

CALL TO ORDER

Open Meeting and Public Agenda Information

The May 24, 2024, Operational Planning meeting of the Nebraska Board of Engineers and Architects was held at 13460 Chandler Rd, Omaha, Nebraska. Chair Suelter called the meeting to order at 8:36 a.m. and noted the location of the Open Meetings Act. Notice of the meeting was published in the Lincoln Journal Star in compliance with the Open Meetings Act.

Roll Call: Jason Suelter, Chair; Brian Kelly, Vice-Chair; Bruce Dvorak, Secretary; Jan Bostelman, Brett Foley; Dan Thiele; Alan Wedige; Absent: Lenora Nelson

Staff Present: Jon Wilbeck, Executive Director (ED); Amy Habe, Compliance Officer (CO); Jean Lais, Administrative Programs Officer (APO); Allyson Bennet, Public Information Officer (PIO)

A. LEGISLATIVE MATTERS

LB1417

As introduced, LB1417 would have moved the duties of the Board of Examiners for Land Surveyors under the Board without altering its makeup. Amendment AM3346 was drafted but never incorporated, which would have removed the requirement from the bill. It did not advance out of committee during the 2024 legislative session and will no longer be considered. ED Wilbeck provided a history of the Board's actions related to the bill. He outlined the mechanical defects of the bill when the fiscal note was submitted.

The Board suggested a meeting during the interim with Senator Sanders, who will most likely be next year's Government, Military, and Veterans Affairs committee chair, to find out the reasoning behind removing the provision from the bill if the merger will be proposed again in 2025, and if so, deciding on what the Board's next steps should be.

A meeting with the Governor's Policy Research Office and the Board of Examiners for Land Surveyors was also suggested.

Nelson joined the meeting at 8:45 a.m.

LB16 and Interior Design Registry

The bill was initially introduced as LB471 in 2023, which would have added interior designers to the board and created a voluntary registry for the profession. However, the provisions of LB471 were amended into LB16, creating the *Interior Design Voluntary Registration Act* (ID Act) without adding interior designers to the Board. The State Treasurer's office will administer the interior design registry.

ED Wilbeck provided a draft letter to the Attorney General's office requesting an opinion on how the ID Act interacts with the E&A Act; mainly, the Board is interested in interior design practice in areas only licensed architects, or professional engineers can work in.

The members requested questions be added to the request regarding the authority to use a seal and 2) if preparation of an interior design drawing on a non-exempt project constitutes the practice of architecture subject to the regulations of the E&A Act but were prepared by a registered interior designer, may a building official or jurisdiction in charge accept the stamped plans under the ID Act.

It was suggested an informal meeting to held with the Attorney General's office before submitting the opinion request.

Potential Statute and Rule Changes

A list of staff-recommended statutes and rules revisions was provided.

- 81-3436(9) – Organizational Practice – define the phrase '*for itself*' – No revision was proposed.

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- 81-3437.01(2) – Signature w/seal – rewrite to allow the signature to be next to the seal and not require it across the seal – Board suggested looking at the Texas engineering board for example language. Section may be revised.
- 81-3445 – Political Subdivisions/Construction projects – may need to define *public works* – *Black's Law Dictionary* – improvements built by the government for public use and paid for by public works. A former rule used the term *or* – The Board requested the rule be added in the next Rules revision using the *Black's Law Dictionary* definition.
- 81-3448(5) – Add the exam on the Act and Rules to be consistent with other sections – No revision proposed
- 81-3449(10) – Architect practice exemption for NCARB certificate holders – consider deletion – Delete with next statute revision
- 81-3451(2), (3), (9) – PE Exam – Rewrite to allow for direct registration and begin the section with initial licensure requirements. A question was raised about whether NCEES verifies the individual has passed the FE or met the education requirement when reviewing a PE registration. Staff will follow up with NCEES. The Board desires to move toward direct registration with the next statute revision.
- 81-3451(7) – Add the exam on the Act and Rules to be consistent with other sections – No revision proposed
- Rule 1.12.2 – The new database does not have the capability to move fees from one fee type to another – consider deletion – Delete in the next Rules revision, but check with NCARB to determine if Licensing System may be able to incorporate this ability
- Rule 1.18.4 – Application Disclosure Statements – consider revision to clarify what is meant by *repetitive or multiple violations* – The Board confirmed it wants to continue to see all disclosures that meet this rule. No revisions proposed
- Chapter 2 – Revision to allow PE direct registration and begin with initial licensure requirements – may need to move EI enrollment and education reimbursement requirements to another chapter – Revise after the next statute revisions
- Chapter 5 – Code of Conduct – consider adding a rule requiring disciplinary actions in other jurisdictions to be reported within 30 days – The members proposed revising the reporting time to 90 days.
- Chapter 7 – Organizational Practice – add clarification on the validity of the certificate and renewing an expired certificate – revised with next Rules revision

