

LOUISIANA PROFESSIONAL ENGINEERING AND LAND SURVEYING BOARD

Professionalism and Ethics Presentation and Quiz

(Revised August 2010)

INSTRUCTIONS

1. The proper reference for Board's Rules is Louisiana Administrative Code, Title 46, Part LXI. However, for purposes of this document, the Rules of the Board will be referenced collectively as the "Board Rules" or individually as "Rule §"
2. The Board's Laws are contained in Louisiana Revised Statutes 37:681-703. However, for purposes of this document, the Laws of the Board will be referenced collectively as the "Licensure Law" or individually as "La. R.S. 37:. . ."
3. Print your name and social security number in the appropriate section of the quiz.
4. Read, sign, and date the certification statement on the quiz.
5. Keep a copy of the quiz for your records.
6. Applicants must score 90% to achieve a passing grade on the quiz.

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PRESENTATION

A. Professionalism and Ethics

Professional ethics has become an integral part of the career of the modern professional. While professional ethics provides the foundation for the practice of engineering and land surveying, it is the Board's Rules of Professional Conduct that provide the framework. These rules create very specific responsibilities for the licensee and must be implicitly understood.

B. Professional Engineering and Land Surveying Licensure

1. Board's Requirements for Licensure

- a. In order to safeguard life, health, and property, and to promote the public welfare, any individual in either public or private capacity, or foreign or domestic firm, practicing or offering to practice professional engineering or professional land surveying, shall be required to submit evidence that he/she is qualified to so practice and shall be licensed. (La. R.S. 37:681)
 - 1) Generally, licensure requirements for professional engineers include: (La. R.S. 37:693(B)(1) and (2)) [Rules §901 & §903]
 - graduation from an approved engineering curriculum of 4 years or more;
 - passage of the Fundamentals of Engineering exam;
 - 4 years or more of progressive experience on engineering projects;
 - passage of the Principles and Practice of Engineering exam;
 - good character and reputation; and
 - 5 personal references.
 - 2) Generally, licensure requirements for professional land surveyors include: (La. R.S. 37:693(B)(3) and (4)) [Rules §907 & §909]
 - graduation from a curriculum of 4 years or more;
 - completion of at least 30 semester credit hours in approved courses involving land surveying, mapping, and real property;
 - passage of the Fundamentals of Surveying exam;
 - 4 years or more of combined office and field experience in land surveying, including 2 years or more in responsible charge of land surveying projects under the supervision of a professional land surveyor;
 - passage of an oral exam;
 - passage of the Principles and Practice of Surveying exam;

- passage of the Louisiana Laws of Land Surveying exam;
- good character and reputation; and
- 5 personal references.

2. Practice or Offer to Practice Without Licensure is Prohibited

a. Unless specifically exempted by the Licensure Law it is unlawful for any person to practice or to offer to practice in Louisiana, engineering or land surveying, as defined in the Licensure Law and the Board Rules, or to use in connection with his/her name or otherwise assume, use or advertise any title or description tending to convey the impression that he/she is a professional engineer or a professional land surveyor, unless such person has been duly licensed under the provisions of the Licensure Law and the Board Rules. (La. R.S. 37:681) [Rule §101]

1) A person shall be construed to practice or offer to practice engineering: who practices in any discipline of the profession of engineering; or who, by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a professional engineer; or who represents himself as able to perform, or who does perform any engineering service or work or any other professional service designated by the practitioner or recognized by educational authorities as engineering. (La. R.S. 37:682(12)(b))

2) A person shall be construed to practice or offer to practice land surveying who engages in land surveying and who by verbal claim, sign, advertisement, letterhead, card, or in any other way represents himself to be a land surveyor, or who represents himself as able to perform or who does perform any land surveying service or work, or any other service designated by the practitioner which is recognized as land surveying. (La. R.S. 37:682(13)(b))

b. Legislative Exemptions

1) Public and private work; application of provisions (La. R.S. 37:701)

- a) Persons performing sub-professional work as defined in the Board Rules, or acting as construction or process superintendents or foremen, need not be licensed under the Licensure Law.
- b) No planning, specifications, drawings, or construction by an individual for his own use of private homes or dwellings, domestic structures or works, or any agricultural works done on farmlands shall come under the jurisdiction of the Licensure Law.
- c) The Licensure Law shall not apply to, affect, interfere with, or in any way regulate employees of firms engaged in industrial operations, including but not limited to producing, processing, manufacturing, transmitting, distributing, or transporting, when performing services within the State of Louisiana in the course and scope of the business of said firms or affiliates thereof. However, this exemption shall not apply to persons practicing civil engineering or land surveying, who must at all times comply with the provisions of the Licensure Law.

- d) A person shall not be construed as practicing land surveying who establishes lines and elevations for canals or levees for irrigation or erosion control on lands owned, rented, or leased by him, if such person performing the work received no remuneration of any kind for his services.
- e) Services performed by employees in determining lines within established boundaries and between established corners of property owned by, leased to, or under the control of their employers in the course and scope of such employer's business, and in locating drilling sites, lines of pipe, or improvements on such property, shall not be construed as falling under the definition of "practice of land surveying" within the meaning of the Licensure Law, and are not covered by the Licensure Law.

2) Saving clause (La. R.S. 37:702)

The Licensure Law shall not be construed to prevent or to affect:

- a) Other professions or trades including the practice of architecture; or the practice of any legally recognized profession or trade; or the professional practice of the physical sciences, such as: chemistry, physics, geology, mathematics, so long as they do not involve the practice of engineering or land surveying; or
- b) The practice of a person not a resident of and having no established place of business in the State of Louisiana, practicing or offering to practice herein the profession of engineering, when such practice does not exceed one hundred twenty consecutive days in any calendar year, provided such person is legally qualified by licensure to practice the said profession in his own state, territory, or possession of the United States, or the District of Columbia, in which the requirements and the qualifications for obtaining a license are not lower than those specified in the Licensure Law.
- c) The practice of officers and employees of the government of the United States while engaged within the State of Louisiana in the practice of engineering or land surveying, for said government.
- d) Cooperatives under the rural electrification administration; engineering performed by cooperatives under the Rural Electrification Acts.
- e) The practice of engineering exclusively as an officer or employee of a public utility corporation authorized to do and doing business in the State of Louisiana, by rendering to such corporation such services in connection with its facilities and property which are subject to regulation with respect to safety and security thereof by the Louisiana Public Service Commission, or other duly authorized utility regulatory body, and so long as such individual is thus actually and exclusively employed, and no longer, and the practice of engineering as an officer or employee of a person furnishing products, services, or facilities used primarily by a public utility corporation regulated by the Louisiana Public Service Commission, or other duly authorized utility regulatory body, and so long as such officer or employee is thus actually and exclusively employed and no longer, provided this does not apply to the practice of civil engineering or land surveying.

