

# **SOUTH DAKOTA STATE BOARD OF TECHNICAL PROFESSIONALS**

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NEWSLETTER

ISSUE 30

## **SAYING GOODBYE...**

Governor Rounds has appointed several new Board members so the Board must bid farewell to Warren L. Fisk, PE/LS; Wallace L. Larsen, PE/LS; and Mark I. Aspaas, Architect.

Long-time surveying member, Warren L. Fisk, completed his service to the Board in July. Warren, a licensed surveyor and engineer for 35 years, was originally appointed to the Board in 1985. During his tenure, Warren was a valuable board member taking on many assignments such as advising the executive director on surveying issues and serving on the investigative committee. Warren also served as past-president of the National Council of Examiners for Engineering and Surveying (NCEES) and on various committees. He continues to be active in that organization. The Board thanks Mr. Fisk for his dedication to the profession and to the protection of the public. On August 1, Warren signed on as the investigator for the Board and he will bring his technical expertise and impartiality to the Board's investigations.

Wallace L. Larsen, surveying member, completed his service to the Board on April 14 after almost 12 years. Wally was licensed as a surveyor and engineer for 38 years. Most of that time he was with the South Dakota Department of Transportation. He brought a solid understanding of public administration procedures and regulatory processes. The Board was always able to count on him for advice dealing with state government. The Board will truly miss Wally's enthusiasm and perspective.

Mark I. Aspaas, architect member of the Board, ended his service on July 1 after 12 years. He has been a registered architect for more than 27 years. During his tenure, Aspaas has been very active in the National Council of Architectural Registration Board (NCARB). He has been particularly active on their examination committees regarding the Architectural Registration Exam (A.R.E.). The Board thanks him for the excellent representation he has been for the architectural profession, his involvement as a Board member, and his keen sense of humor that livened up the meetings.

*"If you want to succeed you should strike out on new paths rather than travel the worn paths of accepted success."*

*John Rockefeller*

## **WHAT ARE YOUR LIMITS AS A PROFESSIONAL LICENSEE?**

The key to being a responsible and capable professional is exercising good judgment, knowing your limitations, practicing within your abilities and hiring a consultant to supplement your work when needed.

This Board sets standards that practitioners must meet, ensures that only licensed individuals can practice and provides discipline to licensees who violate the law. All professionals regulated by the Board must meet requirements of education, experience and examination. Meeting these requirements means that the individual has met the *minimum* requirements for licensure. The individual is qualified to enter into the profession and has the *basic* knowledge and skills necessary to protect the public in his chosen field.

Once an individual is licensed he is able, by law, to perform any service allowed by his scope of practice. However, that does not mean he necessarily should. Part of being a professional is recognizing one's limitations and practicing within them. There may be a skill learned in school years ago, but if it hasn't been practiced since graduation, the licensee may be better off hiring another competent professional to handle that part of the project.

Practicing beyond your expertise is dangerous for the client, dangerous for the public and can be dangerous for you. Practicing beyond your expertise, even though you may be within your scope of practice, is *incompetent practice*. You can be charged with the violation, disciplined by the board, take another exam to prove competency and even lose your license. Through this Board and licensing, the state government expects to protect the health, safety and welfare of the public.

SDCL 36-18A-56(3) reads in part, the board may take action of a violation without proof of actual injury if the licensee "Has engaged in conduct or acts that are negligent, incompetent, reckless, or otherwise in violation of established standards related to that person's professional practice". In ARSD 20:38:20:01(13) professional conduct says, "Licensees shall undertake to perform professional services only when they, together with those whom they may engage as consultants, are qualified by education, training, and experience in the specific technical areas involved. If a question arises about the competence of a licensee to perform an assignment in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board may require the licensee to submit to an examination in the technical field as specified by the board."