Discuss whether to allow an individual in responsible charge (IRC) on probation/suspension/restricted practice to be listed on the certificate – Revise in the next Rules revision to allow the person to be listed as the IRC is placed on probation or has restricted practice. An individual who has had their license suspended cannot be listed as the IRC.
- Rule 8.4.1.1.6 – Remediation – change *design* to *project*
- Rule 8.6.1 – COA in arrears collection – move to Chapter 7 – discussion on imposing costs and/or additional penalty – The Board determined rule be kept in Chapter 8
- Rule 9.5.1 – CE Logs & Documentation – Revise to clarify what records must be retained and what needs to be submitted if selected for a CE audit – Revise with the staff-recommended language.

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- Rule 9.6.1.4 – CE for Emeritus Licensees applying for reinstatement – Revise to clarify the number of hours required to be submitted – Revise with the staff-recommended language and the entire two years of CE should be required no matter how long the license has been expired.

Review of Policies for Revision or Deletion

A list of policies was provided for review to determine if they needed to be revised, promulgated, or could be deleted.

- 23.01 PE Exam References – Promulgate in the next rules revision
- 21.01 Renewing Licenses when CE Requirements are Not Satisfied – Promulgate in the next rules revision
- 20.01 January Board Meeting – Retain
- 14.08 Legal Services Evaluation Process – Retain
- 14.07 Contract Awards – Retain
- 14.04 Disclosure Updates for Applications – Promulgate in the next rules revision
- 14.01 Applications Authorized to be Administratively Approved – Retain
- 13.02 Professional Services Competition Selection – Combined with Policy 14.08
- 13.01 Consent Agenda Items – Retain
- 11.05 Per Diem for Continuing Education Audits – Promulgate into the next rules revision
- 10.03 Board Agenda Deadline – Retain
- 10.01 Elimination of pre-1984 Architect-In-Training Certificates – Delete
- 08.07 Code Officials and the E&A Act – Retain
- 04.01 Target Reserve for the E&A Act Regulation Fund – Retain
- 03.01 Review/Salary – Combine with Policy 01.01 into new policy
- 02.03 Board Emergency Weather Policy – Delete as is part of the DAS Personnel Policies and included in the current Employee Handbook
- 02.02 Recognition of Past Board Members – Retain
- 02.01 Use of Secretary's Signature – Delete
- 01.02 Continuing Education Offerings on the Web Page – Retain
- 01.01 Salary Committee – Combine with Policy 03.01 into a new policy
- 00.01 Election of Officers – Retain

Policy 24.02 was proposed to combine Policy 01.01 and 03.01 and to reflect the current practice.

The Executive Director will be evaluated by the Board; all other staff will be evaluated by the Executive Director in accordance with Nebraska Department of Administrative Services (DAS) Personnel procedures.

