

MINUTES OF THE BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND GEOLOGISTS

Teleconference

Thursday, June 25, 2020, beginning at 9:00 a.m.

Board Members Present:	Fel Amistad, President; Steve Wilson, Vice President; Natalie Alavi; Alireza Asgari; Duane Friel; Andrew Hamilton; Kathy Jones Irish; Eric Johnson; Coby King; Betsy Mathieson; Mohammad Qureshi; and Frank Ruffino
Board Members Absent:	Asha Lang
Board Staff Present:	Ric Moore (Executive Officer); Nancy Eissler (Assistant Executive Officer); Tiffany Criswell (Enforcement Manager); Celina Calderone (Board Liaison); and Helen Geoffroy (Legal Counsel)

I. Roll Call to Establish a Quorum

President Amistad called the meeting to order at 9:08 AM, and a quorum was established.

II. Moment of Silence for Robert Alan Stockton

President Amistad observed a moment of silence for Board Member Robert Alan Stockton.

III. Pledge of Allegiance

Mr. Ruffino led everyone in the recitation of the Pledge of Allegiance.

IV. Public Comment for Items Not on the Agenda

During public comment, Alan Escarda, representing PEGG, thanked the Board for the continuous flow of information regarding examinations.

V. Consideration of Rulemaking Proposals

A. Adoption of Rulemaking Proposal to Amend Title 16, California Code of Regulations sections 416 and 3060 (Substantial Relationship Criteria) and sections 418 and 3061 (Criteria for Rehabilitation) to Conform to Statutory Changes Made by AB 2138 (Chapter 995, Statutes of 2018)

Ms. Eissler reviewed the rulemaking proposal and introduced Alex Millington, from the DCA Legal Office Regulations Review Unit, assigned to work with the Board during the rulemaking process to address any questions.

Dr. Qureshi asked Mr. Millington to explain the process for responding to public comments. Mr. Millington explained that comments received in response to a 15-day noticed change are to be responded to in a final statement of reasons. From the prospective of the Administrative Procedure Act, the formal response to the comments received appears in documentary form. As a matter of procedure, the proposed responses are approved by the Board at a meeting. For reasons that relate to transparency and the Bagley-Keene Open Meeting Act requirements, it is not possible for substantive discussion to be had on the comments prior to a noticed public meeting. Ultimately, the body that approves or does not approve the form of the responses is the Board itself. Anything that occurs in preparing materials prior to the meeting is for the benefit of the Board members to be able to consider and by motion adopt the proposed responses. The reason for not communicating with the commenter prior to the consideration of the comments is to comply with transparency requirements, to allow for the consideration to occur in front of the body that is allowed to approve comments, and also to ensure that there are no communications that occur off the record.

MOTION:	Mr. King and Ms. Alavi moved to adopt the proposed responses to the comments, including the second set of comments submitted after the close of the notice period; adopt the final Rulemaking proposal; and, delegate to the Executive Officer to finalize the rulemaking file.
VOTE:	12-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Eric Johnson	X				
Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				

Mr. Moore introduced the Board's new Legal Counsel Helen Geoffroy.

- B. Adoption of Rulemaking Proposal to Amend Title 16, California Code of Regulations sections 407 and 3005 (Fees); to Amend Title 16, California

Code of Regulations section 410 (Certificates); and to Adopt to Title 16, California Code of Regulations section 3010 (Certificates)

Ms. Eissler reported that the listing of the date of July 1, 2020, as the date for the change in the renewal fees was no longer feasible and, therefore, needed to be changed to January 1, 2021. This necessitated a 15-day public comment period.

MOTION:	Ms. Mathieson and Vice President Wilson moved to adopt the amendments to Sections 407, 410, and 3005 and adopt Section 3010 of Divisions 5 and 29 of Title 16 of the CCR, adopt responses to comments, and delegate to the Executive Officer to finalize the rulemaking file for submission to the Department of Consumer Affairs and the Office of Administrative Law.
VOTE:	12-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Eric Johnson	X				
Coby King	X				
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				

VI. Administration

A. Fiscal Year 2018/19 Budget Status

Mr. Moore reported that the final updates to Fiscal Year 2018/19 were received and the end comparison between what was projected and actual resulted in an increase of \$50,000 in revenue and an increase of \$10,000 for expenditures, which means \$40,000 net increase between projections.