- f) Engaging in engineering as an employee under the responsible charge of a professional engineer or engaging in land surveying as an employee under the responsible charge of a professional land surveyor.

3. Punitive Measures

- a. Practice without a license is not only a violation of the Licensure Law, but is also a criminal misdemeanor which can be prosecuted in a criminal court. (La. R.S. 37:700(A)(1) and (N)).
- b. The Board can impose a fine of up to \$5,000 per violation and assess all reasonable costs. (La. R.S. 37:700(B) and (J)).
- c. A criminal court can impose a sentence of up to three months imprisonment. (La. R.S. 37:700(N)).

C. Professionalism

1. Profession Defined

A vocation or occupation requiring special, usually advanced, education knowledge, and skill.

The labor and skill involved in a profession is predominantly mental or intellectual, rather than physical or manual.

The term originally contemplated only theology, law, and medicine, but as applications of science and learning are extended to other departments of affairs, other vocations also receive the name, which implies professed attainments in special knowledge as distinguished from mere skill. (Black's Law Dictionary, 6th ed.)

2. Characteristics of a Profession

- a. Professions must satisfy an indispensable and beneficial social need. Public health, safety and welfare may be harmed from misuse or poor application of professional services.
- b. The profession must be recognized. This recognition is typically given through a state board of licensure.
- c. There must be codes of professional conduct. These codes serve as guidelines for behavior within the profession. They also inform the public of the basic rules by which services are offered and provided.
- d. Professional/Client Relationship
 - 1) The client presumes his needs will be met without having to direct the process.
 - 2) The professional decides which services are actually needed and provides them.
 - 3) The professional is trusted not to exploit his authority for unreasonable profit or gain.
- e. Professional courtesy. There must be a professional culture comprised of social values and interpersonal behavior norms among members of the profession.

3. History

- a. The roots of professionalism are thought to lie in theology where clergy “professed” a duty to God. “Profession” later took on a secular meaning and sometime in the late 17th century, it was extended to medicine and law. In the mid-19th century it was extended to surveying and engineering.
- b. Law and medicine, where advanced doctoral degrees are required for admission to the profession, can be considered the “higher professions”. Engineering, architecture, geology, surveying, etc. normally require only a bachelor’s degree as a prerequisite for professional stature.

4. Modern View

- a. There is sometimes confusion over what the term “professional” really means in American society today. Abuse of this term has led many to define a “professional” as one who does something for pay.
- b. This abuse has led to blurred understandings over what being a professional really means and what special privileges are conferred and what special responsibilities are expected from those practicing as professionals.

5. The Privilege of Being a Professional

- a. Being a professional is not a right endowed by receiving a degree, gaining experience, passing an exam, and obtaining a license. It is instead a privilege to practice that must be earned and maintained by each individual professional.
- b. Society gives the professional special recognition of his or her expert knowledge in return for his or her special commitment to the public; the client; and fellow professionals.

6. Professional Opinion

- a. The most important privilege conferred to professionals is the right to a “professional opinion.” Professionals can be distinguished from others in society by their right to form an opinion and to base their services and/or products on this opinion, *i.e.*, treatment of a disease, design of a bridge, or location of a property boundary line.
- b. Misuse of this privilege can result in serious harm, thus it is only granted to those who are able to show by education and experience to be able to properly exercise this right.

7. Professional Responsibility

a. The professional owes special commitments to the public, his/her client, and fellow professionals.

- 1) The responsibility to safeguard public health, safety, welfare and property. This includes the responsibility to act in a dignified manner.
- 2) The responsibility to provide adequate, competent, and timely service to the client. The professional has a duty and responsibility to maintain ethical and technical standards designed to ensure an adequate level of service to his/her clients. For this reason, professionals must continually educate themselves to acquire new skills as needed and to refresh and reinforce their knowledge of existing skills.
- 3) The responsibility to exercise professional courtesy to fellow professionals.

b. Standard of Care

- 1) The client or the public is due a responsible exercise of care when the professional performs his or her services. This standard of care is often defined as “what a reasonable and prudent professional would do under similar circumstances.”
- 2) Proof of negligence in standard of care has often relied on the expert testimony of other professionals.
- 3) Today, many states are turning to “minimum standards” written into state statutes or regulations.
- 4) State and/or national codes of conduct may also be used as a basis.

D. Ethics

1. Ethics Defined

Of or relating to moral action, conduct, motive or character; as, ethical emotion; also, treating of moral feelings, duties or conduct; containing precepts of morality; moral. Professionally right or befitting; conforming to professional standards of conduct. (Black’s Law Dictionary, 6th ed.)

2. History

- a. “Do not have two different weights in your bag – one heavy, one light. Do not have two differing measures in your house – one large, one small. You must have accurate and honest weights and measures, so that you may live long in the land the Lord your God is giving you. For the Lord your God detests anyone who does these things, anyone who deals dishonestly.” (Biblical passage from Deuteronomy 25:13-16)

3. Statutory Mandate

- a. Act 568 of 1980 empowered the Board to adopt Rules of Professional Conduct.

- b. Pursuant to this legislative mandate, the Board promulgated Rules of Professional Conduct on December 20, 1981.

4. Ethical Responsibilities are a Serious Matter

Ethical responsibilities, as codified in the Rules of Professional Conduct, should be considered a very serious matter by all licensees. An act or omission that violates the Rules of Professional Conduct could subject the licensee to very severe disciplinary action by the Board, including suspension or revocation of the license to practice.