Changes in pay all staff except the Executive Director are generally mandated by the Legislature and DAS Personnel. The Board's Executive Committee, comprising the Board Chair, Vice Chair, and Secretary, will meet prior to the June Board Meeting to consider changes in salary for the Executive Director for the following fiscal

year. The Committee shall prepare a recommendation to the full Board on the Executive Director's performance and salary for Board action at the June meeting.

Motion by Foley, second by Suelter, to approve Policy 24.02 as presented and delete 01.01 and 03.01. Voting Yes: Bostelman, Dvorak, Foley, Kelly, Nelson, Thiele, Wedige, Suelter; Voting No: None; Absent: None

B. NCARB 2024 ANNUAL MEETING

Resolutions

A copy of the draft resolutions to be considered at the 2024 Annual Business Meeting in Chicago, IL, June 13-15, 2024, was provided. All except 24-07 require an absolute majority of votes; 24-07 requires a two-thirds majority.

- **2024-01** – Omnibus Sunset of Resolutions in Conflict with Current Council Policies – The resolution is part of a multi-year effort to review and sunset resolutions passed by the membership that no longer align with how NCARB operates today. The resolution sunsets resolutions passed by the membership between 1960-79 related to membership, related organizations, studies, and other miscellaneous topics. The resolution requires an absolute majority of the Member Boards at the Annual Business Meeting to pass.
- **2024-02** – Omnibus Sunset of Remaining Resolutions in Conflict with Current Council Policies - This resolution would conclude NCARB's efforts to review historical policy resolutions by sunsetting all previously passed policy resolutions that are not reflected in NCARB's current official documents. All current policies set by membership are stated in the *NCARB Bylaws*, *NCARB Model Law and Regulations*, *NCARB Model Rules of Conduct*, and the requirements for NCARB certification, which NCARB's Member Boards continue to vote on today. This resolution would not impact policies set by the NCARB Board of Directors.
- **2024-03** – New Mutual Recognition Agreement with the Architects Accreditation Council of Australia and the New Zealand Registered Architects Board - This resolution would retire the existing Mutual Recognition Agreement (MRA) between NCARB and our counterparts in Australia and New Zealand and replace it with a new MRA. The new MRA would eliminate post-licensure experience requirements as qualifications and allow acceptance of pathways outside of the standard path to NCARB certification.
- **2024-04** – *NCARB Model Law and Regulations* Amendment – Examination Eligibility Updates - This resolution would streamline the current *Model Regulations* requirement of completing an approved education program or being enrolled in an Integrated Path to Architectural Licensure (IPAL) option as a qualifier for exam eligibility, instead requiring a high school diploma or the equivalent. This change aligns with the entry requirement for NCARB's experience program, as well as NCARB's efforts to increase access to the exam. The resolution has been updated to reflect current Member Board policies, emphasize that this change would *not* change requirements for licensure, and highlight the non-binding nature of model law. The resolution gives the same opportunity for sitting for the ARE as afforded to IPAL participants.
- **2024-05** – *NCARB Bylaws* Amendment – Update to Certificate Requirements for the Board of Directors Positions – This resolution would amend the current Certificate requirement for Board of Directors (BOD) positions. Currently, all architect members of the BOD are required to hold the NCARB Certificate. The Credentials Committee recommends that only architects in officer positions be required to hold the Certificate.
- **2024-06** – Tri-National Mutual Recognition Agreements for International Practice – Amendment - This resolution would amend the existing MRA between NCARB and our counterparts in Canada and Mexico. The amended MRA would reduce post-licensure experience requirements and accept work in the host country as evidence of competency, among other changes. The resolution has been updated to reflect a change in the Mexican signatories of the agreement.

- **2024-07 – NCARB Bylaws Amendment – NCARB Regions** - This resolution would realign the structure of NCARB's regions, creating five more equal regions. The updated structure provides greater jurisdictional parity, as well as closer parity of Member Board Members, among regions. It also maintains the current value of regions regarding leadership development and smaller group discussion forums. The Regional Realignment Work Group and Board of Directors developed this recommendation after reviewing data sets and soliciting member feedback and input.