### **ORDER NCARB'S MONOGRAPHS ONLINE**

A list of NCARB's monographs, prices, and Professional Development Units (PDU) are available online at [www.ncarb.org](http://www.ncarb.org). Completion of these monographs will be accepted for South Dakota continuing education

*"Forgive me my nonsense, as I also forgive the nonsense of those that think they talk sense."*

Robert Frost

## **NEW BOARD MEMBERS**

Governor Rounds has replaced the above Board members with Leonard C. Neugebauer, PE/LS who has been licensed with the Board for almost 31 years. Len graduated from South Dakota School of Mines & Technology with a Masters of Science in Civil Engineering with an emphasis in Water Resources. He is affiliated with numerous professional associations; held offices in each; written publications; and received awards for his work. Len works for Dewild, Grant, Reckert & Associates (DGR). He and his wife Carol live in Sioux Falls and have 5 sons. We believe Len will be an excellent addition to the Board.

Randy D. Bacon, land surveying member, was appointed in July and has been licensed with the Board for 18 years. Randy is a 1975 graduate of Lake Area Vocational Technical Institute in Watertown, SD. He is employed by Helms and Associates in Aberdeen and has been very active in the South Dakota Society of Professional Land Surveyors. We look forward to having Randy join the Board.

David B. Stafford, architectural board member, is a welcome addition to the Board having been licensed with the Board for almost 9 years. He previously worked for 18 years as a general contractor. Dave is a 1971 graduate of Rensselaer Polytechnic Institute in Troy, New York, with a BS in architecture. He has worked for Thurston Design Group, LLP, in Rapid City for the past 16 years, having sat and passed the ARE in 1996. He belongs to several organizations including the Black Hills Area Habitat for Humanity. He and his wife Caroline live in Rapid City and have 3 daughters. We believe Dave will have a welcome perspective to the Board with his background in construction.

### **SOUTH DAKOTA MARK I. ASPAAS, AIA, INSTALLED AS REGIONAL DIRECTOR**

Mark Aspaas, AIA, and former SD Board member, of Sioux Falls, SD, has been installed on the Board of Directors for the National Council of Architectural Registration Boards (NCARB) during the organization's June 2005 Annual Meeting and Conference in Miami Beach, Florida.

As the director for Region 5 (Central States Conference), Aspaas represents the following states: Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, and Wyoming. For more than 27 years, Aspaas has been affiliated with Architecture Incorporated, a Sioux Falls-based firm that specializes in land planning, master planning, architectural design, interior design, and historic preservation. As a principal architect and vice president, Aspaas has directed a wide variety of projects including the renovation of Old Main on the University of South Dakota campus, and the design and construction of the Minnehaha County Courthouse and the Madsen Social Science Center at Augustana College.

Prior to his election as regional director, Aspaas served as Region 5 Chair for three terms. He also has been a long-time contributor to the development of the Architect Registration Examination (ARE), the nine-division test developed by NCARB and taken by all architects in the United States and Canada seeking registration. Aspaas has chaired or served on a number of groups that are directly responsible for the development, grading, and administration of the ARE, including the Committee on Examination, the ARE Subcommittee, and the ARE Alternative Item Type Task Force. He also has written questions for the Pre-Design division as well as vignettes for the graphic division.

## THE MARK OF A SURVEYING “PROFESSIONAL”

Excerpts of Len Neugebauer, PE/LS, President SDSPLS from *SD Backsights & Foresights*

*In my opinion, being a professional surveyor (or for that matter, a professional at anything) consists of two primary characteristics, that being **attitude** and **aptitude**. I feel being a “professional” has mostly to do with our **attitude** whereas being a “surveyor” has mostly to do with our **aptitude**. Our **aptitude** includes all of our knowledge of mathematics, surveying principles and laws, surveying hardware and software, etc. With our **aptitude**, we can perform all of the duties required of a surveyor and do them well! With changing technology, we continue to expand our **aptitude** by developing and utilizing this new technology.*

*But, when we study the surveyor’s creed and canons, it doesn’t contain information about how we should measure a distance or an angle or how we should survey with GPS. Instead it addresses issues which have mostly to do with our **attitude** as professionals. Some of these issues that are addressed have to do with giving the utmost of performance, being honest, being law abiding, and conducting our work at the highest standards of performance. Other issues include placing service to others as a greater priority than making a profit, placing honorable service before seeking to gain personal advantage, and giving highest priority to the public welfare. All of these relate to an **attitude** towards our service as surveyors, which is of the highest integrity.*