5. CPD Requirement

The Board believed this matter to be of such concern that it now requires each licensee to obtain at least one Professional Development Hour (PDH) in professional ethics each biennial licensure renewal period. This requirement may be found in the Board Rules for Continuing Professional Development (CPD), which became effective January 1, 1999. [Rules §3101-3121]

E. Rules of Professional Conduct (Rules §2501-2511)

1. Scope

a. Binding on all Licensees

In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the rules of professional conduct are binding on every licensee. [Rule §2501(A)]

b. Imputed Knowledge

All licensees are charged with having knowledge of the existence of the rules of professional conduct and shall be deemed to be familiar with their provisions and to understand them. [Rule §2501(B)]

c. Reporting Violations

A licensee possessing personal knowledge of a violation of the Licensure Law or the Board Rules must report such knowledge to the Board in writing and must cooperate with the Board in furnishing such further information or assistance as it may require. [Rule §2501(D)]

2. Licensees Obligation to Society

a. Professional Must Ensure Protection of the Public

Licensees must hold paramount the safety, health, property and welfare of the public in the performance of their professional duties. [Rule §2503(A)]

1) Primary Obligation

Licensees must at all times recognize that their primary obligation is to protect the safety, health, property, and welfare of the public. [Rule §2503(B)]

2) Professional Judgment Overruled

If their professional judgment is overruled by non-technical authority, licensees must clearly point out the consequences, notifying the proper authority of any observed conditions which endanger public safety, health, property and welfare. [Rule §2503(B)]

b. Professional Must Provide Services Which are Complete and Accurate

Licensees must approve and seal only those design documents and surveys which are:

- safe for public health, property and welfare;
- complete and accurate;
- in conformity with accepted engineering and land surveying standards of practice; and
- conform to applicable laws and ordinances. [Rule §2503(C)]

Licensees must comply fully with the Board Rules on the use of seals [Rule §2503(C)(1)]

1) Possession of Seal

Each licensee, upon licensure, must obtain an official seal. [Rule §2701(A)(1)(a)]

a) Seal Design

The design of the seal must have the following minimum information: [Rule §2701(A)(2)(a)]

- State of Louisiana
- Licensee's Name
- License Number
- Contain the words "Professional Engineer" or "Professional Engineer in _____ Engineering" or "Professional Land Surveyor"

(1) Seals of 1-5/8 inches and 2-inches are acceptable. [Rule §2701(A)(2)(c)]

(2) Rubber seals of the same design and size are acceptable. [Rule §2701(A)(2)(d)]

b) Computer Generated Seals

Computer generated seals of the same design and size may be used on final original drawings, provided that a handwritten signature is placed adjacent to or across the seal and the date is written below the seal. [Rule §2701(A)(2)(e)]

2) Seal Use Required

a) Completed Work

The licensee must affix his/her seal, sign his/her name, and place the date of execution on all engineering and surveying documents that have been issued by the licensee to a client or any public or governmental agency as completed work. [Rule §2701(A)(4)(a)(i)]

(1) Drawings and Plats

(a) Requirements for multiple sealings [Rule §2701(A)(4)(a)(ii)(a)]

- (i) The first or title page must be sealed, signed and dated by the licensee(s) in responsible charge.
- (ii) Each sheet must be sealed, signed and dated by the licensee(s) responsible for each sheet.

(b) Requirements for firms [Rule §2701(A)(4)(a)(ii)(b)]

- (i) The title page or first sheet must be sealed, signed and dated by the licensee(s) in responsible charge.
- (ii) Each sheet must be sealed, signed and dated by the licensee(s) responsible for that sheet.

(2) Specifications, Reports, Design Calculations and Information

(a) Requirements for specifications or reports of multiple pages [Rule §2701(A)(4)(a)(iii)(a)]

- (i) The first sheet or title page of each document must be sealed, signed and dated by the licensee(s) involved.
- (ii) Subsequent revisions must be dated and initialed by the licensee in responsible charge whose seal, signature and date appears on the first sheet or title page.

(b) Requirements for firms [Rule §2701(A)(4)(a)(iii)(b)]

- (i) The licensee in responsible charge must seal, sign and date the title page or first sheet.

(3) Electronic Seals and Signatures

- (a) Electronic signatures are not authorized except for electronic transmission of work as stated below. [Rule §2701(A)(2)(f)]

(b) Electronic Transmission [Rule §2701(A)(5)]

- a. Drawings, specifications, plans, reports or other documents which require a seal may be transmitted electronically provided the seal, signature and date of the licensee is transmitted in a secure mode that precludes the seal, signature and date being produced or modified. Drawings, reports or documents which are signed using a digital signature as defined in the Board Rules must contain the authentication procedure and a list of the hardware, software, and parameters used to prepare the document(s).
- b. Drawings, specifications, plans, reports or other documents which do not require a seal may be transmitted electronically, but must have the generated seal, if any, removed before transmitting and must have the following inserted in lieu of the signature and date:

"This document originally issued and sealed by (name of licensee number and 'date of sealing'). This document should not be considered a certified document."

b) Temporary Permits

A person having a temporary permit to practice engineering in Louisiana must comply with the following requirements for all work performed in Louisiana: [Rule §2701(A)(1)(a)(ii)]

- (1) affix the seal of his/her jurisdiction of licensure;
- (2) sign and date the work; and
- (3) affix his Louisiana temporary permit number.

