

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

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NEWSLETTER

ISSUE 31

## **LETTER FROM THE BOARD CHAIRMAN . . .**

The past year has been a very busy one for the Board. The Board met six times at the Board's Rapid City office during the past year. During a typical meeting, the Board reviews applications for examinations as well as for licensure under comity with other states. The Board also reviews and discusses correspondence on various issues on both the State and national level. The Board also spends time reviewing complaints which have been presented to the Board and considers reports of investigation being made into these complaints. The Board has also been actively working on needed revisions to SDCL Chapter 36-18A, and was successful in making revisions to Chapter 20:38 of the Administrative Rules. The Board has also been active in attending meetings involving the technical professions throughout the State and has also made presentations at the educational institutions with regard to promoting the technical professions and the value of licensure. Our public member has also made substantial contributions to the Board through his involvement with building code meetings and assisting with complaint investigations. During the year, the Board has strived to increase coordination and communication with the Design Professionals Coalition. The Board has also been attentive to the concerns and needs brought before the Board by the Landscape Architects.

On the National level, the Board members have attended both national and regional meetings of NCEES, NCARB, and CLARB. Board members are also actively involved in serving on various committees within these national organizations. Through this involvement on the national level, the Board seeks to coordinate with and exchange information with the other state boards regarding education, examination, licensure, and enforcement issues.

For the coming year, the Board will continue its activities on both the State and national level similar as described above for the past year. The Board plans to again propose changes to Chapter 36-18A for consideration at the 2007 legislative session. The Board will host the NCEES Central Zone meeting, which at this time is being planned for Rapid City in May 2007.

One of the current issues on the National level which has been receiving much attention and discussion has to do with increasing the education requirements for licensure in the engineering and surveying fields. The Board is actively monitoring and involved with this issue, and values input from South Dakota licensees, interns, and students on this increased educational requirement issue. Another matter on the National level involves the time at which practice examinations can be taken to meet licensure requirements.

The Board is very thankful for the dedicated service of the Board's executive director and staff, as well as our investigator and legal counsel. Without their work, the Board's job would be extremely difficult if not impossible. It is indeed an honor for me and my fellow Board members to serve on this Board. I am further honored by my fellow Board members by being elected by

them to serve as Chairman for the coming year. We look forward to another productive year in serving our great State!

Leonard C. (Len) Neugebauer, PE/LS, Chairman

### **ON-LINE NEWSLETTERS**

We are providing your newsletter in a new way...electronically. You are receiving a link to our website. Please click on the link and it will provide the newsletter. You can save or print the newsletter for yourself. If you do not have an active email address, you will get a postcard with the link. This will save the Board printing, mailing, and postage. We hope to keep your renewal fees as low as possible by working smarter and more efficiently.

### **ON-LINE RENEWALS**

**Speaking of renewals**, we are also delivering your license renewal the same way, electronically. Therefore, it is vital that we have your email address either at home or at the office. If we do not have an active email address for you or if it is returned to us, we will send you a postcard with the renewal link. All you need is your license number (on your wall certificate) and pin number (your date of birth). You may complete the renewal form on-line, use a Visa or MasterCard, or download it and mail with a check. It is in your best interest to keep our costs at a minimum.

#### **SEVEN STEPS TO STAGNATION**

We've never done it that way.  
We're not ready for that.  
We're doing all right without it.  
We tried that once before.  
It costs too much.  
That's not our responsibility.  
It just won't work.

### **RENEWAL STATUS EXPLANATION**

**Active:** An individual's or firm's professional license is in good standing.

**Inactive:** An individual's or firm's professional license can be placed "inactive" upon request. They affirm they are not practicing or offering to practice within South Dakota. If they do so in the future, they must be properly reinstated or reactivated. There is a reduced fee for renewal.

**Retired:** An individual who has retired from practicing or offering to practice for remuneration may request this status after 10 years. To practice in South Dakota in the future, they must be properly reinstated. There is a reduced fee for renewal.

**Lapsed:** An individual or firm may lapse for non-payment of renewal fees.

**Revocation/Suspension:** An individual's or firm's professional license may be revoked or suspended for non-conformance with an audit or as part of a disciplinary action.

