *Thomas v Collins* (1945). He noted that "a rough distinction always exists between the permissible regulation of a vocation and the impermissible regulation of speech." That distinction could be made based on an additional factor which the state would be free to regulate. Justice Jackson did not identify any such factors, but Justice White introduced the fiduciary relationship as one such factor.

Justice White's test essentially created several categories of professional speech. Professional communication that was general and not addressed to a specific client was absolutely protected by the first amendment. Communication that was specific and addressed to a client could be regulated, but still must not egregiously violate first amendment protections. Two recent cases are instructive. In *Wollschlaeger v. Governor of Florida* (11th circuit 2017) the court struck down three of four provisions of a Florida law that attempted to ban physicians from discussing the dangers of firearm possession with their patients. The court ruled that the three provisions infringed the free speech rights of the physicians. However, in *Hines vs Alldredge* (5th circuit 2015) the



court upheld a Texas law that requires veterinarians to perform examinations of animals before providing any advice concerning treatment. Hines is a retired veterinarian who was providing advice to individual pet owners through electronic communications. The court held that the law was concerned with appropriate professional practice and did not infringe on free speech. The Supreme Court declined to hear the case, leaving the ruling of the circuit court intact. The two cases illustrate the balancing acts that the lower courts are conducting with respect to the regulation of professional practice and free speech rights.

Information that is widely broadcast but customizable to the needs of the client - kits to produce wills for example - have had a somewhat mixed reception by the courts. However, the consensus now appears that such communications do enjoy protection under the first amendment. Someone who provided generic services to individual clients might also be exempt from regulation under the White guidelines, but this is an area of ongoing litigation.

States have attempted to carve out so-called "professional speech" exemptions to avoid first amendment review of regulatory actions. In *NIFLA v. Becerra* (2018) the Supreme Court struck down a California law that required licensed crisis pregnancy centers to provide information to clients concerning state-provided medical services, including abortions. The 9th circuit court ruled that the state was entitled to regulate professional speech. Writing for the majority, Justice Thomas stated "[T]his Court has not recognized 'professional speech' as a separate category of speech. Speech is not unprotected merely because it is uttered by 'professionals.' This Court has been reluctant to mark off new categories of speech for diminished constitutional protection." The implication is that regulatory actions do not have automatic immunity from review concerning free speech issues.

State actions, including licensure, that restrict first amendment rights must serve an important enough public interest to justify the limitation of free speech.

Two recent cases illustrate how state licensing boards can overreach with respect to free speech issues. Mats Järnlström was fined by the Oregon State Board of Examiners for Engineering and Land Surveying for the unlicensed practice of engineering and referring to himself as an engineer (he has a degree in engineering from a Swedish university) although he does not have a professional license. In December 2018 a Magistrate Judge of the United States District Court for the District of Oregon ruled that certain parts of the Oregon state law that regulate the practice of engineering violate the first amendment and the rulings of the state board were overturned. The Mississippi Board of Licensure for Professional Engineers & Surveyors filed a complaint against Express Oil Change and Tire Engineers for the improper use of the term "engineer." The company fought the complaint on first amendment grounds and won their case *Express Oil Change v. Mississippi Board of Licensure for Professional Engineers & Surveyors* (5th circuit 2019). In both cases, the courts essentially ruled that there was no important public interest at stake that justified the complaints.

Professional licensure does entail some restriction on free speech rights, and the regulators have a responsibility to avoid being overly restrictive. While the guidance of the courts may not be clear cut, there appears to be a willingness to provide some latitude for regulation if it serves a clear, publicly oriented purpose and the regulation is not overly restrictive. Regulation through licensure is not in itself a violation of first amendment rights, but it must be done in a prudent fashion that does not overly restrict the rights of licensed professionals or others who may be affected by the regulation.

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# Confession Is Good For One's Soul

## COUNSEL'S COLUMN

N. EDWARD EAGLOSKI, II, BOARD COUNSEL

*Confession is good for one's soul. That is what I was taught in Catholic school. Yes, my many, and I mean many, youthful indiscretions were overseen by a covey of nuns and a few priests. In retrospect, I wonder whether I was the cause of a few of them choosing to leave their vocation. But there I go, my confession.*

I must confess, that my first encounter with the West Virginia State Board for Registration of Professional Engineers was a few years ago in 2013, when I applied for the position of Board Investigator, the position which our current Board Investigator, Aaron Armstrong, holds. The Board was down to three finalists, Mr. Armstrong, myself and a third person. I confess that I was disappointed that I did not get the Board Investigator position. However, having had the opportunity to work with Mr. Armstrong, I am very pleased that the Board chose wisely. He is a very competent co-worker, and I feel blessed to have his experience and his mentoring, especially when it comes to the historical application of the engineering laws and rules.

I confess, that I was somewhat happy that the former Board Counsel, Debra L. Hamilton (a.k.a. "DL"), was retiring after a very long and successful practice with the West Virginia Attorney General's Office. I decided to apply for this position because I felt it was the perfect marriage between my two disciplines; engineering and law.

I am a 1981 graduate from West Virginia University with a bachelor of science in chemical engineering, a degree that I am extremely proud to have earned. For that reason, I have always contended that I am engineer, but never a Professional Engineer. (See Garth Thomas' column wherein he discusses the use of "engineer" versus "Professional Engineer.") Jarlstrom v. Aldridge, No. 3:17-CV-00652.SB (D Org. Dec. 28, 2018). After graduation, I worked for Chevron Chemical for three years as a process engineer prior to attending law school.

I am also a 1987 graduate from West Virginia University, earning a Doctorate of Jurisprudence. I have over thirty years of legal experience. I have practiced law as a criminal defense attorney, a plaintiff's attorney, a municipal judge and a state circuit judge. I confess, that I regret not taking the Dow position of patent attorney upon graduation from law school. I blew it off, and explored Australia and the South Pacific for nine months. That's another story!

Upon accepting this job, I was invited in to meet the Board, and its staff, including Ms. Hamilton, Board Counsel. In the few weeks we had together, Ms. Hamilton attempted to instruct me on the duties and responsibilities of Board Counsel. It was an impossibility for her to pass on to me the plethora of wisdom she learned over the years. After gifting me six banker boxes of files, four large binders of orders and a thumb drive, she had but one possession with which she would not part, her copy of the Board's handbook, West Virginia Engineering Law Statutes & Rules (available free from the Board office, or on line on the Board's website, [www.wvpebd.org](http://www.wvpebd.org)). I confess, I was happy to have a new copy, for hers was torn, tattered and marked-up.