An updated Fi\$Cal report has not been received from Budgets. The numbers that are presented in the activity log are numbers from April. The projections have been updated from those figures plus the Board's own internal tracking system.

New computers were purchased to replace outdated equipment. The purchase timing was appropriate as laptops were purchased so staff can

telework more efficiently. This shows an \$18,000 increase from the May Board meeting.

Mr. Moore noted that under the Architectural Revolving Fund (ARF) \$200,000 of the \$300,000 is expected to be expended.

Mr. King left the meeting at 10:00 a.m.

B. Fiscal Year 2019/20 Budget Report

Changes in the fee regulations will not go into effect July 1, 2020, as anticipated. Updates to the budget report were received June 23, 2020, and therefore, staff has not had an opportunity to review and make adjustments to the fund condition. This information should be available at the next Board meeting.

VII. Legislation

A. 2020 Legislative Calendar

Ms. Eissler reviewed the Legislative Calendar.

Ms. Eissler reported on items that required action.

B. Discussion of Legislation for 2020

Ms. Eissler reported on items that required action.

AB 2028 State agencies: meetings.

MOTION:	Mr. Hamilton and Ms. Irish move to take a position of watch on AB 2028, as amended June 4, 2020.
VOTE:	11-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Eric Johnson	X				
Coby King				X	
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				

AB 2185 Professions and vocations: applicants licensed in other states: reciprocity.

MOTION:	Vice-President Wilson and Ms. Alavi moved to take a position of oppose unless amended on AB 2185, as amended May 13, 2020, to exempt the Board because the Board's existing statutes provide the correct balance between the need for comity/reciprocity licensure and the need to protect the health, safety, welfare, and property of the public.
VOTE:	11-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Eric Johnson	X				
Coby King				X	
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				

AB 3334 Professional Land Surveyors' Act and Professional Engineers Act.

MOTION:	Vice President Wilson and Dr. Qureshi moved to take a position of oppose unless amended on AB 3334, as amended May 11, 2020, and request that the term "remote sensing" and the definition of "remote sensing" be removed from subdivision (b) of Sections 6731.1 and 8726. Staff further recommends the Board delegate to Board Members Steve Wilson, PE, PLS, and Andrew Hamilton the authority to change the Board's position on the bill should it be amended to address the Board's concerns prior to the next Board meeting.
VOTE:	11-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel	X				

Andrew Hamilton	X				
Kathy Jones Irish	X				
Eric Johnson	X				
Coby King				X	
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				

SB 865 Excavations: subsurface installations.

MOTION:	Ms. Mathieson and Ms. Irish moved to take a position of oppose unless amended on SB 685, as amended June 2, 2020, and request that appropriate language be included to clarify the intent to capture accurate coordinates that would be relied upon to locate and mark subsurface utilities and to indicate that such work would have to be done by, or under the responsible charge of, individuals legally authorized to practice land surveying.
VOTE:	11-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Eric Johnson	X				
Coby King				X	
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				

SB 878 Department of Consumer Affairs Licensing: applications: wait times.

MOTION:	Ms. Mathieson and Ms. Alavi moved to take a position of support on SB 878, as amended June 18, 2020.
VOTE:	11-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
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Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Eric Johnson	X				
Coby King				X	
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				

There was no discussion or action on the following items.

AB 1263 Contracts: consumer services: consumer complaints.

AB 1616 Department of Consumer Affairs: boards: expunged convictions.

AB 2113 Refugees, asylees, and immigrants: professional licensing.

AB 2549 Department of Consumer Affairs: temporary licenses.

AB 2631 License fees: military partners and spouses.

SB 1057 Land.

IX. Exams/Licensing

A. Update on 2020 California State Examinations

Mr. Kereszt has been in contact with Prometric on a daily basis in an effort to resume State exams July 1, 2020.

The Board applied and has been designated as an essential client by Prometric. This will provide candidates with more flexibility as they will now be able to schedule into any available opening at any test center. This is important for the candidates in terms of having them schedule. Staff will follow up on trying to remind them to schedule for the exams just to make sure that everybody knows that they have that opportunity.

Exams have been canceled, rescheduled, and postponed, and Mr. Kereszt thanked the candidates for being patient during these unprecedented times. Staff is actively trying to respond to candidates' questions and concerns the same day.