## **TIMING OF THE ARCHITECTURAL RECORD EXAM**

By David Stafford, AIA, BOTP Vice Chair

In recent months I am sure that most of you have heard much discussion about the concept of allowing architectural interns to take parts of the ARE early. Traditionally architect interns have been required to complete the Intern Development Program (IDP) before being allowed to take the Architectural Record Exam (ARE). Originally this was viewed as a three step sequence: 1) education, 2) professional experience (IDP), and then 3) examination (ARE). Today the profession is in the midst of a major rethinking of this concept. Interns are demanding change. AIA (national), the Young Architects Forum, and various student and intern groups have all taken positions in favor of shortening the path to licensure. Several months ago the NCARB Board of Directors issued a position statement in general support of the concept.

NCARB staff tells me that the typical student takes 5 yrs min. for a degree, 3 1/2 yrs. completing IDP, and 2 1/2 yrs. taking the exam. In this age of instant gratification that 11 year total is seen as too long to wait to get a license. Various arguments are given why this timeline needs to be shorter. Interns find that starting a career, getting married, starting a family, buying a home, etc. is a tremendous load. Trying to do the ARE at the same time is overload. Accelerating the schedule makes it easier to get the ARE portion out of the way and the career started for real.

AIA and NCARB statistics show that every year the percentage of graduates that actually seek licensure decreases significantly. This is why you can't hire good help. We have more schools and more students than ever before but far fewer new licensees. Many of today's graduates are choosing alternate career paths. New fields such as GIS, software, video gaming, and Hollywood (Industrial Light and Magic, Pixar, etc.), offer twice the money in half the time, and do it without most of the long hours, stress, and liability. Accelerating the timeline is seen as a way to help make architecture compete stronger in the marketplace.

In recent years the IDP has changed so that it is now possible to start the process after the 3<sup>rd</sup> year of school. Some (but not all) of the required professional experience can be gained before graduation. The current proposal to change the timing requirements of the ARE is a step in the same direction. The concept is that certain of the more academic sections of the exam (structures for example?) are best suited to this accelerated schedule. How much acceleration is appropriate? It's hard to say – there's no consensus yet. Most likely a select group of exam sections will be identified for a schedule starting soon after graduation. NCARB is studying this right now. The 2006 NCARB Annual Meeting last June saw a resolution passed supporting this in concept. Expect next year's annual meeting (June of 2007) to be asked to pass a resolution outlining a specific policy.

So what's the big deal, you say? Well, many feel that acceleration downgrades the final result. For many of the more academic subjects, examination immediately upon graduation makes it easier. The old 3 1/2 year delay before starting the exam means, for most applicants, a need to re-learn the subject matter. This process of re-learning is thought to greatly enhance long term retention and depth of understanding. Others feel that most architects are barely ready for private practice after 11 years of preparation and a shorter time just makes it worse. Another big issue is reciprocity between states. If some states allow varying forms of early examination, what happens when a licensee applies for reciprocity in another state that requires the old sequence? We already have nine states, each with legislation containing its own version of the timing issue. This could easily become a bureaucratic nightmare.

No matter what your personal opinion is in the matter, be advised that changes are already happening. Nine states (so far) have passed legislation along these lines. Texas has gone so far as to enact legislation that allows interns to begin taking all portions of the exam 6 months after beginning their first employment after graduation. These Texans still have to complete IDP before becoming licensed but this legislation potentially takes 2 1/2 years out of the timeline. Eight other states have legislation that is similar but somewhat less drastic. Many other states are looking at similar legislation. NCARB's task, in the months to come, is to try to bring order and consistency to this issue among the 55 states and jurisdictions involved. Watch for much activity on a state and national level in the near future.

Words that soak into your ears are whispered...not yelled!