Yet, her wisdom can be condensed in a few words, "Know the Law, Know the Rules", those set forth in the handbook. So, I confess, that everything I needed to know on how to perform my job, other than Mr. Armstrong's knowledge of past Board disciplinary actions, is contained in that handbook. The good thing is that knowledge of the law and rules is all you need in order to stay in good standing with the Board.

I have confessed to you. When will you be asked to confess? Well, sometime in the future, a Complaint may be lodged against you and/or your firm, a.k.a. the "Respondent," for violating a West Virginia engineering law or rule. This could result in a disciplinary action. (See Mr. Armstrong's article in this publication regarding the complaint process.) This is a civil action, not a criminal action. You may wish to hire an attorney to represent you, but you are not entitled to a court-appointed attorney. It should be noted that a criminal action may result in a Complaint being filed. You may recall the West Virginia Department of Highways "pay to play" scheme for which several professional engineers were convicted (WVPEBD Case No. 2017-18 Daniel R. Dennis, III / Dennis Corporation, Case No. 2017-17 James T. Miller, Case No. 2017-16 Bruce E. Kenney III, and Case No. 2018-02 Andrew P. Nichols). Adobe PDF copies of these orders are located under the "Enforcement / Disciplinary Action" tab on the Board's website.





When does someone actually confess during the complaint resolution process? Typically, such a confession occurs when the Respondent agrees to the entry of a negotiated Consent Order. This normally takes place after the Respondent files a Response to the Complaint. However, in some instances, the Respondent will contact Board Counsel prior to filing a formal Response and enter into negotiations of a Consent Order. In such an instance, the Respondent forgoes the time, effort, expense and necessity of filing a formal response. In either case, the Respondent agrees to make admissions through the Consent Order in order to resolve the Complaint. All Board Consent Orders must contain two paragraphs regarding transparency which cannot be negotiated. One paragraph informs the Respondent that the Consent Order is a public document, and as such, it and the public documents in the Board's file are subject

to disclosure under the State's Freedom of Information Act. The other is that the Board will post the Consent Order on its website and report the disciplinary action to the NCEES for inclusion in its database.

Now, not all complaints result in a Consent Order. In rare instances, Respondents have taken the matter to the Board for a formal hearing. In others, Complaints are resolved due to additional information being obtained and presented to the Board which appear to counter or exonerate the Respondent of the allegation(s) contained in the Complaint. If the Board is satisfied with the presentment, the Board can dismiss the Complaint.

In summing up, if you know the Law and Rules and follow them, you'll likely steer clear of any Board disciplinary action. If there is one slip-up that I find that professional engineers are most

likely to commit, it is the practice/offer of engineering in a state where they are not licensed. So, a little reminder, if you decide to bid on a job in a state in which you are not licensed, check with the state's professional regulatory board to determine what credentials and licenses you need before you do so. In West Virginia, you are required to have an active West Virginia PE registration and an active West Virginia COA in place before you even offer engineering services, make the bid or perform the work.

I look forward to providing many years of service to the Board. If you have any questions regarding the content of this article, or need information regarding West Virginia State laws and rules, please do not hesitate to email me at [counsel@wvpebd.org](mailto:counsel@wvpebd.org).





# It's OK to Complain

## INVESTIGATOR'S CORNER

AARON ARMSTRONG, PE, BOARD INVESTIGATOR

*A complaint is a statement that something is unsatisfactory or unacceptable. It isn't easy to allow oneself the freedom to complain. Many hesitate to speak up or ask for help. In fact, many believe that the other person, even our office staff, will be secretly mad or bothered by them. That could not be further from the truth. It is our job to deal with complaints and our duty to protect the health, safety and welfare of the public with due process. It is your job as a Professional Engineer to speak up and speak out if something does not seem right.*

With 2019 winding down and 2020 on its way, I look forward to continuing the 17th year of the WV PE Board's formal enforcement program. Yes, that means the program began back in 2003 and since then the Board has made great strides in coordinating its enforcement efforts, especially moving into the 21st century and using technology to its advantage! While my last newsletter article focused on Professional Development Hours (PDHs), this year the discussion will focus on the types and number of complaints the Board has recently seen and National efforts as coordinated through the National Council of Examiners for Engineering and Surveying (NCEES).

At the end of FY19 (June 30, 2019), the Board had processed or was investigating 26 formal complaints. This is the second highest number of annual complaints processed since 2003. You can see a summary of all of the complaints resulting in disciplinary action on pages 12-13 of this newsletter, but keep in mind there may have been others that were dismissed or were still pending at the time of this writing.

Remember that once a complaint is filed, there are 3 possible outcomes. First, the Board may review the complaint and after a thorough investigation they may dismiss the complaint. WV Engineering Law, §30-13-22(b) states that "All complaints, unless dismissed by the board as unfounded, trivial or unless settled informally, shall be heard by the board within six months after the date each complaint was received by the board." This code section is certainly important because it touches on all three complaint outcomes. As stated above, the board will dismiss a complaint if it is unfounded or trivial and if it is determined that the allegations do not rise to the level of a violation of the Code or Rules. If not dismissed, the board looks to settle the complaint informally via a consent order. By definition and according to USLegal.com, a consent order is "governed by federal and state laws, which vary by jurisdictions. It is generally a voluntary agreement worked out between two or more parties to a

dispute. It generally has the same effect as a court order and can be enforced by the court if anyone does not comply with the orders." Relating this to the Board's Rules, WV Code Rule §7-1-14.1 allows the board to petition the circuit court if the terms of the consent order are not met. The third and final resolution to a complaint is a Board Hearing. Hearings are discussed in great detail in the Board's Procedural Rules for Professional Engineers Title 7, Series 2. The 5 member PE Board sits as its own hearing panel and this type of administrative hearing is very similar to a trial hearing where both sides may present evidence and all testimony given shall be subject to cross-examination by the opposing party. The official determination of the Hearing Board shall be made by a majority vote of the Hearing Panel and the Board shall issue an administrative decision (Board Order). Now that the complaint process and potential complaint outcomes have been addressed, let's take a look at a few of the particular complaints since the last Newsletter publication.