B. Discussion on Alternate Ways to Administer State Examinations

Mr. Kereszt has been researching different exam administration methods should something like this happen again. One method is remote proctoring. Remote proctoring provides the exam candidate an opportunity to take the exam at a remote location such as their home using their own computer. Prometric would organize the exam and ensure that the area that they are

taking the exam is secure and there would be up to three proctors involved in any one candidate's exam administration. While Prometric has their security methods in place, Mr. Kereszt expressed his hesitation to move forward with this form of exam administration and is concerned with the security and integrity of the exams. More data will need to be collected as more clients are using this method now. There will probably be a better understanding of the security protocols that are involved in remote proctoring by the end of the year. It is also a possibility to have Prometric provide a presentation at a future Board meeting to address any questions or concerns about security protocols.

Mr. Moore has serious reservations about exam security with remote proctoring. He is aware that Prometric has tried to address his concerns and, while he can definitely respect and appreciate their attempt, the Board has a responsibility to the examinees to help them in their process to getting licensed but we must secure the hundreds of thousands, if not millions, of dollars that the Board has invested in exam development, concerns about exam subversion, and the impact of the integrity of the exams.

VIII. Enforcement

A. Enforcement Statistical Reports

1. Fiscal Year 2019/20 Update

Ms. Criswell presented the Enforcement Statistics. She had the opportunity to meet with the Division of Investigations' new Northern Area Commander, Emily Kendrick, who worked with the Board as a Student Assistant years ago. She understood concerns with delays and is committed to addressing matters.

X. Executive Officer's Report

During the Executive Officer's Report, Mr. Alameida announced that he has taken an opportunity and accepted another position within DCA, specifically the Office of Information Services. He expressed his appreciation for the mentorship and respect he has received and the positivity in terms of questions and criticisms of his progress. He looks forward to this next step in his career.

A. Rulemaking Status Report

Mr. Moore reviewed the Rulemaking status report. Dr. Qureshi noted that item number 4, Definition of Traffic Engineering has the incorrect date of when the Board directed staff to pursue the rulemaking proposal.

B. Update on Board's Business Modernization Project

Mr. Moore reported that everything is moving along. Mr. Alameida will continue his services with the Board's Business Modernization Project. User acceptance testing (UAT) will commence the week of July 13, 2020, where users of all four programs will be testing their functionality.

C. Personnel

Mr. Moore reported that Ms. Eissler will be recruiting to hire a new Administrative Services Manager.

As part of the Governor's efforts regarding Covid-19 concerns, the Governor implemented a Contact Tracing Task Force and requested that all agencies provide staff to assist in that effort. The Board has assigned two staff members to aid in that effort.

D. ABET

Meetings are cancelled for the remainder of 2020.

E. Association of State Boards of Geology (ASBOG)

Mr. Moore reported that communication is being maintained with ASBOG, and all indications are that the fall exams will go on as planned unless we hear otherwise. Since the member boards are each responsible for administering paper-and-pencil exams in person, our staff is continuing to work with our sites that we have previously chosen to confirm whether or not they will be available, and they are also working on back up sites in the event there is an increase in the number of examinees. Mr. Kereszt will provide more information in the coming Board meetings. At this point, everything is going according to plan provided that the pandemic and physical distancing requirements allow the Board to continue to do so.

F. National Council of Examiners for Engineering and Surveying (NCEES)

The plan is to accommodate all of the examinees who were canceled in April plus the people who would normally be taking exams in October. The registration for the fall exams opened June 1, 2020, which was about 2-3 weeks earlier than normal as they wanted to try and accommodate everyone. They are also doing everything they can in the meantime to make sure they have the facilities and have the proper requirements in place to honor any physical distancing requirements.

The CBT (computer-based testing) was shut down briefly during March and April. NCEES uses Pearson VUE, and those CBT centers have slowly opened back up, with limited capacity. There are candidates scheduling and sitting for exams everyday as long as they can continue to schedule.

The Annual Meeting that was scheduled for Chicago in August was canceled. NCEES held three separate webinars, which concluded yesterday, to cover all the reports that the Board would need to finalize everything in the business session. Webinar number 1 was the CEO's and President's reports, Webinar number 2 was the Financial Reports, and Webinar number 3 was Elections and Voting. The Annual Meeting will be held in August via webinar.