**RULE CHANGES**

Effective June 20, 2006 the Board made changes to the rules chapter. You may find these changes at [www.state.sd.us/dol/boards/engineer](http://www.state.sd.us/dol/boards/engineer) Underlined passages mean these have been added and strikethroughs are passages that have been deleted.

| <b><u>FUTURE DATES FOR THE PROFESIONAL ENGINEERING (PE) AND PROFESSIONAL LAND SURVEYING (PLS) INITIAL APPLICATIONS AND EXAMINATIONS</u></b>                                 |                         |                  |                         |                   |
|---|-------------------------|------------------|-------------------------|-------------------|
| <u>YEAR</u>   | <u>APPLICATION DATE</u> | <u>EXAM DATE</u> | <u>APPLICATION DATE</u> | <u>EXAM DATE</u>  |
| 2006  | <u>JANUARY 1</u>        | <u>APRIL 21</u>  | <u>JULY 1</u>           | <u>OCTOBER 27</u> |
| <u>ELSES deadline for applications to be received is September 7, 2006. If the South Dakota Board has approved your application, you do not need to get approved again.</u> |                         |                  |                         |                   |
| 2007  | <u>JANUARY 1</u>        | <u>APRIL 20</u>  | <u>JULY 1</u>           | <u>OCTOBER 26</u> |

| <b><u>FUTURE DATES FOR THE FUNDAMENTALS OF ENGINEERING (FE) AND FUNDAMENTALS OF LAND SURVEYING (FLS) INITIAL APPLICATIONS AND EXAMINATIONS</u></b>                          |                             |                  |                             |                   |
|---|-----------------------------|------------------|-----------------------------|-------------------|
| <u>YEAR DATE</u>  | <u>APPLICATION DEADLINE</u> | <u>EXAM DATE</u> | <u>APPLICATION DEADLINE</u> | <u>EXAM DATE</u>  |
| 2006  | <u>JANUARY 1</u>            | <u>APRIL 22</u>  | <u>JULY 1</u>               | <u>OCTOBER 28</u> |
| <u>ELSES deadline for applications to be received is September 7, 2006. If the South Dakota Board has approved your application, you do not need to get approved again.</u> |                             |                  |                             |                   |
| 2007  | <u>JANUARY 1</u>            | <u>APRIL 21</u>  | <u>JULY 1</u>               | <u>OCTOBER 27</u> |

## **PROCESSING OF COMPLAINTS BY THE BOARD OF TECHNICAL PROFESSIONS**

By Leonard C. (Len) Neugebauer, PE/LS, BOTP Chairman

I have been encouraged to write an article to follow up to my previous article entitled “Quality Assurance in the Technical Professions”, which was published in the September 2005 issue of the Board’s newsletter. The Board regularly receives complaints, of which probably more than half originate from existing licensees. This is understandable, since who better knows and understands the laws and rules of the technical professions than the licensees themselves. Complaints may be against any person or entity in reference to improper use or practice of the technical professions in South Dakota. Complaints may be in reference to but not necessarily limited to allegations of wrongful advertising or use of titles, unlicensed practice, cross practice, substandard practice, unprofessional conduct, not using a licensed professional when required, and other nonconformance issues with statutes and rules regulating the technical professions.

Complaints are submitted on the complaint form, which is available by request or from the Board’s website. Complaints are mailed or delivered to the Board’s office, where they are opened and initially reviewed by the Board’s staff. The Board’s staff then consults with its investigator and legal counsel with regard to processing and investigating, as may be appropriate for the complaint. Because the complexity and severity of complaints can vary widely, the process and time required for complaint resolution can vary from short to extensive. All complaints received are responded to in writing by the Board to the complainant as well as the person(s) or entity(s) named in the complaint.

Processing of complaints by the Board is in accordance with SDCL Chapter 36-18A and ARSD Chapter 20:38. These statutes and rules both guide the process of investigating and resolving complaints as well as administration of disciplinary remedies when appropriate. Such remedies may vary from advisory warnings and reprimands for first time, minor infractions to license suspensions and revocations and administrative fines for more severe infractions.

It is important to understand that the Board’s authority and power is limited by these statutes and rules. Where the complainant seeks action, which exceeds these limits, it may be necessary for the complainant to pursue civil or other legal action. For example, this would be the case if the complainant sought compensation for alleged damages arising out of a matter involving the technical professions.