Motion by Thiele, second by Dvorak, to direct the voting delegate to vote to support the resolutions except as discussed and give the voting delegate authority to use discretion at the meeting based on discussion and information provided and naming Wedige as the voting delegate and Kelly as the alternate. Voting Yes: Bostelman, Dvorak, Foley, Kelly, Nelson, Thiele, Wedige, Suelter; Voting No: one; Absent: None

NCARB Board of Directors At-Large Candidates

Vice President/President-Elect

- Edward Marley – AZ

Second Vice President

- John Rademacher – OH

Public Director

- Stephanie Hopkins – MD

Director at Large (Top two candidates will be appointed)

- Bobbi Jo Duneman – IA
- Deveron Sanders – MI
- Kevin Singh – LA
- Catherine Fritz – AK
- Kenneth Johnson – PA
- Dmitriy Kazakov – CA
- Coffee Polk – NV
- Roark Redwood – VA
- Jakiel Sanders – GA
- Marcus Thomas – NC

Motion by Thiele, second by Bostelman, to support the candidates in the uncontested races, vote for Deveraon Sanders and Kevin Singh as the Directors At Large candidates, with Coffee Polk and Jakiel Sanders as alternates, and authorize the voting delegate to use discretion at the meeting based on discussion and information provided. Voting Yes: Bostelman, Dvorak, Foley, Kelly, Nelson, Thiele, Wedige, Suelter; Voting No: None; Absent: None

C. CONSULTANT SELECTION FOR FY25/26

A copy of Policies 13.02 and 14.0 were provided. Policy 13.02 requires the board to conduct a competitive selection process for legal and legislative liaison services at least every three years. Policy 14.08 outlines the legal services evaluation process.

Draft RFP for Legislative Liaison Services

A draft of the *Request for Proposal (RFP)* for legislative liaison services was provided. The RFP outlines the services' scope, desired fee structure, and proposal requirements. Proposals will be sent out to a select list of firms.

Draft RFP for Legal Services

A draft of the *Request for Proposal (RFP)* for legal services was provided. The RFP outlines the services' scope, desired fee structure, and proposal requirements.

A committee will be formed to draft the legislative Liaison and legal services RFPs and select the top candidates per the policies.

D. COMPLIANCE

Revised CE Audit Flowchart

A copy of the CE Audit Flowchart with staff-recommended revisions was provided. Staff recommends revising the actions to be taken in each category and the current settlement agreement template.

The Board accepted the staff-recommended revisions and requested the consent agreement state the license shall be considered suspended for a minimum of 30 days from the signing of the agreement up to the time Respondent provides the Board with the appropriate supporting documentation or 30 days, whichever is *more*.

Overview of when NCEES revokes MLE status and NCARB revokes Certificate status

The Board requested that ED Wilbeck ask NCEES and NCARB how they determine whether an individual's Model Law Engineer (MLE) or NCARB certificate should be revoked. The responses from each were provided.

NCEES will remove an individual's MLE designation for any jurisdictional discipline action and felony convictions. Two motions regarding expungements and restoring the licensee's MLE designation will be voted upon at the annual meeting in August.

NCARB has set rules and procedures, including actions that would prevent a licensee from obtaining or retaining an NCARB certificate.

Implementing COA Disclosure Question(s)

Currently, the Board does not ask organizations any disclosure questions on the certificate of authorization application or renewal. The language used by Kansas and Missouri was provided. Staff is recommending the following be added to the forms:

Has this organization had any disciplinary or administrative action taken against its license, authority, or certification to practice engineering or architecture in another jurisdiction in the past 10 years?

The language is to be added to the certificate of authorization application and renewal, and a rule will be added during the next revision of the Rules that the organization must submit notice of any disciplinary action within 90 days.

Board Interpretation of Rule 1.18.4

Staff requests clarification of the Board's intent and interpretation of Rule 1.18.4 when reviewing applications with repetitive or multiple violations.