3) Seal Use Not Required

a) Preliminary Work

Preliminary documents are not required to have the licensee's seal, signature and date affixed, but must comply with the following: [Rule §2701(A)(4)(b)]

- (1) the document must be marked as "Preliminary" in large bold letters;
- (2) the document must contain a statement that it is not to be used for construction, bidding, recordation, conveyance, sales, or as the basis for the issuance of a permit; and
- (3) the document must contain the name and licensure number of the licensee, and the firm's name, if applicable.

b) Legislative Exemptions

No seal, signature or date is required on: [Rule §2701(A)(4)(c)(i)]

- (1) any sewage facility project in which the estimated number of gallons of sewage affected does not exceed 3,000 per day, as calculated by agency engineers reviewing the project;
- (2) any water facility project in which the estimated number of gallons of water affected does not exceed 3,000 per day, as calculated by agency engineers reviewing the project; provided that such project does not cause a change in treatment, chemical addition, or any other process affecting either the quality or quantity of water being produced;
- (3) any project for the construction of individual/private water wells;
- (4) any project involving both water and sewage facilities, provided that the estimated number of gallons of water affected does not exceed 3,000 per day nor the estimated number of gallons of sewage affected does not exceed 3,000 per day, as calculated by agency engineers reviewing the project; or
- (5) in-kind replacement of water or sewage facilities in which the estimated number of gallons of water affected does not exceed 3,000 per day and the estimated number of gallons of sewage affected does not exceed 3,000 per day, as calculated by agency engineers reviewing the project.

c. Professional must act in a dignified manner

1) Truthfulness

Licensees must be objective and truthful in all professional reports, statements or testimony. They must include all relevant and pertinent information in such reports, statements or testimony. [Rule §2503(E)]

2) Expert or Technical Opinion

When serving as an expert or technical witness before any court, commission, or other tribunal, licensees must express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony. [Rule §2503(F)]

3) Public Disclosure

Licensees must issue no statement, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee's name, by disclosing the identities of any party or parties on

whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the instant matters. [Rule §2503(G)]

4) Avoid Dishonest Conduct

Licensees cannot permit the use of their name or firm name by, nor associate in the business ventures with, any person or firm which is engaging in fraudulent or dishonest business or professional practices. (Model Rules of Professional Conduct, §240.15(A)(7))

3. Licensees Obligation to Employer and Clients

a. Professional Must Provide Competent Services

Licensees shall perform services only in the area of their competence [Rule §2505(A)]

1) Competence Defined

Licensees must undertake assignments only when qualified by education or experience in the specific technical fields of engineering or land surveying involved. [Rule §2505(B)]

a) Scope of Services

Licensees may accept an assignment outside of their areas of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that they are satisfied that all other phases of such project will be performed or supervised by licensed, qualified associates, consultants, or employees, in which case they may then seal, sign and date the documents for the total project. [Rule §2505(D)]

2) Diligence

Licensees cannot affix their signatures or seals to any plans or documents dealing with subject matters in which they lack competence. [Rule §2505(C)]

b. Professional Must Maintain Responsible Charge and Control

1) Professional Responsibility

Licensees cannot seal the work of or take the professional responsibility for any documents related to engineering or land surveying not performed by the licensee or under the licensee's responsible charge. [Rule §2503(C)(2)]

a) Use of Seal

Licensees cannot affix their signatures or seals to any plans or documents not prepared under their responsible charge. [Rule §2505(C)]

b) Unqualified Persons

Licensees may not accept the responsibility for, nor review, revise, sign, or seal drawings when such plans are begun by persons not properly licensed and qualified; or do any other act to enable either such licensees or the project owners, directly or indirectly, to evade the requirements of the Licensure Law. [Rule §2503(C)(3)]

2) Work Submitted to the Client

Licensees must submit to a client only that work (plans, specifications, reports, and other documents) prepared by the licensee or by an employee (or subordinate) of the licensee (which is under the licensee’s responsible charge). [Rule §2503(D)]

3) Responsible Charge Not Required

a) Other Licensees or Design Professionals

Licensees, as a third party, may complete, correct, revise, or add to the work of another licensee or other related design professional, if allowed by Louisiana statutes, when engaged to do so by a client, provided: [Rule §2503(D)]

(1) Client Furnishes Documentation

The client furnishes the documentation of all such work submitted to him by the previous licensee(s), or other related design professional(s);

(2) Previous Licensee Notified

The previous licensees or other related design professionals are notified in writing by the licensee of the engagement referred to herein immediately upon acceptance of the engagement; and

(3) Licensee Assumes Responsibility

The licensee assumes responsibility for all work completed, corrected, revised, or added to and the work:

- (a) contains a notation describing the work done by the licensee now in responsible charge,
- (b) has the seal and signature of the licensee affixed thereto, and
- (c) has the date of execution.

b) Out-of-State Individual Licensee

A licensee checking the work of and taking the professional responsibility for work performed by an out-of-state individual licensee shall: [Rule §2701(A)(3)(b)(ii)(a)]

- (1) completely check the design, and
- (2) have responsible charge of the design, which includes possession of:
 - (a) the sealed, signed and dated reproducible construction drawings, and
 - (b) complete sealed, signed and dated design calculations indicating all changes in design.

c) Standard Design Plans

A Louisiana resident professional engineer certifying standard design plans which were initially prepared and sealed by a professional engineer properly licensed in the jurisdiction of origin of such plans shall: [Rule §2701(A)(3)(b)(ii)(b)]

- (1) review the plans for code conformance, design adequacy, and site adaption for the specific application within Louisiana,
- (2) assume responsibility for the plans, and
- (3) seal, sign and date and include the following statement on the plans:

"These plans have been properly examined by the undersigned. I have determined that they comply with existing local Louisiana codes, and have been properly site adapted to use in this area."

d) Single Family Residential Design Plans

A licensee certifying single family residential design plans for conformance with applicable state and local building codes shall seal, sign and date the plans and include the following statement on the plans: [Rule §2701(A)(3)(b)(ii)(b)]

"These plans have been properly examined by the undersigned. I have determined that they comply with the following existing state and local building codes for the jurisdiction in which the residence is to be located (*check all that apply*): structural; mechanical; electrical; plumbing."

c. Professional Must Act as a Faithful Agent

Licensees must act in professional matters for each employer or client as faithful agents or trustees and must avoid conflicts of interest. [Rule §2507(A)]

1) Confidential Information

Licensees cannot reveal facts, data, or information obtained in a professional capacity without the prior consent of the client or employer except as authorized or required by law. (Model Rules of Professional Conduct, §240.15(B)(4))

2) Full Disclosure

Licenseses must disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any business association, interest, or other circumstances which could influence their professional judgment or the quality of their professional services. [Rule §2507(B)]

3) Gifts

Licenseses cannot solicit or accept, directly or indirectly, benefits of any substantial nature or significant gratuity, from any supplier of materials or equipment, or from contractors, their agents, servants or employees or from any other party dealing with the client or employer of the licensee in connection with any project on which the licensee is performing or has contracted to perform engineering or land surveying services. [Rule §2507(D)]