Both SDCL Chapter 36-18A and ARSD Chapter 20:38 include provisions relative to maintaining and increasing the quality of the technical professions. They also include provisions requiring persons who observe what they believe to be violations to report them to the Board (see SDCL 36-18A-56(14) and AR 20:38:20:01(29)). The Board does not have the resources to be watching everything that is going on in the technical professions. All of you, as licensed professionals, are our eyes and ears relative to maintaining and increasing the quality of the technical professions. In matters, which you believe to be degrading to the technical professions, I encourage you not to look the other way, but to approach the situation in a professional manner. When it is appropriate, I encourage using the three step process as described in my above referenced article on “Quality Assurance in the Technical Professions”. If the matter needs to be taken to step 3, which is to report the matter to the Board by filing a written complaint, then you need to do so in a timely manner out of your responsibility to the profession. The Board and the technical profession to which you belong are counting on you!

It may be that your sole purpose in life is simply to serve as a warning to others.

**MARTIN A. PEDERSEN, LS, NCEES PRESIDENT**

On the proposed language change to require 30 additional credits beyond a bachelor's degree for engineering licensure: "The United Kingdom will soon require a master's degree to become a Chartered Engineer – the equivalent of our professional engineer – and it may no longer recognize only a bachelor's degree for equivalency. Other European countries are considering the same changes in education requirements. If we are to maintain parity with other world engineers and compete in the growing world market, we must increase our education requirements."

"We need to accept the fact that professional engineers in Canada, the United Kingdom, Australia, and other countries are highly educated and qualified professionals. If they have a comparable education, extensive experience, and a clean record of practice, they should be granted a license to practice in the United States. If we are going to continue to compete internationally, we need to address this issue."

**ARE Examination Rolling Clock**

The National Council of Architect Registration Board (NCARB) and the South Dakota Board of Technical Professions have created a "rolling clock" for architectural examinations. Effective January 1, 2006, candidates have five (5) years to pass all divisions of the ARE. It begins the first time a division is taken.

**IDP/ARE TIMING**

Questions and Answers:

*I heard that NCARB approved taking the ARE before the completion of the IDP at the 2006 Annual Meeting. Is this true?*

No. In February 2006, NCARB's Board of Directors issued a policy statement proposing that a candidate with an accredited professional degree and who is actively engaged in IDP be permitted to begin taking divisions of the ARE. The Board proposed a resolution at the 2006 Annual meeting which would have changed the current Model Law recommendation that candidates only be made eligible to start taking the ARE after the candidate has completed IDP.

*What action was taken by NCARB and the Member Boards concerning taking the ARE before the completion of IDP at the 2006 Annual Meeting?*

The NCARB Member Boards requested that prior to any change in the Model Law, the Board of Directors prepare implementation details of such policy. The details shall include requirements such as the number of months of experience under the supervision of an architect, minimum number of IDP Training Units, and which divisions of the ARE should be allowed to be taken early. A resolution to implement such policy will be presented at the NCARB 2007 Annual Meeting. Following a June 2007 vote of approval, NCARB's model law will be amended and individual Member Boards will be able to determine if they will adopt the policy.

*I heard there are jurisdictions that allow Emerging Professionals to take the ARE before the completion of IDP. When can I start taking the ARE?*

There are currently 9 jurisdictions which allow you to take the ARE prior to the completion of IDP. They are: Alabama, Arizona, California, Florida, Kentucky, Puerto Rico, Texas, Vermont, and Wisconsin. The individual laws and requirements for eligibility to sit for the ARE prior to completion of the IDP vary greatly.

**NEW L.A.R.E. SECTION TITLES AND SCHEDULE**

With the recent improvements to the Landscape Architectural Registration Exam, it is necessary to change the titles of the exam sections. The following are now the titles of the LARE.

- A. Project and Construction Administration
- B. Inventory, Analysis and Program Development
- C. Site Design
- D. Design and Construction Documentation
- E. Grading, Drainage and Stormwater Management

The Schedule of the graphic portions of the LARE has also changed:

| MONDAY – JUNE 12                                 | TUESDAY – JUNE 13  |
|--|--|
| Instructions 8:00 am – 8:15 am                   | Instructions 8:00 am – 8:15  |
| Section C – Site Design<br><br>8:15 am – 1:15 pm | Section E – Grading, Drainage, and<br>Stormwater Management<br><br>8:15 am – 1:15 pm |

**SIoux FALLS BUILDING OFFICIAL**

Ron Bell was nominated by the South Dakota Building Officials (SDBO) for the ICC Code Official of the Year award and was selected by the International Code Council from more than 30 candidates from across the US as well as several countries. Ron was presented this award at the ICC Annual Conference held in Detroit, MI last year.