*When we applied for licensure as land surveyors, we were required to take the land surveyor’s examinations, which primarily tested our **aptitude** to perform the duties of a land surveyor. But what test is there to determine if we have the **attitude** to be a “professional”. The only test I know of is called “self-examination”. I think we all need to examine our own **attitude** and determine how we measure up to **attitudes** which mark a true professional, such as those gleaned from our creed and canons...If we find we are falling short in some area, then we need to seek to have an “**attitude** adjustment” which will make us better professionals. Hopefully from such self-examination, we will be able to have those **attitudes** which truly set us apart as “professionals” in the field of surveying.*

*Finally, I feel one other matter relating to “professionalism” has to do with our dress. We all chuckled at the photos of “old” surveyors in Wendy Lathrop’s presentation on the railroads, since it appeared that some of those “old” surveyors were dressed in the business suits of their day. While at one of the four surveying conferences that I attended, the speaker brought up this issue of dressing like “professionals” as he was not very impressed with the dress of the surveyors in his audience. He felt many of them were better dressed to go look for corners in the mud than they were dressed to interact with their fellow surveyors at a professional surveyors’ conference. If the “professional” dress at the four conferences that I attended, including our own, would have been judged, I feel that the Iowa conference would probably have won. There is an old adage that we should “dress for success”. If we want to make a “professional” impression on the public we serve, just maybe our dress should also be a consideration in addition to our **attitude** and our **aptitude**!*

When everything is coming your way, you’re in the wrong lane.
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## **RENEWALS**

**EXPIRATION** – Licenses are lapsed by the Board for non-payment of renewal fees. Licensees will be notified by mail that their licenses have lapsed if the office has the correct mailing address. It is **not** sent certified mail.

**RENEWALS** – Each license issued by the Board expires on the last day of the month in which renewal fees are due, and becomes invalid on that date unless paid. Two notices of the renewal are sent by first class mail to the address of record in the board files. One notice is sent one month prior to renewal and the other notice is sent the month of renewal.

**REINSTATEMENT** – Former licensees whose license have expired and lapsed for failure to pay renewal fees and who desire to reinstate shall make application for reinstatement and pay the prescribed renewal fee and late penalty. After three years, a new application will be required.

## **ON-LINE RENEWALS**

Licensees and Board staff are enjoying the ease with which a person can renew on-line. All you need is your license number, pin number (**your date of birth**), and a credit card. It's even easier for businesses! When time to renew, try our on-line renewal. It's easy, fast and worry-free.

## **COMING SOON**

Renewal notices by email!!! We will soon start emailing our renewal notices to all who have email addresses. Those who do not have email, or we are not aware of your email address, will continue to get paper notices through the mail. Please read anything coming from the South Dakota Board office on your email. It may be your renewal notice. Staff is learning to work smarter and more efficiently, we hope.

## **ALSO COMING SOON**

This will be your last newsletter also. We will be using email to notify you that if you want information on what is happening in South Dakota, you can go to our website and download our latest newsletter. Hopefully, we will be able to publish more up-to-the-minute information. You can browse our newsletters for topics of interest and it will save us postage...important in keeping your renewal fees down. Visit our website at [www.state.sd.us/dol/boards/engineer](http://www.state.sd.us/dol/boards/engineer). We have newsletters dating back to September 1999 at the website. And again, be careful what you delete from your email. Try not to delete anything from the South Dakota Board office.

## **NEW EXAM VENDOR**

South Dakota has had two exams provided by Engineering and Land Surveying Examination Services (ELSES) at this time and they have both been a resounding success! ELSES is located at NCEES headquarters in Clemson, SC. Board staff continues to approve applications, collect any fees due, and notify candidates if they are eligible for an examination. We transfer names of first-time eligible candidates to ELSES and explain to the candidate how to contact ELSES to sign up for the exams. The ELSES web site explains current exam policies, prices for exam, exam locations, permissible material including acceptable calculators and exam formats. After scoring by NCEES, the final exam results and diagnostic sheets will be returned to the SD Board for dissemination as usual.