**2018-07** came to the Board as a Third-Party complaint. If you have ever heard our presentation at EXPO or at any other event, I always go in great detail discussing the difference between a Third-Party complaint and a Board-Initiated complaint. But to keep it simple for this article, a Third-Party complaint is simply a formal complaint filed by someone other than the Board (anyone may file a complaint per WV Code §30-13-22(a)). This complaint alleged that an unlicensed individual was representing himself as a licensed professional engineer. WV Code §30-13-3(e) states in part: "Any person who ..., by verbal claim, sign, advertisement, letterhead, card or in any other way represents himself or herself to be a professional engineer ... is considered to practice or offer to practice engineering within the meaning and intent of this article." After a complete and thorough investigation, the Board found that the individual did indeed represent himself as professional engineer and both parties agreed to enter into a consent order for the purpose of avoiding further administrative action (Board Hearing).





Upon execution of the consent order, the Board imposed a \$500 civil penalty and prohibited respondent from representing himself to be a professional engineer.

**2018-23** was a Board-Initiated complaint that came to the Board through a previously reported discipline in California. Recall that the NCEES administers a non-public enforcement exchange database where all jurisdictions can access nationally reported discipline. This database ensures that all states are aware of disciplinary actions nationwide, assisting in the Board's mission to protect the health, safety, and welfare of the public. Due to this reporting and staff's review of the database, and upon the WV Board's further investigation, it was learned that the respondent firm had offered and practiced engineering in WV without the required Certificate of Authorization (COA). The Board and respondent firm agreed to enter into a consent order for the purpose of avoiding further administrative action (Board Hearing). Upon execution of the consent order, the Board imposed a \$500 civil penalty and required the firm to obtain a COA, which it did.

**2019-01** was a Board-Initiated complaint that came to the Board as a result of information received from the public. After a comprehensive investigation, the Board learned that the respondent firm submitted an offer to provide engineering services without a COA and the firm aided and assisted the unlicensed offer of engineering services without a license. This case brings out two important points concerning WV Engineering Law. First, even the offer of engineering services requires a license and COA. An offer of engineering services includes, but is not limited to, submitting a proposal or answering an expression of interest, etc., and many other different scenarios, far too many to discuss in this writing. Second, WV Code 30-13-21(a)(8) states that "aiding and assisting another person in violating any provision of this article or the rules ..." is a violation in itself. The Board and respondent firm agreed to enter into a consent order for the purpose of avoiding further administrative action

(Board Hearing). Upon execution of the consent order, the Board imposed a \$500 civil penalty and prohibited the firm from advertising, or otherwise offering engineering services or practicing engineering in WV unless and until it receives a COA.

**2019-06** was a Third-Party complaint concerning the timeliness of updating the Board's records. WV Code Rule §7-1-11.9 states: "It is the firm's responsibility to notify the Board within thirty days of any change in information previously submitted to the Board, such as name change, change of address, change of PE in responsible charge, or similar matter requiring current information." The Board's investigation revealed that the firm did indeed fail to update the Board's records within thirty days concerning the firm's Engineer in Responsible Charge (EIRC). I bring this case to your attention because there is an updated rule revision that is now in effect, which states in part, "It is the PE's responsibility to notify the Board within thirty days of any change in information previously submitted to the Board, such as name change, change of address, change of employer ..." This now means that as a registrant, you have 30 days to provide the Board with updated information and if you don't, you may be in violation of the Board's Rules. Concerning this specific complaint, the Board and respondent firm agreed to enter into a consent order for the purpose of avoiding further administrative action (Board Hearing). Upon execution of the consent order, the Board imposed a \$500 civil penalty and ordered respondent firm be prohibited from advertising, or otherwise offering engineering services or practicing engineering in WV unless and until it notifies the Board of the name of its EIRC and is otherwise in good standing.

I hope the synopsis of these recent cases sheds some light on the enforcement issues the Board faces and how the Board is here to protect the health, safety, and welfare of the public. The practice of engineering is a privilege granted by the state and is a learned profession that holds its practitioners accountable to the state and the public by professional standards

in keeping with the ethics and practice of other learned professions. However, remember it is not only the Board's duty to protect, but it's yours too as a professional engineer. An important part of being a professional is assisting to uphold high standards and protect the integrity of the profession.

As you may know, all of the Board's disciplinary actions are posted on the Board's website at [www.wvpebd.org](http://www.wvpebd.org) and I urge you to review the cases posted there for any further information. If you or your organization would like the Board and staff to provide a presentation concerning the Board's work and the Board's national interaction through NCEES, feel free to contact our office at any time.

Before closing, there are a few other items worth mentioning. Should you have a complaint filed against you by an individual or the Board you have to respond in writing to the Board office within 30 days of the date of the filing of the complaint. Failure to respond to the complaint in the required time is an admission of all of the allegations in the complaint and the failure to file a response shall not be grounds for delaying hearing or other action upon the complaint (see WV Code Rule §7-2-2.5). Concerning the reporting of disciplinary actions from other jurisdictions, it is your responsibility to report this information to the Board. Don't delay, report today! Matters involving reporting of false information or simply not reporting the information are ones which the Board takes very seriously and should not be seen as trivial. And finally, visit the Board's website to review the updated Rules so that you stay apprised of any changes associated with WV Engineering Law. Not only because it's good to be in the know, but every time you renew your license you attest that you have read and understood the WV Engineering Law and Rules.

# Board Disciplinary Actions

**Disclaimer:** *Every effort has been made to ensure that the enforcement information is correct; however this information should not be relied upon without verification from the Board office or website. It should be noted that the names of companies and individuals listed may be similar to the names of parties who have not had enforcement actions taken against them. Should you have any specific questions regarding the disciplinary actions noted below, please contact the Board office.*

In meeting its mission of safeguarding life, health and property, and to promote the public welfare, the WV Board actively enforces the statutes and rules that fall within its jurisdiction. Below is a summary of formal complaints that resulted in disciplinary action since the 2018 newsletter. Numerous other investigations were conducted, some resulting in formal complaints which are still pending; some dismissed because the charges were unsubstantiated or considered trivial; and some closed after acceptable corrective action or warning.

Disciplinary actions can be either a result of a formal hearing resulting in a Board Order or settled informally resulting in a Consent Order. These orders are public records. If you are interested in knowing more about the nature of the complaint, you may request a copy pursuant to the State's Freedom of Information Act. All Orders are posted on the Board website.