3) Dual Compensation

Licenseses cannot accept compensation, financial or otherwise, from more than one party for professional services on or pertaining to the same project, unless the circumstances are fully disclosed to and agreed to by all interested parties. [Rule §2507(C)]

4) Concurrent Government and Private Work

Licenseses cannot solicit or accept an engineering and/or land surveying contract from a governmental body of which a principal or officer of the licensee's firm serves as a member, except upon public disclosure of all pertinent facts and circumstances and consent of appropriate public authority. Additionally, licenseses serving as members, advisors, or employees of a governmental body or agency, or under contract to provide consultation, advice, technical reviews and recommendations to a governmental body or agency, cannot participate in considerations or actions with respect to professional services provided by them or their organization to that governmental body or agency. [Rule §2507(E) and (F)]

4. Licensees' Obligation to Other Licensees

a. Professional Must Avoid Improper Solicitation of Employment

Licenseses must avoid improper solicitation of professional employment or services. [Rule §2509(A)]

1) Communication Concerning Professional Services

Licenseses cannot falsify or permit: [Rule §2509(B)]

1. misrepresentation of the licensee's or any associate's academic or professional qualifications;
2. misrepresentation or exaggeration of the licensee's degree of responsibility in or for the subject matter of prior assignments; or

3. misrepresentation of pertinent facts concerning employers, employees, associates or joint ventures, of the licensee's or their firm's past accomplishments, with the intent and purpose of enhancing their qualifications and their work.

2) Direct Contact with Prospective Clients

Licenses cannot pay or offer to pay, directly or indirectly, any commission, gift, or other valuable consideration in order to secure work, except under the following circumstances: [Rule §2509(C)]

- a) securing salaried positions through employment agencies; or
- b) as a bona fide employee, or a bona fide established commercial marketing agency retained by them.

Licenses cannot attempt to supplant another licensee in a particular engagement after becoming aware that the other has been selected for the engagement. [Rule §2507(G)]

b. Professional Must Ensure Fairness to Other Professionals

Licenses cannot attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another licensee, nor indiscriminately criticize another licensee's work in public. [Rule §2503(H)]

F. Disciplinary Action Against Licensees and Certificate Holders

1. Violations

The Board has the power to take disciplinary action against any licensee or certificate holder found by the Board to be guilty of any of the following acts or offenses: (La. R.S. 37:698(A))

- a. Any fraud, deceit, material misstatement, or perjury or the giving of any false or forged evidence in applying for a license or certificate, or in taking any examination, or in applying for any renewal license or certificate provided for in the Licensure Law.
- b. Any fraud, deceit, gross negligence, material misrepresentation, gross incompetence, or gross misconduct in the practice of engineering or land surveying.
- c. Conviction of a felony or of any crime of moral turpitude or entry of a plea of guilty or nolo contendere to a felony charge or to a crime of moral turpitude under the laws of the United States or any state, territory, or district of the United States.
- d. Conviction of any crime or entry of a plea of guilty or nolo contendere to any criminal charge an element of which is fraud or which arises out of such person's practice of engineering or land surveying.
- e. Conviction of any civil or criminal violation of, or entry of a plea of guilty or nolo contendere to any criminal charge under the Louisiana Campaign Finance Disclosure Act or any other campaign finance and/or practices laws of the State of Louisiana, the United States, or any state, territory, or district of the United States.
- f. Violation of any provision of the Licensure Law or any Board Rules.
- g. The refusal of the licensing authority of another state, territory, or district of the United States to issue or renew a license, permit, or certificate to practice engineering or land

- surveying, or the revocation or suspension or other restriction imposed on a license, permit, or certificate issued by such licensing authority, on grounds other than nonpayment of a licensure fee, or a finding by such licensing authority that a person has engaged in the unlicensed practice of engineering or land surveying, provided that the reason for the action taken by the other licensing authority was recognized by the Louisiana Board as a ground for disciplinary action at the time the action was taken.
- h. Providing false testimony before the Board.
 - i. Using a seal or stamp or engaging in any other act constituting the practice of engineering or land surveying, or violating any order or terms of probation imposed by the Board, at a time when his/her license or certificate is suspended or revoked, or at a time when his/her license or certificate has been expired for more than ninety days, or at a time when he/she is in retired, or inactive status as a Board licensee.
 - j. Failure to provide, within thirty calendar days of receipt of notice by certified mail, information requested by the Board relating to charges preferred by the Board alleging a violation of the Licensure Law.
 - k. The use of any advertising or solicitation which is false or misleading.
 - l. Aiding or assisting another person in violating any provision of the Licensure Law or any Board Rule.
 - m. Knowingly making or signing false statements, certificates, or affidavits in connection with the practice of engineering or land surveying.
 - n. Declaration of insanity or incompetence by a court of competent jurisdiction.
 - o. Presenting or attempting to use as one's own the license, certificate, seal, or stamp of another person.
 - p. Using or attempting to use an expired, inactive, retired, or revoked license or certificate.
 - q. Falsely impersonating any other licensee or certificate holder of like or different name.
 - r. Practicing or offering to practice engineering or land surveying when not qualified.
 - s. Violation of or noncompliance with any order, ruling, or decision of the Board.