Due to the astronomical expense associated with exam development and any security breach, the Board decided to hire ELSES. Deadlines remain the same for all exams including the Fundamentals of Engineering and Fundamentals of Surveying ..... **January 1 and July 1.**

## **STAMP OUT PLAN STAMPING by Forrest Holly, Iowa Board Member**

*Our initial euphoria of the first chapter of the Information Age seems rapidly to be diminishing as we enter the second chapter. Having been delighted with the communication convenience and access to services that the Internet brought us, we're now swamped with spam, exposed to viruses, and having to be wary of too-good-to-be-true offerings of services on the web.*

*An example of such web-offered services recently came to the attention of the Iowa Engineering and Land Surveyors Examining Board, and provides a good opportunity to review one aspect of our responsibilities as licensed engineers and land surveyors.*

*“Plan Stamping” is an illegal action whereby a professional engineer or land surveyor places his or her registration seal on drawings, designs, plats, descriptions and/or specifications that he or she did not author or for which he or she did not have personal professional knowledge and direct supervisory control and responsibility. This practice -illegal in Iowa and virtually all other states- has now apparently been advertised on the internet (see for example <http://www.engineerapprovals.com>), joining the ranks of buy-a-degree, buy-a-term paper, buy-a-diagnosis, and other such something-for-nearly-nothing services.*

*As licensed professional engineers and land surveyors, we are required by Iowa Code 542B.16 to stamp or seal and sign our work attesting that we were in responsible charge of the work, and to certify that the work was done by us or under our direct personal supervision. At the web site noted above, persons who are purported to be licensed engineers (in other states) appear to offer to seal documents sent for review, for a fee (\$99 as of this writing). If this is truly what the site offers, the practice would be in clear violation of the Iowa Code and be prosecutable as fraud and deceit.*

*Why should we be concerned about plan stamping? Why does the code require direct involvement and supervision of a licensed professional?*

*Because licensure is a validation of our technical and professional competence, and the licensure process supports our individual and collective responsibility to the health, safety, and welfare of the public. Engineering or land surveying services provided to the public without the direct supervision and control of a competent, licensed professional may not provide the public protection that is the hallmark of our professions. (For a sobering example of this in the context of dam safety, read David McCullough's excellent book The Johnstown Flood).*

*Our responsibilities include the following, from Section 193C-8.4(542B) of our administrative rules: “If licensees know or have reason to believe that another person or firm may be in violation of any Iowa law or rule regarding ethics or conduct of professional engineering or land surveying practice, those licensees shall present such information to the ...board in writing...”*

*So—if you become aware of illegal plan-stamping activity, be it on the Internet or not, help stamp it out.*

**A truly happy person is one who can enjoy the scenery on a detour.**

## **QUALITY ASSURANCE IN THE TECHNICAL PROFESSIONS**

By Len Neugebauer, PE/LS, Vice Chairman SDBOTP

As duly licensed practitioners in our chosen technical profession, we have a responsibility for maintaining and improving the quality of work being performed within our profession. I think most of us and hopefully all of us would agree that a technical professional's work should be of high quality in order to successfully accomplish the ultimate purpose of our endeavors. I believe we should always make every effort to do whatever is necessary to accomplish our ultimate purpose in an ethical and professional manner. We should also be faithful to acknowledge and compliment others for "good" work when we see it, whether this work be by an employee, co-worker, or another technical professional whose work we are observing or reviewing.