All civil penalties are deposited in the state's general fund. Administrative costs are made payable to the WV PE Board and are retained by the Board to offset costs incurred in the investigation and complaint resolution efforts. Administrative costs may be waived if the complaint is resolved with a minimum of expense.

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Case #: **C2018-04 - Ray Group Consulting Engineers, Inc. / Ashim Ray**  
Violation: Practicing engineering in WV without a license and certificate of Authorization. Providing false information to the Board. [§30-13-2, §30-13-17(a), §30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent Order signed. Civil penalty of \$1,000 paid. Case closed 4/10/18.

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Case #: **C2018-06 - Lineage Architects / Jonathan Garber**  
Violation: Offering to practice and practicing engineering in WV without a license and Certificate of Authorization. [§30-13-2, §30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$1,000 paid. Case closed 3/20/18.

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Case #: **C2018-07 - John Arthur Herbst**  
Violation: Representing himself, by verbal claim, sign, advertisement, letterhead, card or in any other way, to be a professional engineer. [§30-13-2, §30-13-3(e), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 2/28/18.

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Case #: **C2018-11 - Walker Parking Consultants/Engineers, Inc.**  
Violation: Aiding and assisting the practice of engineering without a license [§30-13-2, §30-13-21(a)(4), §30-13-17(a)(8)]  
Resolution: Consent Order signed. Civil penalty of \$250 paid. Case closed 5/23/18.

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Case #: **C2018-12 - Penta Engineering Company, LLC**  
Violation: Providing false information to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 3/20/18.

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Case #: **C2018-13 - CEO Structural Engineers, Inc.**  
Violation: Providing false information to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 3/20/18.

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Case #: **C2018-14 - Ryan Engineering, Inc.**  
Violation: Providing false information to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 4/10/18.

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Case #: **C2018-15 - United Rentals (North America), Inc.**  
Violation: Providing false information to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 3/20/18.

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Case #: **C2018-16 - Ayers Engineering, LLC / Bradley Ayers**  
Violation: Offering and practicing engineering in WV without a license and Certificate of Authorization. [§30-13-2, §30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$1500 paid. Case closed 7/17/18.

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Case #: **C2018-17 - G&A Engineering Consultants, LLC**  
Violation: Providing false information to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 6/8/18.

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Case #: **C2018-18 - ATC Group Services, LLC**  
Violation: Providing false information to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 5/23/18.

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Case #: **C2018-19 - Trinity Consultants, Inc.**  
Violation: Providing false information to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 5/9/18.

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Case #: **C2018-20 - Applegate Consulting Engineers / Steven Applegate**  
Violation: Practicing engineering in WV without a license and Certificate of Authorization. [§30-13-2, §30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 1/7/19.

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Case #: **C2018-21 - Allen & Hoshall, Inc.**  
Violation: Practicing engineering in WV without a Certificate of Authorization. [§30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 7/17/18.

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Case #: **C2018-23 - Khatri International, Inc.**  
Violation: Offering and practicing engineering in WV without a Certificate of Authorization. [§30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 10/16/18.

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Case #: **C2019-01 - Sports Field Holdings, Inc., d. b. a. Firstform, Inc.**  
Violation: Offering to practice engineering in WV without a license and Certificate of Authorization. Aiding and assisting the unlicensed offer of engineering. [§30-13-2, §30-13-17(a), §30-13-21(a)(4), §30-13-21(a)(8)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 11/9/18.

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Case #: **C2019-02 - Weber Engineering, LLC**  
Violation: Practicing engineering in WV without a Certificate of Authorization. [§30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent order signed. Civil penalty of \$250 paid. Case closed 10/31/18.

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Case #: **C2019-03 - Grant Courtney, PE**  
Violation: Practicing engineering in WV without a Certificate of Authorization. [§30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent order signed. Civil penalty of \$250 paid. Case closed 10/31/18.

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Case #: **C2019-04 - Feuerborn Associates Engineer, P.A.**  
Violation: Practicing engineering in WV without a Certificate of Authorization. [§30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$250 paid. Case closed 9/6/18.

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Case #: **C2019-06 - Smith Land Surveying, Inc. d. b. a. SLS Land & Energy Development**  
Violation: Failure to notify the Board within thirty (30) days of any change in information previously submitted to the Board [§30-13-17(h), §30-13-21(a)(4), W. Va. R. §7-1-11.9]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 2/13/19.

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Case #: **C2019-09 - MLH Consulting, LLC / Maria Hardy**  
Violation: Practicing engineering in WV without a license and Certificate of Authorization. [§30-13-2, §30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 1/29/19.

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Case #: **C2019-10 - Emerald Engineering, Inc.**  
Violation: Practicing engineering in WV without a Certificate of Authorization. [§30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$250 paid. Case closed 11/9/18.

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Case #: **C2019-11 - Andrews, Hammock & Powell, Inc./James A. Andrews, Jr.**  
Violation: Offering and practicing engineering without a license and Certificate of Authorization. Providing misinformation to the Board. [§30-13-2, §30-13-17(a), §30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent order signed. Civil penalty of \$1500 paid. Case closed 12/10/18.

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Case #: **C2019-13 - Perfection Group, Inc.**  
Violation: Offering and practicing engineering without a Certificate of Authorization. Aiding and assisting the unlicensed offer and practice of engineering without a license. [§30-13-2, §30-13-17(a), §30-13-21(a)(4), §30-13-21(a)(8)]  
Resolution: Consent order signed. Civil penalty of \$1000 paid. Case closed 4/3/19.

Case #: **C2019-14 - Leblanc - Welch, Inc.**  
Violation: Offering engineering without a Certificate of Authorization. Aiding and assisting the unlicensed offer of engineering without a license. Providing misinformation to the Board. [§30-13-2, §30-13-17(a), §30-13-21(a)(4), §30-13-21(a)(8), §30-13-21(a)(12)]  
Resolution: Consent order signed. Civil penalty of \$1000 paid. Case closed 1/18/19.

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Case #: **C2019-15 - Aterra Solutions, LLC**  
Violation: Offering and practicing engineering in WV without a Certificate of Authorization. [§30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 5/21/19.

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Case #: **C2019-16 - D&B Engineers and Architects, PC**  
Violation: Offering and practicing engineering in WV without a Certificate of Authorization. [§30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 5/28/19.