The review and evaluation of disclosure statements provided by applicants during the licensing or examination application process may be performed by the Executive Director with the assistance of Board staff. However, the Board must review disclosures which an applicant has not previously disclosed and which indicate: 1) felony convictions; 2) probation, suspension, or revocation of an architect or professional engineer license in another jurisdiction; 3) repetitive or multiple violations; or 4) evidence of unfitness to practice the profession.

New Policy 24.01 was suggested is being recommended to clarify when a disclosure under 3) needs to be forwarded to the Board for review. After discussion, the Board wants to continue to see all repetitive actions, and the policy was not approved.

Individuals Practicing on an Expired License

Staff asked for guidance when it discovers an individual has been practicing on an expired license. This can be brought to the staff's attention through the COA initial application or change in the COA IRC, reviewing a set of plans from partner agencies, or someone filing a complaint. It can also be brought to the staff's attention by the licensee through the admission of not being able to sign the *Reinstatement Affidavit* when reinstating the license or not being able to renew if the license has been expired for over a year and contacts staff for guidance.

It is only an issue if the licensee has been practicing during the expired period. Staff is recommending the Board begin taking action against such individuals based on how long they have been practicing on an expired license (primary) and how many projects they have worked on during the same period (secondary).

Suggestions to break down the severity of the action based on whether the licensee self-discloses or the staff is made aware of the infraction by other means and on:

A committee will be formed to review and bring a recommendation to the Board.

Case Maps

Maps showing the number of compliance cases involving projects that involved the unlicensed practice of architecture and/or engineering for 2023, 2024 to date, and the total number of cases since 2017 were provided. The members requested a report on the trends based on project type. CO Have will bring the information to the June meeting. Golf course-related projects are the trend at this time.

E. FY24-25 MARKETING + OUTREACH

Discussion of Target Audiences, Goals, and Methods of Achieving

PIO Bennett provided a list of seven target groups for which she believes the board will benefit from spending time and resources on marketing and outreach. Staff is requesting assistance in identifying goals for each group, ideas on how to reach each group, and prioritization of marketing and outreach for FY24-25.

Members of the Public

Local Jurisdictions/Officials

After discussion, the Board requested that local chambers of commerce and banks be added to this category.

Trade Organizations and Societies

After discussion, the Board requested that the Nebraska Center for World Affairs be added to this category, as they recently received a grant to support on-site solar power

Legislators, Legislative Staff, and Governor/GPRO

State Agencies

Licensees/Organizations

Students

After discussion, the Board requested that working with the NCARB Region 5 student outreach committee be added to this category.

PIO Bennett also provided a list of the staff's marketing and outreach activities.

Other suggestions included providing a Lunch and Learn webinar on ethics and compliance case studies. A committee will be formed to develop an agenda for Board approval.

F. FY25-27 BIENNIAL BUDGET

Discussion of Issues/Priorities

ED Wilbeck provided a list of operational expenses that may cause an issue when submitting the 2025-27 Biennium Budget. He also requested the Board to review and identify what the members would like to prioritize during the biennium.

The Board confirmed it wants to continue participating in conferences as presenters or sponsoring a table with organizations that may have projects requiring architects and professional engineers to be involved.

It was also suggested the Board provide information packets regarding licensure to be given to individuals who earned their FE exam cords.

Per Diem Projections

ED Wilbeck provided a chart with the projected per diem costs for the 2025-2027 biennium period. Chair Kelly confirmed he on the NCARB Board of Directors track.

G. FY24-25 BOARD COMMITTEE MAKEUP

Suggested Committees

Suggested committees based on discussions during the meeting are:

- Executive (Standing) – Chair, Vice Chair, and Secretary
- Legal/Legislative Liaison Services
- Compliance
- Ethics

ADJOURN

Chair Suelter adjourned the meeting at 11:48 p.m.

Bruce Dvorak, Secretary