During the Financial Reports, they were able to quantify the impact of the Covid-19 cancellations. Approximately, 16,000 examinees nationwide and

internationally for the April pencil-and-paper exams had their exams cancelled. This accounted for \$4 million dollars of what they had projected in their in their budget. The also refunded \$1.4 million dollars in administration fees to the candidates. They are expecting that in October 2020, the volumes for the paper-and-pencil exams will be much higher due to the cancellation. They are anticipating that some revenue will be coming back that will offset some but not expecting all of it to be offset. They wanted to ensure that the candidates had the opportunity to get their money back and make a decision on how they wanted to proceed. They also expanded their pencil-and-paper exam dates to accommodate the expected volume.

NCEES also cancelled all in-person Zone meetings and exam development meetings through the end of the year.

Mr. Moore reported that due to the passing of Board Member Robert Stockton, we now only have one candidate for NCEES Treasurer out of the Northeast zone. An email was received during the morning from Steven Arndt, who is on the Maryland P.E. Board, and he is also now running for the Treasurer position. He will forward that information to the Board members.

G. Update on Outreach Efforts

1. Discussion on Outreach Efforts During Pandemic

Mr. Moore reviewed the various strategies the Board has integrated into its outreach efforts. He noted that staff is developing traditional outreach presentations and resources through a remote presentation format.

H. Review of Board's Operating Procedures Related to President and Vice President Elections.

Mr. Moore reported that both Vice-President Wilson and Mr. Hamilton are ending their grace year and continue to wait for reappointments. Referring to the Board's Operating Procedures, should one or both not be reappointed to the Board, then new elections would be held. This will be an agenda item at the August Board meeting for the Board to nominate and elect a president and vice-president, if necessary.

Mr. Moore also suggested that at the at the August meeting, the first agenda item would be for the Board to choose who would serve as Temporary President for that meeting should it be necessary.

Dr. Qureshi suggested that the President reformulate the Nominating Committee and have potentially interested Board members contact them should there need to be an election in August.

President Amistad appointed Dr. Qureshi and Ms. Irish to be on the Nominating Committee to assemble potential candidates, if necessary, for the August meeting.

XI. Technical Advisory Committees (TACs)

- A. Assignment of Items to TACs
No report given.
- B. Appointment of TAC Members
No report given.
- C. TAC Appointment
No report given.
- D. Reports from the TACs
No report given.

XII. President’s Report/Board Member Activities

President Amistad honored Robert Stockton.

As President Amistad’s term comes to an end, he thanked the Board members and staff for making his term as Board President a success.

Mr. Ruffino advised the Board that he will not be seeking reappointment and thanked everyone for the opportunity to serve.

XIII. Approval of Meeting Minutes

- A. Approval of the Minutes of the May 7, 2020, Board Meeting

MOTION:	Dr. Qureshi and Mr. Wilson moved to approve the meeting minutes as amended.
VOTE:	11-0, Motion Carried

Member Name	Yes	No	Abstain	Absent	Recusal
Fel Amistad	X				
Steve Wilson	X				
Natalie Alavi	X				
Alireza Asgari	X				
Duane Friel	X				
Andrew Hamilton	X				
Kathy Jones Irish	X				
Eric Johnson	X				
Coby King				X	
Asha Lang				X	
Betsy Mathieson	X				
Mohammad Qureshi	X				
Frank Ruffino	X				

XIV. Discussion Regarding Proposed Agenda Items for Next Board Meeting

Mr. Moore thanked President Amistad for his service and will present him with a plaque in recognition for his time as a Board President. He also thanked Mr. Ruffino for his service to the Board.

Mr. Moore expressed his gratitude to Vice-President Wilson and Mr. Hamilton for their service should they not be reappointed. He appreciates their guidance, advice, and the working relationships created during their terms.

XV. Closed Session – The Board met in Closed Session to discuss, as needed:

- A. Personnel Matters [Pursuant to Government Code sections 11126(a) and (b)]
- B. Examination Procedures and Results [Pursuant to Government Code section 11126(c)(1)]
- C. Administrative Adjudication [Pursuant to Government Code section 11126(c)(3)]
- D. Pending Litigation [Pursuant to Government Code section 11126(e)]

XVI. Adjournment

The meeting adjourned at 2:48 PM

Due to technological limitations, adjournment was not broadcast. Adjournment immediately followed Closed Session, and there were no other items of business discussed.

PUBLIC PRESENT

Alan Escarda