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Case #: **C2019-17 - Keystone Consultants, Inc.**  
Violation: Practicing engineering without a Certificate of Authorization [§30-13-2, §30-13-21(a)(4)]  
Resolution: Consent Order Signed. Civil penalty of \$250 paid. Case closed as of 6/26/19.

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Case #: **C2019-18 - Blackwell Engineering, PLC**  
Violation: Offering to practice engineering without a Certificate of Authorization [§30-13-17(a), §30-13-21(a)(4)]  
Resolution: Consent Order signed. Civil penalty of \$250 paid. Case closed 5/21/19.

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Case #: **C2019-19 - Benjamin L. Smith, Jr.**  
Violation: Misuse of seal. Practicing engineering without a Certificate of Authorization. Violation of the Rules of Professional Responsibility. [§30-13-16(c), §30-13-17(a), §30-13-21(a)(4), W. Va. R. §7-1-7.3(a), W. Va. R. §7-1-12.4(a)]  
Resolution: Consent Order signed. Civil penalty of \$750 paid. Case closed 7/19/19.

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Case #: **C2019-20 - PegasusTSI, Inc.**  
Violation: Offering engineering in WV without a Certificate of Authorization. Aiding and assisting the offer of engineering services without a license. [§30-13-17(a), §30-13-21(a)(4), §30-13-21(a)(8)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 6/26/19.

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Case #: **C2019-21 - Robert Steffen, PHD, PE / Robert Steffen**  
Violation: Practicing engineering without a Certificate of Authorization. Providing misinformation to the Board. [§30-13-17(a), §30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent Order signed. Civil penalty of \$750 paid. Case closed 9/17/19.

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Case #: **C2019-25 - Joseph L. O'Neil**  
Violation: Providing misinformation to the Board. [§30-13-21(a)(4), §30-13-21(a)(12)]  
Resolution: Consent Order signed. Civil penalty of \$500 paid. Case closed 8/15/19.

# Possible 2020 WV Legislative Rule Changes

*As many of our readers may know, a “Citizen Legislature” represents West Virginia. While lawmakers are elected by the people to serve as their representative voice in government, they are also professionals in other occupations and thus a part-time Legislature. It is also a bicameral Legislature, meaning it consists of two groups of elected citizens, which are the Senate and the House of Delegates. The two groups (34 Senators and 100 Delegates) represent state citizens who live in their specific areas called districts, based on population and subject to change if census figures show a population growth or loss. Each citizen in the state has representatives in both the Senate and the House that study, discuss and vote on hundreds of bills each year, and in doing so act for the people of West Virginia.*

During the upcoming 2020 WV Legislative session, the WV PE Board submitted proposed changes for its Title 7, Series 1 Legislative Rules for consideration. Legislative rules are a lot like bills, but the process of making them is slightly different. Unlike statute changes, typically all rules are required to have a 30-day “public comment period” beginning 270 days before the start of the next legislative session, during which the public can give its opinion either in writing or during a public hearing or both. On June 18, 2019, the WV PE Board submitted their initial rule filing request. The proposed rules went out for public comment and were advertised on the Board’s Special Announcements and WV Engineering Law website pages, the WV Secretary of State’s website as well as notification in the WV State Register.

## **Below is a summary of the changes found in the WV PE Board’s first filing:**

- Direct PE exam application to NCEES, as was previously put in place for the FE exam, given the ongoing PE CBT transition on a national level. This will remove the paper application burden for the examinee to the Board prior to successfully passing the exam, and any possible additional re-application burden and fees paid to the Board for each subsequent attempt. This could amount to a significant time and monetary savings to the applicant.
- “Decoupling” the PE exam from the required experience. As explained in detail in the Executive Directors message of the 2018 edition of the InterChange, there is a growing trend within the engineering licensing community to ‘decouple’ the experience requirement from the eligibility criteria when applying for approval to take the PE exam. “Decoupling” allows the engineering graduate to take the PE exam any time after he or she graduates and passes the FE exam without needing four years of experience in the profession prior to applying for the exam. The individual who passes the exam can apply for licensure immediately upon meeting the experience requirement. At least 16 state Boards have adopted this approach with many others making the necessary legislative changes.

- Removing and reducing a number of application, renewal and reinstatement fees set forth in 7-1-13.4. With the implementation of these fee removals and reductions, there is significant cost reductions to our applicants (PE examinees as well as firms renewing their COAs or applying for reinstatement) which again reduces the regulatory impact of existing rules.

1. The PE Re-application fee, currently set at \$40, will be eliminated as a result of the new PE exam procedural changes implemented at the national level. Only successful PE examinees will apply to the Board for licensure consideration.

2. The Board has determined that a fee reduction is warranted for the COA renewal for larger firms (those with 4 or more professional engineers) and also for COA reinstatement fees for both large and small firms.

- Low income and military fee waiver accommodations: Definitions and fee waivers for Low Income and Military designations have been incorporated to comply with the SB396 passed during the 2019 WV Legislative Session. SB396 required boards and licensing authorities to waive initial occupational licensing fees for low-income individuals and military families, define terms, and provide an application form for individuals seeking a fee waiver. With implementation of these initial PE application fee waivers, there is no cost to applicants meeting this criteria which again reduces the regulatory impact of existing rules.

However, due to the passage of HB118 during an Extraordinary Legislative session in the summer of 2019, rule filing deadlines were extended for the Boards exclusively to incorporate the provisions of the bill regarding use of criminal records as disqualification from authorization to practice. The WV PE Board, along with all other agencies or Boards that were required to file rules to comply with this bill had until 5:00 pm on Friday, August 30, 2019 to put rules out for public comment. The Board submitted their second rule filing request on August 18, 2019. On this same day, the proposed rules went out for public comment and again were advertised on the Board’s Special







# A PACKED HOUSE

## 2019 WV EXPO SUCCESS!

The West Virginia Construction & Design Exposition remains the region's largest trade show for the construction and design industries. Now in its 41st year, this event is held in Charleston, WV, but has attendees from over 25 states and multiple countries. It has become a meeting ground for numerous trade associations and professional societies and hosts dozens of impressive speakers and seminars to round out a complete educational experience. The WV PE Board has been presenting at EXPO for nearly 20 years and always offers 1.5 - 2 hours of continuing education credit, covering a variety of topics such as trends in engineering education and licensure, current WV PE Board activities and NCEES initiatives, ethical dilemmas and complaint resolution, and more. Participants always have the opportunity to interact with the WV PE Board members, staff and legal counsel before, during and after each session.