2. Disciplinary Procedure

a. Complaint and Charges

- (1) Charges may be preferred against any licensee or certificate holder in the following manner: (La. R.S. 37.698(D))
 - (a) The Board, on receipt of a complaint from any person and by majority vote of the Board's entire membership authorized to participate in a proceeding, may prefer charges against any licensee or certificate holder who commits or engages in any of the acts or offenses listed above. Such complaint must be in writing, must be sworn to by the person(s) making the complaint, and must be filed with the Board; or
 - (b) The Board, on its own initiative and by a majority vote of its entire membership authorized to participate in a proceeding, may prefer charges against any licensee or certificate holder who commits or engages in any of the acts or offenses listed above.
- (2) The Board has the power to take disciplinary action against a firm if one or more of its officers, directors, managers, employees, agents, or representatives is found by the Board to be guilty of any of the acts or offenses listed above. (La. R.S. 37:698(C))

- (3) Within 20 days of the Board's referral of charges, the Board must mail a copy of said charges to the last known address of the licensee or certificate holder so charged. (La. R.S. 37:698(E))

b. Investigation

- (1) The Board can establish a complaint review committee to investigate, mediate, or initiate disciplinary or legal proceedings on behalf of the Board with respect to charges preferred or information received by the Board alleging that a licensee or certificate holder committed or engaged in any of the acts or offenses listed above. The complaint review committee must consist of at least one member of the Board. (La. R.S. 37:698(M))

- (2) Subpoena Power (La. R.S. 37:688(B)):

- (a) Each member of the Board has power to administer oaths, and the Board has power to subpoena witnesses and compel the production of books and papers pertinent to any investigation, hearing, or disciplinary proceeding authorized by the Licensure Law, and any employee of the Board engaged in such investigation, hearing, or disciplinary proceeding has the power to administer oaths to and take the depositions of persons pertaining to any investigation, hearing, or disciplinary proceeding.
- (b) The Board may require any law enforcement officer or any state agency, the sheriffs of the various parishes, or constables, marshals, or other law enforcement officers of any parish or municipality to serve such subpoenas and other process of the Board. Whenever parish, municipal, or other local officers are required to serve such subpoenas or other process of the Board, they must be paid the same fees by the Board as are provided by laws for similar services under processes issued by district courts.
- (c) Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigations, hearings, or disciplinary proceedings or who knowingly gives false testimony therein is guilty of a misdemeanor and subject to the actions, sanctions, and penalties provided by La. R.S. 37:698 and 37:700.
- (d) In case of contumacy or refusal to obey a subpoena issued to any person, any district court of the State of Louisiana within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found, resides, or transacts business upon application by the Board, has jurisdiction to issue to such person an order requiring such person to appear before the Board, its member, or agent, and to produce evidence, if so ordered, or there to give testimony touching on the matter under consideration or in question; and any failure to obey such order of court may be punished by said court as a contempt thereof.

c. Hearing or Informal Disposition

- (1) In the event the Board determines after investigation that charges so preferred are completely unfounded, more appropriately resolved outside the formal disciplinary

proceedings, or not within the jurisdiction of the Board, the Board must so advise the charged party, in writing, of its determination. Otherwise, all charges must be heard by the Board or a hearing committee designated by the Board within 12 months after the date on which they shall have been preferred. This 12-month period may be extended with the consent of both the Board and the charged party. (La. R.S. 37:698(F))

- (2) The date, time, and place for said hearing must be fixed by the Board or the hearing committee and a copy of the charges, together with a notice of the date, time, and place of the hearing, must be personally served on or mailed to the last known address of the charged party, at least 30 days before the date fixed for hearing. At any hearing, the charged party has the right to appear in person, or by counsel, or both, to cross-examine witnesses in his/her defense, and to produce evidence and witnesses in his/her defense. If the charged party fails or refuses to appear at the hearing, the Board or the hearing committee may proceed to hear and determine the validity of the charges. (La. R.S. 37:698(G))
- (3) The Board may make informal disposition by consent order, agreement, settlement, or default of any disciplinary proceeding pending before it. Each such informal disposition will have no force or effect unless ratified by the Board at its next regular meeting. Consent orders may be considered disciplinary actions. (La. R.S. 37:698(L))

d. Findings

If, after such hearing, a majority of the entire Board membership authorized to participate in the proceeding vote in favor of sustaining the charges, the Board may take disciplinary action against the charged party. Any charges found by the Board after a hearing to be unfounded must be published in the official journal of the Board, if requested in writing by the charged party. (La. R.S. 37:698(H))

3. Sanctions

- a. The term "disciplinary action" includes but is not limited to reprimand, probation, suspension, revocation of license or certificate, refusal to renew license or certificate, or fine in an amount not to exceed \$5,000 per violation. (La. R.S. 37:698(B))
- b. In addition to any other action, the Board may assess all reasonable costs incurred in connection with a disciplinary proceeding, including investigators', stenographers', and attorneys' fees in conjunction with any other disciplinary action taken. The assessment of costs may be considered disciplinary action. (La. R.S. 37:698(J))
- c. All disciplinary actions taken must be published in the official journal of the Board and may be released to other professional organizations relating to professional engineering and land surveying or to the news media. (La. R.S. 37:698(K))

4. Appeal

A charged party aggrieved by any disciplinary action taken by the Board may appeal therefrom, pursuant to the provisions of the Administrative Procedure Act. (La. R.S. 37:698(I))

G. Enforcement Action Against Non-Licensees and Non-Certificate Holders

1. Violations

The Board has the power to take enforcement action against any non-licensee or non-certificate holder found by the Board to be guilty of any of the following acts or offenses: (La. R.S. 37:700(A))

- a. Practicing or offering to practice engineering or land surveying in the State of Louisiana without being licensed in accordance with the provisions of the Licensure Law.
- b. Presenting or attempting to use as one's own the license, certificate, seal, or stamp of another person.
- c. Any fraud, deceit, material misstatement, or perjury or the giving of any false or forged evidence in applying for a license or certificate, or in taking any examination.
- d. Falsely impersonating any licensee or certificate holder of like or different name.
- e. Using or attempting to use an expired, inactive, retired, or revoked license or certificate.
- f. Using or attempting to use a seal or stamp which is deceptively similar to the seals or stamps authorized by the Board for use by its licensees.
- g. The use by any person of the words "engineer" or "engineering" or "land surveyor" or "land surveying" or any modification or derivative thereof in its name or form of business or activity except as licensed under this Chapter or in the pursuit of activities exempted by the Licensure Law.
- h. Falsely claiming that a person is licensed under the Licensure Law.
- i. Violation of any provisions of the Licensure Law or any Board Rules.
- j. Violation of or noncompliance with any order, ruling, or decision of the Board.