But what is the technical professional to do when encountering the work of another technical professional which is not of the quality which is needed to accomplish our ultimate purpose? This matter may be easier to address if the other technical professional is an employee or co-worker, but can be more complex when this is not the case. Although I fully acknowledge that a technical professional is not legally bound by the Bible, I have experienced during my professional career that much wisdom can be derived from this book. With regard to this matter, I would like to use a parallel with Matthew 18:15-17 as a suggested three-step procedure that a technical professional might use to approach this situation. The **first step** of this procedure is to approach the other professional one on one, discuss the problem that you have discovered, and seek to achieve a resolution of the matter. I believe that most problems can be solved in this matter. When they are solved this way, this should help build a better relationship between fellow professionals. However, if this first step doesn't succeed in resolving the matter, then the **second step** would be to consult with one or more other reputable professionals concerning the situation. If all of you agree in this matter, then invite the professional whom you have concerns with to meet with all of you to discuss the matter and seek to work out a solution. If this second step effort is not successful in resolving the matter, then the **third step** would be to prepare a documented report concerning the matter and file this report with the State licensing board for their review and consideration.

In my professional career, essentially all matters of quality assurance that other professionals may have had with my work or that I may have had with the work of other professionals have been resolved with the first step described above. I personally believe we show true professionalism when we are open to the counsel of other professionals and also are willing to give counsel to other professionals when we are asked or have a professional duty to do so. We are all human. We cannot know everything and we all make some mistakes. We all stand to benefit from the knowledge of our fellow professionals if we are just willing to ask, listen, share, and learn from each other. It is of utmost importance that we remain diligent in performing our own work in a quality manner and at the same time do what we can to improve the quality of work in our chosen profession.

Finally, in matters of quality assurance in the technical professions, we must always remember that our role is to seek to assist another professional in resolving a problem in the quality of their work. Our role is **never** to be construed as being disciplinary, as all matters which might involve any need for discipline are strictly for the State licensing board to review and administer. If in our professional judgment we feel that the matter of concern needs to be reviewed for possible disciplinary action, the matter should be referred to the State licensing board.

## EXAM SUBVERSION

Reprinted from the California Board of Professional Engineers and Land Surveyor's Newsletter

*“Is exam subversion really that big a deal? What’s the harm?” That’s the attitude a lot of people have when they hear about the Board’s strict rules and policies on exam security and subversion. Well, it is a big deal – and not just in terms of money. Yes, it does cost the Board and NCEES a lot of money to develop and administer the exams, with very little of that cost being passed along to the candidates. But the bigger deal has to do with the Board’s main purpose – ensuring the public is protected from people who are not minimally competent to practice professional engineering or land surveying. If someone passes the exam by cheating on it, are they really competent to practice? If they cheat on a licensing exam, what does that say about their professionalism and how they will deal with their clients and other professionals? And, in addition to all that, exam subversion is a violation of the law – a violation that can lead to denial of an application for licensure, to disciplinary action against a license, and even to a criminal conviction and jail sentence.*

*Cheating, or exam subversion, can take many forms. The most obvious ones that everyone agrees about are copying the answers from someone else or having the answers to the questions before the exam. But there are many others. The most common one that occurs during the exams is writing or erasing after time is called – all candidates are given the same amount of time to complete the exams. If a candidate continues writing or erasing after time is called, he is getting an advantage that might help him pass the exam that none of the other candidates got.*

*One of the most serious forms of exam subversion is removing the secured exam questions from the exam site through any means. Writing on non-designated materials, using an electronic device that can scan or photograph the exam problems, even remembering the problems and telling someone else about them after the exam, including posting them on a review course provider’s website – all of these are forms of exam subversion. The removal of secured exam problems from the exam site often leads to another form of exam subversion – the distribution of secured exam problems at exam prep/review courses. It is a violation of the law for someone to obtain secured exam problems by any means and then copy and distribute them to an exam review course. The Board has even taken disciplinary action against licensees who have published review books and used them in teaching review courses – these people have even had to reimburse the Board for its costs in replacing the compromised exam problems. So, if someone asks you to tell them about the questions that were on the exam, just remember that not only would you be violating the law by telling them, they would be violating the law by obtaining them from you. If you become aware that someone is attempting to obtain actual exam problems or is using actual exam problems in an exam review course, you should notify the Board’s Enforcement Unit as soon as possible.*