In March of 2019, the WV PE Board continued their tradition of offering professional development hours free of charge to its session attendees. The session was entitled "The Importance of Engineering Licensure and Ethics" and was a packed house! In fact, there were so many people in attendance that we far exceeded the occupancy rate of the initial room assignment and had to expand into the adjacent lecture hall to accommodate all attendees. The interest in this session was high most likely due to the WV State Board of Registration for Professional Engineers and the WV State Board of Professional Surveyors teaming up to provide a unique presentation that satisfied a portion of not only the WV PE and PS license renewal needs but the new Ohio Engineering and Surveying Law requirement as well.

Beginning with registrations expiring in 2018 and beyond, a person registered as a professional engineer or professional surveyor in Ohio is now required to complete at least two hours (of the thirty hours of continuing education required for biennial renewal) in professional ethics and/or laws/rules relevant to the practices of engineering or surveying. The same is true for the WV PS Board and therefore they both agreed to accept this unique EXPO offering to satisfy their continuing education ethics requirements. This session was 2 hours in length and could be claimed up to 4 times if the attendee happened to be a dual licensee (meaning both a PE and a PS) and licensed in both Ohio and West Virginia.

With over 175 engineers and surveyors in attendance, Lesley Rosier-Tabor, PE, Executive Director, and Aaron Armstrong, PE, Board Investigator, presented a robust presentation that fulfilled professional development renewal needs for PEs and PSs licensed in both states. Guest speakers also included Kristi Justice, Executive Director of the WV Land Surveyors Board and Edward Eagloski, Board Counsel for the WV PE Board. All feedback was extremely positive and similar presentations have since been requested and provided in other parts of the state for those who were unable to attend.

Mark your calendar to join us for our next interactive presentation and discussion at the **41st Annual WV EXPO in late March 2020.**

Announcements and WV Engineering Law website pages, the WV Secretary of State's website as well as notification in the WV State Register.

**Below is a summary of the additional changes found in the WV PE Board's second filing:**

- Use of criminal records as disqualification from authorization to practice. Definitions and procedures have been incorporated to comply with the HB118 which required all Chapter 30 Boards to propose rules for legislative approval consistent with the provisions of the bill to be considered by the Legislature during its regular session in 2020. These changes specifically relate to Boards not disqualifying an applicant from initial licensure to engage in a profession or occupation because of a prior criminal conviction that remains unreversed unless that conviction is for a crime that bears a rational nexus to the profession or occupation requiring licensure.

After the final comment period closed, agencies or Boards may modify proposed rules based on the comments received. However, the WV PE Board received no comments and therefore immediately filed the Agency Approved rules with the Legislative Rule Making Review Committee (LRMRC). The LRMRC is now reviewing the Board's rule changes and may offer recommended changes before a final version is ready to be presented during the 2020 WV Legislative session. We do not anticipate any major issues as the new rules are not in conflict with any other and appear reasonable, convenient and readily understandable.

To follow along in the legislative rule-making process, visit the WV Secretary of State's website at [www.sos.wv.gov](http://www.sos.wv.gov) as well as the website of the WV Legislature at [www.wvlegislature.gov](http://www.wvlegislature.gov).

# National Council of Examiners for Engineering and Surveying



## NCEES

advancing licensure for engineers and surveyors

*The NCEES pages contain an overview of recent news releases received from the National Council of Examiners for Engineering and Surveying (NCEES), as well as NCEES Licensure Exchange articles, concerning items that may be of interest to our engineering community. Some of these articles may have been adapted to fit the space allocated. For more information on any of these updates, or to review the full news releases, simply visit the NCEES website at [ncees.org](http://ncees.org).*



## COX NAMED CEO OF NCEES

The Board of Directors of the National Council of Examiners for Engineering and Surveying (NCEES) named B. David Cox chief executive officer, effective October 1, 2018. The announcement was made on August 16 during the opening business session of the organization's 97th annual meeting.

As CEO, Cox will serve as secretary of the NCEES corporation and as chief employed officer of the Council, with authority over its daily operations.

Cox was previously the Executive Director of the Kentucky State Board of Licensure for Professional Engineers and Land Surveyors, a position he held since 2001. During that time, he was also active in the work of NCEES. He served 10 terms on the organization's Committee on

Finances, including two as chair. He also served as a member of the Committee on Member Board Administrators, the Advisory Committee on Council Activities, the Governance Task Force, and the Licensure Qualifications Oversight Group. In 2014, NCEES awarded him the Meritorious Service Award in recognition of his contributions to the organization and the professions of engineering and surveying.

Cox holds a bachelor of science degree in accounting from the University of Kentucky and is licensed as a certified public accountant in Kentucky.

Cox replaced Jerry Carter, who retired after serving 11 years as CEO of the organization. The Board of Directors has named Carter chief executive officer emeritus in honor of his dedicated service, and he will continue to assist with NCEES initiatives as needed. "The Board of Directors expects the threats to licensure across the country to continue and feels that NCEES needs a CEO with David Cox's knowledge and experience in dealing with legislatures," said 2017-18 President Patrick Tami, P.L.S. "We feel confident that the future trajectory of NCEES, with the addition of David to our excellent staff, is on course to effectively advance licensure for engineers and surveyors."

## NCEES ANNOUNCES HEADQUARTERS RELOCATION TO GREENVILLE, SC

The National Council of Examiners for Engineering and Surveying is relocating its headquarters to Greenville, South Carolina, from its current location in nearby Seneca. NCEES' new headquarters will occupy 70,600 square feet at 200 Verdae Boulevard.

"The new headquarters will provide a better position for the growth of the organization and allow NCEES to better support its member boards and the professions of engineering and surveying," explained NCEES Chief Executive Officer David Cox. "NCEES is entering its second century of advancing licensure for engineers and surveyors, and this move will help us better fulfill our mission to safeguard the health, safety, and welfare of the public."

NCEES is a national nonprofit organization made up of the engineering and surveying licensing boards from across the United States and its territories. It provides a range of services to support licensure and public protection, including developing the exams used to license professional engineers and surveyors.