2. Enforcement Procedure

a. Complaint and Charges

(1) Charges may be preferred against any non-licensee or non-certificate holder in the following manner: (La. R.S. 37:700(D))

(a) The Board, on receipt of a complaint from any person and by majority vote of the Board's entire membership authorized to participate in a proceeding, may prefer charges against any non-licensee or non-certificate holder who commits or engages in any of the acts or offenses listed above. Such complaint must be in writing, must be sworn to by the person(s) making the complaint, and must be filed with the Board; or

(b) The Board, on its own initiative and by a majority vote of its entire membership authorized to participate in a proceeding, may prefer charges against any non-licensee or non-certificate holder who commits or engages in any of the acts or offenses listed above.

(2) The Board has the power to take enforcement action against a firm if one or more of its officers, directors, managers, employees, agents, or representatives is found by the Board to be guilty of any of the acts or offenses listed above. (La. R.S. 37:700(C))

- (3) Within 20 days of the Board's referral of charges, the Board must mail a copy of said charges to the last known address of the non-licensee or non-certificate holder so charged. (La. R.S. 37:700(E))

b. Investigation

- (1) The Board can establish a complaint review committee to investigate, mediate, or initiate disciplinary or legal proceedings on behalf of the Board with respect to charges preferred or information received by the Board alleging that a non-licensee or non-certificate holder committed or engaged in any of the acts or offenses listed above. The complaint review committee must consist of at least one member of the Board. (La. R.S. 37:700(M))

(2) La. R.S. 37:688(B):

- (a) Each member of the Board has power to administer oaths, and the Board has power to subpoena witnesses and compel the production of books and papers pertinent to any investigation, hearing, or enforcement proceeding authorized by the Licensure Law, and any employee of the Board engaged in such investigation, hearing, or enforcement proceeding has the power to administer oaths to and take the depositions of persons pertaining to any investigation, hearing, or enforcement proceeding.
- (b) The Board may require any law enforcement officer or any state agency, the sheriffs of the various parishes, or constables, marshals, or other law enforcement officers of any parish or municipality to serve such subpoenas and other process of the Board. Whenever parish, municipal, or other local officers are required to serve such subpoenas or other process of the Board, they must be paid the same fees by the Board as are provided by laws for similar services under processes issued by district courts.
- (c) Any person who fails to appear in response to a subpoena or to answer any question or produce any books or papers pertinent to any such investigations, hearings, or enforcement proceedings or who knowingly gives false testimony therein is guilty of a misdemeanor and subject to the actions, sanctions, and penalties provided by La. R.S. 37:698 and 37:700.
- (d) In case of contumacy or refusal to obey a subpoena issued to any person, any district court of the State of Louisiana within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found, resides, or transacts business upon application by the Board, has jurisdiction to issue to such person an order requiring such person to appear before the Board, its member, or agent, and to produce evidence, if so ordered, or there to give testimony touching on the matter under consideration or in question; and any failure to obey such order of court may be punished by said court as a contempt thereof.

c. Hearing or Informal Disposition

- (1) In the event the Board determines after investigation that the charges so preferred are completely unfounded, more appropriately resolved outside the formal enforcement proceedings, or not within the jurisdiction of the Board, the Board must so advise the charged party, in writing, of its determination. Otherwise, all charges must be heard by the Board or a hearing committee designated by the Board within 12 months after the date on which they shall have been preferred. This 12-month period may be extended with the consent of both the Board and the charged party. (La. R.S. 37:700(F))
- (2) The date, time, and place for said hearing must be fixed by the Board or the hearing committee and a copy of the charges, together with a notice of the date, time, and place of the hearing, must be personally served on or mailed to the last known address of the charged party, at least 30 days before the date fixed for hearing. At any hearing, the charged party has the right to appear in person, or by counsel, or both, to cross-examine witnesses in his/her defense, and to produce evidence and witnesses in his/her defense. If the charged party fails or refuses to appear at the hearing, the Board or the hearing committee may proceed to hear and determine the validity of the charges. (La. R.S. 37:700(G))
- (3) Alternatively, following an investigation of any charges preferred or information received by the Board alleging that a non-licensee or non-certificate holder committed or engaged in any of the acts or offenses listed above, and dependent upon the result of such investigation, the Board may present its findings to the district attorney in whose district such act or offense has occurred and must aid in the prosecution of the violator; or the Board may, if it deems necessary, prosecute any violator directly and in its own name, in any district court of Louisiana for such act or offense. Such action may be instituted by any member, attorney, employee, or agent of the Board. (La. R.S. 37:700(Q))
- (4) It is the duty of the attorney general, all district attorneys, and all duly constituted officers of the law of Louisiana, or any political subdivision thereof, to enforce the provisions of the Licensure Law and to prosecute any persons violating same. The attorney general of Louisiana, or his/her assistant, must act as legal advisor to the Board if the Board requests such and render such legal assistance as may be deemed necessary by the Board in carrying out the provisions of the Licensure Law, provided that this does not relieve the local prosecuting officers of any of their duties under the law as such. (La. R.S. 37:700(O))
- (5) The Board may make informal disposition by consent order, agreement, settlement, or default of any enforcement proceeding pending before it. Each such informal disposition will have no force or effect unless ratified by the Board at its next regular meeting. Consent orders may be considered enforcement actions. (La. R.S. 37:700(L))

d. Findings

If, after such hearing, a majority of the entire Board membership authorized to participate in the proceeding vote in favor of sustaining the charges, the Board may take enforcement action against the charged party. Any charges found by the Board after a hearing to be

unfounded must be published in the official journal of the Board, if requested in writing by the charged party. (La. R.S. 37:700(H))

3. Sanctions

- a. The term "enforcement action" includes but is not limited to a fine in an amount not to exceed \$5,000 per violation. (La. R.S. 37:700(B))
- b. In addition to any other action, the Board may assess all reasonable costs incurred in connection with an enforcement proceeding, including investigators', stenographers', and attorneys' fees in conjunction with any other enforcement action taken. The assessment of costs may be considered enforcement action. (La. R.S. 37:700(J))
- c. All enforcement actions taken must be published in the official journal of the Board and may be released to other professional organizations relating to professional engineering and land surveying or to the news media. (La. R.S. 37:700(K))

4. Appeal

A charged party aggrieved by any enforcement action taken by the Board may appeal therefrom, pursuant to the provisions of the Administrative Procedure Act. (La. R.S. 37:700(I))