The following is from the nomination submitted by the SDBO: Ron has spent countless hours advocating adoption of the International Building Codes by municipalities statewide and the Region III states. Ron, without exception, takes the time to advise fellow code officials from communities across the State of SD and region with their questions and observations regarding building codes. Ron shares his code knowledge unselfishly while serving as Chief Building Official supervising a staff of 20 in the City of Sioux Falls. This City has generated an average of more that \$300 million in construction dollars the past five years.

**SEVEN DEADLY SINS**

- Politics without principles.
- Wealth without work.
- Pleasures with conscience.
- Knowledge without character.
- Commerce without morality.
- Worship without sacrifice.
- Science without humanity.

## **PLEASE REPORT VIOLATIONS TO THE BOARD**

The Board relies on education, experience, and examinations to license our professionals. But the Board has another obligation...enforcement. Without it, we cannot regulate licensees. The Board's job is to evaluate the credentials of applicants to safeguard life, health, and property and promote public welfare. Without enforcement, the Board is not fulfilling its responsibility to protect the public.

A survey indicated that the number of new enforcement files opened by States each year varies from 6 to 1,000. Perhaps all unlawful and unethical professionals are in one State. Or maybe the State opening 1,000 new files each year is enforcing its statutes and rules better. While staff, legal resources, penalties, sanctions and budget constraints affect an enforcement program, these are obstacles that must be met and overcome.

In this age of mobility, many professionals hold licensure in multiple jurisdictions and they obviously know which States have stringent enforcement programs and which States do not. They know which states will fine them heavily or even suspend or revoke their license to practice. They also know which states where they can get in, finish a project without following the law, and get out before being discovered.

As a smaller state, South Dakota depends upon other professionals and the public to report unlawful activities. The Board has one investigator who is a PE/LS reporting to the office. The Board office is waiting for complaints to materialize and the Board is waiting to deal with those complaints in a timely manner.

## **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.

Case 03-01 Earl F. McKinney – License revoked in Kentucky. Board revoked PE license in SD, subject to any reversal of the Kentucky action by the Kentucky Supreme Court, and imposed a fine of \$358.84. McKinney will not reapply for licensure in SD before July 1, 2010.

Case 03-21 Iron Horse Inn, Whitewood, SD – Unlicensed owner not in compliance with Building Code; Iron Horse Inn was required compliance for cost of actions to reimburse the Board in the amount of \$7,431.67.

Case 05-02 Ronald Gronewald, LS - While in responsible charge of an office in SD, he did not maintain regular hours at SD office, did not personally visit SD office on a regular basis, and directed field work without at least periodic immediate access to evidence on the ground (directed field work while living in another state through telephone calls, written correspondence, facsimile and email transmittals); also substandard practice. Board imposed a public reprimand and civil penalty of \$500; required to pay costs of \$300. Failure to comply with Consent Order. Board revoked LS license in SD.

Case 05-01 Benchmark Land Surveying – Licensed business entity’s land surveyor in responsible charge did not maintain regular hours at office, did not personally visit office on a regular basis, and directed field work without at least periodic immediate access to evidence on the ground (directed field work through telephone calls, written correspondence, and facsimile and email transmittals). Firm had voluntarily ceased operation and agreed to reapply for Certificate of Authorization if operations resumed. Board imposed a public reprimand and required payment of costs of \$180.

Case 05-12 Taunya Ernst, PE – Failed to submit PDH verification in a timely manner and failed to complete all PDH requirements during two-year period. Board imposed a public reprimand and civil penalty of \$100; required to pay costs of \$532.84.

**HAVE YOU MOVED?**

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). **Be sure you have updated your email address.** 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**

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

**BOARD STAFF**

*Ann Whipple, Executive Director*  
*Ruth Knapp, Senior Secretary*  
*Wendy Whipple, Secretary*

**UNDER CONTRACT**

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