NCEES brings hundreds of professional engineers and surveyors from across the country each year to its headquarters to assist with exam development. Therefore, the move is expected to have an annual economic impact of \$1 million for the Greenville tourism and hospitality industry, including local hotels, catering, restaurants, and transportation.

The relocation will be completed in the spring of 2020, which will coincide with the organization's 100th anniversary.



## NEW EXAM SPECIFICATIONS & STANDARDS

Details regarding the following new exam specifications and standards are posted on the NCEES website. If you have any questions about these changes or require additional information, please contact NCEES. The 2019-2020 exam changes include:

- PE Environmental - Transitioned to CBT in 2019 and now available year-round.
- PE Software Engineering - Last administration was April 2019 and this PE exam is no longer available.
- PE Control Systems Engineering - New specifications starting in October 2019.
- PE Petroleum - Transitioned to CBT in October 2019. This will be a single-day testing event once a year.
- PE Mechanical - Last paper exam administration in October 2019 and transitioning to CBT in April 2020. This exam will be available year-round.
- PE Fire Protection - Last paper administration in October 2019 and transitioning to CBT in October 2020. This will be a single-day testing event once a year.
- PE Industrial and Systems - Last paper administration in April 2019 and transitioning to CBT in October 2020. Note that there will be 18 months between these two administrations.
- Fundamentals of Engineering - New FE exam specifications starting in July 2020.
- PE Chemical - New specifications starting in January 2020.

## EXAMS CONTINUE THE TRANSITION TO COMPUTER-BASED TESTING

NCEES began the process of transitioning exams to computer-based testing (CBT) in 2011. CBT offers many benefits, such as enhanced exam content security and uniformity in testing conditions. For most exams, it provides greater scheduling flexibility. All exams are offered at approved Pearson VUE test centers (visit [ncees.org/exams/test-center-locations](http://ncees.org/exams/test-center-locations) to view NCEES-approved test centers near you). For more information on registering for a CBT exam, visit the NCEES website to download the Examinee Guide and watch a video series about the exam-day experience.

**The following conversion schedule is tentative. Official notification and details related to each exam will be provided 12 months in advance and available on the NCEES website.**

YEAR	EXAM	AVAILABILITY
2021	PE Agricultural and Biological .....	Single-day (date TBD)
	PE Electrical and Computer: Computer Engineering.....	Single-day (date TBD)
	PE Electrical and Computer: Electronics, Controls, and Communications.....	Single-day (date TBD)
	PE Electrical and Computer: Power .....	Year-round
	PE Mining and Mineral Processing .....	Single-day (date TBD)
2022	PE Architectural.....	Single-day (date TBD)
	PE Control Systems .....	Single-day (date TBD)
	PE Metallurgical and Materials .....	Single-day (date TBD)
	PE Naval Architecture and Marine .....	Single-day (date TBD)
2023	PE Civil: Construction.....	Year-round
	PE Civil: Geotechnical.....	Year-round
	PE Civil: Structural.....	Year-round
	PE Civil: Transportation.....	Year-round
	PE Civil: Water Resources and Environmental .....	Year-round
2024	Structural Exam (SE).....	TBD

*Want to engage with others about the profession? Eager to be the first to know when results are released? Join NCEES on your preferred social network to experience a new level of interaction and learning.*



[www.facebook.com/NCEES](http://www.facebook.com/NCEES)

NCEES' Facebook page is filled with premium content, a rich history of NCEES, and photo albums of recent events. Like NCEES on Facebook, and you'll be able to stay on top of the pertinent issues affecting the engineering and surveying professions.



[www.twitter.com/NCEES](http://www.twitter.com/NCEES)

If you prefer to quickly scan headlines, follow NCEES on Twitter to learn about its activities and engineering and surveying related news. Retweet NCEES to share important facts and answers to common questions about licensure with your colleagues.



[www.linkedin.com](http://www.linkedin.com)

Do you hold a professional engineering or surveying license? Join NCEES' LinkedIn groups (Professionally Licensed Engineering Community and Professionally Licensed Surveying Community) to connect with your professionally licensed peers. You can also broadcast your association with NCEES by following its LinkedIn page.



[www.youtube.com/NCEESMedia](http://www.youtube.com/NCEESMedia)

NCEES YouTube channel features videos of professional engineers and professional surveyors promoting the value of licensure. These videos are excellent tools to share with those who want to know more about our organization and the process of becoming licensed. In the near future, NCEES' YouTube will be expanding to include videos that answer their most frequently asked questions, as well as to clarify processes and policies.



## Change is Inevitable ... So Tell Us All About It

**TIFFANY COLEMAN,  
ADMINISTRATIVE ASSISTANT II**

In the words of the pre-Socratic Greek philosopher, Heraclitus, there is nothing permanent but change! With the passing of another year, we know some things must have changed ... right? As a PE, perhaps it was your name, your address, your email, your employer. As a COA holder, perhaps your firm name, your office location, your email contact, your ownership or even your named Engineer In Responsible Charge (EIRC). Given we are on a biennial renewal cycle, maybe there have been multiple changes since your last renewal

submission since it is possible that it has been nearly 2 years since we last heard from you. With the Certificate of Authorization (COA) renewal scheduled to open in November of 2019, there is no time like the present to remind our licensees about the importance of keeping their licensure records updated.

Each year, individuals change their names, change employers, move, retire or pass away. Companies undergo new ownership, cease operations, change firm names, or move to new locations. These are all things that our agency needs to know about. West Virginia Engineering Law requires that licensees update the Board within thirty (30) days if there has been any change in information previously submitted to the Board, such as name changes, change of address, and/or change of Engineer in Responsible Charge (EIRC). See W.Va. Code, Legislative Rule § 7-1-11.9. We also encourage licensees to provide the most current email address since we routinely provide special notices, renewal reminders and other time-sensitive information electronically.

Failure to provide the Board with your updated information could jeopardize your ability to receive correspondence regarding your license status, renewal details, deadline notifications, and important Board announcements. There have also been instances where disciplinary actions have resulted from failure to notify the Board of such changes. Complaint C2019-06 that is summarized in the Investigator Corner article explains the negative consequences of failing to update the Board of changes within thirty (30) days. This is a case where the firm's EIRC changed employers, the firm failed to notify the Board of the EIRC's departure and failed to name a new West Virginia licensed Professional Engineer to serve as the EIRC within thirty (30) days from the time of change. This situation resulted in disciplinary action and the firm was ordered to pay civil penalties.