LOUISIANA PROFESSIONAL ENGINEERING AND LAND SURVEYING BOARD

Professionalism and Ethics Presentation and Quiz

(Revised August 2010)

Multiple Choice: *(select only one answer for each question)*

1. Licensure requirements for both professional engineers and professional land surveyors include:
 - a. Verification of U.S. citizenship
 - b. Being a resident of the state of Louisiana
 - c. Being of good character and reputation
 - d. All of the above

2. The Board has the authority to take enforcement action against non-licensees found guilty of:
 - a. Practicing without a license
 - b. Using the license or seal of another person
 - c. Using an expired, inactive, retired or revoked license
 - d. All of the above

3. Of the required professional development hours that every licensee must obtain during each biennial licensure renewal period, how many must be in professional ethics?
 - a. 1
 - b. 0
 - c. 5
 - d. 2

4. Rules of professional conduct:
 - a. Require that a licensee possessing personal knowledge of a violation of the Licensure Law or the Board Rules report such knowledge to the Board and cooperate with the Board in furnishing such further information or assistance as it may require
 - b. Require that a licensee reduce or waive fees as professional courtesy when the client is unable to pay
 - c. Apply only during a CPD audit
 - d. All of the above

5. Licensees must approve and seal only those design documents and surveys which are:
 - a. Safe for public health, property and welfare
 - b. Complete and accurate
 - c. In conformity with all applicable laws and ordinances
 - d. All of the above

6. Part of your ethical responsibility as a professional is to:
 - a. Be familiar with the Board's rules of professional conduct
 - b. Keep a record of your continuing professional development hours
 - c. Maintain a current address with the Board office
 - d. All of the above

7. As a professional, you are obligated to:
 - a. Maintain the confidentiality of facts, data and information obtained in a professional capacity
 - b. Disclose to your client all known or potential conflicts of interest
 - c. Not accept compensation from more than one party for professional services on the same project, unless the circumstances are fully disclosed to and agreed to by all interested parties
 - d. All of the above

8. Which of the following is a violation for which disciplinary action may be taken against a licensee?
 - a. Practicing engineering or land surveying with an expired license
 - b. Aiding or assisting another person in violating any provision of the Licensure Law or any Board Rule
 - c. Conviction of a felony
 - d. All of the above

9. As a professional, your primary obligation is to:
 - a. Ensure your license is current
 - b. Encourage others to become licensed
 - c. Order a seal with your P.E. or P.L.S. number
 - d. Protect the safety, health, property, and welfare of the public

10. The Board has the authority to:
 - a. Assess reasonable costs incurred in connection with disciplinary proceedings
 - b. Impose fines of up to \$5,000 per violation
 - c. Publish disciplinary actions in the official journal of the Board
 - d. All of the above

True or False:

11. True False Unless specifically exempt, it is unlawful for any person to practice or to offer to practice engineering or land surveying in the state of Louisiana without being licensed by the Board.

12. True False Violations of the rules of professional conduct could result in a licensee's suspension of the license to practice.

13. True False The recognition of the professions of engineering/land surveying is given through the licensing by the Board.

14. True False Seals, whether impression or rubber stamp, are both acceptable.

15. True False In a professional/client relationship, the professional is allowed to exploit his authority for unreasonable profit or gain.

16. True False Being a professional is a right.

17. True False The most important privilege conferred to a professional is the right to a "professional opinion".

18. True False The title “professional” is given only to those who are able to show by education and experience to be able to properly exercise this right.
19. True False The Board has the authority to subpoena witnesses pertinent to any investigation authorized by the Licensure Law.
20. True False Practicing engineering or land surveying in Louisiana without a license is a criminal misdemeanor, but cannot be prosecuted in a criminal court.
21. True False If not licensed by the Board, a person practicing engineering or land surveying cannot have enforcement action taken against them by the Board.
22. True False Professionals must continually educate themselves to acquire new skills as needed and to refresh and reinforce their knowledge of existing skills.
23. True False The Board promulgated rules of professional conduct in 1981.
24. True False A licensee’s official licensure seal can be designed however the licensee deems fit.
25. True False For licensed firms, the licensee(s) in responsible charge are not required to sign and seal the title page or first sheet of a drawing or plat.
26. True False The Board has the authority to take disciplinary action against any licensee providing false testimony before the Board.
27. True False The Board allows the electronic transmission of seals and signatures.
28. True False When performing work in Louisiana using a temporary permit to practice engineering, the licensee must use the seal from his/her jurisdiction of licensure and sign and date the work.
29. True False Preliminary documents do not have to be marked as such, but are required to be sealed.
30. True False Licensees may perform services only the area of their competence.
31. True False Licensees cannot seal the work of or take the professional responsibility for any documents related to engineering or land surveying not performed by the licensee or under the licensee’s responsible charge.
32. True False Licensees cannot affix their signatures or seals to any plans or documents dealing with subject matters in which they lack competence.
33. True False Licensees must avoid improper solicitation of professional employment or services.

LOUISIANA PROFESSIONAL ENGINEERING AND LAND SURVEYING BOARD

Professionalism and Ethics Quiz

(revised August 2010)

Note: Please send this answer sheet to the Board for grading. A letter will be sent to your address of record notifying you of your pass/fail score.

ANSWER SHEET

A B C D	TRUE/FALSE	TRUE/FALSE	TRUE/FALSE
1. ○ ○ ○ ○	11. T/F	21. T/F	31. T/F
2. ○ ○ ○ ○	12. T/F	22. T/F	32. T/F
3. ○ ○ ○ ○	13. T/F	23. T/F	33. T/F
4. ○ ○ ○ ○	14. T/F	24. T/F	
5. ○ ○ ○ ○	15. T/F	25. T/F	
6. ○ ○ ○ ○	16. T/F	26. T/F	
7. ○ ○ ○ ○	17. T/F	27. T/F	
8. ○ ○ ○ ○	18. T/F	28. T/F	
9. ○ ○ ○ ○	19. T/F	29. T/F	
10. ○ ○ ○ ○	20. T/F	30. T/F	

I certify by my signature below that I am the person taking this quiz and that the answers contained hereon are solely of my knowledge and hand.

Print Name (*First, Middle Initial, Last*)

Signature

Date

Social Security Number