*Oh, and that mention of jail time at the beginning? Here’s the story of the recent exam subversion incident that led to jail in California.*

*During the April 2002 examination administration, an Engineer-In-Training (EIT) candidate was observed using a very suspicious-looking calculator in a very odd manner. The Board representatives who observed him during the examination believed that he had altered his calculator to use as a scanner and was scanning the examination problems in order to remove them from the examination site. When confronted, he refused to let the Board representative and one of the police officers we have at the exam sites look at his “calculator.” Since the evidence*

*indicated that he was attempting to subvert the examination, he was removed from the examination site and, of course, his examination was not scored.*

*Because we had reason to believe that the candidate might have removed secured examination questions from the examination site, the Board turned this matter over to the Department of Consumer Affairs' Division of Investigation (DOI) to conduct a formal investigation. Through a search warrant, DOI seized one of the computers from his home, and the High Tech Crimes Task Force was able to find items on the hard drive of the computer that were identified as actual problems from the previous EIT exams.*

*Based on all of this evidence, the Sacramento County District Attorney's Office filed criminal charges against Siavash Hakkakian. On September 17, 2003, in Sacramento County Superior Court, Hakkakian pled guilty to the criminal misdemeanor charge of examination subversion. Hakkakian has been sentenced to informal probation for 3 years with conditions. Under the conditions, he is required to submit himself and his property and possessions to search and seizure by any law enforcement or probation officer without his consent or a warrant and to forfeit the computer DOI had seized. Hakkakian must also serve 360 hours of community service/work furlough after he has served 90 days in the county jail."*

**COMPLAINTS** To file a complaint with the Board, you may visit the Board's web site to obtain a complaint filing form. Remember to have the complaint notarized.

### **EXECUTIVE ACTIONS**

In order to protect the high regard in which licensed professionals are held, it is vital that everyone reports suspected violations of either technical or ethical standards to the Board. With a professional license comes the often very difficult responsibility of ensuring that the high standards of the profession are maintained.

- 01-04 False ads on Internet; tabled 3/4/2005
- 03-22 Medical Building in Ft Pierre; closed 12/3/2004
- 03-25 Hired architects for HS Library; closed 1/7/2005
- 04-05 Ricky Bush – Plat corrected; Consent Order; fine \$500; costs \$1,858.27
- 04-03 & 04-10 – Lyle Henrikson; Assurance of Voluntary Compliance; penalty \$1,000; costs \$5,297 to be paid before 12/3/2005; closed 1/7/2005
- 04-11 Ethics matter; closed 1/7/2005
- 05-03 Boundary dispute; attorney involved; tabled 12/3/2004
- 05-04 Title issue; letter of compliance; dismissed 12/3/2004
- 05-05 No construction administration; hired architects; dismissed 1/7/2005
- 05-09 Construction Administration; letter of compliance; dismissed 5/20/2005

**If anyone is aware of a licensee who is deceased, please contact the Board office at 605-394-2510. The Board would like to update its records so as not to send an inappropriate renewal notice and other communication to the families.**

Be sure to notify the Board if you move! A change of address form can be downloaded from the web at [www.state.sd.us/dol/boards/engineer](http://www.state.sd.us/dol/boards/engineer). These changes can be mailed, sent by fax, or emailed to the Board office. Be sure to type or neatly print changes so they may be entered into the database correctly. Please email changes to [wendy.whipple@state.sd.us](mailto:wendy.whipple@state.sd.us).

**BOARD MEMBERS**

*Hani F. Shafai, PE, Chairman*  
*Leonard C. Neugebauer, PE/LS, Vice Chair*  
*David St. Pierre, Public Member, Secretary*  
*Raymond J. Hengel, Architect*  
*Dale A. Jans, PE*  
*David B. Stafford, Architect*  
*Randy Bacon, LS*

**BOARD STAFF**

*Ann Whipple, Executive Director*  
*Ruth Knapp, Adm. Assistant*  
*Wendy Whipple, Secretary*

**UNDER CONTRACT**

*Warren L. Fisk, PE/LS, Investigator*

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