To avoid the undesirable situations mentioned above, make sure the information on file with our office is updated. You may view the current information on file with our office by accessing the online Licensure Verification search tool on our website. Any address changes, employer updates and email address changes can be made electronically through the use of our change of address feature. Once a change has been submitted, it will then be forwarded to staff for approval. In most instances, changes are reviewed and posted within hours. Name changes and change of the EIRC cannot be done online. For information and instructions on how to update the Board of these changes, reference the FAQs section on our website or simply contact our office for additional guidance. Please note that firm name changes and EIRC changes should be made prior to completion of the upcoming online COA renewal.



*All entities move and  
nothing remains still.  
Everything changes and  
nothing stands still.*

– Heraclitus



# Renewal Status Report and COA Renewal Follow-Up

## UPCOMING WV COA RENEWAL REMINDER

It's time to renew your firm's Certificate of Authorization! All firms or individual sole proprietors in possession of an active WV Certificate of Authorization (COA) will be required to renew their COA by December 31, 2019. As a condition of WV COA renewal, every firm must provide the name of their Engineer In Responsible Charge who must be a WV PE whose license status is active and in good standing.

As required by West Virginia Engineering Law, our agency is required to send notification at least 30 days prior to the expiration of a license, meaning no later than December 1st of odd numbered years for COAs and December 1st of even numbered years for PEs and Retired PEs. Renewal notifications are typically mailed in mid-late November and the WV State Treasurer's Office activates our online license renewal system at the same time. If you have an active COA, renewal instructions were enclosed with this newsletter and a live COA renewal link is posted on our website as well. A number of courtesy email notifications will also be sent to the record email address(es) throughout the renewal season until successfully renewed. Upon successful renewal, one will be able to print receipt confirmation and we will no longer send unnecessary email communication.

If you have any questions regarding the COA renewal process, please do not hesitate to contact Tiffany Coleman as she handles all COA matters for the WV PE Board. You may email her at [tiffany@wvpebd.org](mailto:tiffany@wvpebd.org) or call 304-558-3554.

## WV PE RENEWAL SEASON SUMMARY

### PE Continuing Education Audit from Recent 2019-2020 PE Renewal

» Active PEs Receiving Continuing Education Audit in February 2019.....	367
» PEs Invalidated effective April 2019 due to insufficient response or no response.....	4
» Company COAs notified to name a new EIRC because of PE Invalidation due to audit* .....	1

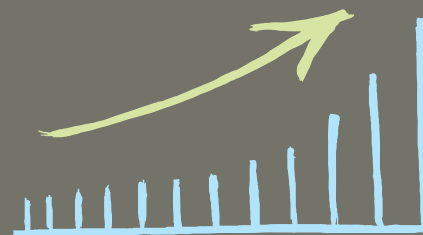
### PE Status Summary for Recent 2019-2020 PE Renewal

» Active PEs receiving PE Renewal Notification in November 2018 .....	9131
» Retired PEs receiving Retired PE Notification in November 2018 .....	280
» Non-Responding PEs resulting in Lapsed Status after PE Renewal Season in February 2019 .....	428
» Non-Responding Retired PEs resulting in Lapsed Status after Retired PE Renewal Season .....	42
» Company COAs Invalidated after notification to name a new EIRC and no action taken by the firm* .....	63

\*due to former EIRC being Inactive/Lapsed/Deceased at the close of PE Renewal Season

To view or download a complete roster of the Active PE licenses, Firm Certificates of Authorizations (COAs), and Retired PEs, simply visit our website. There you will find access to a real-time, online verification search tool that shows if a particular individual and/or firm is authorized to practice or offer engineering services in WV.

Please be reminded that all licensees should report any updates such as disciplinary actions, a change in address, employer or email to the Board within 30 days. All submitted address changes, new employer updates, new licensees, as well as any recent Board changes to the status of a licensee will appear immediately unless an action is required by staff before it will post. Should you have any questions about the status of a WV PE or WV COA, simply contact the Board office for assistance.



## CURRENT WV PE BOARD STATISTICS

The following is a numerical summary of registered individuals and firms as of October 1, 2019.

» Active PEs .....	8867
» Retired PEs .....	254
» Active COAs .....	3363
» Engineer Interns .....	5058
<b>TOTAL .....</b>	<b>17,542</b>



WV State Board of Registration  
for Professional Engineers  
300 Capitol Street, Suite 910  
Charleston, West Virginia 25301

# CALENDAR of events - 2020

- |     |         |  |
|-----|---------|--|
| JAN | 18      | PE Application Deadline for April 2020 Exam Administrations<br><i>(Please note this is a "received in office" deadline, not a "postmark" deadline)</i>   |
| JAN | 21      | Board Meeting, WV PE Board Office, Charleston, WV  |
| FEB | 16-22   | National Engineers E-Week - various Board activities/speaking engagements  |
| MAR | 24      | Board Meeting, WV PE Board Office, Charleston, WV  |
| MAR | 25-26   | 41st Annual WV EXPO and Continuing Education Seminars, Charleston, WV  |
| APR | 17-18   | PE Exam + SE Exams, Charleston and Fairmont, WV  |
| APR | 23 - 26 | 2020 NCEES Joint All-Zone Interim Meeting, Houston, TX   |
| MAY | 19      | Board Meeting, WV PE Board Office, Charleston, WV  |
| JUL | 21      | Board Meeting, WV PE Board Office, Charleston, WV  |
| JUL | 25      | PE Application Deadline for October 2020 Exam Administrations<br><i>(Please note this is a "received in office" deadline, not a "postmark" deadline)</i> |
| AUG | 26-29   | NCEES 100th Annual Meeting, Chicago, IL  |
| SEP | 22      | Board Meeting, WV PE Board Office, Charleston, WV  |
| OCT | 23-24   | PE Exam + SE Exams, Charleston and Fairmont, WV  |
| NOV | 17      | Board Meeting, WV PE Board Office, Charleston, WV  |



INTERchange

West Virginia State Board of Registration for Professional Engineers  
300 Capitol Street, Suite 910, Charleston, WV 25301  
TEL 304-558-3554, 800-324-6170, FAX 304-558-6232, [WWW.WVPEBD.ORG](http://WWW.WVPEBD.ORG)

